

Ad to run 3/13/14 & 3/20/14

**TOWN OF LEESBURG  
NOTICE OF PUBLIC HEARING  
TO CONSIDER AMENDMENTS TO ZONING ORDINANCE  
SECTIONS 6.3.2 AND 9.4.5 TO PERMIT TENTS AS AN ACCESSORY USE TO EATING ESTABLISHMENTS IN  
THE B-1 COMMUNITY (DOWNTOWN) BUSINESS DISTRICT, AND SECTION 10.4.5.C.2. TO PERMIT A  
REDUCTION OF THE SETBACK FROM THE PROPERTY LINE FOR HEATING, VENTILATION AND AIR  
CONDITIONING (HVAC) EQUIPMENT**

Pursuant to Sections 15.2-1427, 15.2-2204, 15.2-2205 and 15.2-2285 of the Code of Virginia, 1950, as amended, the **LEESBURG TOWN COUNCIL** will hold a public hearing on **TUESDAY, MARCH 25, 2014 at 7:30 p.m.** in the Town Council Chambers, 25 West Market Street, Leesburg, VA 20176 to consider the following amendments to the Zoning Ordinance:

1. Amend Section 6.3.2 Use Regulations to permit tents as an accessory structure to cover outdoor seating areas during the winter months for eating establishments in the B-1 Community (Downtown) Business District.
2. Establish Section 9.4.5 Eating Establishment with Accessory Tent to permit tents as an accessory structure subject to specific performance standards to cover outdoor seating areas during the winter months for eating establishments in the B-1 Community (Downtown) Business District.
3. Amend Section 10.4.5 C.2. Air Conditioners and Similar Equipment to permit a reduction of the five (5) foot setback in the side or rear yard down to two (2) feet when meeting the noise level requirements of Section 7.9.

Copies and additional information regarding these proposed Zoning Ordinance amendments are available at the Department of Planning & Zoning located on the 2<sup>nd</sup> floor of Leesburg Town Hall, 25 West Market Street, Leesburg, VA 20176 during normal business hours (Mon.-Fri., 8:30 a.m. to 5 p.m.), or by calling 703-771-2765 and asking for Kevin Lawlor, Senior Planner. This zoning ordinance amendment application is identified as case number TLOA-2013-0006.

At this hearing all persons desiring to express their views concerning these matters will be heard. Persons requiring special accommodations at the Town Council meeting should contact the Clerk of Council at (703) 771-2733 three days in advance of the meeting. For TTY/TDD service, use the Virginia Relay Center by dialing 711.



**Date of Council Public Hearing: March 25, 2014**

**TOWN OF LEESBURG  
TOWN COUNCIL PUBLIC HEARING**

**Subject:** TLOA-2013-0006 Tents as Accessory Use & HVAC Setback

**Staff Contact:** Kevin Lawlor, Sr. Planner – Zoning

**Issues:** Two separate Zoning Ordinance amendments are included in this report, which raise the following issues:

- 1). Should the Zoning Ordinance be amended to reduce the current required minimum 5-foot setback for mechanical equipment subject to specific conditions?
- 2). Should the Zoning Ordinance be amended to permit tents in the B-1 District during certain months of the year subject to specific conditions?

**Recommendation:**

- 1.) Staff recommends approval of a reduction of the setback for mechanical equipment from five (5) feet to two (2) feet to allow minimum ventilation clearance and on-site access/maintenance/screening for HVAC equipment subject to conditions.
- 2.) Staff recommends denial of the amendment that proposes to permit tents to be utilized in the B-1 (Community) Downtown Business District subject to use regulations during certain times of the year.

**Planning Commission Recommendation:** On February 20, 2014 the Planning Commission held a public hearing on both of these amendments.

**HVAC Setback:** No member of the public spoke regarding this proposed amendment. The Commission voted 5-0-2 to recommend denial of the amendment to Article 10 regarding the HVAC setback on the basis that it will not serve a public necessity, convenience, general welfare and good zoning practices. The Commission was primarily concerned that current materials available for noise reduction might not be adequate, and that HVAC units in the side yard would not be in compliance with the H-1 Design Guidelines.

**Tents:** Five members of the public spoke against the proposed tent amendments, most citing concerns with noise and illumination at night and aesthetic concerns regarding how tents might negatively affect the charm of the Old and Historic District. The Town has received one e-mail from a business owner in favor of an amendment to permit tents (Attachment 3). The Commission voted 5-0-2 to recommend denial of the amendments to Articles 9 and 18 regarding tents based on concerns that the noise produced at night will negatively affect neighboring

residences, the appearance of the tents will negatively impact the Old & Historic District and that temporary tent structures may not safely withstand the winter weather due mainly to high winds and snowfall.

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**BACKGROUND:** In the fall of 2013 Town Council initiated two separate Zoning Ordinance amendments, one regarding temporary tents in the B-1 District and the other regarding the required setback for mechanical equipment like air conditioning units from property lines. Each amendment is discussed separately below.

#### AMENDMENTS LIST

1. **10.4.5 C. 2. Air Conditioners and Similar Equipment, to permit a reduction in the setback for HVAC (Heating, Ventilation, and Air Conditioning) equipment.**
2. **9.4.5 Eating Establishment with Accessory Tent, to permit a tent to be used for outdoor seating at restaurants located in the B-1 Community (Downtown) Business District.**

#### I. HVAC Amendment

**Initiation:** On November 26, 2013, Town Council adopted Resolution No. 2013-139 (see Attachment 1) to consider amendments to Town of Leesburg Zoning Ordinance (TLZO) Sec. 10.4.5 C.2. Air Conditioners and Similar Equipment regarding a setback reduction for HVAC equipment.

**Existing Zoning Ordinance Provisions:** TLZO Sec.10.4.5 C.2. states:

*Air conditioning equipment, heat pumps and similar mechanical equipment may not project more than three (3) feet into any required side or rear yard but no closer than five (5) feet to any lot line. Notwithstanding, window air conditioning units may not project more than eighteen (18) inches into a required yard.*

The primary reasons for establishing this minimum setback were threefold:

- Separate adjacent properties from such units to provide some relief from noise;
- Provide room to access and maintain such units without going onto adjacent property; and
- To permit adequate room to provide ventilation and screen such units from adjacent uses because such equipment is more utilitarian than aesthetically pleasing.

**Reason Amendment was initiated:** The setback achieves each of the above goals to some degree. However, as the Town develops at a higher density and more often on small, narrow lots the utility of the 5-foot setback has come into question, and at least two local builders have expressed concern about the impact of the existing regulations. In particular, in the B-1

Community (Downtown) Business District there are no side building setbacks on certain streets, which means a building can be closer to the property line than air conditioning and heating units (collectively, Heating, Ventilation and Air Conditioning or “HVAC” equipment). In some zoning districts required side yard setbacks are only five (5) feet, which means to place an HVAC unit on the side of a building, the building would have to be setback further to accommodate the HVAC unit. Similarly, the setback for a garage or most other accessory structures is two (2) feet throughout the Town per TLZO Sec. 10.4.5.C.1. Finally, townhouse units, which have shared zero-foot side yard setbacks have traditionally been permitted to have HVAC units within the 5-foot setback so long as maintenance is possible. In order to address this growing concern, Town Council initiated this amendment to examine whether the current 5-foot minimum setback can be reduced while still providing adequate protections from excessive noise and vibration, adequate on-site access, proper ventilation for the units and appropriate screening.

**Proposed Amendment:** Staff recommends amended language to permit a two-foot (2’) setback subject to certain conditions as described in the text below (proposed text is underlined and highlighted).

**Section 10.4.5 C. 2. Air Conditioners and Similar Equipment.**

Air conditioning equipment, heat pumps and similar mechanical equipment may not project more than three (3) feet into any required side or rear yard but no closer than five (5) feet to any lot line. Notwithstanding, window air conditioning units may not project more than eighteen (18) inches into a required yard.

On lots in which the required side or rear yard setback is five (5) feet or less, heating, ventilation, and air conditioning (HVAC) equipment and other similar equipment may be located no closer than two (2) feet from the side or rear lot line if the following standards are met:

1. A solid fence, wall or other screening is installed around any such HVAC unit or equipment to appropriately screen the unit or equipment from adjacent properties and public rights-of-way to the satisfaction of the Zoning Administrator and in accordance with all other applicable regulations.

**Analysis:** In reaching its conclusions staff researched other jurisdictions, consulted industry standards for HVAC units and possible noise mitigation methods, work experience and practical considerations.

**Other Jurisdictions:** A survey of ten local jurisdictions demonstrates that how the issue is addressed varies widely, some with more stringent regulations than Leesburg and others less restrictive.

<b>Jurisdiction</b>	<b>Regulations</b>
Arlington County	8 feet to side lot line and 10 feet to rear lot line. Side may be reduced to 5 feet with a fence or vegetation.
City of Alexandria	May be in side or rear yard, cannot exceed 55 decibels at the property line. Placed in location with the “least adverse impact on neighboring

	lots”.
Fairfax County	Any yard, five (5) foot encroachment permitted but five (5) feet minimum to the property line.
City of Fairfax	Five 5 feet to side or rear yard minimum.
Loudoun County	Five (5) feet to any lot line for units rated 24,000 BTU or less, 12 feet for units greater than 24,000 BTU.
City of Winchester	If taller than 6 feet, must be located within required side or rear yard setback lines. Less than 6 feet in height must be in the side or rear yard, no setback.
Town of Blacksburg	Must be within principal structure setbacks, no setback reduction.
Town of Purcellville	No setback required.
Town of Warrenton	No setback, only reviewed in conjunction with Old & Historic District applications.
City of Staunton	No setback, only reviewed in conjunction with Old & Historic District applications.

In some cases, the jurisdiction also has noise levels that must be met for the operation of HVAC units. The concerns are similar to those in the Leesburg ordinance: noise, screening and maintenance. Note that Alexandria does not have a specific setback but relies instead on the decibel level at the property line. Several other jurisdictions listed above do the same.

**Screening:** Staff believes that given the general unattractiveness of HVAC units, screening is essential, especially in urban areas and in the H-1 (Overlay) Old and Historic District. Plantings are not always a viable option in dense areas and two feet does not afford room for an effective vegetative screen, but a fence can help to both screen and deflect noise (to a very limited degree). Therefore, a 2-foot minimum is proposed because that should provide sufficient space to install a fence to mask the units. In the H-1 District, HVAC units are not normally placed on the side of a building because it detracts from the historic appearance of the district. In such cases, screening of the units from the right-of-way would also be required. The Old and Historic Design District Guidelines (pg. 43) requires that new construction integrate screening of site appurtenances (HVAC) into the overall design of the site and building. For existing buildings, units should be located in inconspicuous areas on the side or rear of the building and screened with appropriate plantings or fencing so they are not visible from the public right-of-way.

**Maintenance/Access:** In urban areas, the existence of small, narrow lots and close proximity of buildings does not automatically convey a right of a building owner to cross onto adjacent property to perform maintenance and other functions. A setback of at least two feet, though narrow, does afford an opportunity to both access and perform maintenance on all sides of a unit while remaining on one’s own property. The 2-foot setback is also consistent with the setback used for accessory structures like sheds or garages.

**Number:** Staff is concerned about the number of potential HVAC units that could be placed in a side or rear yard with the reduced setback. Residential dwellings usually have no more than two units. However, nonresidential buildings, such as offices, can have a substantially greater number of HVAC units, with one owner proposing as many as eight in a side yard. The concern

is that the side yard of a building could be dominated by the units, which is not aesthetically sensitive to the adjacent property both visually and from a noise standpoint. When a unit is on the side of a building, the sound deflects off of the building and has a greater impact on the adjacent property. When units are placed *behind* a building, the sound is usually better dispersed. A concentration of units on the side of a building may make it difficult for a builder to meet the Town's noise ordinances without additional sound reduction measures.

**Noise:** A concern in urban and residential areas is noise from mechanical sources. Too loud a noise has a direct negative impact on the quality of life of residents on adjacent property, and on the adjacent owners. To address this the Zoning Ordinance contains a provision regarding the level of repetitive machine-made noise that can cross property boundaries. TLZO Sec. 7.9 Noise Limitations and Enforcement sets maximum decibel levels to be measured at the property line. In the case of a pure residential zoning district, that level is a maximum of 55 dBA. However, in mixed use districts such as the B-1 Community (Downtown) Business District where commercial and residential uses may be next door to each other, the maximum noise level increases to 65 dBA. That means no continuous machine-made noise (such as from an air conditioning unit) may exceed that level at the property line. Individual HVAC units often exceed that level. For this reason, owners may need to consider noise reduction measures.



*Sound Barrier*

The only options staff found for noise level reduction to assist with mitigating noise from a reduced setback are (1) industrial sound blankets that resemble tarps that are hung from a fence, or (2) sound barriers that look like industrial fencing. In the H-1 District, either option would require the Board of Architectural Review to amend the H-1 Design Guidelines to permit these options within the Old and Historic District. Neither option appears to be conducive to maintaining the charm and character of the H-1 District, or any residential district, for that matter. Also, units can be purchased with internal muffling systems that reduce noise but these units are more expensive.

The impact of noise from all sources, mechanical or from outdoor music or restaurants, for example, has become an issue as the Town becomes more populous and urbanized. The Town Council initiated the consideration of amendments to the Town Code to address how noise may be regulated to achieve better harmony between businesses and residences while allowing an appropriate amount of noise producing activity.

**Proper Venting for HVAC Units:** Research indicates that an industry minimum standard of 18 to 24 inches (2 feet) must be maintained around the outside of an HVAC unit in order for it to "breathe" or vent properly. Therefore, any structure used to buffer noise from or screen an HVAC unit would be on or near the property line should the setback for HVAC be reduced to

two (2) feet. This emphasizes the need for no less than a 2-foot setback because if units were allowed to be set on the property line, they could not be screened. Also, if the adjacent property owner decided to put his HVAC units on the property line, there may not be enough room for proper venting.

**Summary:** Although the buildings in certain areas of town may be able to have a zero-foot setback, the buildings by themselves do not make noise; HVAC units do and hence the need for some setback to mitigate the negative impacts of HVAC units on adjacent properties. A 2-foot setback could be acceptable so long as proper standards were implemented to reduce the impact of noise, access and aesthetic concerns. The 2-foot setback is already permitted for other type of accessory structures so some precedent for a reduced setback does exist. Staff believes the proposed amendment reconciles the need for a lesser setback due to urbanization while still addressing the negative impacts that HVAC units can have on other residents and properties. In addition, the reduced setback is more in line with many other jurisdictions and noise limits must be achieved regardless of the setback.

## **II. Accessory Tent Amendment**

**Initiation:** On October 8, 2013, Town Council adopted resolution No. 2013-119 (Attachment 2) to consider amendments to Sec. 9.4 to permit tents as temporary structures accessory to restaurants in the B-1 district.

**Existing Zoning Ordinance Provisions:** The Zoning Ordinance does not currently permit a tent (a temporary structure) to be in place for longer than 10 days. Under TLZO Section 9.5 Temporary Uses permitted uses in commercial districts include wayside stands, Christmas tree sales, carnivals, circus, festivals, fairs, dog shows, horse shows, fireworks shows, tent revivals, outdoor retail sales events, farmers markets and other similar temporary uses. Temporary commercial uses as defined in the TLZO Section 9.5.3 General Standards for Permitting Temporary Uses are intended for a very limited period of time, most lasting 10 days or less in any six (6) month period (carnivals, circus, festivals, fairs, dog shows, horse shows, fireworks shows, tent revivals) except when they are directly the result of local agricultural production (such as a wayside stand and Christmas tree sales). The ordinance sets specific use standards for each type of temporary activity with some limited to daylight hours only (wayside stands) and specifies the types of temporary signage permitted. Tents are permitted as part of many of these temporary activities, but they can remain in place no longer than the event itself - less than 10 days in most cases.

In April 2008, TLZO Sec. 9.6 Business Special Events was created to give more flexibility to local businesses to celebrate grand openings and special sales events. That ordinance states, "A business special event shall be permitted three (3) times per year for a three (3) day period, each event." Tents and similar type structures are permitted as part of the event but must be included with the Business Special Event Zoning Permit. Staff has issued Business Special Event Zoning Permits granting businesses a nine (9) day special event by issuing three permits back to back.

Considering all of the ordinance provisions above, a tent cannot be put in place for more than 10 days.

**Reason Amendment was initiated:** Recently, several restaurant owners requested Council to consider the possibility of permitting tents as semi-permanent structures for outdoor dining in the downtown area during the winter months. The Leesburg downtown area has become more popular as a dining destination. Several businesses have limited opportunity to expand indoor dining without building additions, but have patio areas where outdoor dining is currently served. As the outdoor temperature decreases, the practicality of outdoor dining ceases due to the cold and generally inclement weather. In response to the request, Town Council adopted resolution #2013-139 to examine whether or not to allow tents as an accessory structure for restaurants in the B-1 District. The intent of this amendment is to establish criteria for restaurants that wish to install an accessory tent to shelter patrons on their outdoor seating areas in certain fall/winter months. Section 9.4.5 would be created to permit a tent as a by right seasonal accessory structure subject to performance standards set out in this new section and as defined by Section 18.1.177.1 "Tent". The initiated amendment was limited to the B-1 District because it is the core of the old downtown business area and was originally designed to cater to pedestrian traffic in contrast to the more visible suburban commercial areas of Town.

Note that the Planning Commission and Town Council previously reviewed an amendment seeking the same general result under TLOA-2008-0010. The Planning Commission recommended denial and the Council subsequently voted to deny the amendment on March 10, 2009. This proposal constitutes a reexamination of the issue.

**Proposed Amendment:** Staff does not recommend that the Zoning Ordinance be amended to permit temporary tents in the B-1 District for reasons discussed below. However, staff believes that if such an amendment is to be considered, it should contain at a minimum the following standards (proposed text is underlined and highlighted).

### **Section 9.4.5 Eating Establishment with Accessory Tent**

**A tent may be used as an accessory structure to a sit down eating establishment provided that all the following criteria have been met:**

- 1. The sit-down restaurant is located within the B-1 Community (Downtown) Business District.**
- 2. An accessory tent must be located in a rear yard or be screened by the building from the public right-of-way.**
- 3. An accessory tent shall be no more than 400 square feet in area or fifty percent (50%) of the indoor seating area square footage, whichever is greater.**

4. An accessory tent shall not interfere with designated parking spaces or travel aisles.
5. An accessory tent may be allowed for up to a four (4) month period during the months of October through March.
6. An accessory tent shall be a single color that conforms to the traditional color palette found throughout the Old and Historic District as determined by the Zoning Administrator.
7. An accessory tent cannot exceed twenty (20) feet in height.
8. An accessory tent must be maintained in good repair with no holes or fraying of the materials.
9. An accessory tent cannot be located on a lot adjacent to a residential zoning district
10. A Zoning Permit is required prior to installation of an accessory tent.

#### **18.1.77.1 Tent**

A collapsible moveable shelter of fabric, plastic or the like, stretched and supported by poles that is used as a temporary structure; not intended for living quarters.

**Analysis:** In reaching its conclusions staff researched other jurisdictions, consulted industry standards for temporary tents, work experience and practical considerations.

**Other Jurisdictions:** Staff has researched local and regional jurisdictions with regard to requirements for tents and found regulations center on the temporary or short duration of the use of tents for various reasons. There is no equivalent to permit a tent for this period of time for a restaurant or any other business in any of the ordinances that were consulted. In these jurisdictions tents are clearly not intended for anything other than a very temporary expedient for a short period of time. As in the Leesburg Zoning Ordinance they are not intended to be permanent solutions for brick and mortar expansions for business uses such as restaurants.

**Compatibility Concerns:** Tents by their nature are not intended to be permanent features. The use of tents to allow outdoor dining in the late fall and winter months raises two primary compatibility concerns.

**Aesthetic:** Tents are considered less attractive than permanent buildings in that it is easy for them to be damaged by the elements and lose structural integrity. Typically they are made of non-traditional materials with window openings made of some see-through plastic or other

material. These tents would be in the H-1, Old and Historic District, the best preserved area of the town and the area listed as a National Historic Landmark. There is a question regarding how will tents be compatible with the Old and Historic District. Therefore, the proposed amendment was crafted for the protection of the integrity of the Old and Historic District, as far as possible without involving the Board of Architectural Review (B.A.R.). The BAR is purposely left from the review process in the proposed amendment as accessory tents are considered temporary structures and the purview of the B.A.R. centers around permanent structures or fixtures. Also, there are no provisions in the H-1 Guidelines that speak to tents.

The criteria established in the amendment are safeguards that are intended to protect the B-1 Zoning District by limiting the number of locations that could apply for the accessory tent, and by giving the Zoning Administrator the authority to deny a proposed tent whose color appears too far in character from the Old and Historic District.

**Noise:** One feature of outdoor dining, particularly in the evening hours, is the noise generated by patrons and service. The B-1 District is characterized by a mixture of business and residential uses, but also by its proximity to the Historic Residential District (RHD) which is the most use-limited and restrictive residential district in Town. In many cases the B-1 District abuts the RH District and outdoor dining and music activities from restaurants have caused several residents to complain to Town authorities. Attachment 3 contains e-mails from residents in the proximity of a downtown restaurant who expressed concern for noise emanating from the outdoor dining area. These residents are worried that by having an accessory tent, the noise from outside music will be allowed year round.

Note that it has been mentioned above that the impact of noise from all sources has become an issue as the Town becomes more populous and urbanized. The Town Council initiated amendments seek to deal with this problem through possible amendments to the Town Code to permit an appropriate amount of noise producing activity.

**Space Issues:** Many structures located within the B-1 Zoning District have been converted from residential to commercial use and many as a result have limited square footage to sustain a viable commercial purpose. Unlike more suburban developments where structures are “purpose built”, several restaurants in the B-1 now occupy former residential structures or structures built for other purposes thus leaving limited usable space. To make full use of their limited space, restaurants have created outdoor seating which is relied upon to support the business during the warmer months. Staff appreciates the difficulty of business owners but is uncertain that tents are a wise solution. In light weather the tents can be useful, but in the winter months it seems unlikely many patrons would desire to site outdoors because a tent will be drafty no matter how well heated and comfort is a concern in cold weather.

**Structural Concerns:** Tents above 500 square feet are heavily regulated and require a building permit and sign off from the Fire Marshall’s Office. Regardless of the tent size there is a concern regarding the safety of such structures and their ability to stand up to the high winds of

the winter months. In addition heavy snowfall, like that experienced this winter, would be too much for most tents to bear.

**Summary:** The intent of this ordinance amendment is to permit sit-down restaurants in the B-1 Zoning District to utilize tents as accessory structures/uses contingent upon meeting certain use regulations and to clearly define when and for how long tents may be used as part of a restaurant use. Effects of the proposed amendment, should it be implemented, would provide shelter from the cold, wind, rain and snow of the winter months for outdoor patrons thus permitting restaurants close to year round use of their facilities. However, Staff is not persuaded that tents in the winter months are a practical idea, due to the cost of heating them sufficiently, their ability to withstand the harsh winter weather, or the willingness of patrons to utilize them in freezing temperatures. Apart from these issues is a very real concern regarding the affect a multitude of such tents will have on the Old and Historic District. Given these concerns, and the fact that no other jurisdiction has anything like this provision for its historic downtown area, and further that conditions appear to be the same as they were in 2008, staff recommends denial of the ordinance amendment to expand the use of tents in the B-1 District.

### **RECOMMENDATION**

Staff recommends that (1) the Town Council approve a reduction in the setback requirement for HVAC and other equipment; and (2) Staff recommends that the Town Council deny TLOA-2013-0006 regarding temporary tents in the B-1 District, based on the proposed zoning text in Attachment 4 and 5.

**Draft Ordinance:** A separate draft ordinance for each of the two proposed amendments is attached for Council's consideration.

- Attachments:**
1. Resolution No. 2013-139
  2. Resolution No. 2013-119
  3. E-mails
  4. Draft Tent Ordinance
  5. Draft HVAC Ordinance

The Town of  
**Leesburg,  
Virginia**

PRESENTED November 26, 2013

RESOLUTION NO.: 2013-139

ADOPTED November 26, 2013

A RESOLUTION: INITIATING AMENDMENTS TO SECTION 10.4.5.C OF THE LEESBURG ZONING ORDINANCE TO CONSIDER A REDUCED SETBACK FOR HVAC EQUIPMENT

WHEREAS, the Town Council encourages commercial growth and development within downtown that is compatible with existing residential uses; and

WHEREAS, in an effort to foster said growth and development, Town Council seeks to review its regulations related to the setbacks for air conditioners and similar equipment within the Town of Leesburg; and

WHEREAS, setbacks for mechanical equipment (accessory structures) sometimes exceed the setback for the primary building; and

WHEREAS, Town Council desires to investigate whether said setbacks may be reduced so long as appropriate noise attenuation, screening and accessibility for maintenance are provided; and

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require the proposed amendments.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia as follows:

SECTION I. Amendments to Zoning Ordinance Section 10.4.5.C and other sections as necessary are hereby initiated and referred to the Planning Commission to establish appropriate criteria for the reduction of the setback for air conditioners and similar equipment within the Town of Leesburg.

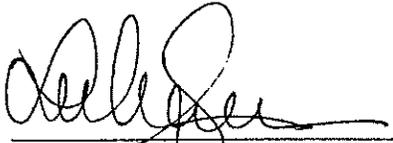
RESOLUTION: INITIATING AMENDMENTS TO SECTION 10.4.5.C OF THE  
LEESBURG ZONING ORDINANCE TO CONSIDER A REDUCED  
SETBACK FOR HVAC EQUIPMENT

SECTION II. The Planning Commission shall hold a public hearing to consider these amendments to the Zoning Ordinance, and report its recommendation to the Town Council pursuant to Chapter 22, Title 15.2-2204 of the 1950 Code of Virginia, as amended.

PASSED this 26<sup>th</sup> day of November 2013.

  
Kristen C. Umstatt, Mayor  
Town of Leesburg

ATTEST:

  
Clerk of Council

The Town of  
**Leesburg,**  
**Virginia**

PRESENTED October 8, 2013

RESOLUTION NO.: 2013-119

ADOPTED October 8, 2013

A RESOLUTION: INITIATING AMENDMENTS TO SECTION 9.4 OF THE LEESBURG ZONING ORDINANCE TO PERMIT TENTS AS TEMPORARY STRUCTURES ACCESSORY TO RESTAURANTS IN THE B-1 ZONING DISTRICT.

WHEREAS, the Town Council encourages commercial growth and development within downtown; and

WHEREAS, in an effort to foster said growth and development, Town Council seeks to review its policies related to tents as temporary structures accessory to restaurants within the Town of Leesburg; and

WHEREAS, development patterns in the downtown core differ from those in the more suburban areas of town; and

WHEREAS, several traditionally non-commercial buildings in the B-1 Zoning District are now used as restaurants with limited indoor seating; and

WHEREAS, the lack of indoor seating may harm the viability of restaurants during winter months; and

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require the proposed amendments.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia as follows:

SECTION I. Amendments to Zoning Ordinance Section 9.4 and other sections as necessary are hereby initiated and referred to the Planning Commission to establish

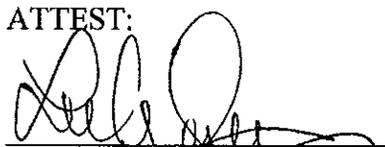
RESOLUTION: INITIATING AMENDMENTS TO ZONING ORDINANCE  
SECTION 9.4 TO PERMIT TENTS AS ACCESSORY STRUCTURES  
IN THE B-1 DISTRICT

appropriate criteria for the use of tents as temporary structures to restaurants within the B-1 Zoning District in the Town of Leesburg.

SECTION II. The Planning Commission shall hold a public hearing to consider these amendments to the Zoning Ordinance, and report its recommendation to the Town Council pursuant to Chapter 22, Title 15.2-2204 of the 1950 Code of Virginia, as amended.

PASSED this 8<sup>th</sup> day of October 2013.

  
Kristen C. Umstatt, Mayor  
Town of Leesburg

ATTEST:  
  
Clerk of Council

## Kevin Lawlor

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**From:** Ronald Rogos [REDACTED]  
**Sent:** Wednesday, February 19, 2014 4:20 PM  
**To:** Kevin Lawlor  
**Subject:** Re: PC Report-TLOA-2013-0006 HVAC tents

Kevin,

thank you for sending me this report from staff on the tent issue. While i cannot attend the meeting, i do have comments i'd like to share.

1. I do not feel strongly one way or the other about the structure/financial issues for restaurant owners you outlined; I do think the "view from the public right of way" issue is quite important....these tents, if approved, will look tacky at best—and not fit in at all with the texture of the Old and Historic District where i live.
2. The real issue here, I believe, is "Sound/Noise"....There needs to be a balance struck between commercial and residential interests. In my opinion, it is one thing for acoustic music during reasonable hours to be allowed, but quite a problem if amplified music is permitted to occur, particularly late at night. I have been able to hear amplified music clear down Cornwall Street at #211 (near Memorial Drive) from restaurants and Acoustic on the Green events from time to time.

Ron Rogos  
211 Cornwall Street, NW

On Feb 19, 2014, at 9:04 AM, Kevin Lawlor <[KLawlor@LEESBURGVA.GOV](mailto:KLawlor@LEESBURGVA.GOV)> wrote:

Attached for your review is the staff report for tomorrow night's (2/20) Planning Commission hearing regarding tents as an accessory use for restaurants in the B-1 District. My apologies for the lateness with providing the report; weather put us behind schedule.

Let me know if you require additional information.

Kevin

Kevin Lawlor  
Sr. Planner – Zoning  
(703) 771-2768

<PC Report-TLOA-2013-0006 HVAC tents Final.docx>

## Kevin Lawlor

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**From:** Susan BerryHill  
**Sent:** Monday, October 21, 2013 6:54 PM  
**To:** Chris Murphy; Kevin Lawlor  
**Cc:** Marantha Edwards  
**Subject:** FW: NOISE from Shoe's

fyi

**From:** Kristen Umstatt  
**Sent:** Monday, October 21, 2013 5:36 PM  
**To:** Planning Commission  
**Subject:** Fw: NOISE from Shoe's

All,  
As this issue will come to the Commission first, I will try to forward all related emails to you.  
Kristen

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**From:** [REDACTED]  
**Sent:** Monday, October 21, 2013 04:48 PM  
**To:** Council  
**Cc:** [groy4@aol.com](mailto:groy4@aol.com) <[groy4@aol.com](mailto:groy4@aol.com)>  
**Subject:** NOISE from Shoe's

I cannot put up with this awful noise emanating from Shoes, Cup and Cork. My house is right behind them and I get the full force of the weekend music of various bands, etc. You cannot invite people over to enjoy a dinner outside, because the noise/music is so loud you cannot hear each other. And, inside you hear the constant bass, which doesn't allow you to read, watch TV or heaven forbid go to sleep. My bedroom is at the back of my house.

Now they want to install a tent to increase the noise and destroy the look of the Historic District. Laurel Brigade will occasionally install a tent, but it is temporary. I do not want to have to look at a tent all year long.

I have all ready had to notify Leesburg Today that employees at Shoes were racing their cars back and forth in their parking lot and causing them to spin around before 8 am on a Sunday morning. What else can we expect if you allow this bar atmosphere to continue in our residential neighborhood.

I'm constantly calling them to tone down the volume, which they ignore. I will now like my neighbors begin calling the police to tell them officially.

You are welcome to come over to my house and hear for yourselves what we have been putting up with since they began their outside music venue.

Sincerely,

Velda A Warner  
17 Cornwall St. NW  
Leesburg, Va. 20176  
703-779-2045

## Kevin Lawlor

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**From:** Susan BerryHill  
**Sent:** Tuesday, October 22, 2013 9:43 AM  
**To:** Kevin Lawlor  
**Cc:** Chris Murphy; Marantha Edwards  
**Subject:** FW: Permitting Tents in B-1 District

fyi

-----Original Message-----

**From:** Kristen Umstattd  
**Sent:** Monday, October 21, 2013 11:44 PM  
**To:** Planning Commission  
**Subject:** Fw: Permitting Tents in B-1 District

All,  
Here's another.  
Kristen

----- Original Message -----

**From:** Samuel Burton [REDACTED]  
**Sent:** Monday, October 21, 2013 08:22 PM  
**To:** Council  
**Cc:** [REDACTED]; [REDACTED]; [REDACTED]  
**Subject:** Permitting Tents in B-1 District

Dear Council Members,

I wanted to follow-up to the email Dave and Gail Groy sent on 20 October concerning the request from Shoes, Cup and Cork to allow Tents in the B-1 District. As Gail pointed out, starting on Friday of each week and extending through the weekend there are amplified musicians and large gatherings of people in the Shoe's Secret Garden that produce excessive noise levels. In fact, my family lives directly across from the Groy's and Penn's on the opposite side of Wirt St., and can routinely hear the music inside of our bedroom on these nights. I can only imagine the noise level for my neighbors. The introduction of a tent would extend the performances and gatherings to a year round issue.

My family and I just recently moved to downtown Leesburg and we did so, in large part, to be able to walk downtown and enjoy the many restaurants and shops. We too have frequented Shoes, as well as Lightfoot who also has outside dining. We appreciate the experience that these outdoor settings provide but ask that the Council ensure that this experience not impact the quality of life for the families who live in this neighborhood. The excessive noise levels extending late into the night will only be perpetuated given the presence of a tent.

Thank you for hearing our concerns.

Sam and Charity Burton

15 Wirt St., NW  
Leesburg, VA 20176  
703-674-7506

## Linda DeFranco

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**From:** Kristen Umstatt  
**Sent:** Monday, October 28, 2013 11:01 AM  
**To:** Planning Commission  
**Subject:** Fw: Tents for music events in Downtown Leesburg

----- Original Message -----

**From:** Ronald Rogos [REDACTED]  
**Sent:** Monday, October 28, 2013 10:53 AM  
**To:** Council  
**Subject:** Tents for music events in Downtown Leesburg

Dear Mayor and Council,

I have been aware of the recent issues regarding loud music in downtown eating establishments and complaints from neighbors who live in downtown. I understand there is a move afoot to consider granting the privilege to have tents put up year around to create a more permanent outdoor music venue.

Having lived downtown in the historic district since 2002, i do not think this is a good idea. The nice thing about living in town is the occasional festival where the town has an influx of people, things to do, and lots of fun--some increased noise levels with come with these events. Some people like the noise and confusion, others don't but it's a part of living in town. But to have loud outdoor music every weekend is a really bad idea if we want to encourage people to reside in the historic district, and particularly in the homes that are at the borders with commercial properties.

So i am not in favor of loud, amplified outdoor music, or in granting zoning changes to erect permanent tents for businesses.

ron rogos

## Linda DeFranco

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**From:** Kristen Umstattd  
**Sent:** Tuesday, October 29, 2013 9:42 AM  
**To:** Planning Commission  
**Subject:** FW: Tent ordinance

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**From:** Robert Guerra [REDACTED]  
**Sent:** Tuesday, October 29, 2013 9:26 AM  
**To:** Kelly Burk; 'Gail Groy'; Kristen Umstattd; Council  
**Cc:** [REDACTED]  
**Subject:** RE: Tent ordinance

Kelly et al,  
My wife & I had dinner at Lightfoot last night (indoors of course :-).) Our server mentioned that they too had received many complaints from Lightfoot customers about not being able to enjoy a quiet dinner & conversation because of the loud music during their outdoor dining times.  
Let's not lose sight of the negative impact that Shoe's approach is having on its neighboring businesses.

Rob Guerra  
19 Cornwall Street, NW  
Leesburg, VA 20176

Robert J. Guerra  
Guerra Kiviat, Inc.  
"Specialists In The Business of Government"  
703-201-7464

Amendment IX: The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

-----Original Message-----

**From:** Kelly Burk [mailto:KBurk@LEESBURGVA.GOV]  
**Sent:** Monday, October 28, 2013 1:34 PM  
**To:** Gail Groy; Kristen Umstattd; Council  
**Cc:** [REDACTED]; [REDACTED]; [REDACTED] Rob Guerra  
**Subject:** RE: Tent ordinance

Thank you for making us aware of the problems. Sometimes things come before us and on the surface they seem like a good idea but then with additional information the idea is not so good as in this case. So you have really helped me understand the implication of allowing a tent on the property that is so close to all of you. Keep us informed. thanks again.

Kelly Burk  
Leesburg Town Council  
703-431-4728  
703-777-2420  
[kburk@leesburgva.gov](mailto:kburk@leesburgva.gov)

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From: Gail Groy [REDACTED]  
Sent: Monday, October 28, 2013 12:44 PM  
To: Kristen Umstatted; Kelly Burk; Council  
Cc: [REDACTED]; [REDACTED]; [REDACTED] Rob Guerra  
Subject: Tent ordinance

Kristin and Kelly,

Neighbors have spoken with the Town Manager and other staff, all who have been very helpful and informative in ways to proceed with our concerns about the recent happenings at Shoes, Cup and Cork.

We know that the move to overturn the ordinance prohibiting tents is first in the hands of the Planning Dept., but to keep everyone abreast of the ongoing issues, we just wanted to share what has since transpired.

The Town staff met or spoke with neighbors, and confirmed that Shoes never applied or received a permit for amplified music. They can easily get one, but they would then also have to follow the decibel limits and timeframes in which outside music can be amplified (up to 8:00PM).

Despite all these energies to keep Shoes informed of the regulations by staff and sensitive to being good neighbors, this past Sunday afternoon, still without a permit, because the weather was so nice, etc., they moved their instrumentalist with amplifier outside.

We were told that the proper course of action, if the rule continued to be broken, was to call the police. Neighbors did just that, and Shoes was required to take the music back inside.

While this is currently a sound issue, allowing tenting on restaurant premises is only going to promote a year round outdoor nightclub atmosphere, because music will always be a part of that equation. And, monitoring compliance to the regulations is proving to be a nightmare, as witnessed by our recent dealings with Shoes, and the beach party happenings on Harrison St.

Leesburg is not Landsdowne, nor Reston Town Center. It is unsettling for those who live in the downtown area, to see business owners solely interested in a profit, want to turn everything around to fit their business model. Restaurants who serve great food, at reasonable prices do fine.

It's not the lack of outside seating, or music that impacts their profit margins.

Again, thank you for your responses to our's and other neighbor's e-mails.  
We appreciate the ongoing dialogue so that we can achieve a solution that addresses everyone's needs.

Dave and Gail Groy

Sent from my iPad

**Linda DeFranco**

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**From:** Kristen Umstatt  
**Sent:** Wednesday, October 23, 2013 6:13 PM  
**To:** Planning Commission  
**Subject:** Fw: Tents in B1 district

All,  
Fyi.  
Kristen

**From:** [REDACTED]  
**Sent:** Wednesday, October 23, 2013 05:22 PM  
**To:** Council  
**Cc:** [REDACTED]; [REDACTED]; [REDACTED]; kate williams  
[REDACTED]  
**Subject:** Tents in B1 district

We are writing about the proposal to allow semi permanent or permanent tents in the B1 district. We will not repeat what other neighbors such as David and Gail Groy and Sam Burton have stated about the idea, but completely agree with them that this is a terrible suggestion. We too, want businesses to thrive, but not at the expense of our peaceful enjoyment of our own homes and property, whatever time of day or night. As downtown residents, we have lived peacefully in close proximity to the downtown businesses, with the most notorious exception being over a noise issue.

In the case of year round tenting, the issue is even larger than just noise. There are problems of illumination which do not exist with permanent structures under current ordinances. Also, we live in a cherished historic area, with significant efforts made by individuals and organizations to maintain the charm and architectural attractions. Adding year round tents can only detract from the entire area in property values and in visual appeal.

We earnestly ask you to take into account the input you are receiving from the citizens who are most directly affected, and turn the proposal down.

Thank you.

Fred and Kate Williams  
21 Wirt St, NW  
Leesburg, VA 20176

## Linda DeFranco

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**From:** Kristen Umstatt  
**Sent:** Friday, October 25, 2013 7:22 AM  
**To:** Planning Commission  
**Subject:** Fw: Quality of Life In Historic Leesburg

----- Original Message -----

**From:** Robert Guerra [REDACTED]  
**Sent:** Friday, October 25, 2013 06:39 AM  
**To:** Council  
**Subject:** Quality of Life In Historic Leesburg

**From:** Rob Guerra [REDACTED]  
**Sent:** Thursday, October 24, 2013 8:27 AM  
**To:** [Council@LeesburgVA.Org](mailto:Council@LeesburgVA.Org)  
**Cc:** [REDACTED]; Ruth Guerra; [REDACTED]  
**Subject:** Quality of Life In Historic Leesburg

Dear Council Members,

Our family moved to Leesburg in late 2012, and have never been happier with our home, neighbors, and quality of life. Most recently however the music/noise from the "Shoes" Restaurant has put a real damper on that quality of life.

As small business owners, we do not begrudge anyone the right to grow their business, however that right comes with certain restrictions. One key restriction is that the business owners rights do not impinge on the rights of others.

First, we live at the corner of Cornwall Street North and Wirt Street.

Thus, Shoe's is essentially in our back yard. Unfortunately, their loud music/ noise (frankly much of the music is noise not music) is so loud that we can't entertain in our yard. Also, the noise goes on so late, it impinges on our ability to sleep at night on weekends. In addition, while Shoe's guests may enjoy the loud noise, those of us who try to enjoy an outdoor meal at Lightfoot have to suffer from that noise as we try to enjoy a quiet meal. So, while not intentional, Shoe's noise is harming business at Lightfoot in that we simply no longer go to Lightfoot for outdoor dining now because we can't conduct a conversation.

Again, we appreciate small business America and fully endorse anyone's right to run their business as they see appropriate. That right does not extend to harming the business of others or inconveniencing residents of the town.

We urge the council to not only deny the zoning amendment requested, and more importantly set noise level restrictions on the current "music" they provide.

Robert & Ruth Guerra  
19Cornwall Street, NW  
Leesburg, VA 20176  
703-729-3664  
703-201-0336 (Ruth Cellular)

Sent from my iPad

## Kevin Lawlor

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**From:** Gil Blankespoor <[REDACTED]>  
**Sent:** Thursday, January 30, 2014 8:20 AM  
**To:** Chris Murphy  
**Cc:** Kevin Lawlor; Kevin Malone; [REDACTED]  
**Subject:** RE: South Street Under (SSU) canopy

Chris,

Thanks for the quick response. I guess we need to wait until the Planning Commission and Town Council have acted.

Hopefully the town can find a solution to poor use of tents without circumscribing legitimate business use of canopies which add to the lure & draw of CBDs. Permanent, attractive awnings are seen in many towns as providing long-term benefits.

Kevin Lawlor, will you please treat the above as a comment on the change being proposed to permit canopies.

Thanks,

**Gil Blankespoor**  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**From:** Chris Murphy [mailto:[CMurphy@LEESBURGVA.GOV](mailto:CMurphy@LEESBURGVA.GOV)]  
**Sent:** Wednesday, January 29, 2014 4:52 PM  
**To:** Gil Blankespoor  
**Cc:** Brandon White; Kevin Lawlor  
**Subject:** RE: South Street Under (SSU) canopy

Mr. Blankespoor:

What you are describing qualifies as a "tent" per the Zoning Ordinance. Currently, the Zoning Ordinance does not permit tents to be used on a permanent (year-round) basis. They can only be utilized on a temporary basis under a Business Special Event Permit, or Temporary Use Permit. Coincidentally, however, the Department of Planning & Zoning is drafting a potential Zoning Ordinance revision that would permit the use of tents. That ordinance will go before the Planning Commission for a public hearing on February 20<sup>th</sup>. Once it has been reviewed by the Planning Commission it will then go before the Town Council for a public hearing. No date has yet been established for the Town Council public hearing.

Though SSU is not in a historic structure, it is still located within the H-1 Old and Historic Overlay District. As such, any permanent improvements require review and approval by the BAR. The proposed zoning ordinance is not proposing to change that requirement.

If you'd like more information on the proposed ordinance amendment, please contact Kevin Lawlor, Senior Planner at [klawlor@leesburgva.gov](mailto:klawlor@leesburgva.gov) Kevin is the project manager for that amendment. I've copied him on this email so he will be expecting you should you contact him.

With kind regards,  
Chris Murphy

**CHRISTOPHER MURPHY, AICP**

Zoning Administrator  
703-737-7009 (direct)  
703-771-2765 (office)

**From:** Gil Blankespoor [REDACTED]  
**Sent:** Wednesday, January 29, 2014 9:09 AM  
**To:** Chris Murphy  
**Cc:** Kevin Malone; [REDACTED]  
**Subject:** South Street Under (SSU) canopy

Mr. Murphy,

Since South Street Under has few seats and most dinners can't sit outside during cold weather, we're thinking of having Capital Canopies construct behind SSU a canopy of about 12' in depth and perhaps 50' long. Like the canopy outside at FireWorks-Arlington, the canopy would have some translucent panels on top and perhaps heaters & lighting inside. Capital Canopies would obtain the necessary town permits to build the canopy and help get the signature of the Market Station owner.

Our goal is to have removable side panels and removable fixed doors so that the canopy could be roof-only during the summer months. There would be year-round outdoor patio seating west of the canopy.

Since SSU isn't in a historic bldg, our question is whether the canopy would need BAR approval or whether approval could be gotten through an administrative process. Can you pls let us know? If you need drawings by Capital Canopies, we can send those to you.

Thanks,

**Gil Blankespoor**

[REDACTED]

PRESENTED: March 25, 2014

ORDINANCE NO. \_\_\_\_\_

ADOPTED: March 25, 2014

AN ORDINANCE: AMENDING ARTICLES 6, 9 AND 18 TO PERMIT TENTS AS AN ACCESSORY USE TO RESTAURANTS IN THE B-1 DISTRICT

The Council of the Town of Leesburg in Virginia hereby ordains:

**SECTION I.** That the following sections of the Zoning Ordinance of the Town of Leesburg, Virginia, 2003, as amended, by and the same are hereby amended to read as follows:

**Sec. 6.3 B-1 Community (Downtown) Business District**

**6.3.2 Use Regulations**

Uses are allowed in the B-1 District in accordance with the following table. A "P" in the second column of the table indicates that the use is permitted by-right, subject to compliance with all applicable standards of this Zoning Ordinance. An "S" in the second column of the table indicates that the use may be allowed if reviewed and approved in accordance with the Special Exception procedures of Sec. 3.4. For a summary of uses permitted in all zoning districts, see the Use Table in Sec. 9.2.

B-1 Uses			
Use		Use Standards	Definition
<b>Commercial Uses</b>			
Dance Studio	P		Sec.18.1.40
Eating establishment without drive-in facility	P	Sec. 9.3.9	Sec.18.1.55
Eating Establishment with accessory tent	P	Sec. 9.4.5	Sec.18.1.77.1

**Sec. 9.2 Use Table**

Use Type	R E	R 1	R 2	R 4	R 6	R H D	R 8	R 1 6	R 2 2	O 1	B 1	B 2	B 3	B 4	I 1	Use Standard
P = Permitted by Right S = Special Exception Approval Required (Sec. 3.4)																
<b>Commercial Uses</b>																
Eating establishment with drive-in facility												S	S	S		Sec. 9.3.9
Eating establishment without											P	P	P	P	S	Sec. 9.3.9

Use Type	R E	R 1	R 2	R 4	R 6	R H D	R 8	R 1 6	R 2 2	O 1	B 1	B 2	B 3	B 4	I 1	Use Standard
Drive-in facility																
Eating Establishment with accessory tent											P				P	Sec. 9.4.5

**Section 9.4.5 Eating Establishment with Accessory Tent**

A tent may be used as an accessory structure to a sit down eating establishment provided that all the following criteria have been met:

1. The sit-down restaurant is located within the B-1 Community (Downtown) Business District.
2. An accessory tent must be located in a rear yard or be screened by the building from the public right-of-way.
3. An accessory tent shall be no more than 400 square feet in area or fifty percent (50%) of the indoor seating area square footage, whichever is greater.
4. An accessory tent shall not interfere with designated parking spaces or travel isles.
5. An accessory tent may be allowed for up to a four (4) month period during the months of October through March.
6. An accessory tent shall be a single color that conforms to the traditional color palette found throughout the Old and Historic District as determined by the Zoning Administrator.
7. An accessory tent cannot exceed twenty (20) feet in height.
8. An accessory tent must be maintained in good repair with no holes or fraying of the materials.
9. An accessory tent cannot be located on a lot adjacent to a residential zoning district
10. A Zoning Permit is required prior to installation of an accessory tent.

**18.1.77.1 Tent**

A collapsible moveable shelter of fabric, plastic or the like, stretched and supported by poles that may be used as a temporary structure; not intended for living quarters.

**SECTION II.** All prior ordinances in conflict herewith are hereby repealed.

**SECTION III. Severability.** If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the Leesburg Town Code.

**SECTION IV** This ordinance shall be effective upon its adoption.

PASSED this 25<sup>th</sup> day of March, 2014.

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Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council

PRESENTED: March 25, 2014

ORDINANCE NO. \_\_\_\_\_

ADOPTED: March 25, 2014

AN ORDINANCE: AMENDING ARTICLE 10 OF THE LEESBURG ZONING  
ORDINANCE TO PERMIT A REDUCTION OF THE SETBACK FOR  
HVAC EQUIPMENT

The Council of the Town of Leesburg in Virginia hereby ordains:

**SECTION I.** That the following sections of the Zoning Ordinance of the Town of  
Leesburg, Virginia, 2003, as amended, by and the same are hereby amended to read as follows:

**Section 10.4.5 C. 2. Air Conditioners and Similar Equipment.**

Air conditioning equipment, heat pumps and similar mechanical equipment may not project more than three (3) feet into any required side or rear yard but no closer than five (5) feet to any lot line. Notwithstanding, window air conditioning units may not project more than eighteen (18) inches into a required yard.

On lots in which the required side or rear yard setback is five (5) feet or less, heating, ventilation, and air conditioning (HVAC) equipment and other similar equipment may be located no closer than two (2) feet from the side or rear lot line if the following standards are met:

1. A solid fence, wall or other screening is installed around any such HVAC unit or equipment to appropriately screen the unit or equipment from adjacent properties and public rights-of-way to the satisfaction of the Zoning Administrator and in accordance with all other applicable regulations.

**SECTION II.** All prior ordinances in conflict herewith are hereby repealed.

**SECTION III.** Severability. If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the Leesburg Town Code.

**SECTION IV** This ordinance shall be effective upon its adoption.

PASSED this 25<sup>th</sup> day of March, 2014.

\_\_\_\_\_  
Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council