



Date of Council Meeting: June 14, 2016

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** Town Code Amendment to Add Mixed Beverage Restaurant License and Tax for Restaurants with 1 to 50 seats.

**Staff Contact:** Barbara Notar, Town Attorney

**Council Action Requested:** Amend the Town Code to require restaurants that serve mixed beverages with 1 to 50 seats to obtain a Mixed Beverage Business, Professional and Occupational License and pay the corresponding license tax.

**Staff Recommendation:** The Director of Finance and Administrative Services recommends that the Town Council enact the ordinance.

**Commission Recommendation:** Not applicable.

**Fiscal Impact:** Minimal.

**Work Plan Impact:** None.

**Executive Summary:** At the May 24, 2016, Town Council meeting, the Council enacted all of the annual “batch” Town Code ordinance amendments with the exception of one which was an ordinance amendment requiring restaurants that serve alcohol with seating capacity of 1-50 to obtain a Mixed Beverage Business, Professional and Occupational License and to pay a \$200 annual mixed beverage license tax.

Council deferred action on this item until Town staff could notify each restaurant of the potential annual tax. An official letter was mailed May 25, 2016 providing notice to the three affected restaurants that the item would be discussed at the June 14, 2016 Town Council meeting.

**Background:** The following Town Code amendment is requested:

**1. Expansion of the Number of Persons at Tables to 1-100 for Each Restaurant Possessing a Mixed Beverage License**

Town Code § 20-244 authorizes the Town to charge a Business, Professional and Occupational (“BPOL”) license tax to businesses that sell alcoholic beverages “in the amount established by the town council.” Listed within Appendix B – Fee Schedule, is a tax for a mixed beverage license of \$200 per annum for each restaurant with a seating capacity at tables for 50 to 100 persons. However, Virginia Code § 4.1-233 provides for a tax of \$200 per annum for each restaurant with a seating capacity at tables for “up to 100 persons”. The Director of Finance and Administrative Services has requested that the Town Code

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provision match the Virginia Code provision. (It is unknown why the Town Code differs from the Virginia Code, as the Virginia Code provision has been in effect since at least

1996.) Staff has verified with the Virginia Department of Alcoholic Beverage Control that this change will add 3 restaurants to the 18 restaurants with mixed beverage licenses currently operating in the Town.

**Attachment:** Proposed Ordinance

PRESENTED: JUNE 14, 2016

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

ADOPTED: \_\_\_\_\_

AN ORDINANCE: TO AMEND THE TOWN CODE APPENDIX B – FEE SCHEDULE  
SEC. 20-244 ALCOHOLIC BEVERAGES BUSINESS LICENSE TAX—  
MIXED BEVERAGE RESTAURANT LICENSE FOR RESTAURANTS  
WITH SEATING CAPACITY AT TABLES FOR 1 TO 100 PERSONS

WHEREAS, the Leesburg Town Code currently requires restaurants that serve mixed beverages with seating capacity of 50 to 100 to obtain a Business, Professional and Occupational Mixed Beverage License and pay an annual \$200 license tax; and

WHEREAS, the Code of Virginia authorizes localities to require restaurants that serve mixed beverages with seating capacity of 1 to 100 to obtain a Business, Professional and Occupational Mixed Beverage License and pay an annual \$200 license tax; and

WHEREAS, in order for the Town Code to be consistent with the Code of Virginia, the Town Code should be amended to require restaurants that serve mixed beverages with seating capacity of 1 to 100 seats to obtain a Business, Professional and Occupational License and pay the annual license tax as set forth in the Code of Virginia.

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

**SECTION I.** That the following section of Chapter 20 (Licenses, Taxation and Miscellaneous Regulations), Article IX (Business, Professional and Occupational License Tax), Appendix B - Fee Schedule, Section 20-244 (Alcoholic Beverages Business License Tax – Mixed Beverage Restaurant License for Restaurants with Seating Capacity at Table for 1-100 Persons) of the Town Code of Leesburg, Virginia, 2009, as amended, be and the same is hereby amended to read as follows:

AN ORDINANCE: TO AMEND THE TOWN CODE: APPENDIX B – FEE SCHEDULE  
SEC. 20-244 ALCOHOLIC BEVERAGES BUSINESS LICENSE TAX—  
MIXED BEVERAGE RESTAURANT LICENSE FOR RESTAURANTS  
WITH SEATING CAPACITY AT TABLES FOR 1 TO 100 PERSONS

**Appendix B – Fee Schedule. Sec. 20-244. Alcoholic beverage business license tax:**

(12) Mixed beverage restaurant license:

a. Persons operating restaurants, including restaurants located on the premises of, and operated by, hotels or motels:

1. \$200.00 per annum for each restaurant with a seating capacity at tables for 1  
~~50~~ to 100 persons.

**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 \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
David S. Butler, Mayor  
Town of Leesburg

ATTEST:

\_\_\_\_\_  
Clerk of Council