

### **Responses to Committee's Inquiries**

**Request:** The NCAC wants the City Attorney's Office to look into creating a license or permit (similar to the sidewalk café permit) that can be suspended and/or revoked when there are violations of the noise ordinance. They also want staff to have a process for expediting the Special Magistrate hearing for violations associated with the license or permit.

**City Attorney's Office Response:** *The question is what is the conduct that the City will be licensing? There are State preemptions against local licensing certain activities.*

**Question:** What is the legal definition of "outdoors" in the ULDR? Is an awning or a glass wall considered outdoors?

**City Attorney's Office Response:** *Sec. 47-19.9. - Outdoor uses. requires all uses, including sale, display, preparation, and storage, to be conducted within a completely enclosed building except uses specifically listed in that section. By implication anything outside of a completely enclosed building is outdoor. The Zoning Administrator is charged with interpreting the ULDR and should be contacted to confirm this interpretation.*

### **Zoning Administrator's Response - Definition of "Outdoor":**

#### **Sec. 47-19.9. - Outdoor uses.**

A. All uses, including sale, display, preparation and storage, shall be conducted within a completely enclosed building, except as follows:

5.a. *Outdoor dining areas.* Outdoor seating areas used for outdoor dining as an accessory use to a restaurant where permitted by the zoning district.

b. *Sidewalk café.* Outdoor seating areas used for sidewalk cafés may be permitted within the public right-of-way, as an accessory use to restaurants where permitted by the zoning district, subject to the requirements of Chapter 25, Article VII, of Volume I of the Code. Awnings located over a sidewalk café may be permitted in accordance with Section 25-22 of Volume I of the Code.

*Outdoor dining:* "Outdoor dining" is in an area not within an enclosed building which is accessory to a licensed and operating restaurant where food and beverage are served and consumed for pay. Outdoor dining shall not include the preparation of food or beverages, cooking, storage or placement of equipment of any kind, except the temporary placement of implements associated with the service of food.

*Building:* A roofed and walled structure that is completely enclosed, except as otherwise provided in the ULDR, the use of which demands a permanent location on the land.

**Request:** The NCAC wants the CAO to work with staff on a graduated schedule for noise violations.

**City Attorney's Office Response:** *We can work on this issue.*