



**DOCKET ITEM #3**

***Rezoning #2023-00001***

***Removal of the King Street Outdoor Dining Overlay***

***Zoning Text Amendment #2023-00003***

***Delete the King Street Outdoor Dining Overlay and References to Outdoor Commercial Uses in the Public Right-of-Way, Waive Outdoor Dining Requirements in the Central Business District, and Specify Outdoor Dining Requirements on Private Property***

<p><b>Issues:</b></p> <p>1. Public Hearing and consideration of a request for an amendment to the official zoning map to remove the King Street Outdoor Dining Overlay from the zoning ordinance.</p> <p>2. (A) Initiation of a Text Amendment; and (B) Public Hearing and consideration of a Text Amendment to delete Section 6-800 (King Street outdoor dining overlay zone) and all other ordinance references to the King Street outdoor dining overlay; delete Section 7-1500 (Outdoor display, sales or storage of goods or merchandise and outdoor dining in a parklet); delete all other ordinance references to parklets, outdoor dining on sidewalks in the public right-of-way and outdoor retail display and sales in the public right-of-way; amend Section 8-300 to waive parking requirements for outdoor dining in the Central Business District; and amend Articles III, IV, V, VI, XI to specify requirements for outdoor dining on private property.</p>	<p>Planning Commission Hearing:</p>	<p>March 30, 2023</p>
	<p>City Council Hearing:</p>	<p>April 15, 2023</p>
<p><b>Description:</b> Rezoning to remove the King Street Outdoor Dining urban overlay from the zoning ordinance and (A) Initiation and (B) Public Hearing and consideration of a Text Amendment to the Zoning Ordinance to delete requirements for outdoor uses in the public right-of-way to prepare for the transfer of these requirements to City Code Section 5-2-29.</p>		

**Staff:**

*Department of Planning & Zoning:*

Ann Horowitz, Principal Planner

Patrick Silva, Urban Planner

*Department of Transportation & Environmental Services:*

Katye North, Division Chief

Max DeVilliers, Urban Planner

**Staff recommendation:** Staff recommends that the Planning Commission (1) recommend approval of the rezoning and (2) INITIATE and recommend APPROVAL of the text amendment.

## **I. SUMMARY**

The Department of Planning & Zoning (P&Z) proposes rezoning and text amendments that represent the final phase in the transition from the temporary outdoor business programs, approved through the City's emergency response to the COVID-19 pandemic, to permanent streamlined outdoor program permits that are uniformly available for businesses Citywide. The requests in this staff report work in tandem with the Department of Transportation & Environmental Services' proposed text amendments to City Code Section 5-2-29 – Permitted Encroachments, which will be presented to City Council in April 2023. When combined, the Zoning Ordinance rezoning and text amendment and the City Code text amendments are designed to save restaurants time by creating a single, streamlined administrative approval process that applies to all requests for outdoor dining in the public right-of-way. Retail display and sales uses in the public right-of-way are also addressed in this request and are slated for inclusion in the upcoming City Code text amendment.

## **II. BACKGROUND**

### ***Outdoor dining regulation***

The King Street Retail Strategy, which City Council adopted in 2005 as an Old Town Small Area Plan (SAP) supplement, established methods to assure the King Street corridor remained a vital, active and thriving regional commercial area. One recommendation for enhancing the retail environment was to allow sidewalk dining, which led to the popular King Street Outdoor Dining program. City Council approved the King Street Outdoor Dining (KSOD) program through a text amendment, adding Section 6-800 - King Street Dining Overlay zone. This contained application requirements, permit approval criteria and an overlay blanket encroachment for use of the sidewalk public right-of-way for dining (Attachment 1). Yearly administrative approvals accompanied by a fee were required to participate. Given that the KSOD program did not apply outside the overlay, restaurants located elsewhere pursued outdoor dining on the sidewalk public right-of-way through City Council approval of an encroachment and special use permit (SUP) at public hearing.

Sidewalk outdoor dining permits continued along these paths until May 2020 when City Council authorized regulation waivers for certain sidewalk dining requirements through emergency measures in response to the COVID-19 pandemic. The most significant changes incorporated waivers of City Code and Zoning ordinance requirements; suspension of fees and encroachment approvals; the participation of retail and fitness uses; and the opportunity to conduct outdoor business in a parklet (on-street parking space in the public right-of-way) through an administrative process based on the KSOD application and permit requirements. These permits were considered temporary and were valid until the expiration of the City-declared emergency on September 30, 2022. After that date, the waivers to the City Code and Zoning Ordinance requirements ceased and businesses wishing to continue with the outdoor enterprises were to comply with all City requirements, specifically either a KSOD or SUP permit and encroachment approval for sidewalk dining administered through P&Z and/or a separate Transportation & Environmental Service (T&ES) parklet approval. Previous Zoning Ordinance text amendments allowed retail uses to display and sell on the sidewalk as a permitted encroachment subject to use

limitations regarding hours and sidewalk clearance; however, a T&ES parklet permit was required for retail use.

***Proposed text amendment to City Code Section 5-2-29 – Permitted encroachments***

Staff received feedback from restaurateurs, particularly in the King Street corridor, requesting a single application process for sidewalk and parklet dining in the public right-of-way which would be administered by one department. P&Z and T&ES staff responded with a proposed plan, as illustrated in this staff report, to combine all requests for public right-of-way outdoor dining on sidewalks and in parklets into a T&ES permit, authorized by City Code Section 5-2-29 for Permitted Encroachments, effective July 1, 2023. Not only does this provide for a single application, but also extends the administrative approval opportunity to all areas of the City, not just to King Street corridor restaurants.

As previously approved for the KSOD overlay area, outdoor dining on the sidewalk would be a permitted encroachment throughout the City, negating the need for City Council encroachment approval at public hearing and SUP approval, therefore, reducing restaurateurs' application costs and time. All other requirements from the KSOD program framework for sidewalk dining are integrated into the proposed City Code text amendments. In addition, retail display and sales in the public right-of-way and parklet requirements would appear in City Code Section 5-2-29, consolidating all public sidewalk and parking space business allowances in one regulatory document.

The City Council will review the proposed text amendments to City Code Section 5-2-29 at its April 11 Legislative Meeting and the April 15 Public Hearing; City Code text amendments do not require Planning Commission review. City Council will vote also on the rezoning and text amendments contained in this report at the April 15 public hearing.

#### **IV. PROPOSALS AND RECOMMENDATIONS**

***Proposals***

With the proposed transfer of all processes and requirements for outdoor dining that occurs in the public right-of-way throughout the City to the City Code, several sections of the Zoning Ordinance require deletion or revision. First, staff proposes a rezoning to eliminate the King Street Outdoor Dining Overlay and to delete Zoning Ordinance provisions related to the Overlay zone that are under Section 6-700. Second, several Zoning Ordinance text changes are proposed to prepare for the shift of all requirements for outdoor business uses in the public right-of-way to City Code Section 5-2-29. These changes are necessary to create a single application process and permit for outdoor dining on the sidewalk and in the parklets in the public right-of-way and allow all City restaurants to avail themselves of an administrative review.

Staff proposes that the rezoning and the text amendments take effect July 1, 2023 in alignment with the effective date recommended for the text amendments to City Code Section 5-2-29.

***Recommendation I: Rezoning***

Staff recommends rezoning to eliminate the King Street Outdoor Dining Overlay zone from all properties upon which it currently exists. The overlay is no longer necessary with the shift of the KSOD requirements to City Code Section 5-2-29. With these changes to City Code Section 5-2-29, the goals of the King Street Retail Strategy section of the Old Town SAP for street vitality in the commercial core continue to be met. In fact, the proposed amendments not only maintain a sidewalk outdoor dining program of the same caliber while becoming less burdensome on applicants, but also enhance vibrancy with parklet and outdoor retail options in the SAP area and Citywide.

***Recommendation II: Zoning Ordinance Text Amendments***

Several Zoning Ordinance text amendments result with the transfer of all outdoor dining and retail display opportunities in the public right-of-way to City Code Section 5-2-29. These are noted in the Proposed Zoning Ordinance Text Amendment Language attachment and are described here:

**A. Delete Section 6-800 – King Street outdoor dining overlay zone**

With the rezoning (removal) of the overlay and the sidewalk outdoor dining requirements shifting to the City Code Section 6-800, it is no longer necessary in the Zoning Ordinance. References to Section 6-800 and the King Street Outdoor Dining program would be also deleted from Section 11-513, which establishes standards for administrative SUP outdoor dining uses.

**B. Delete Section 7-1500 - Outdoor display, sales or storage of goods or merchandise and outdoor dining in a parklet**

The outdoor business opportunities outlined in Section 7-1500 occur in the public right-of-way and are proposed for inclusion as permitted encroachments through recommended application processes in City Code Section 5-2-29. An additional reference to parklets, not otherwise deleted in Section 6-800 and in the use limitation sections (below), has been deleted in Section 2.

**C. Amend outdoor dining terminology**

The present-day Zoning Ordinance contains references to outdoor dining in Articles III, IV, V, VI and XI. As outdoor dining located in the public right-of-way would be now addressed in City Code Section 5-2-29 and through a T&ES permit, outdoor dining on private property would remain a Zoning Ordinance use. The “outdoor dining” term has been replaced with “outdoor dining located on private property” in several zones and in Section 11-513 – Administrative special use approval, which outlines outdoor dining criteria. Examples of outdoor dining on private property include restaurant property on ground levels, balconies or rooftops. The regulatory requirements for outdoor dining on private property in the Zoning Ordinance would remain unchanged.

**D. Amend Use limitations sections**

Outdoor retail display and sale in the public right-of way, including parklets, is presently regulated in the use limitation sections in Zoning Ordinance Articles III, IV, V and VI. The use and the approval criteria are proposed to be regulated under the new City Code Section 5-2-29.

E. Waive outdoor dining parking requirements in the Central Business District

Section 8-300 has been amended to add outdoor dining as a use that does not have a parking requirement in the Central Business District. It would join restaurant uses with this distinction. When this section was amended in 2018, parking requirements for outdoor dining were integrated into the Zoning Ordinance restaurant definition. In 2020, a text amendment separately defined the two uses, necessitating the addition of outdoor dining to this section.

**IV. CONCLUSION**

The proposed rezoning and text amendment eliminate regulations in order allow amended City Code Section 5-2-29 to regulate these uses with the goal of improving regulatory efficiencies for businesses wishing to conduct outdoor ventures in the public right-of-way, equalizing outdoor business permit approval paths Citywide and supporting the vitality of our City's commercial areas.

**Staff:**

Ann Horowitz, Principal Planner, P&Z Land Use Services

Katy North, Division Chief, T&ES Mobility Services

Patrick Silva, Urban Planner, P&Z Land Use Services

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**Attachments:**

1. King Street Outdoor Dining Overlay Map
2. Proposed Zoning Ordinance Text Amendment Language



# King Street Outdoor Dining Overlay Zone



**TA #2005-0003**  
**REZ #2005-0005**

(Approved by Ordinance 4414 ~ adopted June 21, 2005)



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**Proposed Zoning Text Amendment Language  
Zoning Text Amendment 2023-00003**

**Article II Definitions**

**~~Sec. 2-182.06~~**

**~~Parklet~~**

~~An extension of the sidewalk into the parking lane to be used for open space, public seating, or extra space associated with a business, such as a restaurant or a retail establishment.~~

**Article III Residential**

**Section 3-800 – RCX/Medium density apartment zone.**

**3-803 Special uses.**

The following uses may be allowed in the RCX zone pursuant to a special use permit:

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(F) Outdoor dining on private property;

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**Section 3-900 – RC/High density apartment zone.**

**3-903 Special uses.**

The following uses may be allowed in the RC zone pursuant to a special use permit:

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(8.2) Outdoor dining on private property;

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**Section 3-1000 – RD/High density apartment zone.**

**3-1002 Special uses.**

The following uses may be allowed in the RD zone pursuant to a special use permit:

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(C.2) Outdoor dining on private property;

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**Sec. 3-1400 - RMF/Residential multifamily zone.**



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**3-1403 Special uses.**

The following uses may be allowed in the RMF zone pursuant to a special use permit:

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- (5) Outdoor dining on private property.

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**3-1409 Use limitations.**

- (A) All commercial operations, including storage shall be conducted within a completely enclosed building, with the exception of outdoor uses pursuant to Section 3-1400 and dining and outdoor retail display and sales as set forth in the subsections below City Code section 5-2-29, as applicable.

- ~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with requirements of section 7-1500.~~

- ~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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**Article IV Commercial**

**Sec. 4-100 - CL/Commercial low zone.**

**4-102.1 Administrative special uses.**

The following uses may be allowed in the CL zone with administrative approval, subject to section 11-513 of this ordinance:

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- (E) Outdoor dining on private property;

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**4-103 Special uses.**

The following uses may be allowed in the CL zone pursuant to a special use permit:

\*\*\*

- (J.1) Outdoor dining on private property, other than pursuant to sections 4-102 and 4-102.1;

\*\*\*

**4-107 Use limitations.**

- (A) All commercial operations, including storage, shall be conducted within a completely

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enclosed building, with the exception of outdoor uses pursuant to this section 4-100 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### **Sec. 4-200 - CC/Commercial community zone.**

##### **4-202.1 Administrative special uses.**

The following uses may be allowed in the CC zone with administrative approval, subject to section 11-513 of this ordinance:

\*\*\*

(E) Outdoor dining on private property;

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##### **4-203 Special uses.**

The following uses may be allowed in the CC zone pursuant to a special use permit:

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(M.1) Outdoor dining on private property, other than pursuant to sections 4-202 and 4-202.1;

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##### **4-207 Use limitations.**

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-200 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

- 
- ~~(2) — Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
  - ~~(3) — In accordance with Section 5-2-29 of the City Code.~~

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**Sec. 4-300 - CSL/Commercial service low zone.**

**4-302.1 Administrative special uses.**

The following uses may be allowed in the CSL zone with administrative approval, subject to section 11-513 of this ordinance:

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- (E) Outdoor dining on private property;

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**4-303 Special uses.**

The following uses may be allowed in the CSL zone pursuant to a special use permit:

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- (S.1) Outdoor dining on private property, other than pursuant to sections 4-302 and 4-302.1;

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**4-307 Use limitations.**

- (A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-300 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

- ~~(A.1) — Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

- ~~(A.2) — Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) — During business operational hours;~~
- ~~(2) — Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) — In accordance with Section 5-2-29 of the City Code.~~

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**Sec. 4-400 - CG/Commercial general zone.**

**4-402.1 Administrative special uses.**

The following uses may be allowed in the CG zone with administrative approval, subject to section 11-513 of this ordinance:

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(E) Outdoor dining on private property;

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#### **4-403 Special uses.**

The following uses may be allowed in the CG zone pursuant to a special use permit:

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(V.1) Outdoor dining on private property, other than pursuant to sections 4-402 and 4-402.1;

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#### **4-407 Use limitations.**

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-400 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### **Sec. 4-500 - CD/Commercial downtown zone.**

##### **4-502.1 Administrative special uses.**

The following uses may be allowed in the CD zone with administrative approval, subject to section 11-513 of this section:

\*\*\*

(D) Outdoor dining on private property (~~beyond the boundaries of the King Street Outdoor Dining on private property Zone~~);

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##### **4-503 Special uses.**

The following uses may be allowed in the CD zone pursuant to a special use permit:

\*\*\*

(T.1) Outdoor dining on private property, other than pursuant to sections 4-502 and 4-502.1;

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**4-507 Use limitations.**

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-500 and ~~dining and outdoor retail display and sales as set forth in the subsections below~~ City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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**Sec. 4-600 - CD-X/Commercial downtown zone (Old Town North).**

**4-602.1 Administrative special uses.**

The following uses may be allowed in the CD-X zone with administrative approval, subject to section 11-513 of this ordinance:

\*\*\*

(E) Outdoor dining on private property;

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**4-603 Special uses.**

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(R.1) Outdoor dining on private property, other than pursuant to sections 4-602 and 4-602.1;

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**4-607 Use limitations.**

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-600 and ~~dining and outdoor retail display and sales as set forth in the subsections below~~ City Code Section 5-2-29, as applicable..

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- 
- ~~(1) During business operational hours;~~
  - ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
  - ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### **Sec. 4-700 - CR/Commercial regional zone.**

##### **4-702.1 Administrative special uses.**

The following uses may be allowed in the CR zone with administrative approval, subject to section 11-513 of this ordinance:

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- (E) Outdoor dining on private property;

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##### **4-703 Special uses.**

The following uses may be allowed in the CR zone pursuant to a special use permit:

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- (J) Outdoor dining on private property, other than pursuant to sections 4-702 and 4-702.1;

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##### **4-707 Use limitations.**

- (A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-700 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

- ~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

- ~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### **Sec. 4-800 - OC/Office commercial zone.**

##### **4-802.1 Administrative special uses.**

The following uses may be allowed in the OC zone with administrative approval, subject to section 11-513 of this ordinance:

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(E) Outdoor dining on private property;

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#### **4-803 Special uses.**

The following uses may be allowed in the OC zone pursuant to a special use permit:

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(W.1) Outdoor dining on private property, other than pursuant to sections 4-802 and 4-802.1;

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#### **4-807 Use limitations.**

(A) All operations, including storage, be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-800 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### **Sec. 4-900 - OCM(50)/Office commercial medium (50) zone.**

##### **4-902.1 Administrative special uses.**

The following uses may be allowed in the OCM (50) zone with administrative approval, subject to section 11-513 of this ordinance:

\*\*\*

(E) Outdoor dining on private property;

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##### **4-903 Special uses.**

The following uses may be allowed in the OCM(50) zone pursuant to a special use permit:

\*\*\*

(W.1) Outdoor dining on private property, other than pursuant to sections 4-902 and 4-902.1;

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**4-906 Use limitations.**

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-900 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

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**Sec. 4-1000 - OCM(100)/Office commercial medium (100) zone.**

**4-1002.1 Administrative special uses.**

The following uses may be allowed in the OCM (100) zone with administrative approval, subject to section 11-513 of this ordinance:

\*\*\*

(E) Outdoor dining on private property;

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**4-1003 Special uses.**

The following uses may be allowed in the OCM (100) zone pursuant to a special use permit:

\*\*\*

(W.1) Outdoor dining on private property, other than pursuant to sections 4-1002 and 4-1002.1;

\*\*\*

**4-1006 Use limitations.**

(A) All operations, including storage, be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-1000 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~



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~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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**Sec. 4-1100 - OCH/Office commercial high zone.**

**4-1102.1 Administrative special uses.**

The following uses may be allowed in the OCH zone with administrative approval, subject to section 11-513 of this ordinance:

\*\*\*

- (E) Outdoor dining on private property;

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**4-1103 Special uses.**

The following uses may be allowed in the OCH zone pursuant to a special use permit:

\*\*\*

- (T.1) Outdoor dining on private property, other than pursuant to sections 4-1102 and 4-1102.1;

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**4-1106 Use limitations.**

- (A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-1100 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operationaFI hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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**Sec. 4-1200 - I/Industrial zone.**

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#### 4-1202.1 Administrative special uses.

The following uses may be allowed in the I zone with administrative approval, subject to section 11-513 of this ordinance:

\*\*\*

- (E) Outdoor dining on private property;

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#### 4-1203 Special uses.

The following uses may be allowed in the I zone pursuant to a special use permit:

\*\*\*

- (P.1) Outdoor dining on private property, other than pursuant to sections 4-1202 and 4-1202.1;

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#### 4-1206 - Use limitations.

- (A) All uses and operations shall be conducted within a completely enclosed building or an area enclosed on all sides with screening or buffering adequate and reasonable to protect adjacent nearby uses, as determined by the director, with the exception of outdoor uses pursuant to this section 4-1200 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### Sec. 4-1400 - NR/Neighborhood retail zone (Arlandria).

##### 4-1403.1 Administrative special uses.

The following uses may be allowed in the NR zone with administrative approval, subject to section 11-513 of this ordinance:

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- (A.3) Outdoor dining on private property;

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#### 4-1404 Special uses.

The following uses may be allowed with a special use permit:

\*\*\*

(I.1) Outdoor dining on private property, other than pursuant to section 4-1403.1;

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#### 4-1413 Use limitations.

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 4-1400 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

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#### Section 5-100 – CRMU-L/Commercial residential mixed use (low).

##### 5-102.1 Administrative special uses.

The following uses may be allowed in the CRMU-L zone with administrative approval, subject to section 11-513 of this ordinance:

(B) Outdoor dining on private property;

##### 5-103 Special uses.

The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-109 below:

(K.1) Outdoor dining on private property, other than pursuant to sections 5-102 and 5-102.1;

##### 5-110 Use limitations

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(D) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 5-100 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

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**Section 5-200 – CRMU-M/Commercial residential mixed use (medium).**

**5-202.1 Administrative special uses.**

The following uses may be allowed in the CRMU-M zone with administrative approval, subject to section 11-513 of this ordinance:

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- (B) Outdoor dining on private property;

\*\*\*

**5-203 Special uses.**

The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-209 below:

\*\*\*

- (L.1) Outdoor dining on private property, other than pursuant to sections 5-202 and 5-202.1;

\*\*\*

**5-210 Use limitations**

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- (D) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 5-200 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(D.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

- ~~(D.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~
- ~~(1) During business operational hours;~~
  - ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
  - ~~(3) In accordance with Section 5-2-29 of the City Code.~~

**Section 5-300 – CRMU-H/Commercial residential mixed use (high).**

**5-302.1 Administrative special uses.**

The following uses may be allowed in the CRMU-H zone with administrative approval, subject to section 11-513 of this ordinance:

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(B) Outdoor dining on private property;

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### **5-303 Special uses.**

The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-309 below:

\*\*\*

(L.1) Outdoor dining on private property, other than pursuant to sections 5.302 and 5-302.1;

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### **5-310 Use limitations**

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(D) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 5-300 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(D.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(D.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

### **Section 5-400 – CRMU-X/Commercial residential mixed use (Old Town North) zone.**

#### **5-402.1 Administrative special uses.**

The following uses may be allowed in the CRMU-X zone with administrative approval, subject to section 11-513 of this ordinance:

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(B) Outdoor dining on private property;

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### **5-403 Special uses.**

The following uses may be approved, subject to the procedures and regulations for special use permits and subject to the limitations of section 5-609 below:

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(P.1) Outdoor dining on private property, other than pursuant to sections 5-402 and 5-402.1;

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### **5-410 Use limitations**

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(C) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 5-400 and dining and outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.

~~(C.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(C.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

### **Section 5-500 – W-1/Waterfront mixed use zone.**

#### **5-502.1 Administrative special uses.**

The following uses may be allowed in the W-1 zone with administrative approval, subject to section 11-513 of this ordinance.

\*\*\*

(B) Outdoor dining on private property;

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#### **5-503 Special uses.**

The following uses may be allowed in the W-1 zone pursuant to a special use permit:

\*\*\*

(F) Outdoor dining on private property, other than pursuant to sections 5-502 and 5-502.1;

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### **5-511 Use limitations**

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(C) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 5-500 and dining and

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~~outdoor retail display and sales as set forth in the subsections below City Code Section 5-2-29, as applicable.~~

~~(C.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(C.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(1) During business operational hours;~~

~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(3) In accordance with Section 5-2-29 of the City Code.~~

**5-602 Coordinated development districts created, consistency with master plan, required approvals.**

(A) The CDD districts, as shown on Table 1, are as follows:

Table 1. Coordinated Development Districts

CDD No.	CDD Name	Without a CDD Special Use Permit	With a CDD Special Use Permit		
			Maximum F.A.R. and/or Development Levels	Maximum Height	Uses
1	Duke Street	OC Zone Regulations apply except that: - maximum F.A.R. is 1.25 within 1,000 linear feet of the King Street Metro Station kiosk and 1.0 elsewhere - maximum heights shall be 77 feet	2.62	200 feet, with an average height of 150 feet, except that: - heights on Duke Street limited to 77 feet or 82 feet with ground floor commercial - height up to 217 feet permitted for one building for the U.S. PTO - Federal Courthouse limited to 250 feet	Mix of uses, including office, retail, residential, hotel, active and passive recreation, daycare and other support facilities
2	Eisenhower Avenue Metro	OC zoning regulations apply except that:  - Maximum F.A.R. is 1.25, except 2.0 with an architectural design SUP as specified in the master plan  - Maximum heights shall be 100 feet, except on property known as the Hoffman Tract, where the maximum height shall	The development controls for each development block including principal land uses, required minimum percent of commercial, maximum and minimum building height, required on-site publicly accessible open space, and required minimum retail are delineated in "Table 1 "Development Summary" of the	The maximum and minimum building heights shall conform to the Eisenhower East Small Area Plan as may be amended.	Active recreational uses; animal care facility; any use with live entertainment; apartment hotel; business and professional office; child care home; church; congregate housing facility; congregate recreational facility; continuum of care facility; day care center; dwelling, multifamily; elder care



		<p>not exceed 150 feet. Any project proposed for development under the OC Office Commercial zoning shall conform to the design principles and guidelines outlined in the Eisenhower East Small Area Plan as may be amended. Development is prohibited on any portion of the property delineated in the Eisenhower East Small Area Plan, as may be amended, as public open space or roadways, however, this restriction is not intended to affect the amount of total development on the parcel.</p>	<p>Eisenhower East Small Area Plan as may be amended. In addition, development shall be in accordance with the guidelines in the Eisenhower East Small Area Plan as may be amended.</p> <p>Maximum F.A.R.: No maximum F.A.R. The building volume shall be in accordance with the Eisenhower East Small Area Plan as may be amended.</p> <p>Minimum open space: The minimum open space shall conform to the Eisenhower East Small Area Plan as may be amended.</p> <p>Minimum yards: None, except as may be applicable pursuant to the supplemental yard and setback regulations of section 7-1000.</p> <p>Area Requirements:</p>		<p>home; food or beverage production exceeding 5,000 sq. ft., which includes a retail component; fraternal or private club; health and athletic club or fitness studio; health profession office; helistop; homeless shelter; hospice; hospital; hotel; light assembly, service, and crafts; medical care facility; medical laboratory; nursing or convalescent home or hospice; <del>outdoor dining</del>; outdoor dining located on private property; <del>outdoor dining and outdoor retail display and sales pursuant to 5-602(E)(14) and (15)</del>; outdoor market; passive recreational use; personal service establishment; public park; private school, academic; private school, commercial; public building; public</p>
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			<p>There are no lot area or frontage requirements.</p> <p>The height-to-setback ratio required in Section 6-403(A) and the zone transition requirements of Section 7-900 do not apply.</p> <p>All proposed development shall be reviewed for compliance with the design principles and guidelines by the Eisenhower East Design Review Board.</p>		<p>school; radio or television broadcasting office and studio; recreation and entertainment use, indoor and outdoor; restaurant; retail shopping establishment; theater, live; social service use; solar energy system not serving a building, valet parking; and veterinary/animal hospital</p>
3	Cameron Center	<p>OC zoning regulations apply except that:</p> <ul style="list-style-type: none"> <li>- maximum of 1.5 F.A.R. allowed</li> <li>- maximum heights shall be 77 feet</li> </ul>	2.5	200 feet with a variety of building heights, or, if the use is predominately residential, 225 feet with a variety of building heights	Mix of uses including office, retail and either residential or hotel
4	Winkler Tract	<p>OC Zone regulations apply for the existing office and vacant areas, the CG zone regulations shall apply for the shopping center area and the RA zone</p>	<p>Maximum FAR: 1.0 F.A.R. except that:</p> <ul style="list-style-type: none"> <li>- The maximum F.A.R. for Area III-A is 1.5;</li> <li>- The maximum F.A.R. for Area III-B is 2.5;</li> </ul> <p>and</p>	150 feet except that consideration will be given to two buildings of not more than 250 feet each	Existing uses, office, , retail shopping establishment, personal service, public schools, residential, hotel and continuum of care facility.

		<p>regulations shall apply for the existing residential areas, with the following additional provisions:</p> <ul style="list-style-type: none"> <li>- the F.A.R. of the existing development shall not increase over the existing F.A.R.</li> <li>- the F.A.R. does not exceed 1.0 on the vacant portion of the site</li> <li>- at least 43 acres shall be maintained in or adjacent to Botanical Preserve and not used for F.A.R.</li> <li>- in area bounded by Beaugard, Seminary, I-395 and Roanoke, heights may rise to 100 feet except: <ul style="list-style-type: none"> <li>- no building shall be constructed within 50 feet of curb of Beaugard</li> <li>- building height may only exceed 50 feet by</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- Development existing in all other areas of the CDD at the time of its original adoption should be maintained at existing densities.</li> </ul>		
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		one foot for each foot set back beyond 50 feet from the curb of Beaugard, up to maximum height of 100 feet			
5	Stone Tract	RA zone regulations apply	1.5 F.A.R. for commercial 54.45 Dwelling Units/Acre for residential	150 feet	Residential and commercial
6	Mt. Vernon Village Center/Birchmere	NR zone regulations shall apply except that the FAR shall not exceed 0.5 for nonresidential and 0.75 for a mixed use project including residential and ground floor retail uses	Up to 3.0 gross floor area (GFA) including above-grade parking for the total mixed use development. (See CDD guidelines for definition of GFA Development shall be consistent with the CDD guidelines and the Arlandria Neighborhood Plans, as adopted in the Potomac West Small Area Plan	Maximum permitted building height along the street is 35 feet. Building height may be increased to 50 feet with a minimum building step back of 15 feet from the front facade of the building Additional building height may be allowed as outlined in the CDD guidelines	Retail, office residential Development of uses fronting on Mt. Vernon Avenue shall consist of pedestrian-oriented uses as listed in the NR zone with office and/or residential uses above the ground floor to create an integrated mixed use development.
7	Route 1 Properties	RB zone regulations apply along Reed Avenue, the RC zone regulations apply along Commonwealth Avenue to a depth of 100 feet except as provided below and the	For the north side of East Reed Avenue, a maximum 27 dwelling units per acre, provided that a minimum of 10 percent of the total number of units are made affordable as	45 feet	Mix of uses including office, retail, residential, hotel and open space. On the north side of East Reed Avenue, the preferred land use is residential townhouse

		OC zone regulations apply on the remainder of the site provided that: - heights in the area along Commonwealth Avenue shall not exceed 45 feet;	defined in the city affordable housing policy. Development shall comply with the CDD guidelines adopted in the Potomac West Small Area Plan.		uses; however, stacked townhouse uses may be permitted, provided they are arranged on the site to create variety in the streetscape, minimize the number of curb cuts along East Reed Avenue, and provide ground-level, usable open space.
		- the use of automobile and trailer rental or sales be permitted with a special use permit on the portion of the site governed by the OC zone regulations and surface parking associated with the use of automobile and trailer rental or sales within 85 feet of Commonwealth Avenue and car lift parking within the remaining 15 feet be permitted with a special use permit.			
8	Trade Center	CG zone regulations apply			Mix of retail and residential uses with limited office
9	Cameron Station	R-8 zone regulations apply	Up to 2,510 residential units may be permitted*; up to 30,000 square feet of	45 feet along Duke Street and First Street, except two buildings up to 55 feet at the	Residential, retail, open space and public school

			<p>retail space; and up to 80,000 square feet for a public school; all on 97 acres</p> <p>* Actual number of units to be determined as part of CDD concept plan amendments submitted in conjunction with the unapproved phases (V and VI).</p>	<p>entrance to the development from the park road, to 55 feet at the center of the area, and to 77 feet along the railroad tracks, with a limited number of buildings to 120 feet along the southern portion of the site</p>	
10	Potomac Yards/Greens	<p>The RB zone regulations shall apply to the area south of the Monroe Avenue Bridge and east of the Metro Tracks, the CSL zone regulations shall apply on the first 250 feet east of Rte 1, and the I zone regulations shall apply on the remainder of the site; except that the U/T regulations shall apply to an area approximately 120 feet wide located just west of the Metrorail right-of-way (area shown on the plat for Case REZ #95-0005) for the purpose of</p>	<p>Up to 1.747.346<sup>2</sup> square feet of office space, except that office square footage may be converted to retail square footage through the special use permit process.</p> <p>Up to 325,000 square feet of continuum of care use, which may include up to 190 dwelling units.</p> <p>Up to 170 hotel rooms.</p> <p>Up to 163,817 square feet of retail space.<sup>2</sup> Up to 2,239 residential units.</p> <p>Note 2: Office floor area may be converted to ground floor retail</p>	<p>Heights shall be as shown on the map entitled "Predominate Height Limits for CDD" (Map No. 24, Potomac Yard/Potomac Greens Small Area Plan Chapter of 1992 Master Plan) as may be revised.</p>	<p>Pre-dominantly residential, with a mix of land uses to include continuum of care facility, office, retail and service, hotel, parks and open spaces, and community facilities.</p>

		<p>accommodating the relocated rail mainline on the yard, and except also that the area known as the "Piggyback Yard" and Slaters Lane portion of Potomac Yard (as shown on the plat for Case REZ #95-0004) may be developed pursuant to the CRMU-L zone provided that the Piggyback Yard:</p> <ul style="list-style-type: none"> <li>- shall contain no more than 275 dwelling units;</li> <li>- shall contain no more than 60,000 square feet of commercial space, of which no more than 30,000 square feet shall be office;</li> <li>- shall be planned and developed pursuant to a special use permit;</li> <li>- shall have a maximum height of 50 feet;</li> <li>- shall generally be consistent with the goals and the</li> </ul>	<p>use through a special use permit.</p>		
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		guidelines of the small area plan.			
11	South Carlyle	<p>OCM(100) zoning regulations shall apply except that:</p> <ul style="list-style-type: none"> <li>- maximum FAR without an SUP shall be 1.0</li> <li>- maximum height without an SUP for all property within the South Carlyle CDD shall not exceed 100 feet. Any project proposed for development under the OCM(100) Office Commercial Medium zoning shall conform to the Architectural Principles and Design Guidelines outlined in the Eisenhower East Plan. Development is prohibited on any portion of the property delineated in the Master Plan as public open space or roadways, however, this restriction is not intended to affect the amount of total</li> </ul>	<p>The development controls for each development block including allowable gross floor area (AGFA), maximum building height, the size of public open spaces, the principal use of the property and the desired amount of ground-level retail space, are delineated in Figure 4-10 of the Eisenhower East Small Area Plan. In addition development shall be in accordance with the guidelines in the Eisenhower East Small Area Plan.</p> <p>All proposed development shall be reviewed for compliance with the design guidelines by the Eisenhower East Design Review Board.</p>	<p>The development controls for each development block including maximum building height, are delineated in Figure 4-10 of the Eisenhower East Small Area Plan.</p>	<p>Mix of uses including office, residential and retail along with active and passive recreation opportunities.</p>



		development on the parcel.			
12	Safeway-Datatel	NR zone regulations shall apply except that the FAR shall not to exceed 0.5 for nonresidential and 0.75 for a mixed use project including residential and ground floor retail uses.	Up to 3.0 gross floor area (GFA) including above-grade structured parking for the total mixed use development. Development shall be consistent with the Arlandria-Chirilagua Small Area Plan.	The overall height of buildings should be generally consistent with the heights depicted in the Arlandria-Chirilagua Small Area Plan.	A mixed use, neighborhood center that provides community-serving retail and other uses, including catering facilities, continuum of care facilities, nursing home, office and live/work or residential uses with public and private parking. A minimum of 10 percent of the total number of residential units shall be affordable units.
13	Triangle sites	CL zone regulations shall apply, except that single, two family, and townhouse dwellings are prohibited.	1.0 FAR, except that an increase to 1.25 FAR may be allowed with the provision of affordable housing pursuant to section 7-700, except that the allowed density increase may be 25%. New development shall be in accordance with the guidelines in chapter 6 of the Mt. Vernon Avenue	Building height should be limited to 2½ to 3 stories, with step downs in building mass along Commonwealth Avenue. Maximum building height is 45 feet.	A mix of uses, including some ground floor retail, with residential or office use, and a large functional open space at the corner of Mt. Vernon Avenue and Commonwealth Avenue.

			Business Area Plan, as adopted in the Potomac West Small Area Plan.		
14	Giant- CVS	CL zone regulations shall apply.	1.0 FAR, except that an increase to 1.25 FAR may be allowed with the provision of affordable housing pursuant to section 7-700, except that the allowed density increase may be 25%. New development shall be in accordance with the guidelines in chapter 6 of the Mt. Vernon Avenue Business Area Plan, as adopted in the Potomac West Small Area Plan.	Building height should be limited to 2½ to 3 stories, with step downs in building mass to adjoining residential uses. Maximum building height is 45 feet.	A mix of uses, including grocery store, pharmacy, and other ground floor retail uses, with residential or office use.
15	Braddock Gateway	CRMU-H zoning regulations apply to the one-acre portion of the site at First and Fayette Streets with a maximum floor area of 1.25 and OCM(50) zoning regulations apply to the remaining six acres of the site, with a maximum floor area of 1.5. The maximum height	The development controls for each Landbay(s) and/or building(s), including floor area, building height, amount of open space, parking, principal uses, ground floor retail shall be subject to the CDD-15 Concept Plan and all CDD Concept Plan conditions, in addition		Mix of uses including residential, live-work units, office, hotel and retail along with publicly accessible open space and trails.

		<p>within the CRMU-H portion of the site shall be 77 feet and the maximum height within the OCM 50 shall be 50 feet. Buildings(s) shall comply with the Braddock Metro Neighborhood Plan Design Guidelines and other applicable requirements of the Braddock Metro Neighborhood Plan.</p>	<p>to the Braddock Metro Neighborhood Plan. The actual number of units, square footage and height shall be determined as part of development special use permit for each Landbay(s) and/or building(s). Any proposed development shall conform to the Braddock Metro Neighborhood Plan Design Guidelines.</p>		
16	James Bland	<p>RB/Residential Townhouse Zone regulations shall apply</p>	<p>The development controls, including FAR and number of units for land within this CDD, as shown in the approved CDD-16 Concept Plan, in addition to the Braddock East Master Plan provisions in the Braddock Metro Neighborhood Plan. Any proposed development shall conform to the Braddock Metro Neighborhood Plan Design Guidelines.</p>	<p>The maximum heights shall conform to the CDD-16 Concept Plan.</p>	<p>Mix of residential uses (townhouse &amp; multifamily) &amp; open space</p>

17	Landmark Gateway	CG/Commercial General and I/Industrial regulations shall apply (as distinguished on the Zoning Map)	The development controls for land within this CDD shall be as shown in the approved CDD Concept Plan. In addition, any proposed development for land within this CDD shall conform to the Landmark/Van Dorn Corridor Plan.	The maximum heights shall conform to the CDD Concept Plan.	Multifamily residential and retail
17a	Cameron Park	CSL/Commercial Service Low Zone regulations shall apply	The development controls, including FAR and number of units for land within this CDD, as shown in the approved CDD-17a Concept Plan, in addition to the provisions in the Landmark Van Dorn Corridor Plan.	The maximum heights shall conform to the CDD-17a Concept Plan	Mix of residential (multifamily and/or townhouse), continuum of care facility for 120 units and retail uses
19	North Potomac Yard	The CSL zone regulations shall apply on the first 250 feet east of Route 1, and the I zone regulations shall apply on the remainder of the site. However, in no case shall the development exceed 610,000 square feet.	Maximum development levels will be as depicted in Table 2 of the CDD conditions. Conversion of square footage between uses may be permitted through the development special use permit process. Refer to Table 1 of the	Heights shall be as shown in the North Potomac Yard Small Area Plan, as may be amended.	Mixed-use development to include amusement enterprises; child care home; day care center; health and athletic club; health professional office; home professional office; restaurant; business and professional office;

			CDD conditions for maximum parking ratios.		multi-family dwelling; retail shopping establishment; public park and community recreation buildings; outdoor dining <u>on private property</u> ; valet parking; light assembly; service and crafts; private school (commercial); private school (academic); personal service; hotel; parks and open spaces; public schools; special use utility; and community facilities.
20	Harris Teeter of Old Town North	CD/Commercial Downtown Zone regulations shall apply	The development controls, including FAR and number of units for land within this CDD, as shown in the approved CDD-20 Concept Plan, in addition to the provisions in the Old Town North Small Area Plan. Any proposed development shall conform to the Old Town North Design Guidelines.	The maximum heights shall conform to the CDD-20 Concept Plan	Mix of residential (multifamily and/or townhouse) and retail uses.

21	Beauregard	<p>The RA zone shall apply to the existing residential portion of the Garden District, Greenway and Town Center neighborhoods. The CG zone regulations shall apply to the existing shopping center in the Town Center neighborhood. In addition to the requirements herein, in the Greenway, Garden District and Town Center neighborhoods, the following shall apply:</p> <ul style="list-style-type: none"> <li>- The FAR of the existing development shall not increase over the existing FAR.</li> <li>- No building shall be constructed within 50 feet of curb of North Beauregard Street</li> </ul>	Maximum development levels shall be as depicted in the Development Summary Table in the CDD Conditions.	Maximum heights shall be as depicted in the Beauregard Small Area Plan dated June 16, 2012, as may be amended.	Mixed-use development to include, office, residential, retail and personal service, hotel, parks and open spaces, public buildings and community facilities.
		<p>The OC zone regulations shall apply to the Adams Neighborhood.</p> <p>The R-12 zone</p>			

		<p>regulations shall apply to the Upland Park Neighborhood.</p> <p>The RC zone regulations shall apply for the Southern Towers Neighborhood.</p> <p>The neighborhoods as referenced herein, shall be the boundaries depicted in the CDD Concept Plan.</p>			
22	Seminary Overlook	The RC regulations shall apply for the portion of the property west of the existing Kenmore Avenue as configured as of the date of City Council's initial approval of CDD #22, and the RA zone regulations shall apply for the portion of the property east of Kenmore Avenue.	Maximum development levels shall be as depicted in the Development Summary Table in the CDD Conditions.	Maximum heights shall be as depicted in the Beauregard Urban Design Standards and Guidelines dated March 18, 2013.	Residential, Multifamily Residential.
23	Fillmore/Beauregard	<p>RC/High density and apartment zone.</p> <p>RA/Multifamily zone regulations shall apply to the Goodwin House</p>	<p>Goodwin House Property:</p> <p>Maximum development levels shall be as depicted in</p>	The maximum heights shall conform to the CDD Concept Plan with an overall maximum height of 150 for buildings not	Senior housing, senior affordable housing, continuum of care facility, nursing care facility, multi-family housing, and churches.

		<p>Property (T.M. 011.03-01-06).</p> <p>RA/Multi-family zone regulations shall apply to the Church of the Resurrection Property (T.M. 011.03-01-05) and as may be subdivided in the future.</p>	<p>the Development Summary Table in the CDD Conditions.</p> <p>All other property:</p> <p>Maximum FAR: 2.5.</p> <p>Minimum Open Space: 25% that is usable and accessible. The open space can be provided on the ground level, as a rooftop amenity or combined, but with a maximum of 50% of the open space percentage shall be permitted to be rooftop open space. The remainder shall be located at grade level. This percentage of open space shall exclude public rights-of-way and streets with public access easements.</p> <p>All proposed development shall conform to the Beaugard Urban</p>	<p>shown on the Concept Plan.</p>	
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			Design Standards and Guidelines, as may be amended.		
24	Oakville Triangle and Route 1 Corridor	The CSL, I and R2-5 zone regulations shall apply to the properties as generally depicted within Figure 23 of the approved Oakville Triangle and Route 1 Corridor Vision Plan and Urban Design Standards and Guidelines.	<p>The development controls for each block including gross floor area (GFA), the size of public open spaces, ground level open spaces, the land uses, and the ground floor uses shall comply with the Oakville Triangle and Route 1 Vision Plan and Urban Design Standards and Guidelines.</p> <p>All streets, blocks, sidewalks, building forms, building volumes, building heights, land uses, screening of parking, retail design, signage, open space and associated elements shall comply with the Oakville-Route 1 Route 1 Vision Plan and Urban Design Standards.</p>	Heights and height transitions shall be as depicted in the approved Oakville Triangle and Route 1 Corridor Vision Plan and Urban Design Standards and Guidelines, as may be amended.	<p>1) Mixed-use development to include amusement enterprises; child care home; day care center; health and athletic club, health professional office; home professional office; park and community recreation buildings; outdoor dining <u>on private property</u>; valet parking; hotel, restaurant, business and professional office, multifamily dwelling; townhouse dwelling; continuum of care facility, nursing home, parks and open spaces; private school (commercial); private school (academic); personal service public schools; special utility.</p> <p>2) Retail shopping establishment and personal service; light</p>

			Any variation from the standards shall require approval by the city council as part of the DSUP or associated approval application(s).		<p>assembly, service and crafts; and maker uses as defined in the approved Oakville Triangle and Route 1 Corridor Vision Plan and Urban Design Standards and Guidelines.</p> <p>3) Community Facilities as defined in the approved Oakville Triangle and Route 1 Corridor Vision Plan and Urban Design Standards and Guidelines.</p> <p>4) Other similar pedestrian-oriented uses as approved by the director of P&amp;Z to meet the intent of providing active pedestrian-oriented uses are allowed.</p> <p>5) Medical care facility.</p>
25	ABC-Giant/Old Town North	CG/Commercial Downtown regulations shall apply	Maximum FAR: 3.5. Properties in this zone are ineligible to request	The maximum heights shall conform to the Old Town North Small	Multifamily dwelling; day care center; health and athletic club or

			<p>Special Use Permit approval for the affordable housing bonus density provisions of Section 7-700 of the Zoning Ordinance.</p> <p>Minimum open space: Residential development shall provide 40 percent of the area of the lot as open and usable space, the location and shape of which shall be subject to the director's determination that it is functional and usable space for residents, visitors and other persons. Such open space may be located on landscaped roofs or other areas fully open to the sky which are not at ground level if the Director determines that such space functions as open space for residents to the same extent that ground level open</p>	<p>Area Plan as may be amended.</p>	<p>fitness studio; light assembly, service and crafts; personal service establishment; massage establishment; outdoor dining <u>on private property</u>; pet supplies, grooming, training with no overnight accommodation; private school, academic or commercial, with more than 20 students on the premises at any one time; restaurant; retail shopping establishment; and valet parking.</p>
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			<p>space would. When a development includes both residential and nonresidential uses, the residential yard and open space regulations shall be applicable to the residential component of the development.</p> <p>Minimum yards: None, except as may be applicable pursuant to the Old Town North Design Guidelines and pursuant to the supplemental yard and setback regulations of Section 7-1000 and the zone transition requirements of Section 7- 900.</p> <p>Area Requirements: There are no lot area or frontage requirements.</p> <p>The height-to-setback ratio required in Section 6-403(A) of the Zoning Ordinance does not apply.</p>		
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			All proposed development shall conform to the Old Town North Design Guidelines as may be amended.		
26	Public Storage/ Boat US	I/Industrial regulations shall apply	<p>Maximum FAR: 2.5</p> <p>Minimum open space: A minimum of 10% of the land area occupied by primarily non-residential uses shall be provided as publicly-accessible, ground-level useable open space. A minimum of 30% of the land area within the CDD area occupied by primarily residential uses shall be provided as useable open space, half of which must be publicly-accessible, ground-level useable open space. Publicly-accessible, ground-level useable open space may be provided at any location within the CDD area to meet</p>	The maximum heights shall conform to the Eisenhower West Small Area Plan as may be amended.	<p>Multifamily dwelling; self-storage/warehouse; animal care facility with no overnight accommodation; catering; glass shop; health and athletic club or fitness studio; improved outdoor recreational facilities intended for passive and/or non-congregate recreational activities; light assembly, service and crafts; machine shop; manufacturing; massage establishment; motor vehicle parking or storage; outdoor dining <u>on private property</u>; personal service establishment; printing and publishing services; private school, academic or commercial, with more</p>

			<p>the open space requirement.</p> <p>Minimum yards: None, except as may be applicable pursuant to the supplemental yard and setback regulations of Section 7-1000.</p> <p>Area Requirements: There are no lot area or frontage requirements.</p> <p>The height-to-setback ratio required in Section 6-403(A) of the Zoning Ordinance and the zone transition requirements of Section 7-900 do not apply.</p>		<p>than 20 students on the premises at any one time; recreational areas consisting of natural and unimproved geographic features; restaurant; retail shopping establishment; valet parking; and wholesale.</p>
27	Greenhill/West Alexandria Properties	CG/Commercial General zone regulations shall apply except that I/Industrial zone regulations shall apply for the property currently addressed 611 South Pickett Street (Tax Map Number: 057.04-05-05).	Maximum FAR: 2.52, exclusive of: 1) bonus density and height as may be approved by Special Use Permit pursuant to Section 7-700 of the Zoning Ordinance as it may be amended; and 2) public school and public building uses.	The maximum heights shall conform to the Landmark-Van Dorn Small Area Plan as may be amended.	Multifamily dwelling; recreation and entertainment use; active and/or congregate recreational facilities; animal care facility with no overnight accommodation; automobile and trailer rental or sales area;

			<p>Minimum open space: A minimum of 25% of the land area within the CDD area shall be provided as ground-level, useable open space. Ground-level useable open space may be provided at any location within the CDD area to meet the open space requirement. In addition to the 25% requirement, primarily residential buildings shall provide rooftop open spaces/terraces or other outdoor amenity spaces.</p> <p>Minimum yards: None, except as may be applicable pursuant to the supplemental yard and setback regulations of Section 7-1000.</p> <p>Area Requirements: There are no lot area or frontage requirements.</p>		<p>business and professional office; day care center; health and athletic club or fitness studio; hotel; home for the elderly; improved outdoor recreational facilities intended for passive and/or non-congregate recreational activities; light assembly, service and crafts; massage establishment; medical office; outdoor dining <u>on private property</u>; personal service establishment; private school, academic or commercial, with more than 20 students on the premises at any one time; public building; public park and community recreation buildings, including enclosed and semi-enclosed shelters and pavilions; public school; restaurant; retail shopping establishment; and valet parking.</p>
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			The height-to-setback ratio required in Section 6-403(A) of the Zoning Ordinance and the zone transition requirements of Section 7-900 do not apply.		
28	Greenhill South	I/Industrial regulations shall apply	<p>Maximum FAR: No maximum FAR</p> <p>Minimum open space: A minimum of 10% of the land area occupied by primarily non-residential uses shall be provided as publicly accessible, ground-level useable open space. A minimum of 30% of the land area occupied by primarily residential uses shall be provided as useable open space, half of which shall be provided as publicly accessible, ground-level open space. Ground-level useable open space may be provided at any location within the</p>	The maximum heights shall conform to the Eisenhower West Small Area Plan as may be amended.	Multifamily dwelling; amusement enterprise; active and/or congregate recreational facilities; business and professional office; convenience store; day care center; health and athletic club; home for the elderly; improved outdoor recreational facilities intended for passive and/or non-congregate recreational activities; light assembly, service and crafts; massage establishment; <u>outdoor dining on private property</u> ; personal service establishment; private school, academic or commercial, with more than 20 students on the



			<p>CDD area to meet the open space requirement. In addition to the 30% requirement, primarily residential buildings shall provide rooftop open spaces/terraces or other outdoor amenity spaces.</p> <p>Minimum yards: None, except as may be applicable pursuant to the supplemental yard and setback regulations of section 7-1000.</p> <p>Area Requirements: There are no lot area or frontage requirements.</p> <p>The height-to-setback ratio required in section 6-403(A) of the Zoning Ordinance and the zone transition requirements of section 7-900 do not apply.</p>		<p>premises at any one time; public building; public park and community recreation buildings, including enclosed and semi-enclosed shelters and pavilions; public school; recreational areas consisting of natural and unimproved geographic features; restaurant; retail shopping establishment; and valet parking.</p>
29	Landmark Neighborhood	CRMU-L regulations shall apply	Maximum floor area: 5.6 million sq. ft., excluding public facilities (e.g., fire	The minimum and maximum heights shall conform to the CDD-	Active recreational uses; animal care facility; any use with live entertainment;

			<p>station) and the existing above-grade parking structure. Additional floor area may be requested pursuant to Section 7-700 of the Zoning Ordinance.</p> <p>Minimum non-residential uses: 20% of total floor area, excluding parking.</p> <p>Open Space: minimum 25% per development block. The open space for the hospital campus shall be provided as required by the CDD #29 Concept Plan Special Use Permit.</p> <p>Minimum yards: None. The supplemental yard and setback regulations of Section 7-1000 do not apply.</p> <p>Area Requirements: There are no lot area or frontage requirements. The height-to-setback ratio required in Section 6-403(A) of the Zoning Ordinance</p>	<p>29 Concept Plan Special Use Permit.</p>	<p>apartment hotel; business and professional office; child care home; church; congregate housing facility; congregate recreational facility; continuum of care facility; day care center; dwelling, multifamily; dwelling, townhouse; elder care home; food or beverage production exceeding 5,000 sq. ft., which includes a retail component; fraternal or private club; health and athletic club or fitness studio; health profession office; helistop; hospice; hospital; hotel; light assembly, service, and crafts; medical care facility; medical laboratory; nursing or convalescent home or hospice; outdoor dining <u>on private property</u>; outdoor market; passive recreational use; personal service</p>
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			and the zone transition requirements of Section 7-900 do not apply.		establishment; public park; private school, academic; private school, commercial; public building; public school; radio or television broadcasting office and studio; recreation and entertainment use; restaurant; retail shopping establishment; social service use; valet parking; and veterinary/animal hospital
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- (E) Notwithstanding the uses that may be allowed with a CDD special use permit in each CDD zone pursuant to sections 5-602(A) and 5-602(D) of this ordinance, the following uses are permitted in each CDD when located in or immediately adjacent to a building constructed pursuant to a CDD special use permit, unless specifically prohibited therein

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- (5) Outdoor dining located on private property;

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~~(14) Outdoor dining and outdoor retail display and sales in a parklet, which shall comply with the requirements of section 7-1500; and~~

~~(15) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

~~(a) During business operational hours;~~

~~(b) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~

~~(c) In accordance with section 5-2-29 of the City Code.~~

- (F) Notwithstanding the uses that may be allowed with a CDD special use permit in each CDD zone pursuant to sections 5-602(A) and 5-602(D) of this ordinance, the following uses may be allowed in each CDD by administrative approval, pursuant to section 11-513 of this ordinance, when located in or immediately abutting a building constructed pursuant to a CDD special use permit, unless specifically prohibited therein:

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- (2) Outdoor dining on private property other than pursuant to section 5-602(E)(5) or section 5-602(E)(14);

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## **6-200 – WPR/Waterfront park and recreation**

### **6-202.1 Administrative special uses.**

The following uses may be allowed in the WPR zone with administrative approval, subject to section 11-513 of this ordinance.

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- (B) Outdoor dining on private property;

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### **6-203 Special uses.**

The following uses may be allowed in the WPR zone pursuant to a special use permit:

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- (E) Outdoor dining on private property, other than pursuant to section 6-202.1;

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**6-600 – Mount Vernon Avenue urban overlay**

**6-603 Uses.**

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(D) *Administrative special uses.* Notwithstanding any contrary provisions of the zoning ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513.

\*\*\*

(2) Outdoor dining, ~~other than in a parklet~~ on private property;

\*\*\*

~~(6) Outdoor display of retail goods;~~

**Sec. 6-700 - KR/King Street urban retail zone.**

**6-702 Uses.**

(A) *Ground floor uses.*

\*\*\*

(2) *Special uses:*

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(h) ~~Reserved.~~ Outdoor dining on private property, other than pursuant to section 6-702(C);

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(B) *Upper floor uses.*

\*\*\*

~~(3)~~ *Special uses:*

\*\*\*

(e) ~~Reserved;~~ Outdoor dining on private property, other than pursuant to section 6-702(C);

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(C) *Administrative special uses.* Notwithstanding any contrary provisions of this ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513 of this ordinance:

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(2a) Outdoor dining on private property

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**6-707 Use limitations.**

(A) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor uses pursuant to this section 6-700 and ~~dining and outdoor retail display and sales as set forth in the subsections below~~ City Code Section 5-2-29, as applicable.

~~(A.1) Outdoor dining and outdoor retail display and sales in a parklet shall comply with the requirements of section 7-1500.~~

~~(A.2) Outdoor display and sales of retail merchandise is permitted on a public sidewalk immediately in front of an associated storefront for a retail use:~~

- ~~(1) During business operational hours;~~
- ~~(2) Allowing for a minimum of five feet clearance on the sidewalk for pedestrian traffic; and~~
- ~~(3) In accordance with Section 5-2-29 of the City Code.~~

**~~Sec. 6-800 King Street outdoor dining overlay zone.~~**

**~~6-801 Purpose.~~**

~~The King Street Outdoor Dining Overlay Zone is intended to facilitate outdoor dining in Old Town in order to create an active streetscape, enhance the economic and social vitality of King Street, and promote pedestrian and retail friendly activity; to allow for the use of the public right-of-way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public's use of the sidewalks will not be significantly impaired by such dining, and that adjacent commercial and residential uses will be protected from any adverse impacts from such dining.~~

**~~6-802 Application of overlay zone.~~**

~~The King Street Outdoor Dining Overlay Zone includes the King Street corridor, from the Potomac River to the intersection of King Street and Daingerfield Road, and along all streets intersecting therewith, north to Cameron Street and south to Princee Street, as shown on the map entitled, "King Street Outdoor Dining Overlay Zone," dated June 21, 2005.~~

**~~6-803 Administrative permit availability.~~**

~~The requirements of obtaining approval of a special use permit under Section 11-500 of this ordinance and of obtaining approval of an individual encroachment ordinance under Section 5-2-29 of the City Code otherwise applicable, shall not apply to outdoor dining facilities that meet the requirements of this Section 6-800 and for which an administrative permit is approved pursuant to this section.~~

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**6-804 Administrative permit process.**

- A. ~~An applicant for an outdoor dining permit shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose.~~
- B. ~~The application shall include a plan with dimensions showing the layout for the outdoor dining area which accurately depicts the existing sidewalk conditions, including sidewalk width from building face to curb; location and dimensions of tree wells; locations of lamp posts, traffic and parking signs, signal poles, trash receptacles, benches, and other sidewalk features or obstructions, as well as design, location, size and space of the dining area, chairs, tables, barriers, umbrellas and other facilities to be located within the outdoor dining area, and such additional information as the director may reasonably require.~~
- C. ~~The director shall review the application to determine if the proposed dining establishment, and any encroachment into the public right of way, will be reasonable, attractive, and promote pedestrian and retail friendly vitality in the King Street Corridor, and that there is adequate space remaining within the public right of way to facilitate safe circulation of pedestrian traffic.~~
- D. ~~The director may approve, approve with conditions, or deny the application. The approved plan and permit shall be posted at the restaurant premises, and visible to customers and the public.~~
- E. ~~No material change to the approved plan shall be made without prior written approval by the director.~~
- F. ~~The outdoor dining permit shall be valid only between October 1 and September 30 of the following calendar year, subject to Section 6-805(O)(5), and shall be renewed on an annual basis. A permit fee, established pursuant to Section 11-104 of this ordinance, and based on the gross square feet of outdoor dining area, plus a minimum processing fee, shall be assessed annually.~~

### **6-805 Standards for outdoor dining.**

- ~~A.—The outside dining area is to be attractive, and promote pedestrian and retail friendly vitality in the King Street Corridor.~~
- ~~B.—The outside dining area shall be located adjacent to the property of an existing and lawfully operating restaurant and shall be under the responsible direction and control of the restaurant. It may be located adjacent to the building or near the curb but shall be contained within the location delineated by the permit. Dining may be set up in front of an adjacent business with approval of that property owner and all tenants of the building.~~
- ~~C.—If the outdoor dining area is in a location on the property that is not in the sidewalk area in front or on the side of the restaurant, it shall be reviewed to determine whether its location supports the purpose of the zone to create an active streetscape and to protect residential areas from adverse impacts.~~
- ~~D.—The number of indoor and outdoor seats must comply with the statewide building code.~~
- ~~E.—The outdoor dining area may be open to patrons from 6:00 a.m. to 11:00 p.m. daily.~~
- ~~F.—In order to allow adequate pedestrian traffic areas and emergency access around outdoor dining areas, the following dimensional requirements must be observed:
  - ~~(1)—At least five feet, or such additional space as the director deems necessary, of unobstructed corridor space must be maintained past the outside dining area for sidewalk pedestrian traffic in order to ensure a clear pedestrian passageway along the sidewalk. In locations where the sidewalk provides additional width or where there are fewer obstructions, the director may require more than five feet. In order to achieve a continuous pedestrian walkway, the pedestrian passageway shall be a straight line, parallel to the building face and the curb line, for the entire length of the dining area. The director may require additional measures that contribute to maintaining a straight and unobstructed pedestrian passageway along the entire block face.~~
  - ~~(2)—A space at least 44 inches wide for unobstructed ingress/egress must be maintained between any restaurant doorway and the pedestrian traffic corridor.~~
  - ~~(3)—Outdoor dining areas located near the sidewalk curb must leave at least two feet of unobstructed sidewalk depth between the curb and the outer dimension of the outdoor dining area unless the sidewalk dining directly abuts a commercial parklet.~~
  - ~~(4)—An unobstructed clearance of five feet must be maintained between a fire hydrant and any outdoor dining furniture or enclosures.~~
  - ~~(5)—An unobstructed clearance of three feet must be maintained between a fire department connection and any outdoor dining furniture or enclosures.~~~~
- ~~G.—The outside dining area must be kept sanitary, neat and clean at all times. It shall be free from accumulation of food, litter, snow, ice, and other potentially dangerous or unsanitary matter. The restaurant must participate in an approved rodent control program.~~
- ~~H.—No food preparation is permitted in the outside dining area.~~



- I. ~~Tents or awnings are not permitted without obtaining a separate building permit. Table umbrellas are permitted if they do not have signs or advertisements on them, if the umbrellas are completely contained within the outdoor dining area, even when fully extended, and if the lowest dimension of the umbrella maintains a minimum vertical clearance of seven feet above the sidewalk to allow for patron and server circulation.~~
- J. ~~No signs are permitted in the outside dining area except those signs that have a valid City permit.~~
- K. ~~Loudspeakers outside are prohibited on the frontage of the restaurant facing King Street, and amplified sounds from inside the restaurant must not be audible in any outside dining area on the public right-of-way.~~
- L. ~~Any door leading into a restaurant may not be positioned to remain open or otherwise supported in an open position.~~
- M. ~~The restaurant must comply with all applicable City, state and federal laws and regulations.~~
- N. ~~In order to serve alcoholic beverages, an application must be approved by the Virginia Department of Alcoholic Beverage Control (ABC), and it will require the following:~~
  - (1) ~~The dining area must have a sturdy enclosure.~~
  - (2) ~~There must be only one well defined entrance to the outdoor dining area and it must be located directly in front of the egress doors.~~
  - (3) ~~Customers are not permitted to carry their own alcohol to the outdoor dining area.~~
  - (4) ~~The dining area must have adequate illumination during evening hours.~~
- O. ~~The design of the outdoor dining facilities which are visible from the public street or way, shall comply with the following:~~
  - (1) ~~All improvements (outdoor dining furniture and enclosures) used in an outdoor dining area on the public right of way must be removable without damage to the surface of the public right of way.~~
  - (2) ~~An outdoor dining area within the public right of way shall be contained by sturdy outdoor dining enclosures in conformity with city standards. The city will, following issuance of the King Street Outdoor Dining permit, mark the corners of the approved outdoor dining area with conspicuous markers.~~
  - (3) ~~Permits must be obtained from the department of transportation and environmental services and a board of architectural review certificate of appropriateness in order to penetrate the public sidewalk surface or install an outdoor dining enclosure which penetrates the public sidewalk.~~
  - (4) ~~The design of the area shall comply with the City outdoor dining design guidelines.~~
  - (5) ~~Storage of outdoor dining furniture and enclosures:~~
    - (a) ~~All outdoor dining furniture and enclosures may be set up in the public right of way daily when the restaurant is open or closed to the public.~~
    - (b) ~~Between the Monday before Thanksgiving and March 31 of the following calendar~~

~~year, all outdoor dining furniture and enclosures must be removed from the public right of way daily when the restaurant is closed to the public, in accordance with section 6-805(E).~~

~~(6) Storage of outdoor dining furniture and enclosures may not occur in the public right of way.~~

~~P. The director shall, on a case by case basis, require adjustments to the layout, dimensions, or distance from the property line of any outdoor dining area in order to ensure pedestrian visibility of the ground floor of buildings that adjoin those with outdoor dining areas.~~

~~Q. The applicant shall comply with such additional reasonable terms as the director may include in the permit.~~

~~R. The restaurant operator shall not permit smoking in outdoor dining areas located in the public right of way. 6-806 Additional encroachment requirements.~~

~~An outdoor dining area located within the public right of way shall also comply with the following specific requirements for encroachments:~~

~~A. Any such encroachment shall be subject to and conditioned upon the restaurant maintaining a policy of general liability insurance in the amount of \$1,000,000.00 which will indemnify the owner (and all successors in interest) and the city as an additional named insured, against all claims, demands, suits and related costs, including attorneys' fees, arising from any bodily injury or property damage which may occur as a result of the encroachment. A policy of general liability insurance to establish and maintain the encroachment and operate a restaurant within the encroachment area shall not be construed to relieve the restaurant of liability for any negligence on the restaurant's part on account of or in connection with the encroachment.~~

~~B. By accepting the authorization granted by a permit authorized by this ordinance to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, the restaurant shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.~~

~~C. The authorization granted by a permit approved under this section 6-800 to establish and maintain the encroachment is not intended to constitute, and shall not be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.~~

~~D. Neither the City of Alexandria nor any public utility company shall be responsible for damage to property encroaching into the public right of way during repair, maintenance or replacement of the public right of way or any public facilities or utilities in the area of encroachment.~~

~~E. The authorization granted by a permit approved under this section to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right of way for any purpose whatsoever and, by written notification, demands from the restaurant the removal of the encroachment. Said removal shall be~~

completed by the date specified in the notice and shall be accomplished by the restaurant without cost to the City. If the restaurant shall fail or neglect to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the restaurant, and shall not be liable to the restaurant for any loss or damage to the structure of the encroachment or personal property within the encroachment area, caused by the removal.

F. ~~No fees or charges imposed pursuant to Sections 3-2-81 through 3-2-85 of the City Code shall be applicable to encroachments authorized by this Section 6-800, but the fee established pursuant to Section 6-804(F) shall be applicable. 6-807 Section controlling.~~

~~In order to establish a uniform set of regulations for outdoor dining in the public right of way, the provisions of this section 6-800 shall supersede and preempt conflicting provisions applicable in the public right of way, which are included in any encroachment ordinance, special use permit or administrative permit approved prior to June 26, 2007; provided, however, that nothing in this section 6-807 shall be deemed to reduce the approved number of seats, or to require the removal of any approved barrier permanently fixed or attached to the right of way, authorized by any such ordinance or permit.~~

**Sec. 7-1500 ~~Outdoor display, sales or storage of goods or merchandise and outdoor dining in a parklet. Reserved.~~**

~~(A) Except as specifically permitted in this ordinance, the outdoor display, sale or storage of goods or merchandise is prohibited on all public rights of way and pedestrian circulation facilities, on all private streets, pedestrian circulation facilities, alleys, roadways and driveways, and in all off-street parking and loading areas.~~

~~(B) Outdoor dining or retail display and sales in a parklet.~~

~~(1) Administrative permit availability.~~

~~(a) Outdoor dining or outdoor retail display and sales in a parklet may be applied for as an administrative permit, pursuant to Section 7-1500.~~

~~(b) The requirements of obtaining approval of a special use permit under Section 11-500 of this ordinance is not required.~~

~~(2) Administrative permit process.~~

~~(a) An applicant for outdoor dining or retail display and sales in a parklet shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose.~~

~~(b) The application shall include a plan with dimensions showing the layout for the outdoor dining or retail display and sales area, accurately depicting the parklet location, which must be directly in front of the applicant's business; specification sheets and photographs of furnishings; and such additional information as the director may reasonably require.~~

~~(c) The director shall review the application to determine if the proposed commercial use in a parklet is reasonable, attractive, and promotes pedestrian and commercial friendly vitality.~~

- (d) ~~The director may approve, approve with conditions, or deny the application. The approved plan and permit shall be kept on the business premises.~~
- (e) ~~No material change to the approved plan shall be made without prior written approval by the director.~~
- (f) ~~The permit shall be valid only between April 1 and March 31 of the following calendar year. A permit fee, established pursuant to Section 11-104 of this ordinance, shall be assessed annually.~~
- (3) ~~Standards for outdoor dining and retail display and sales in a public on-street parklet.~~
  - (a) ~~Adhere to design guidelines for parklet furnishings as established by the director.~~
  - (b) ~~Only goods from the permittee's store are permitted to be displayed and sold and only food from the permittee's restaurant may be served in the parklet. The parklet use shall be under the responsible direction and control of the business.~~
  - (c) ~~Parklets must be used for display and sales during all business hours of an associated retail business and for dining on days when a restaurant is operational between 6 a.m. and 11 p.m., except during inclement weather. Noncompliance will result in voiding of the permit and the ability to operate a parklet.~~
  - (d) ~~Access ramps must remain unobstructed and available for pedestrians.~~
  - (e) ~~Live entertainment and amplified sound are not permitted.~~
  - (f) ~~One table must be handicap accessible for outdoor dining use.~~
  - (g) ~~Umbrellas must provide a minimum clearance of seven feet, must be contained within the parameters of the parklet and must not feature signs or advertisements.~~
  - (h) ~~The parklet must be kept sanitary, neat and clean at all times. It shall be free from accumulation of food, litter, snow, ice, leaves and other potentially dangerous or unsanitary matter.~~
  - (i) ~~The outdoor dining area shall be cleared and washed at the close of each business day that it is in use.~~
  - (j) ~~Signage is not permitted in the parklet.~~
  - (k) ~~Smoking is not permitted.~~
  - (l) ~~Operation of outdoor dining or retail display and sales may only occur in an approved parklet that meets the requirements of City Code Section 5-2-29.~~
- (C) ~~Outdoor retail display and sales on a public sidewalk.~~  
~~The outdoor display and sale of goods or merchandise on a public sidewalk is permitted as authorized in the use limitation sections of commercial, mixed use, office and industrial zones.~~
- (D) ~~Outdoor retail display and sales at a city sponsored festival or public event on a public street or sidewalk.~~
  - (1) ~~The city manager may issue a temporary permit, authorizing the participants in a city sponsored festival or public event to display or sell~~

~~goods or merchandise on that portion of any public street which has been closed to traffic in connection with such festival or event.~~

- ~~(2) — Any person desiring such a permit shall apply to the city manager who shall issue the permit upon a finding that the proposed display or sale of goods or merchandise will not endanger the safety, and will not be inconsistent with the welfare and convenience, of the public, and who may impose such reasonable conditions as are necessary to comply with the requirement of this section.~~
- ~~(3) — The city manager may permit the sale of goods and merchandise on a public sidewalk and on a portion of any public street which has been closed to traffic in connection with a city-sponsored festival or public event.~~
- ~~(4) — In addition to any conditions imposed by the city manager, the permittee shall, as a condition for issuance of the permit, agree in writing to defend and hold the city harmless from any and all claims, demands, losses, liability, causes of action, costs and expenses of any kind arising from or incident to any activity undertaken under the permit by the permittee or any employee or agent of the permittee.~~
- ~~(5) — Each permit issued under this section shall be valid only for the duration of the sale in conjunction with which it is issued or seven days, whichever is less.~~
- ~~(6) — No more than four permits may be issued under this section in any one year to the same permittee or to any permittee associated with the same business.~~

~~(E) — To the extent not permitted in the use limitations of a zone or under subsection (B), outdoor restaurant seating, and the sale and service of food and beverage for consumption at such seating, shall be allowed to the extent expressly authorized in a special use permit governing the operation of the entire restaurant.~~

### **Sec. 8-300 Central business district.**

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(B) *Application of certain requirements.* Within the central business district any lot or group of contiguous lots of record as of June 28, 1983, containing less than 10,000 square feet shall not be subject to the requirements of the following: sections 8-200(A)(9), (11), (12), (13), (14), (16), (18), (19), (20) and (21) and section 8-200(B); provided, however, that any lots subdivided after June 28, 1983, into lots of 10,000 square feet or less and developed or redeveloped individually or as a single entity shall comply with all provisions of sections 8-200(A) and (B). In addition, whenever a parcel or contiguous parcels of land within this area containing over 10,000 square feet or more are redeveloped, or whenever a parcel or contiguous parcels of undeveloped land within this area containing 10,000 square feet or more are developed, the requirements of section 8-200(A) shall apply. In addition, the provisions of section 8-200(A) shall not apply to restaurants and outdoor dining. Furthermore, the provisions of sections 8-200(A) and (B) shall not apply within the boundaries of any urban renewal (redevelopment) project located within the central business district and for which project a cooperation agreement between the city and the Alexandria

Redevelopment and Housing authority has been entered into nor to city hall nor to public uses (including the art center) which are located in torpedo plant building number two.

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**Section 11-513** Administrative special use permit.

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(M) *Specific standards for outdoor dining on private property.*

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(2) Outdoor dining, including all its components such as planters, wait stations and barriers, shall not encroach onto the public right of way unless authorized by ~~an encroachment ordinance~~ City Code Section 5-2-29.

\*\*\*

(4) The closing hours of operation for the outdoor dining shall be limited to 11:00 p.m. Within the NR Zone and the Mount Vernon Avenue Urban Overlay Zone areas, outdoor dining shall be closed and cleared of all customers by 10:00 p.m. Sunday through Thursday and by 11:00 p.m. on Friday and Saturday. Within the Old Town Small Area Plan, outdoor dining shall be closed and cleared of all customers by 11:00 p.m. daily, ~~consistent with the King Street outdoor dining overlay zone section 6-805(E).~~

\*\*\*

~~(10) — Reserved.~~

~~(11) — The provisions of the King Street outdoor dining overlay zone in section 6-800 apply to regulate outdoor dining within the Central Business District.~~