



Zoning Text Amendment #2020-00008

Temporary Program for Business Relief and to Address Public Need Related to COVID-19

Issue: Temporary Program for Business Relief and to Address Public Need Related to COVID-19	Planning Commission Hearing:	November 5, 2020
	City Council Hearing:	November 14, 2020
Description: (A) Initiation of a Text Amendment; and (B) Public Hearing and consideration of a Text Amendment to establish a program for business relief and to address public related need related to COVID-19.		
Staff: Karl Moritz, Director, Department of Planning & Zoning Christina Zechman Brown, Deputy City Attorney Ann Horowitz, Principal Planner, Department of Planning & Zoning		

Staff recommendation: Staff recommends that the Planning Commission INITIATE and recommends APPROVAL of the text amendment.

PLANNING COMMISSION ACTION, NOVEMBER 5, 2020: On a motion made by Commissioner Lyle and seconded by Commissioner Brown, the Planning Commission voted to initiate the text amendment. On a motion made by Commissioner Lyle and seconded by Commissioner Brown, the Planning Commission voted to recommend approval of Zoning Text Amendment #2020-0008 with amendments. The motion carried on a vote of 7-0.

Reason: The Planning Commission agreed with the staff analysis.

Chair Macek applauded the City's efforts to support businesses during the extremely challenging times associated with COVID-19, as noted in the text amendment. He recognized that public health initiatives are also incorporated into the City's pandemic response. Chair Macek encouraged staff to evaluate the success of the temporary business programs and consider proposing some for permanent implementation in the future.

Commissioner Brown concurred and added that the temporary business programs provide an opportunity to assess the worth of possible permanent initiatives as the emergency concludes.

The novel Coronavirus (COVID-19) pandemic emergency has caused an enormous impact to our community and has required a change in everyday life for every one of our community members. Since March the City Manager has taken action, and the City Council has ratified, the waiver and suspension of certain ordinances pursuant to the Continuity of Government Ordinance, so that businesses may continue to operate in a safe manner under current health and safety standards.

It is now clear that the pandemic will continue to affect the community for some time into the future, the business community (and the organizations who support it) have expressed the importance of keeping these measures, so critical to their recovery, in place for a longer period. This is both because they anticipate they will continue to need this flexibility for survival, as well as because they need to know that they will have the time to recoup the investments they make to take advantage of these provisions. Therefore, we propose formalizing these continuity of government accommodations with a text amendment. This will not only allow the procedural requirements for code changes to take place, but it will also allow us to provide more surety to the business community regarding how long the accommodations will be in place.

Pursuant to the process in the Zoning Ordinance for changes to the code, the business recovery program is being brought forward as a text amendment. If the text amendment is approved, an implementation ordinance will be go to City Council in December to implement the text amendment. The text amendment lays out the accommodations that have been made all in one place. The program will be effective upon approval of the ordinance and would expire on January 1, 2022.

The proposed ordinance includes the following:

- All restaurants may provide delivery service and pick-up service. Delivery vehicles and customer pick-ups may use on-street parking subject to posted parking requirements.
- Hours-of-operation regulations are suspended for restaurants, convenience stores, catering operations and automobile service stations (gasoline stations).
- Allowing restaurants and retail establishments to vend on adjacent sidewalks or parking lots.
- Suspension of local restrictions on alcohol sales, including off-premises alcohol sales and delivery restrictions.
- In addition to the current program, which allows participants in the King Street Outdoor Dining program to have outdoor dining on sidewalks under certain guidelines, participants will also be permitted to set up outdoor dining in parking spaces outside of their businesses.
- In all other areas of the City, outdoor dining is permitted on restaurant property and in the public right-of-way (sidewalks, parking spaces, parking lots) where it will not detrimentally impact adjacent uses.
- Restaurant operators may use off-street spaces located on the same property for outdoor dining where it will not detrimentally impact adjacent uses.
- Retail businesses may request the use of sidewalks, on-street parking spaces, and privately-owned parking lots and spaces to display their products and conduct sales, where it will not detrimentally impact adjacent uses.

- Health and fitness business operators may use sidewalks, privately-owned parking lots and spaces and on-street parking spaces to offer classes and provide access to fitness equipment, where it will not detrimentally impact adjacent uses.
- The requirement for Board of Architectural Review (BAR) approval of retractable awnings is waived.
- Building and fire prevention permit fees are waived for proposals associated with the outdoor business operations of restaurants, retail stores and fitness uses.
- Certain land use approvals (special use permits, development special use permits, certificates of appropriateness and permits to demolish) require the applicant to take an action within a prescribed time frame (e.g. commence construction, open the business, etc.). Because many applicants are not able to make the normal progress on their projects during the COVID-19 emergency, staff will not count the period of the emergency against these time limits.
- Waiver of the requirement for developments with a TMP to conduct an annual survey of its residents, tenants, and employees to determine the effectiveness of the TMP.
- The City will continue to designate public parking spaces as curbside pick-up areas.
- The City will continue the closure of the 100 block of King Street to vehicular traffic.
- The City will use its facilities and those it obtains permission from private property owners to utilize to address public needs.

If additional needs for accommodation of the City Code or Zoning Ordinance arise after this ordinance is adopted, the process for the City Manager to consider suspensions of the code pursuant to the Continuity of Government ordinance is still effective. The City Manager could temporarily suspend the code it could take place immediately pending ratification by the City Council. If such suspension turns out to be needed for a longer period of time than a suspension can accommodate, it can then be added to this ordinance.

Additional Initiatives

The City's Economic Recovery Project was established in mid-Spring of 2021 to develop and implement a series of relief initiatives through Fiscal Year 2021, and beyond if appropriate, to help Alexandria businesses and commercial property owners recover from the loss of revenue and instability created by COVID-19. The project team is led by the Alexandria Economic Development Partnership and the Department of Planning and Zoning, with active support from the Departments of Health, Parks and Recreation, Transportation and Environmental Services, Code Administration, and Fire, and in partnership with the small Business Development Center, Visit Alexandria, the Old Town Business Association, and many individual businesses.

The project team approached this crisis as a three-phased event: Phase 1- *Immediate Response*, Phase 2- *Stabilization* and Phase 3- *Recovery*. Initiatives to provide immediate relief include the measures outlined in this ordinance, two rounds of Back to Business grants, information sharing and outreach, and multiple smaller initiatives. Overall the goal of Phase 1 has been to provide immediate relief from some of the most acute impacts of COVID-19 on businesses.

Throughout Phases 1 and 2, the team has been in continuous communication with the business community, following indicators of business health here, regionally, and more broadly, and engaging with our colleagues and experts about the immediate, mid- and long-term impacts of the pandemic on the City's daily life and economic health. Among these issues are the changes in demand for commercial space, especially retail and office; the prospects for businesses that relied to any extent on gatherings of any magnitude or on the pre-pandemic model of a many workers commuting to work each day; and the actions local government may take to support challenged businesses and the commercial tax base.

Over the next months, the team will be more broadly engaging with stakeholders on these emerging issues and reporting out our findings to Council, along with recommended next steps. While there will be many local solutions and programs proposed, the team will also work with neighboring jurisdictions to identify regional solutions as appropriate.

Further, the Business and Public Open Space Team has assessed many of the initiatives the City Council has ratified since the onset of the Declaration of Local Emergency for potential permanent adoption. Recognizing the long-term economic challenges that may remain after the emergency passes, the Team provides recommendations on the attachment titled, "City Business Stabilization Plan," for the continuation of many existing emergency programs which would provide businesses with continued operational flexibility. The Team requests that the Planning Commission and City Council offer feedback on the stabilization proposals and the group will incorporate that into future planning in support of our City businesses.

Attachments:

Attachment #1: Proposed Text Amendment

Attachment #2: City Business Stabilization Plan

**COVID-19 Business Recovery
Temporary Text Amendment to Zoning Ordinance and City Code**

Section 1. The regulations herein are temporary and are being put in place to address the extraordinary circumstances caused by the COVID 19 pandemic on local businesses. The ordinance will expire on January 1, 2022, except for Sections 6(g) and 7 as indicated therein.

Section 2. *Restaurant Deliveries and Pick-up.* Notwithstanding the requirements of Section 11-500 of the Zoning Ordinance, restaurants may provide delivery service and pick-up service without amending current special use permits or obtaining new special use permits. Delivery vehicles and customer pick-ups may use on-street parking subject to posted parking requirements.

Section 3. *Hours of Operation.* Notwithstanding the requirements of Section 11-500 of the Zoning Ordinance, the hours-of-operation for restaurants, convenience and grocery stores, catering operations and automobile service stations (gasoline stations) may be modified without amending current special use permits or obtaining new special use permits.

Section 4. *Sidewalk/Parking Lot Vending.*

(a) Notwithstanding the requirements of Section 7-1500 of the Zoning Ordinance, restaurants and retail establishments are permitted to vend on adjacent sidewalks or parking lots. Vending is limited to the placement of orders and customer pick-up. To the extent required, establishments must put in place limitations in compliance with the most current health and safety standards.

(b) A temporary exception to Section 5-2-29 of the City Code is hereby authorized to allow restaurants and retail establishments to vend on adjacent sidewalks pursuant to Section 4(a) above.

Section 5. *Off Premises Alcohol Sales.* Notwithstanding the requirements of Section 11-500 of the Zoning Ordinance, local restrictions on alcohol sales are suspended, including off-premises alcohol sales and delivery restrictions without having the amend a current special use permit or obtain a new special use permit. Businesses remain subject to all VABC licensure requirements.

Section 6. *Alexandria Outdoor Business Expansion Program.*

(a) Within the King Street Outdoor Dining (KSOD) area
Restaurants within the KSOD may continue to utilize the KSOD program in Section 6-800 of the Zoning Ordinance and comply with the applicable guidelines therein.

In addition to the program in Section 6-800 of the Zoning Ordinance, restaurants may set up outdoor dining in parking spaces outside of their businesses if:

- All current health and safety standards are complied with;
- A current certificate of insurance is submitted to the Department of Planning and Zoning (P&Z);

- For a restaurant without a current permit for the KSOD program, an application must be submitted to and approved by P&Z;
- Participants comply with modified guidelines of the Parklet Program, including the location of parking spaces for outdoor dining away from corners or not on streets with a high traffic volume; and
- The year-round outdoor storage of dining furniture will also be permitted whether the restaurant is open or closed.

There are no fees for this approval.

(b) All areas outside the KSOD boundaries

Notwithstanding the requirements of Section 11-513 of the Zoning Ordinance, outdoor dining is permitted on restaurant property and in the public right-of-way (sidewalks, parking spaces, parking lots) where it will not detrimentally impact adjacent uses. Use will be allowed upon review and approval by staff from the P&Z, Transportation and Environmental Services (T&ES), Health, Fire and Police departments of an application.

An application must be submitted to P&Z including:

- The proposed locations and square footage for outdoor dining
- number of seats;
- If the public right of way will be used, a current certificate of insurance must be submitted to P&Z to be eligible;
- If on private land not controlled by the operator, the operator must indicate permission of the property owner; and
- An explanation of compliance with specific criteria outlined below;

Approval Criteria:

- Restaurants may use parking spaces in front of their business, adhering to the modified guidelines of the Parklet Program, including the location of parking spaces for outdoor dining away from corners or not on streets with a high traffic volume.
- Restaurant seating must be arranged in accordance with current health and safety standards.
- Restaurant operators must request that T&ES install traffic safety measures such as wheel stops and flex posts for outdoor dining areas in parking spaces in the public right-of-way.
- Outdoor dining on sidewalks must allow for at least five feet of continuous pedestrian access.
- Outdoor dining hours must be the same as approved in the restaurant's special use permit.
- Live entertainment is not permitted.
- Liability insurance certificate required for use of public right-of-way.

There are no fees for this approval.

(c) A temporary exception to Section 5-2-29 of the City Code is hereby authorized to allow restaurants and retail establishments to have outdoor dining on adjacent sidewalks and public parking spaces pursuant to Section 6(b) above.

(d) Outdoor dining in off-street parking spaces on private property

Notwithstanding the requirements of Section 8-200(A)(17) and 11-513 of the Zoning Ordinance, restaurant operators may use off-street spaces located on the same property for outdoor dining where it will not detrimentally impact adjacent uses. Use will be allowed upon review and approval by staff from the P&Z, T&ES, Health, Fire and Police departments of the letter agreement.

A letter agreement must be submitted to P&Z with the following information:

- Proposed locations for outdoor dining,
- Number of seats,
- Number of parking spaces used, and
- Compliance with specific criteria outlined below.

Approval Criteria:

- Restaurant seating must be arranged in accordance with current health and safety standards.
- Outdoor dining hours must be the same as approved in the restaurant's special use permit.
- Live entertainment is not permitted.

There are no fees for this approval.

(e) Retail Uses

Notwithstanding the requirements of Sections 5-2-29, 5-8-3(f), and 10-2-24 of the City Code and Sections 7-1500 and 8-200(A)(16) of the Zoning Ordinance, retail businesses may request the use of sidewalks, on-street parking spaces, and privately-owned parking lots and spaces to display their products and conduct sales, where it will not detrimentally impact adjacent uses. Use will be allowed upon review and approval by staff from the P&Z, T&ES, Health, Fire and Police departments of the required information.

The following must be submitted to P&Z:

- Proposed locations and square footage for outdoor space;
- A current certificate of insurance; and
- A letter of agreement with conditions ensuring compliance with the specific criteria outlined below.

Approval Criteria:

- Retail operators may use parking spaces in front of their business, adhering to the modified guidelines of the Parklet Program, including the location of parking spaces for outdoor retail away from corners or not on streets with a high traffic volume.
- Retail operators must request that T&ES install traffic safety measures such as wheel stops and flex posts for outdoor retail areas in parking spaces in the public right-of-way.
- Social distancing requirements must be met.
- Outdoor display on sidewalks must allow for at least five feet of continuous pedestrian access.
- Live entertainment is not permitted.
- Liability insurance certificate is required for use of public right-of-way.

- If on private land not controlled by the operator, the operator must indicate permission of the property owner.

There are no fees for this approval.

(f) Health and fitness uses on sidewalks, in off-street parking spaces on private property and in on-street parking spaces

Notwithstanding the requirements of Sections 8-200(A)(16), 8-200(A)(18), and 11-513 of the Zoning Ordinance, health and fitness business operators may request the use of sidewalks, privately-owned parking lots and spaces and on-street parking spaces to offer classes and provide access to fitness equipment, where it will not detrimentally impact adjacent uses. Use will be allowed upon review and approval by staff from the P&Z, T&ES, Health, Fire and Police departments of the required information.

The following must be submitted to P&Z:

- Proposed locations and square footage for outdoor space;
- A current certificate of insurance; and
- A letter of agreement with conditions ensuring compliance with the specific criteria outlined below.

Approval Criteria:

- Health and fitness use operators may use sidewalks and parking spaces in front of their business, adhering to the modified guidelines of the Parklet Program, including the location of parking spaces for fitness uses away from corners or not on streets with a high traffic volume.
- Business operators must request that T&ES install traffic safety measures such as wheel stops and flex posts for outdoor fitness areas in parking spaces in the public right-of-way.
- Current health and safety standards must be met.
- Outdoor activities on sidewalks must allow for at least five feet of continuous pedestrian access.
- Live entertainment is not permitted.
- Liability insurance certificate is required for use of public right-of-way.
- If private land is not controlled by the operator, the operator must indicate permission of the property owner.

There are no fees for this approval.

(g) Retractable Awnings in the Old and Historic Alexandria District and in the Parker Gray-Historic District

Notwithstanding Section 10-103(A) and 10-203(A), retractable awnings may be administratively approved and are subject to the criteria listed in the Old and Historic Alexandria District and Parker-Gray Historic District Design Guidelines awning chapter. Permits issued pursuant to this section will expire on or before November 1, 2023, unless an extension is approved by the Board of Architectural Review.

(h) Building Permit Fees

Notwithstanding Resolution Number 2769, building permit fees are not being charged for proposals associated with the outdoor business operations of restaurants, retail stores and fitness uses. Businesses are eligible with P&Z approval for temporary outdoor business expansions or the KSOD program or City Council approval of a special use permit for outdoor dining.

(i) Fire Prevention Permit Fees

Notwithstanding Ordinance Number 5150, fire prevention permit fees are not being charged for proposals associated with the outdoor business operations of restaurants, retail stores and fitness uses. Businesses are eligible with P&Z approval for temporary outdoor business expansions or the KSOD program or City Council approval of a special use permit for outdoor dining.

Section 7. *Tolling of Validity Periods for Certain Land Use Permits.*

Notwithstanding Sections 10-206, 11-418 and 11-506 of the Zoning Ordinance, the validity period for development site plans, special use permits, development special use permits, certificate of appropriateness, and permits to demolish shall be extended for the number of months as follows:

- For applications approved prior to March 14, 2020: 12 months or the number of months that the City's Declaration of Local Emergency is in place, whichever is longer
- For applications approved March 14, 2020 or after: the number of months beginning on the approval date through the expiration of the City's Declaration of Local Emergency.

Section 8. *Transportation Management Plan (TMP) Survey.* The annual survey required by Section 11-707(B) will not be required until the termination of this temporary ordinance.

Section 9. *Designation of Parking Spaces for curbside pick up.* Notwithstanding Section 5-8-3(f) of the City Code, the City staff will continue to designate public parking spaces as curbside pick-up areas. Spaces will be chosen based on proximity to restaurants and retail uses and will minimize impacts on surrounding properties.

Section 10. *Closure of 100 block of King Street.* Notwithstanding Section 5-8-3(f), the closure of the 100 block of King Street to vehicular traffic will continue.

Section 11. *City Emergency Use.* Notwithstanding the definition of public building in Section 1-125 of the Zoning Ordinance, any special use permit issued for the use of a city building, park or facility, or any Zoning Ordinance section or current special use permit that limits uses on private property, the City is authorized to use its facilities and those it obtains permission from private property owners to utilize to address public needs in response to the COVID-19 emergency. Such uses will be deemed permitted uses in that zone related to the public use. Locations will be chosen to minimize impacts on surrounding properties.

City Business Stabilization Plan

Recommendations of the City's Business and Public Space Re-opening Team

City Council local emergency ratifications	Recommended action for permanency
Waivers for restaurant conditions on: <ul style="list-style-type: none"> • On and off premises alcohol • Delivery vehicles • Hours of operation 	<p>Text amendment approved on 9/12/20 by the City Council allows for administrative SUP approval of restaurants without limitation on these business operations. An exception is for hours of operation in the Mount Vernon Overlay Zone. Restaurants in commercial complexes are permitted uses and are not subject to SUP conditions.</p> <p><i>Action required: None with the City Council approval of the text amendment.</i></p>
Waiver for hours of operation for convenience stores	<p>Text amendment approved on 9/12/20 by the City Council allows convenience stores as permitted uses and hours would not be regulated.</p> <p><i>Action required: None with the City Council approval of the text amendment.</i></p>
Waiver for hours of operation for automobile service stations and catering operations	<p>Recommend not including hours of operation for any use as conditions in SUPs and DSUPs.</p> <p><i>Action required: City Council approval of text amendments to remove hours of operation for uses in Section 11-513 of the Zoning Ordinance.</i></p>
Closure of 100 block of King Street	<p>Suggest allowing a permanent encroachment of the public right-of-way if supported by businesses. Also, explore a permanent closure of the 200 block of King Street.</p> <p><i>Action required: City Council approval of permanent block closures.</i></p>
Additional restaurant delivery and pick-up at curb-site areas	<p>Recommend making these temporary loading zones permanent with a T&ES staff review of temporary locations, resulting in possible relocations to accommodate more businesses in a consolidated manner.</p> <p><i>Action required: T&ES staff initiative.</i></p>
Retail and restaurant use of the public right-of-way	<p>Support staff initiative to make encroachments of the public right-of-way for commercial use permanent with a text amendment of the Zoning Ordinance to permit outdoor business activities on sidewalks and a text amendment of the City Code to expand the types of permitted encroachments, including on sidewalks, for certain uses.</p> <p>Support a study for the continued commercial use of on-street parking spaces for outdoor dining with either a sunset date or as permanent. Explore charging a fee for use of the “parklet” after economic conditions have stabilized.</p> <p><i>Action required: City Council approval of text amendments and of a commercial parklet program.</i></p>
Extension of tolling of validity periods for Special Use Permits	<p>Text amendment to extend the one-year validity of SUPs from 12 months to 18 months with the opportunity to request a six-month extension through a docketed SUP review.</p> <p><i>Action required: City Council approval of text amendment.</i></p>

City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 4, 2020

TO: CHAIRMAN NATE MACEK AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL W. MORITZ, DIRECTOR, DEPARTMENT OF PLANNING & ZONING

SUBJECT: DOCKET ITEM #5 - ZTA #2020-0008 – TEMPORARY PROGRAM FOR BUSINESS RELIEF AND TO ADDRESS PUBLIC NEED RELATED TO COVID-19

This memorandum features amendments to the staff report and text amendment language to add the sidewalk public right-of-way as an area where fitness uses may operate. The following revisions are proposed:

1. In the staff report at the top of Page 3, the sentence would be changed to:

Health and fitness business operators may use sidewalks, privately-owned parking lots and spaces and on-street parking spaces to offer classes and provide access to fitness equipment, where it will not detrimentally impact adjacent uses.

2. On the COVID-19 Business Recovery Temporary Text Amendment to Zoning Ordinance and City Code attachment on page 4, the text would be amended as:

(f) Health and fitness uses on sidewalks, in off-street parking spaces on private property and in on-street parking spaces

Notwithstanding the requirements of Sections 8-200(A)(16), 8-200(A)(18), and 11-513 of the Zoning Ordinance, health and fitness business operators may request the use of sidewalks, privately-owned parking lots and spaces and on-street parking spaces to offer classes and provide access to fitness equipment, where it will not detrimentally impact adjacent uses. Use will be allowed upon review and approval by staff from the P&Z, T&ES, Health, Fire and Police departments of the required information.

Approval Criteria:

- Health and fitness use operators may use sidewalks and parking spaces in front of their business, adhering to the modified guidelines of the Parklet Program, including the location of parking spaces for fitness uses away from corners or not on streets with a high traffic volume.

- **Business operators must request that T&ES install traffic safety measures such as wheel stops and flex posts for outdoor fitness areas in parking spaces in the public right-of-way.**
- Current health and safety standards must be met.
- **Outdoor activities on sidewalks must allow for at least five feet of continuous pedestrian access.**
- Live entertainment is not permitted.
- **Liability insurance certificate is required for use of public right-of-way.**
- If private land is not controlled by the operator, the operator must indicate permission of the property owner.

Staff continues to recommend approval of ZTA #2020-0008 with the additions stated in this memorandum.