



DOCKET ITEM #8

Zoning Text Amendment #2021-00006

Outdoor Dining in On-Street Parking Spaces and Retail Sales on Sidewalks and On-Street Parking Spaces

Issue: Outdoor Dining in On-Street Parking Spaces and Retail Sales on Sidewalks and On-Street Parking Spaces	Planning Commission Hearing:	October 5, 2021
	City Council Hearing:	October 16, 2021
Description: A) Initiation of a Text Amendment; and (B) Public Hearing and consideration of a Text Amendment to allow outdoor dining in on-street parking spaces and retail sales on sidewalks and in on-street parking spaces in commercial zones.		
Staff: City of Alexandria and Alexandria Economic Development Partnership: Karl Moritz, Director, Department of Planning & Zoning Stephanie Landrum, President and CEO, Alexandria Economic Development Partnership Yon Lambert, Director, Department of Transportation & Environmental Services Katie North Division Chief, Department of Transportation & Environmental Services, Mobility Services Tony LaColla, Division Chief, Department of Planning & Zoning, Land Use Services Ann Horowitz, Principal Planner, Department of Planning & Zoning, Land Use Services Alex Block, Principal Planner, Department of Transportation & Environmental Services, Mobility Services Mary Christesen, Principal Planner, Department of Planning & Zoning, Land Use Services Megan Oleynik, Urban Planner III, Department of Transportation & Environmental Services, Transportation Planning Alexa Powell, Urban Planner II, Department of Planning & Zoning, Land Use Services		
Staff recommendation: Staff recommends that the Planning Commission INITIATE and recommends APPROVAL of the text amendment.		

I. SUMMARY

The Departments of Planning & Zoning and Transportation & Environmental Services propose the Zoning Ordinance Text Amendments to continue the temporary program, created in response to COVID-19, allowing on-street public parking spaces for restaurant dining and retail display and sales with administrative approval as a permanent program. The text amendments also permit retail sales and display on a public sidewalk directly in front of a retail establishment.

The request featured in this report is part of a package of four economic recovery proposals, for City Council consideration at a legislative meeting and the public hearing in October, to make certain COVID-19 programs permanent. A companion piece to this report's Zoning Ordinance text amendment is a text amendment to Section 5-2-29 of the City Code for permitted encroachments into the public right-of-way for the outdoor dining and retail use of on-street parking spaces, designated as parklets, and for retail display and sales on a sidewalk. The permanent closure of the 100 block of King Street through a Section 9.06 request and the designation of the City as a Tourism Zone to support new and existing tourism businesses through a City Ordinance amendment are additional economic recovery programs coming before the City Council in October.

II. BACKGROUND

A. City Council Actions

Given the economic impacts on the City's business community with the onset of the novel Coronavirus (COVID-19) pandemic, the City Manager enacted several efforts since March 2020 to support business activity and to provide residents' safe access to commercial uses. The City Council ratified these measures and waived and suspended certain ordinances pursuant to the Continuity of Government Ordinance.

As pandemic effects continued to impact the community, the City Council approved a Text Amendment #2020-00008 in November 2020 to consolidate all waived and suspended ordinances into one ordinance with an expiration date of January 1, 2022. The ordinance included the closure of the 100 block of King Street to vehicular traffic, the use of on-street parking spaces for outdoor dining and retail sales and display, and access to public sidewalks for business use. City Council recently approved Text Amendment #2021-00008 in September 2021 to extend the expiration date to April 1, 2022 to allow the business community the opportunity to fully amortize its investments for outdoor business operation through the cold weather months.

B. Economic Recovery Project

Concurrent with the City Manager and City Council's emergency authorizations, the City's Economic Recovery Project was established in mid-Spring of 2021 to develop and implement a series of relief initiatives to help City businesses and commercial property owners recover from the loss of revenue and instability caused by COVID-19. The Alexandria Economic Development Partnership (AEDP) and the Department of Planning and Zoning continue to lead

the recovery project through the Business and Public Space Re-opening Team, composed of representatives from the Departments of Health; Parks, Recreation and Cultural Activities; Transportation and Environmental Services; Code Administration; General Services; Police and Fire; and in partnership with the Small Business Development Center, Visit Alexandria, the Old Town Business Association, with feedback from many individual businesses.

The project team approached the crisis in three phases: Phase 1- *Immediate Response*, Phase 2- *Stabilization* and Phase 3- *Recovery*. The goal of Phase 1 was to provide immediate relief from some of the most immediate impacts of COVID-19 on businesses and included provisions for businesses to operate more safely outdoors.

Phase 2 supported business stabilization through the continuation of waived City requirements and new programs, including the temporary outdoor business permit program for restaurants, retail and fitness uses in on-street parking spaces, on sidewalks and in parking lots. It instituted a winterization program to support outdoor business operation throughout the cold weather months. One hundred and sixteen businesses requested use of on-street parking spaces, the sidewalk, a parking lot or a combination of outdoor areas. Table 1 illustrates the breakdowns of participating business and the outdoor location areas they were approved to use.

Table 1: Temporary Outdoor Business Permits Issued – May 2020 to present

Locations	On-street parking space	Sidewalk	Parking lot
Total businesses	57 131 spaces	43	23
Restaurants	51 114 spaces	42*	23
Retail	6 17 spaces	1	0

* Additional restaurants offered sidewalk dining through Special Use Permit or King Street Outdoor Dining approvals

During Phase 2-*Stabilization*, the Economic Recovery Project’s Business and Public Re-opening, engaging closely with the business community, with feedback from Planning Commission and the City Council public hearings in November 2020, identified additional measures required to foster long term economic recovery. Many were implemented through City Council approval of business text amendments in October 2020. Many of the remaining initiatives are featured in the Economic Recovery Package for three programs reviewed at the City Council public hearing in October, signaling a transition to Phase 3 – *Recovery*. These include this staff report’s Zoning Ordinance text amendments, the text amendment to the City Code for permitted encroachments, the ordinance amendment to designate the City as a Tourism Zone for access to state funding for

new and existing tourism drivers, and a section 9.06 report for the permanent closure of the 100 block of King Street.

C. Community Outreach

To assess levels of success for the outdoor business temporary program and interest in continuing these programs, the Departments of Planning and Zoning and Transportation and Environmental Services launched an online Feedback Opportunity between August 1 and September 10 to survey residents, visitors and business operators. ENews informed the broader public about the feedback opportunity and the Small Business Development Center and AEDP distributed notice of the feedback opportunity to its email distribution lists. Specific notifications were sent to business groups representing the Old Town, Old Town North and Del Ray areas and to the Old Town Civic Association and Del Ray Citizens' Association.

The City received 2,776 responses, a relatively high number for a City feedback opportunity. Ninety-one percent stated they were more likely to visit a restaurant if outdoor dining is available, signaling an overwhelming sentiment that outdoor business access continues as a high priority for patrons. Summarizing the responses in Table 2, a clear majority of residents, visitors and businesses reported positive experiences with the closure of the 100 block of King Street and outdoor dining on sidewalks and in on-street parking spaces, referred to as parklets, and would like these to become a permanent feature in the City.

Table 2: Temporary outdoor business program feedback results

Responses 2,776	Resident & Visitors 97%	Businesses 3%
Positive Experience: 100 block of King Sidewalk Dining Parklet Dining	89% 82% 68%	NA
Economically advantageous programs	NA	100%
Continue programs 100 block of King Sidewalk Dining Parklet Dining	92% 84% 74%	74% 81% 66%

In addition to the online feedback opportunity and from Planning Commission and City Council responses at the November public hearings, outreach on the permanent program proposals took

place at the June and September Waterfront Commission meetings; the August meetings with the Old Town Business Association and the 100 and 200 block of King Street businesses; and the June Small Business Development Center Business Association meeting. Further outreach is planned for the Visit Alexandria Board of Directors on September 27 and the Chamber of Commerce Government Relations Committee on October 5.

III. TEXT AMENDMENT RECOMMENDATIONS

A. The Proposal

As part of the overall Economic Recovery proposal package, the Departments of Planning & Zoning (P&Z) and Transportation & Environmental Services (T&ES) propose Zoning Ordinance Text Amendments #2021-00006 to continue the outdoor restaurant and retail use of on-street public parking spaces as a commercial parklet through an administrative approval and allow outdoor retail display and sales as a by-right use on public sidewalks. The Zoning Ordinance text amendments, which are the subject of this report, provide these business opportunities in concert with a text amendment proposed for Section 5-2-29 of the City Code as a separate docket item. Only City Council review is required for the Section 5-2-29 text amendment and is docketed for its October 12 Legislative Meeting and October 16 Public Hearing.

B. Background: Text Amendment to the City Code and Parklet Approval Process

Although not part of this review, a brief explanation of the City Code text amendments is important as the Zoning Ordinance and City Code jointly enable these business opportunities. Public on-street parking spaces approved for dining and retail in parklets would be considered permitted encroachments, subject to specific parklet requirements outlining appropriate locations and design standards, with no requirement for individual City Council review. Likewise, outdoor retail display and sales on a sidewalk, immediately in front of an associated retail store, is also proposed as a permitted encroachment. Restaurants requiring an encroachment for outdoor dining in the public right-of-way, other than in parklets, would continue to require City Council approval of an encroachment.

Staff recognizes the intrinsic value of the parking spaces used for parklets and sees the need to compensate the public for use of the right-of-way and new maintenance that may be required near these areas. As such, it will propose a yearly encroachment fee schedule for parklet use for City Council consideration should it approve the subject of this staff report and the text amendments to Section 5-2-29 of the City Code, Staff will not propose encroachment fees for retail display and sales on a sidewalk given that, in practical terms, retail stores who choose to access the sidewalk for merchandise do so on an infrequent basis, using a minimal area in front of the storefront and for limited hours.

As a separate regulatory review but related matter, the Traffic and Parking Board on September 27 will consider the staff-proposed process and standards for parklet review. This includes approval of a City permit, requiring a flush transition to the curb and standards to ensure safe locations, quality design, Fire Department access, and other related matters. Following City

approval of a parklet, P&Z would conduct an administrative review for dining or retail parklet use to evaluate for neighborhood impacts and furnishings quality and design as outlined in the attached amendment to Zoning Ordinance Section 7-1500.

C. Zoning Ordinance Text Amendment Proposal Details

The Zoning Ordinance Section 7-1500 text amendment provides the Planning and Zoning regulatory framework to allow dining and retail sales and display in a parklet through staff administrative review and outdoor retail display and sales on a public sidewalk immediately adjacent to a store located in a building as a permitted use.

1. Commercial Parklets

The Section 7-1500(B) text amendments outline the application process and standards for administrative approval for outdoor dining and retail sales and display in a parklet in front of a permittees' place of business. Standards include requirements for high quality furnishing standards which would be modeled after the King Street Outdoor Dining Design Guidelines; restrictions on live entertainment, amplified sound and signage; hours of operation; and requirements for maintenance and cleanliness. A fee would be assigned to this administrative review. After initial approval, the parklet use would be renewed yearly. P&Z staff would issue a letter of agreement, containing conditions, for each approval. After approval, the applicant would be permitted to offer outdoor dining or establish a location for retail display and sales in a parklet, having previously received City approval for a parklet permit. The use limitation sections of each commercial, mixed use, office and industrial zone contain an amendment to allow outdoor dining and retail display and sales in a parklet subject to Section 7-1500. Outdoor dining on a public sidewalk would continue to require approval of a Special Use Permit (SUP) or King Street Outdoor Dining permit.

2. Outdoor Retail Display and Sales on a Public Sidewalk

Text amendments, enabling outdoor retail display and sales on a public sidewalk immediately in front of a business as a permitted use, appear in Section 7-1500(C) and in the use limitation sections of each commercial, mixed use, office and industrial zone. Staff found that a by-right use status was appropriate as the practice generates few if any impacts: retail establishments typically use relatively small areas for display to keep storefront windows visible and doorways accessible and infrequently and inconsistently display merchandise for sale outdoors.

Amendments in the use limitation sections establish conditions to minimize impacts, requiring retail establishments to display and sell merchandise on sidewalks only during business hours and to allow for a minimum of five feet clearance for pedestrian traffic on the sidewalk.

3. Additional amendments

Parklets are defined in added Section 2-182.06 to provide for accurate interpretation as the term now appears in the Zoning Ordinance. Section 11-513(H), which allowed for administrative SUP approval for outdoor display has been deleted given the proposed and expanded business opportunities for retail establishments to operate in a parklet and on a public sidewalk. No active SUPs exist for outdoor display, and perhaps the allowances proposed in the text amendment will foster more interest in outdoor retail expansion.

IV. CONCLUSION

The proposed text amendments represent the City's ongoing efforts to facilitate and sustain long-term economic recovery as it responds to the effects of the COVID-19 crisis. Not only did the programs, authorized on a temporary and emergency basis and the subject of this text amendment, contribute to the financial stability of City businesses, but they also provided popular business venues for residents and visitors by generating vibrancy. Staff therefore recommends approval of the proposed text amendments to support continued business recovery and community vitality.

Staff:

Karl Moritz, Director, Planning & Zoning
Stephanie Landrum, President and CEO, Alexandria Economic Development Partnership
Yon Lambert, Director, Transportation & Environmental Services
Katie North, Division Chief, T&ES Mobility Services
Tony LaColla, Division Chief, P&Z Land Use Services
Ann Horowitz, Principal Planner, P&Z Land Use Services
Alex Block, Principal Planner, T&ES Mobility Services
Mary Christeson, Principal Planner, P&Z Land Use Services
Alexa Powell, Urban Planner II, P&Z Land Use Services

Attachments: Proposed Zoning Text Amendments

**Zoning Ordinance Proposed Language
Zoning Text Amendment 2021-00006**

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.

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

3-1409 Use limitations.

(A) All commercial operations, including storage, shall be conducted within a completely enclosed building, with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except that a temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director in accordance with section 7-1500.~~

(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.

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

4-107 Use limitations.

(A) All commercial operations, including storage, shall be conducted within a completely enclosed building, with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except that a temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, which permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis.~~

(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. 4-200 - CC/Commercial community zone.

4-207 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except: (1) A temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, which permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis; or~~
- (2) ~~For uses which require a special use permit, the permit may authorize outdoor display for sales.~~

(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. 4-300 - CSL/Commercial service low zone.

4-307 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except:~~
- (1) ~~A temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, which permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis; or~~
- (2) ~~For uses which require a special use permit, the permit may authorize outdoor display for sales.~~

(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. 4-400 - CG/Commercial general zone.

4-407 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. except:
 - (1) ~~A temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, which permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis; or~~
 - (2) ~~For uses which require a special use permit, the permit may authorize outdoor display for sales.~~

(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. 4-500 - CD/Commercial downtown zone.

4-507 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use.

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

4-607 Use limitations.

- (A) All operations, including storage, shall take place be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director which permit shall indicate the location, size, duration and purpose of the accessory outdoor use.~~

- (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. 4-700 - CR/Commercial regional zone.

4-707 Use limitations.

- (A) All operations, including storage, shall take place be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use.~~

- (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. 4-800 - OC/Office commercial zone.

shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.

4-807 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except that a temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis.~~

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

4-906 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~except that a temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis.~~

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

4-1006 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.

~~except that a temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis.~~

(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. 4-1100 - OCH/Office commercial high zone.

4-1106 Use limitations.

(A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building ~~with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.~~ except that a temporary use permit for occasional outdoor sales or seasonal sales or display in conjunction with and on the same lot as an existing permitted use may be granted by the director, and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use and, if the use is seasonal, whether the permit shall continue on an annual basis.

(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 operationaFl 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. 4-1200 - I/Industrial zone.

4-1206 - Use limitations.

(A) All uses and operations shall ~~take place~~ 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 dining and outdoor retail display and sales as set forth in the subsections below.

(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. 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:

(H) Live theater;

~~(I) Outdoor display of retail goods.~~

4-1413 Use limitations.

(A) All operations, including storage, shall take place be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~those administrative uses enumerated in sections 14-1103(B), (C) and (G) except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use.~~

(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.

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

5-110 Use limitations

(D) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.

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

5-210 Use limitations

(D) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.

(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).

5-310 Use limitations

(D) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.

(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.

5-410 Use limitations

- (C) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.
- (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.

5-511 Use limitations

- (C) All operations, including storage, shall be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below.
- (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.

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

6-707 Use limitations.

- (A) All operations, including storage, shall ~~take place~~ be conducted within a completely enclosed building with the exception of outdoor dining and outdoor retail display and sales as set forth in the subsections below. ~~those administrative uses enumerated in section 6-702(C)(1) except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use.~~

(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. 7-1500 Outdoor display, sales or storage of goods or merchandise and outdoor dining in a parklet.

(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) — Notwithstanding the provisions of subsection (A), 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.~~
- (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.
- ~~(BD) Notwithstanding the provisions of subsection (A), a person conducting a business in a building adjacent to a public or private sidewalk may, in conjunction with a bona fide sale and in accordance with a temporary permit issued by the city manager, display or sell goods or merchandise from that business on a portion of the sidewalk that is contiguous to the building.~~ Outdoor retail display and sales at a city sponsored festival or public event on a public street or sidewalk.

- (C1) ~~Notwithstanding the provisions of subsection (A),~~ 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.
- (42) Any person desiring such a permit shall apply to the city manager ~~or her/his designee~~ 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.
- (23) The city manager may permit the sale of goods and merchandise on a public sidewalk ~~only~~ and on a portion of any public street which has been closed to traffic in connection with a city-sponsored festival or public event.
- (34) 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.
- (45) 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.
- (56) 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.
- (D) ~~The outdoor display, sale or storage of goods or merchandise on areas not subject to subsection (A) is prohibited in all commercial, office and industrial zones to the extent not expressly authorized by the use limitations set forth in the regulations applicable to such zones.~~
- (E) ~~Notwithstanding the provisions of~~ To the extent not permitted in the use limitations of a zone or under subsection (DB) and the use limitations in the zones referred to therein, 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.

Section 11-513

~~(H) Specific standards for outdoor display. Notwithstanding any contrary provisions of this ordinance, the display of goods from a retail sales establishment is permitted, subject to the following:~~

- ~~(1) The requirements of section 4-107(A) shall apply.~~
- ~~(2) Only goods from the adjacent store are permitted to be displayed.~~
- ~~(3) Signage for the outdoor display is allowed in addition to signage otherwise permitted for the business, but shall be limited to a maximum aggregate size of one square foot.~~
- ~~(4) No sales may occur in the outdoor display area.~~

- ~~(5) The outdoor display area may include no structures or other permanent changes to the exterior.~~
- ~~(6) There shall be no music, speakers, or amplified sounds associated with the outdoor display.~~
- ~~(7) The approved duration of the outdoor display shall be specified in the permit which may but is not required to be limited to four times a year.~~
- ~~(8) The outdoor sales may not encroach into the public right-of-way.~~