



Legislation Text

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File #: 20-0885, Version: 1

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City of Alexandria, Virginia

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MEMORANDUM

**DATE:** MAY 20, 2020

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK JINKS, CITY MANAGER /s/

**DOCKET TITLE:**

Review and Confirmation of the Suspension of Enforcement of Certain City Codes and Ordinances Taken by the City Manager Pursuant to the City's Continuity of Government Ordinance to Allow Restaurants to Have Outdoor Dining in Compliance with the Governor's Executive Orders Easing the Restrictions on Businesses.

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**ISSUE:** The City Council review and confirm the suspension of enforcement of certain City Codes and Ordinances that have been taken by the City Manager to assist restaurants as they comply with the requirements of the Governor's executive orders as the City enters into Phase 1 of the Governor's *Safer at Home* Initiative.

**RECOMMENDATION:** The City Council confirm that the suspension of enforcement of the codes and ordinances required to allow flexibility for outdoor dining as described in the attached document shall remain in place for ninety (90) days from the date that the City enters into Phase 1, unless the City Manager determines the suspension should be lifted for any reason before that time.

**DISCUSSION:** The Governor recently announced the plan for Virginia to ease public health restrictions called *Forward Virginia*. The plan calls for the restrictions to be lifted in phases. In Phase 1 of the plan, restaurants will be able utilize outdoor seating at 50% of capacity if they can meet all other social distancing requirements in the Executive Order. Restaurants in Alexandria are currently looking at their outdoor dining to see if they can make their spaces work in order to be able to provide this service in compliance with the Governor's orders. We believe the attached plan provides restaurants with flexibility to accommodate this possibility, while still protecting the adjacent properties.

**BACKGROUND:** On March 12, 2020, Governor Ralph S. Northam issued Executive Order Fifty-One declaring a state of emergency for the Commonwealth of Virginia arising from the novel Coronavirus (COVID-19) pandemic. Executive Order Fifty-One acknowledged the existence of a public health emergency which constitutes a disaster as defined by Virginia Code § 44-146.16 arising from the public health threat presented by

a communicable disease anticipated to spread and ordered implementation of the Commonwealth of Virginia Emergency Operations Plan, activation of the Virginia Emergency Operations Center to provide assistance to local governments, and authorization for executive branch agencies to waive “any state requirement or regulation” as appropriate. On March 13, 2020, the President of the United States declared a national emergency, beginning March 1, 2020, in response to the spread of COVID-19 and on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic. Accordingly, on March 14, 2020, effective at 5:00 p.m. and extending through June 10, 2020, at 5:00 p.m., or as may be amended by the City Council, the City Manager, in his capacity as Director of Emergency Management, issued a Declaration of Local Emergency applicable throughout the entire City of Alexandria, Virginia (the “City”), pursuant to authority granted pursuant to City Code Section 4-3-5, Virginia Code Sections 44-146.21 and 15.2-1413, which City Declaration was unanimously consented to the by the City Council on March 14, 2020, pursuant to City Resolution No.2928, The City Council finds that COVID-19 constitutes a real and substantial threat to public health and safety and constitutes a “disaster” as defined by Virginia Code §44-146.16 being a “communicable disease of public health threat. Therefore, it is necessary for flexibility with certain codes and ordinances to assist the community in addressing this emergency.

The 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. The Governor’s Orders requiring changes to businesses’ and individuals’ normal practices requires the City to be adaptable and the laws that are necessary during normal times may not be as applicable during the emergency or they may not be compatible with the requirements of the Governor’s Orders. As a result, the City Council adopted a provision in the Continuity of Government Ordinance that allows the City Manager to suspend enforcement of any City Code or Ordinance and waive fees in order to properly allocate City resources, ensure the safety of the public, and address impacts to the business community by the emergency. Such actions are then required to come to City Council for ratification and confirmation that the suspension shall continue.

**FISCAL IMPACT:** Regular fees for outdoor dining permits and encroachment applications will be waived for ninety (90) days from the date that the City enters into Phase 1, or sooner if the City Manager determines the suspension should be lifted for any reason. Application volume is uncertain. In areas where metered parking would be replaced with outdoor dining, there will be some loss in revenue from eliminating meter fees. However, staff believes this loss is minimal since overall demand for metered parking has declined significantly during the pandemic and meter revenue is already reduced.

**ATTACHMENT:** Outdoor Dining Plan

**STAFF:**

Joanna Anderson, City Attorney

Yon Lambert, Director of Transportation and Environmental Services

Michael Brown, Chief of Police

Karl Moritz, Director of Planning and Zoning