



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: SEPTEMBER 30, 2020

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

Review and Confirmation of the Extension of Suspension of Enforcement of Certain City Codes and Ordinances Taken by the City Manager Pursuant to the City's Continuity of Government Ordinance to Continue to Ease Certain Restrictions on Businesses that are Working to Comply with the Governor's Forward Virginia Plan.

ISSUE: That City Council review and confirm the extension of the suspension of enforcement of certain City Codes and Ordinances that have been taken by the City Manager to assist various businesses as they work to address the emergency and comply with the Governor's *Forward Virginia* Plan.

RECOMMENDATION: That City Council:

- (1) Confirm the extension of the suspension of enforcement of the codes and ordinances to allow flexibility for businesses as described in the attached document and allow the suspensions to continue until March 31, 2021 or sooner if the City Manager determines that the suspensions should be lifted for any reason; and
- (2) Direct staff to prepare a text amendment and ordinance to be brought forward for Planning Commission and City Council consideration in November to address the longer term need for these necessary temporary changes.

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 March 31, 2021, 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 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.

DISCUSSION: Virginia has been working its way through the Governor’s public health restrictions called *Forward Virginia*. The plan calls for the restrictions to be lifted in phases. In each phase of the Plan, businesses are having to adapt their business to comply with the requirements of the plan. We are currently in Phase 3 of the Plan and it is unclear how long that phase will last.

We believe the attached plan provides businesses with flexibility to accommodate this possibility, while still protecting the adjacent properties. The attached plan extends the actions ratified by the City Council on July 7th 2020 through March 31, 2021, and extends the closures of the 100 block of King Street and Wales Alley to March 31, 2021 to vehicular traffic which were initially closed pursuant to Section 10-2-24 of the City Code. This plan also includes a new waiver of the requirement for the submission of annual surveys for residential and commercial developments that have a Transportation Management Plan. Given that travel and commute patterns are drastically different this year, staff believes these surveys will not yield reliable results or provide meaningful data and would like to provide relief to the TMP coordinators for these developments.

Additionally, given that the pandemic is such that it is unclear how long these businesses will need this temporary relief, staff recommends that a text amendment and ordinance be brought forward for Planning Commission and City Council for consideration that addresses these necessary temporary changes in a more formal way. This approach would take the place of these Continuity of Government suspensions and would address the longer-term need. 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. An attribute of the text amendment/ordinance is that it allows extension of these provisions independent of the timeframe of a declaration of emergency. Staff proposes bringing the text amendment forward in November and

the ordinance to implement the text amendment forward in December so that it will be in place before the expiration of this suspension.

FISCAL IMPACT: Regular fees for outdoor dining permits and encroachment applications will continue to be waived for the period of suspension. 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: Description of Suspensions

STAFF:

Emily A. Baker, Deputy City Manager

Joanna Anderson, City Attorney

Yon Lambert, Director of Transportation and Environmental Services

Michael Brown, Chief of Police

Karl W. Moritz, Director of Planning & Zoning