

ORDINANCE NO. 5490

AN ORDINANCE to amend and reordain Section 2-182.06 of Article II (DEFINITIONS), Article III (RESIDENTIAL ZONE REGULATIONS), Article IV (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES), Article V (MIXED USE ZONES), Article VI (SPECIAL AND OVERLAY ZONES), Section 7-1500 of Article VII (SUPPLEMENTAL ZONE REGULATIONS), Section 8-300 of Article VIII (OFF-STREET PARKING AND LOADING), and Section 11-513 of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2023-00003.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2023-00003, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on March 30, 2023 of a text amendment to the Zoning Ordinance to adopt amendments to the Zoning Ordinance 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, which recommendation was approved by the City Council at public hearing on April 15, 2023;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That section 2-182.06 of the Zoning Ordinance be, and the same hereby is, amended by deleting the current section in its entirety, as shown:

~~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.~~

Section 2. That Article III of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

3-803 - Special uses.

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

- (F) Outdoor dining on private property;

3-903 - Special uses.

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

- (8.2) Outdoor dining on private property;

3-1002 - Special uses.

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

- (C.2) Outdoor dining on private property;

3-1403 - Special uses.

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

- (5) Outdoor dining on private property.

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.~~

Section 3. That Article IV of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

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:

- (E) Outdoor dining on private property;

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 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.~~

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;

4-203 - Special uses.

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

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

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.~~

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:

- (E) Outdoor dining on private property;

4-303 - Special uses.

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

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

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.~~

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:

(E) Outdoor dining on private property;

4-403 - Special uses.

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

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

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.~~

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);~~

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;

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.~~

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;

4-603 - Special uses.

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

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.~~

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:

- (E) Outdoor dining on private property;

4-703 - Special uses.

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

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

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.~~

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:

- (E) Outdoor dining on private property;

4-803 - Special uses.

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

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

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.~~

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;

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;

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.~~

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;

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.~~

~~(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.~~

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;

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;

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 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.~~

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;

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;

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.~~

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:

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

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;

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.~~

Section 4. That Article V of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

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

- (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.

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:

- (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

- (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.~~

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:

- (B) Outdoor dining on private property;

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;

5-310 - Use limitations

- (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.~~

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:

- (B) Outdoor dining on private property;

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:

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

5-410 - Use limitations

- (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.~~

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;

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;

5-511 - Use limitations

- (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 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

2	Eisenhower Avenue Metro	<p>OC zoning regulations apply except that:</p> <ul style="list-style-type: none"> - 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 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>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 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: 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>+</p>	<p>The maximum and minimum building heights shall conform to the Eisenhower East Small Area Plan as may be amended.</p>	<p>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 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; outdoor dining; outdoor dining located on private property; outdoor dining and outdoor retail display and sales pursuant to 5-602(E)(14) and (15); outdoor market; passive recreational use; personal service establishment; public park; private school, academic; private school, commercial; public building; public 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>

			All proposed development shall be reviewed for compliance with the design principles and guidelines by the Eisenhower East Design Review Board.		

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 CDD conditions for maximum parking ratios.	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; 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.

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.	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.

			Any variation from the standards shall require approval by the city council as part of the DSUP or associated approval application(s).		<p>2) Retail shopping establishment and personal service; light 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&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	<p>Maximum FAR: 3.5. Properties in this zone are ineligible to request 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 space would.</p>	The maximum heights shall conform to the Old Town North Small Area Plan as may be amended.	<p>Multifamily dwelling; day care center; health and athletic club or 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>

			<p>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> <p>All proposed development shall conform to the Old Town North Design Guidelines as may be amended.</p>		
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 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>	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 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</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>		wholesale.
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).	<p>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.</p> <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>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>	The maximum heights shall conform to the Landmark-Van Dorn Small Area Plan as may be amended.	<p>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; 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>
28	Greenhill South	I/Industrial regulations shall apply	Maximum FAR: No maximum FAR	The maximum heights shall conform to the Eisenhower West Small Area Plan as may be amended.	

			<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 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>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 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	<p>Maximum floor area: 5.6 million sq. ft., excluding public facilities (e.g., fire 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>	The minimum and maximum heights shall conform to the CDD-29 Concept Plan Special Use Permit.	

			<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.</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>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; 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 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</p>
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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

- (5) Outdoor dining located on private property;

- ~~(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:

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

Section 5. That Article VI of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

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.

- (B) Outdoor dining on private property;

6-203 - Special uses.

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

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

6-603 - Uses.

(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;~~

6-702 - Uses.

(A) *Ground floor uses.*

(2) *Special uses:*

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

(B) *Upper floor uses.*

~~(32)~~ *Special uses:*

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

(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:

(2a) Outdoor dining on private property

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 Prince 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 5-29 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.
- 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 parking lot.
 - (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.

Section 6. That Section 7-1500 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

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.~~

Section 7. That Section 8-300 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

Sec. 8-300 - Central business district.

- (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.

Section 8. That Section 11-513 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

Section 11-513 - Administrative special use permit.

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

- (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.~~

Section 9. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 10. That Section 2-182.06 of Article II (DEFINITIONS), Article III (RESIDENTIAL ZONE REGULATIONS), Article IV (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES), Article V (MIXED USE ZONES), Article VI (SPECIAL AND OVERLAY ZONES), Section 7-1500 of Article VII (SUPPLEMENTAL ZONE REGULATIONS), Section 8-300 of Article VIII (OFF-STREET PARKING AND LOADING), and Section 11-513 of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES), as amended pursuant to Sections 1 through 8 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

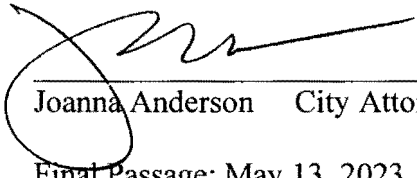
Section 11. That this ordinance shall become effective on July 1, 2023, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.


JUSTIN M. WILSON
Mayor

ATTEST:


Gloria A. Sifton, CMC City Clerk

Approved as to Form:

A handwritten signature in black ink, appearing to be 'Joanna Anderson', written over a horizontal line.

Joanna Anderson City Attorney

Final Passage: May 13, 2023