



# **CITY OF POMONA**

## **PLANNING COMMISSION REPORT**

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**DATE:** June 10, 2020 (SPECIAL STUDY SESSION, 6:00-7:00 P.M.)

**TO:** Chairperson and Members of the Planning Commission

**FROM:** Development Services Department, Planning Division

**SUBJECT:** **FRAMEWORK FOR DISCUSSION ON LAND USE SOLUTIONS TO AID POMONA'S COVID-19 RECOVERY**

### **CONTEXT**

The COVID-19 pandemic has swiftly and severely impacted businesses in Pomona, creating an unprecedented environment where operators balance public health orders alongside business operations. In light of this complex business environment, the City of Pomona seeks to ensure that any existing permitting requirements and regulations that affect such businesses do not exacerbate this business environment. In addition, and even more critical, the City would like to explore any new policies or regulations that would aid businesses on their path to economic recovery.

This report serves as a Framework to guide a Planning Commission Special Meeting that will take place from 6:00 to 7:00 P.M. on Wednesday, June, 10, 2020, and which will be open to the general public for public comment. The purpose of this discussion is for the Planning Commission, along with City staff and the general public, to collectively focus on Pomona's COVID-19 recovery by exploring land use solutions that would enable businesses in the City of Pomona to expand their operations on public and private property, making use of sidewalks and on-street parking spaces and private parking lots. Moreover, the discussion will explore how home business regulations could be modified to be more permissive to a range of home operations, in anticipation of potential downturns to brick-and-mortar operations.

It is important to note that this discussion is explicitly framed around land use and economic recovery, with a focus on retail uses. Therefore, Staff will not frame the conversation around resident recreation, walking, cycling, and access to public transit, which are also significant issues that may be considered under a separate study session.

### **FRAMEWORK FOR DISCUSSION**

Planning Staff will facilitate a discussion that will begin with an evaluation of recently adopted regulations from other jurisdictions. Staff will then explore opportunities and constraints in the public realm (sidewalk dining, curbside pick up, street closures), and private realm (temporary

uses, home occupations). Lastly, Staff will explore the potential for adopting low-cost permits for businesses pursuing temporary solutions during the COVID-19 pandemic.

In addition to Staff analysis, a “Covid-19 Action Committee” was formed by the City Council, which includes a “Business and Economic Development Subcommittee.” This subcommittee has developed recommendations for consideration during discussion (Attachment 1).

**1. Evaluating Solutions From Other Jurisdictions**

**Guiding Question:** In which ways have other jurisdictions successfully adopted regulations or standards to streamline the activation of the public and private realm to aid restaurants and retailers and small businesses during COVID-19?

**Potential Solution:** In evaluating each jurisdiction, Staff suggests framing adopted measures under the follow four criteria:

1. **Equity.** Do the regulations benefit all residents and business owners citywide, or only a specific few? How can regulations reflect a wider range and type of restaurants and retailers and neighborhoods?
2. **Liability.** Do the regulations satisfactorily address liability and risk management concerns that jurisdictions contend with in the public right-of-way? Do the regulations account for insurance requirements?
3. **Safety.** Do the regulations satisfactorily define development and operational standards that can be enforced by Code Enforcement and used to preserve public health and safety? Do the regulations adequately balance the need for flexible accommodations against the need for safety?
4. **Practicality.** Do the regulations provide a clear, quick, and low-cost pathway to activate a public or private space? Are the regulations accessible and communicated well?

**Table 1.** Temporary Land Use Solutions in Other Jurisdictions

Jurisdiction	Name	Scope	Notes
Long Beach	Open Streets	Open Streets temporarily open streets for people by implementing partial or full closures. Pre-COVID-19 examples in Long Beach: Beach Streets; annual Bay Shore Avenue closure; parklet program. Opening streets can create more public space for: 1. Increased outdoor activities 2. Safer Access to Transit 3. Stronger Economic Recovery	“Flex space” options for businesses, closures focused on denser non-arterial streets. Vehicle pick-up zones and special loading zones. Will streamline existing Sidewalk Dining program, include traffic control plans, and periodic program evaluation.

Los Angeles	Al Fresco	<p>L.A. Al Fresco aims to help businesses reopen while allowing customers and employees to maintain the physical distance recommended by public health officials by temporarily relaxing the rules that regulate outdoor dining. Through LA Al Fresco, the City will offer streamlined, immediate approval for eligible restaurants to provide outdoor dining in the following areas:                  Sidewalks and                  Private Parking Lots</p> <p>The City will collect expressions of interest from restaurants, groups of restaurants, or entities such as BIDs, Business Associations, and Chambers of Commerce to potentially expand the program to the following outdoor areas at a later date: Street Parking Spaces (Parklets) and Partial and Full Street Closures</p>	Good for 90 days, or September 1, 2020
Santa Ana	Executive Order 5-2020, and “ <i>Guide for Expanded Restaurant and Retail Space</i> ”	Allow restaurants, food establishments, and retail businesses to temporarily expand dining and retail operations onto sidewalks and parking spaces on City roads or parking lots within Downtown Santa Ana, <u>and</u> on private commercial property using up to 50% of parking spaces.	Exempt from permitting requirements by Executive Order 5-2020.
Riverside	Executive Order for Outdoor Dining, and Temporary Outdoor Flex Space Permit Program	Curbside Pickup & Parklet Guidelines (3-month pilot program), Restaurants and Outdoor Dining as “temporary outdoor flex space”	Allows for placement of City-furnished A-frame signage within the public right-of-way. Permits required, including insurance requirements, and A-frame signs are \$100.
Pasadena	COVID-19 Reopening Permits	Express Plan Checks for non-structural restaurant TI, expedited plan check for structural restaurant TI, administrative CUP for alcohol, expedited design review for qualified restaurant and retail projects, temporary private property outdoor dining, temporary sidewalk dining, temporary alley dining.	Temporary private property dining limited to single tenant sites, without shared parking and shared tenants. Permits require insurance and liability requirements.

**2. Identifying Opportunities and Constraints in Pomona’s “Public Realm”**

Planning Staff, in consultation with Public Works, will facilitate a discussion on the opportunities and constraints with activating the City’s “public realm.” The public realm is

defined broadly as the right-of-way, which includes public streets, public alleys, and sidewalks. The topics will include:

1. **Risk Management.** As the City assumes liability for the public realm, the key consideration in discussions regarding public realm activation is risk management. In particular, permits for outdoor dining or encroachment typically require insurance, hold harmless agreements, indemnification statements, and maintenance deposits or bonds, to ensure that the City can minimize its liability. This topic will be explored in greater detail, as the City will need to strike a balance between expedited permit processing and limited liability.

***Guiding Question:*** How can the City process permits in the public right-of-way within 2-3 business days while still accounting for liability and insurance requirements?

***Potential Solution:*** The City can accept a “master” application from a single entity, property owner, owner’s association, or non-profit organization that acts as a sponsor for a specific area of the public realm, thereby eliminating the need for multiple requests for insurance.

2. **Sidewalk Dining.** Sidewalk Dining is already a permitted use adjacent to commercially utilized parcels under Article VII of the Pomona Municipal Code, under “*Outdoor Dining Permits.*” Outdoor Dining Permits require notification to adjacent business owners and may be appealed, and include development standards that can be onerous for businesses that are only trying to temporarily expand to an outdoor space due to COVID-19. Moreover, existing regulations do not allow for Outdoor Dining Permits in “on-street” locations, such as curbside parking spaces where a business may want to place a “parklet” or seating area.

***Guiding Question:*** How can the City relax existing Outdoor Dining Permit standards to allow for nimble uses of sidewalk dining while still conforming to the operational standards found in County and State COVID-19 public health orders for restaurants and retailers?

***Potential Solution:*** The City Council adopts a Resolution making findings in the interest of public health that would allow temporarily relaxed standards for Outdoor Dining Permits for the duration of the COVID-19 public health orders, including exempting notifications and appeal processes, while adopting temporary operational standards based on County and State and Federal guidance to ensure public health and safety. Moreover, the Resolution would temporarily extend Outdoor Dining Permit purview to include on-street parking spaces adjacent to sidewalks, to facilitate parklets and other non-vehicular uses.

3. **Curbside Pick-Up.** During COVID-19, curbside pick-up and take-out has increased in volume, as restaurants and retailers have had to close the interior of their spaces

for public health reasons. However, not all locations are equipped to accommodate curbside pick-up, either due to a lack of off-street parking stalls, or limitations on parking or queuing vehicles on street. However, facilitating curbside pick-up can be a simple and effective tool to aid in business recovery, as it would encourage continued trips to retailers during COVID-19.

***Guiding Question:*** How can the City temporarily activate on-street or public parking stalls to facilitate curbside pick-up and take-out orders, while still ensuring for appropriate traffic and vehicular flow?

***Potential Solution:*** Working with the Vehicle Parking District, the City can identify VPD lots that can be temporarily designed to repurpose a specific number of stalls as exclusively curbside pick-up or take-out, marked with a visible sign for customers. These spaces can be shared by retailers fronting collector streets (example: Second Street). Moreover, a similar approach can be taken with on-street parking stalls along Holt and Garey Avenues and Mission and Foothill Boulevards.

4. **Street Closures.** Multiple jurisdictions have pursued a strategy for temporary street closures. Under the principles of “slow” streets, “open” streets, or “complete” streets, the goal is typically to encourage shared use of streets beyond traditional vehicular traffic, such as pedestrians and cyclists. Moreover, in some instances, local neighborhood streets are closed to facilitate community recreation. As this discussion is specific to economic recovery, the focus is on identifying potential streets where temporary closures could facilitate expanded outdoor dining and retail.

***Guiding Question:*** Where can the City safely and quickly apply temporary closures of public streets to facilitate outdoor dining and retail?

***Potential Solution:*** Pursue temporary closures to facilitate restaurant and retail along *dense commercial and mixed-use* “collector” or “local” streets, such as within the Downtown Pomona Specific Plan. Major and Minor Arterials, such as Garey, Towne, White, Holt, and Foothill, would not be ideal candidates for closures, except possibly to accommodate curbside pick-up or on-street parking spaces used for dining and retail. Specify length of time and restrictions on such closures.

### 3. **Identifying Opportunities and Constraints in Pomona’s “Private Realm”**

1. **Expanding Restaurant & Retail on Private Lots.** Restaurants and retailers that are in suburban or low-density strip mall developments are exploring use of private parking lots to expand seating and retail spaces. These spaces typically occupy existing off-street parking stalls or other areas of a parcel. Using a private parcel this way is already permitted under Section .583 of the Pomona Zoning Ordinance under a Temporary Use Permit. However, this section lists explicit types of temporary uses and does not explicitly call for this creative temporary arrangement.

**Guiding Question:** How can the City use the Temporary Use Permit as a means to permit and regulate temporary use of private property to accommodate outdoor dining and retail?

**Potential Solution:** Adopt a Director's Interpretation of the Pomona Zoning Ordinance Section .583—Temporary Uses, that the use of private parking lots for temporary outdoor dining and retail is "*compatible with commercial zoning districts and surrounding uses and is necessary because of unusual or unique circumstances*" (COVID-19), allowing it until 12/31/2020. This includes food trucks.

- 2. Home Occupations.** Pomona residents may currently apply for a Home Occupation Permit (HOP) under Section .530 of the Pomona Zoning Ordinance. This language reflects the regulations theorized and implemented nationwide during the mid 20<sup>th</sup> century with respect to home businesses. The list includes now archaic uses and places limitations on home-based businesses that have created barriers to economic development that are reflective of the economic trends and technological advances of the 21<sup>st</sup> century while also contributing to socioeconomic inequalities. Section .530 of the PZO permits solely office-related uses with minor degrees of variance. Home Occupation proposals which propose any storage of non-administrative work-related items, the use of a secondary structure (garage, shed, etc.), generation of any vehicle or foot traffic, the use of any mechanical equipment, etc. would not be permitted to operate under the current HOP regulations. In light of COVID-19, and in anticipation of a potential uptick in home-based businesses, these regulations should be revisited, while still being aware of potential nuisance and impacts to residential zoning districts.

A large number of home occupation applications Planning Staff review do not meet the regulations set forth in Section .530 of the PZO. It is a common case that HOP applications propose e-commerce businesses and low-impact construction-related and/or repair work which often times require the use of a garage for storage of materials, the use and storage of mechanical equipment, and the use of commercial vehicles to transport goods which are all prohibited. The only recommendations staff can offer for these situations is for applicants to look into renting storage space and/or commercial space to conduct their business thus adding to business expenses.

**Guiding Question:** How can the City be more permissive in the types of home businesses it will allow in residential zones and residential units, while maintain limitations on nuisance?

**Potential Solution:** Amend Pomona Zoning Ordinance Section .530—Home Occupations to meet the needs of the economic trends of the past three decades, bridge disparities, and provide a base for economic growth for residents of Pomona. By amending current Home Occupation language to support a wider

range of flexibility for home-based businesses, the City would have the ability to encourage the growth of local small businesses by cutting expenses such as eliminating the need for start-ups to rent commercial space, save commuting and childcare costs, reduce traffic congestion, provide work opportunities to the elderly and disabled communities with mobility challenges, create activity in residential neighborhoods that may otherwise be empty during the day, and also provide opportunities for an increased support of the local economy.

#### **4. Low-Cost Solutions for Temporary Measures**

The cost of an existing Outdoor Dining Permit is \$253.33. The cost of an existing Temporary Use Permit is \$396.33. While these costs are relatively affordable under typical business operational circumstances, they may be significant when trying to reasonably accommodate restaurant and retail space during COVID-19.

***Guiding Question:*** How can the City be more flexible in permitting costs associated with outdoor dining and temporary uses.

***Potential Solution:*** Adopt an Urgency Fee Measure that establishes any Outdoor Dining/Retail Permit or Temporary Use Permit for COVID-19 accommodations to be set at \$100.

Respectfully Submitted:

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#### **ATTACHMENTS**

1. COVID-19 Action Committee Recommendation