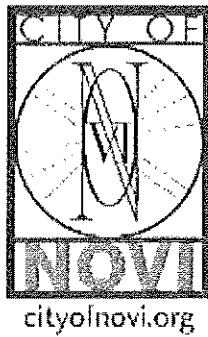


# MEMORANDUM



**TO:** MEMBERS OF THE PLANNING COMMISSION  
**FROM:** KRISTEN KAPELANSKI, AICP, PLANNER *Kristen*  
**THRU:** BARBARA MCBETH, AICP, COMMUNITY DEVELOPMENT *Barb*  
DEPUTY DIRECTOR  
**SUBJECT:** TEXT AMENDMENT 18.258 – OUTDOOR SEATING UPDATE  
**DATE:** JUNE 1, 2012

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The City has a number of sit-down restaurants with approved outdoor seating and new and existing restaurants show a continual interest in providing outdoor seating areas for their patrons. The earlier-than-usual spring weather in March led a number of restaurants to inquire about commencing outdoor seating before the date allowed in the Zoning Ordinance (April 15<sup>th</sup>).

Additionally, the City Administration has received some inquiries from restaurants that do not currently have approved outdoor seating areas and would like to do so. Among the concerns expressed is the potential cost of preparing an engineered/sealed site plan in accordance with the provisions of Section 2516 of the Zoning Ordinance.

In response to these comments, the City Council passed a resolution at their March 26<sup>th</sup> meeting to temporarily suspend the April 15<sup>th</sup> outdoor seating commencement date and to allow restaurants to submit an application for outdoor seating approval that provides sufficient information for the Building Official to determine compliance with the outdoor seating provisions of the Zoning Ordinance (Section 2524). Additionally, the resolution directed the Planning Commission to examine the outdoor seating standards and forward a recommendation to the City Council. The approved resolution and relevant meeting minutes are attached.

Staff has prepared the attached ordinance amendment for the Planning Commission's consideration as a response to the City Council resolution. The amendment would allow outdoor seating to commence on March 1<sup>st</sup> (instead of April 15<sup>th</sup>) and would permit the submission of outdoor seating applications that provide enough information to determine compliance with ordinance standards but that do not have to be signed and sealed by a registered architect or engineer. In most cases, the amendments would shift the review and approval process to the Building Official instead of the Planning Division. If more than 20 seats are proposed or if landscape or hardscape changes are proposed, the plan would need to be prepared, signed and sealed by a registered architect or engineer and would follow the normal site plan review process through the Planning Division.

The Planning Commission set the public hearing for the proposed text amendment at the May 9<sup>th</sup> Planning Commission meeting. Relevant meeting minutes are attached.

The Planning Commission is asked to hold the Public Hearing for the proposed amendment at the June 13<sup>th</sup> Planning Commission meeting and forward a recommendation to the City Council, for reading and adoption.

If any Commissioner has any questions related to this request, do not hesitate to contact Kristen Kapelanski, in the Community Development Department at (248) 347-0586 or [kkapelanski@cityofnovi.org](mailto:kkapelanski@cityofnovi.org).

**PROPOSED ORDINANCE AMENDMENTS  
STRIKE-THROUGH**

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 12- 18 – 258

AN ORDINANCE TO AMEND ORDINANCE NO. 97-18 AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE AT ARTICLE 25, GENERAL PROVISIONS, SECTION 2524, OUTDOOR RESTAURANTS; IN ORDER TO REVISE THE APPROVAL PROCESS AND PROVISIONS FOR OUTDOOR SEATING.

THE CITY OF NOVI ORDAINS:

Part I. That Ordinance No. 97-18, the City of Novi Zoning Ordinance, as amended, hereby amended to read as follows:

ARTICLE 25. GENERAL PROVISIONS

Section 2500. – Section 2523. [unchanged]

Section 2524. Outdoor Restaurants

All sit-down and fast food sit-down restaurants, as defined at Section 201, may have outside seating and dining as an accessory use, subject to the following conditions:

- a. If the seating area is proposed as part of a site plan application it shall require site plan review and approval by the Planning Commission or City Council, in accordance with Section 2516. If the seating area is proposed to be added for an existing business, site plan review shall be administrative in accordance with Section 2516a plan providing sufficient information to determine compliance with Section 2524 shall be submitted for review and approval by the Building Official. Outdoor seating areas shall also comply with all applicable building and fire codes ~~and shall be reviewed and approved by the Building Department.~~ Once initial approval has been granted by the Planning Commission, City Council or administratively, as applicable, it may be renewed annually by the ~~b~~Building ~~e~~Official, provided that it complies with the original approval.
- b. Outdoor seating shall be permitted between ~~April 15<sup>th</sup>~~ March 1<sup>st</sup> and November 30<sup>th</sup> with all furniture and fixtures including, but not limited to, tables, chairs and waste receptacles removed from the exterior premises after November 30<sup>th</sup>. Outdoor seating shall not be the primary seating of the restaurant.
- c. Outdoor seating areas shall be located in a manner to maintain a minimum pathway width of 6 feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic. Chairs and tables shall be of a quality durable material such as metal or wood. Waste receptacles shall be provided in instances where wait staff does not clear all tables.
- d. Outdoor seating areas shall be required to be enclosed in instances where there is wait ~~staff or~~ alcohol service. Enclosures shall consist of metal railing, wood railing, brick walls or other suitable materials approved by the Planning Commission, City Council or administratively, as applicable, and the ~~b~~Building ~~e~~Official.
- e. For outdoor seating areas located within any public right-of-way, approval by the corresponding jurisdiction (i.e. City of Novi, MDOT or Road Commission for Oakland County) is required. Proof of Insurance naming the City as an additional insured, in a form and amount deemed acceptable by the City Attorney's office, shall be required.

A license agreement in a form deemed acceptable to the City Attorney's office shall also be required.

f. For plans showing more than 20 seats within the outdoor seating area, requirements for off-street parking for outdoor restaurants shall be computed according to the standards contained in Section 2505, as indicated for restaurant use.

g. ~~The hours of operation for the outside restaurant will~~shall be consistent with the hours of operation of the inside restaurant.

g-h. If the seating area proposed contains more than 20 seats or if hardscape or landscape improvements are proposed as part of the outdoor seating area, a site plan prepared in accordance with Section 2516 shall be submitted for administrative review and approval by the Planning Division staff.

## **Part II**

**Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

## **PART III.**

**Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

## **PART IV.**

**Repealer.** All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

## **PART V.**

**Effective Date: Publication.** Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
BOB GATT, MAYOR

\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK

Ayes:  
Nays:  
Abstentions:  
Absent:

PROPOSED ORDINANCE AMENDMENTS  
CLEAN

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF NOVI

ORDINANCE NO. 12- 18 – 258

**AN ORDINANCE TO AMEND ORDINANCE NO. 97-18 AS AMENDED, THE CITY OF NOVI ZONING ORDINANCE AT ARTICLE 25, GENERAL PROVISIONS, SECTION 2524, OUTDOOR RESTAURANTS; IN ORDER TO REVISE THE APPROVAL PROCESS AND PROVISIONS FOR OUTDOOR SEATING.**

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- b. Outdoor seating shall be permitted between March 1<sup>st</sup> and November 30<sup>th</sup> with all furniture and fixtures including, but not limited to, tables, chairs and waste receptacles removed from the exterior premises after November 30<sup>th</sup>. Outdoor seating shall not be the primary seating of the restaurant.
- c. Outdoor seating areas shall be located in a manner to maintain a minimum pathway width of 6 feet (clear of structures such as light poles, trees and hydrants) along the sidewalk so as not to interfere with pedestrian traffic. Chairs and tables shall be of a quality durable material such as metal or wood. Waste receptacles shall be provided in instances where wait staff does not clear all tables.
- d. Outdoor seating areas shall be required to be enclosed in instances where there is alcohol service. Enclosures shall consist of metal railing, wood railing, brick walls or other suitable materials approved by the Planning Commission, City Council or administratively, as applicable, and the Building Official.
- e. For outdoor seating areas located within any public right-of-way, approval by the corresponding jurisdiction (i.e. City of Novi, MDOT or Road Commission for Oakland County) is required. Proof of Insurance naming the City as an additional insured, in a form and amount deemed acceptable by the City Attorney's office, shall be required. A license agreement in a form deemed acceptable to the City Attorney's office shall

- also be required.
- f. For plans showing more than 20 seats within the outdoor seating area, requirements for off-street parking for outdoor restaurants shall be computed according to the standards contained in Section 2505, as indicated for restaurant use.
  - g. The hours of operation for the outside restaurant shall be consistent with the hours of operation of the inside restaurant.
  - h. If the seating area proposed contains more than 20 seats or if hardscape or landscape improvements are proposed as part of the outdoor seating area, a site plan prepared in accordance with Section 2516 shall be submitted for administrative review and approval by the Planning Division staff.

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**Repealer.** All other Ordinance or parts of Ordinance in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

## **PART V.**

**Effective Date: Publication.** Public hearing having been held hereon pursuant to the provisions of Section 103 of Act 110 of the Public Acts of 2006, as amended, the provisions of this Ordinance shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City of Novi stating the date of enactment and effective date, a brief statement as to its regulatory effect and that a complete copy of the Ordinance is available for public purchase, use and inspection at the office of the City Clerk during the hours of 8:00 A.M. to 5:00 P.M., Local Time. The provisions of this Ordinance shall become effective seven (7) days after its publication.

MADE, PASSED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF NOVI, OAKLAND COUNTY, MICHIGAN, ON THE \_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
BOB GATT, MAYOR

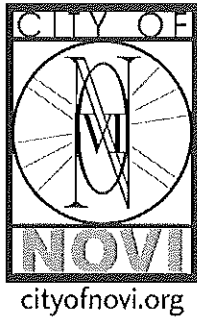
\_\_\_\_\_  
MARYANNE CORNELIUS, CITY CLERK



Ayes:  
Nays:  
Abstentions:  
Absent:

**PLANNING COMMISSION MEETING MINUTES**

**May 9, 2012 - EXCERPT**



# PLANNING COMMISSION MINUTES

## Draft

CITY OF NOVI

Regular Meeting

**May 9, 2012 7:00 PM**

Council Chambers | Novi Civic Center | 45175 W. Ten Mile  
(248) 347-0475

### CALL TO ORDER

The meeting was called to order at or about 7:00 PM.

### ROLL CALL

**Present:** Member Baratta, Member Gutman, Member Lynch, Chair Pehrson

**Absent:** Member Anthony (excused), Member Greco (excused), Member Prince (excused)

**Also Present:** Barbara McBeth, Deputy Director of Community Development; Kristen Kapelanski, Planner; Sarah Fleming, Planner; Tim Wilhelm, City Attorney

### APPROVAL OF AGENDA

Moved by Member Gutman, seconded by Member Lynch:

**VOICE VOTE ON THE AGENDA APPROVAL MOTION MADE BY MEMBER GUTMAN AND SECONDED BY MEMBER LYNCH:**

**Motion to approve the May 9, 2012 Planning Commission Agenda. Motion carried 4-0.**

### MATTERS FOR CONSIDERATION

#### **3. SET PUBLIC HEARING FOR JUNE 13, 2012 FOR TEXT AMENDMENT 18.258 – OUTDOOR SEATING FOR RESTAURANTS**

Planner Kapelanski stated that this is related to inquiries from several restaurants regarding the permitted opening date for outdoor seating areas and the plan submittal requirements for restaurants wishing to have outdoor seating areas approved. In response to these comments, the City Council passed a resolution temporarily suspending the provisions for the start of outdoor seating and the submittal requirements to receive approval of an outdoor seating plan. The City Council also directed the Planning Commission to examine the current outdoor seating standards.

Staff has drafted the proposed amendment to the outdoor seating ordinance in response to those concerns. The amendment would change the permitted outdoor seating start date to March 1<sup>st</sup> instead of April 15<sup>th</sup> and would permit outdoor seating plans to be submitted without the seal of a registered architect or engineer. In most cases, approval would shift to the Building Official. The Planning Commission is asked to schedule the public hearing for June 13<sup>th</sup>. Should the Planning Commission so choose this matter could be sent to the Implementation Committee for further review.

Motion made by Member Baratta and seconded by Member Lynch:

**ROLL CALL VOTE ON THE MOTION TO SET A PUBLIC MADE BY MEMBER BARATTA AND SECONDED BY MEMBER LYNCH:**

**Motion to set a public hearing for June 13, 2012 for Text Amendment 18.258 for outdoor seating for restaurants. Motion carried 4-0.**

**CITY COUNCIL RESOLUTION**

CITY OF NOVI

COUNTY OF OAKLAND, MICHIGAN

**RESOLUTION RELATING TO REQUIREMENTS FOR OUTDOOR SEATING  
PERMITTED UNDER THE ZONING ORDINANCE**

Minutes of a Meeting of the City Council of the City of Novi, County of Oakland, Michigan, held in the City Hall of said City on March 26, 2012, at 7:00 o'clock P.M. Prevailing Eastern Time.

PRESENT: Councilmembers Gatt, Staudt, Casey, Fischer, Margolis, Mutch, Wrobel

ABSENT: None

The following preamble and Resolution were offered by Councilmember Margolis and supported by Councilmember Fischer.

**WHEREAS**, the City of Novi Zoning Ordinance, Section 2524, provides standards for approval and operation of outdoor seating areas for sit-down restaurants in the City; and

**WHEREAS**, the standards as written (a) require administrative site plan review in accordance with Section 2516 for seating areas proposed to be added to an existing business, which can be read to include sealed engineering drawings and other formal submission requirements; and (b) prohibit outdoor seating between April 15 and November 30; and

**WHEREAS**, it appears that the limitation on the date for use of outdoor seating areas may be too restrictive, given that weather conditions may permit the use of such seating areas well in advance of April 15 in any given year; and

**WHEREAS**, the standards for securing site plan approval of outdoor seating areas may be unnecessarily onerous for a use that may not always require full and complete sealed professional drawings as contemplated by Section 2516, depending on the extent of the use; and

**WHEREAS**, the options for amending these rules by way of Zoning Ordinance amendments will necessarily take time to process through the statutory amendment process; and

**WHEREAS**, the City Council finds that it would be appropriate to adjust the standards for 2012 while the Planning Commission commences and completes that review process.

**NOW THEREFORE, IT IS THEREFORE RESOLVED AS FOLLOWS:**

1. The limitation on use of outdoor seating areas from March 15 through April 15 is hereby suspended; and

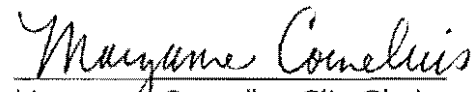
2. The requirement that administrative site plan review be in "full accordance" with Section 2516 is hereby determined to allow an applicant to provide a drawing/plan that has sufficient detail by which the Planning Staff is able to confirm compliance with all of the other requirements of Section 2524; and

3. The Planning Commission is directed to commence review of these ordinance requirements and respond with a report and recommendation to the City Council by or before August 1, 2012.

**AYES:** Gatl, Staudt, Casey, Fischer, Margolis, Mutch, Wrobel (7)

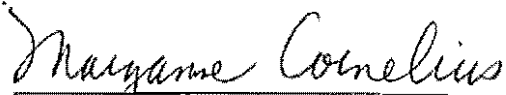
**NAYS:** None (0)

RESOLUTION DECLARED ADOPTED.

  
Maryanne Cornelius, City Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Council of the City of Novi, County of Oakland, and State of Michigan, at a regular meeting held this 26<sup>th</sup> day of March, 2012, and that public notice of said meeting was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan, 1976, and that the minutes of said meeting have been kept and made available to the public as required by said Act.

  
Maryanne Cornelius, City Clerk  
City of Novi

**CITY COUNCIL MEETING MINUTES**  
**March 26, 2012 – EXCERPT**

**REGULAR MEETING OF THE COUNCIL OF THE CITY OF NOVI  
MONDAY, MARCH 26, 2012 AT 7:00 P.M.  
COUNCIL CHAMBERS – NOVI CIVIC CENTER – 45175 W. TEN MILE ROAD**

**Mayor Gatt called the meeting to order at 7:00 P.M.**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** Mayor Gatt, Mayor Pro Tem Staudt, Council Members Casey, Fischer, Margolis, Mutch, Wrobel

**ALSO PRESENT:** Clay Pearson, City Manager  
Victor Cardenas, Assistant City Manager  
Tom Schultz, City Attorney  
Julie Farkas, Library Director  
Rob Hayes, City Engineer  
Brian Coburn, Engineering Manager  
Barb McBeth, Deputy Community Development Director  
David Malloy, Chief of Police/Director of Public Safety

**APPROVAL OF AGENDA**

**CM-12-03-35 Moved by Margolis, seconded by Casey; CARRIED UNANIMOUSLY:**

**To approve the Agenda as presented**

**Roll call vote on CM-12-03-35**                      **Yeas:** Staudt, Casey, Fischer, Margolis  
Mutch, Wrobel, Gatt  
**Nays:** None

**CONSENT AGENDA REMOVALS AND APPROVALS (See Items A-O)**

**CM-12-03-36 Moved by Margolis, seconded by Fischer; CARRIED UNANIMOUSLY:**

**To approve the Consent Agenda with the removal of item F for Council Action.**

**Roll call vote on CM-12-03-36**                      **Yeas:** Casey, Fischer, Margolis, Mutch,  
Wrobel, Gatt, Staudt  
**Nays:** None

- A. Approve Minutes of:
  - 1. March 12, 2012 – Regular meeting
  
- B. Enter Executive Session immediately following the regular meeting of March 26, 2012 in the Council Annex for the purpose of discussing pending litigation, labor negotiations, property acquisition and privileged correspondence from legal counsel.



- C. Approval to award bid for the purchase of Fire Department protective turnout gear to Apollo Fire Equipment, the lowest qualified bidder, in the amount of \$26,550.
- D. Approval of Traffic Control Orders 12-01 and 12-02 for traffic control signs within Willowbrook Farms No. 4 subdivision.
- E. Acceptance of a quit claim deed from City of Novi for the dedication of 60-foot right-of-way for the existing location of South Lake Drive and acceptance of a quit claim deed from the City of Novi for dedication of 60-foot right-of-way for the existing location of East Lake Drive in the vicinity of Pavilion Shore Park.
- F. Approval of Resolution authorizing submission of a Michigan Natural Resources Trust Fund (MNRTF) grant application for Pavilion Shore Park Phase 3 located at 13 Mile and Old Novi Road. **REMOVED FOR COUNCIL ACTION**
- G. Approval of Resolution authorizing submission of a Michigan Natural Resources Trust Fund (MNRTF) grant application for ITC Connector Trail between ITC Transmission Corridor and 8 Mile within ITC Community Sports Park with Trailhead located in ITC Community Sports Park.
- H. Approval of Resolution regarding Temporary Promotional Signage for businesses along Grand River Avenue (between Haggerty and Novi Roads) allowing temporary relief from the Sign Ordinance from March 27 through September 15, 2012.
- I. Approval of MERS Hybrid Program (Benefit Program H) and Defined Contribution Component Resolutions for POLC (Police Officers Labor Council) new hires effective April 1, 2012, pursuant to the arbitration ruling on March 15, 2012.
- J. Approval of Resolution for Changing MERS benefits for the POLC (Police Officers Labor Council) Division 02 for: (a) Earlier Normal Retirement from F25 (25 years of service and out) to F25/50 (25 years of service and age 50), and (b) for purposes of computation of final average compensation to include a cap of 350 overtime hours annually, effective April 1, 2012, pursuant to the arbitration ruling on March 15, 2012.
- K. Adoption of Resolution to Amend the VantageCare Retirement Health Savings (RHS) Program to include the POLC (Police Officers Labor Council), effective April 1, 2012 for POLC new hires, pursuant to the arbitration ruling on March 15, 2012; and to clarify eligibility for all groups.
- L. Approval to extend the 2010 Electrical Services contract (an annual contract with two one year renewal options) with Great Lakes Power & Lighting, Inc. for one year based on the same terms, conditions and pricing as the original contract at an estimated amount of \$50,000 - \$70,000. This is the second and final renewal option for this contract.

- \* M. Approval to adopt Resolution relating to requirements for Outdoor Seating Permitted under the Zoning Ordinance.
  
- N. Approval of application from Blue Ribbon Restaurants Novi, LLC to transfer all membership interest in 2011 Resort Class C licensed Limited Liability Company issued under MCL 436.1531(4), located at 43350 Crescent, Novi, MI 48375, Oakland County, wherein Elliot J. Baum transfers 0.9% membership interest each to new members Aaron Baum, Natalie Baum, and Steven Baum, on or about August 25, 2011, by dropping Alon D. Kaufman as member through transfer of 55% membership interest to the Limited Liability Company, August 31, 2011; and wherein member Elliot J. Baum transfers 94% membership interest to new member, BR Restaurant Holdings, LLC, and members Aaron Baum, Natalie Baum, and Steven Baum each transfer 2% membership interest to new member, BR Restaurant Holdings, LLC, on or about October 2, 2011.
  
- O. Approval of Claims and Accounts – Warrant No. 864