



A RISING TOGETHER POLICY BRIEF
June 2020

Keeping the Doors Open

Immediate recommendations for
assisting ground floor businesses
in reopening

Acknowledgments

This policy brief is part of Rising Together, SPUR's policy response to the impacts of the COVID-19 pandemic.

spur.org/risingtogether

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... we have the opportunity to look towards the future and use this moment to build a system that we can be more proud of. That begins with the city and the decisions that they make moving forward in order to establish a foundation for a successful entrepreneurship, opportunities for working-class residents, and ultimately, a city that everybody would like to live in. Regulatory attention is a great beginning. Working together to find ways to provide affordable childcare, accessible health care and pathways to asset generation for entrepreneurs and workers will be essential to reduce the vulnerabilities that we are all currently facing. —Caleb Zigas & Blake Kutner (La Cocina)¹

Introduction

Before the pandemic, retail was already in a state of flux. COVID-19 has only accelerated the urgency of determining how to best support human and economic activity, particularly on our main streets and commercial corridors. With social distancing and shelter-in-place rules, many non-essential businesses are already closing or are likely to close or struggle in the coming months, even those that have been most successful at adapting to current conditions – transitioning from dining in to takeout, for example, or bringing fitness classes online.

In March, the California Restaurant Association estimated that without public action, the COVID-19 crisis could cause between 20% and 30% of restaurants to permanently close statewide. San Francisco's Golden Gate Restaurant Association has suggested that number could climb as high as 50% in San Francisco. Restaurants and retail are vital contributors to the life of Bay Area neighborhoods, providing jobs, economic activity, goods and services, and community spaces. Cities must act quickly.

In this time of crisis, several principles should guide cities' actions:

- Move quickly and remain flexible. Waive or suspend regulations not needed for health and safety purposes. Provide or connect businesses with technical assistance and support, and dial back enforcement actions. Adjust the approach to the needs of neighborhood commercial districts.
- Focus on neighborhoods. Neighborhood-serving storefronts are particularly in need of assistance. Ensuring the continued operation of businesses owned and operated by people of color, in particular, is not just an economic benefit but also a safeguard on sense of place and belonging.
- In places where the infrastructure exists, leverage the capacity of merchant associations, business improvement districts and community benefit districts. In places where these types of organizations are less well-resourced or non-existent, the city must step up to provide supplementary support and resources.
- Provide additional supports (financial, language, technical assistance) to businesses serving low and moderate-income households and people of color. These businesses were likely already more fragile to begin with, and the pandemic has served to only exacerbate existing inequities.

¹ Source: Seth Boor and Charles Hemminger's *Our Shared Spaces: What Happens Next* report.

This set of recommendations does not look at what cities might do to support ground floor activity in the transitional phase after the immediate crisis period, nor does it consider a broader re-envisioning of what the future of the ground floor might look like. SPUR will continue to focus on these issues in the coming months.

As of this writing, Bay Area cities are in the midst of writing new policies and revising existing ones in order to safely and quickly reopen retail stores and restaurants. The following recommendations are actions for cities to undertake immediately to assist businesses in opening promptly following the gradual lifting of shelter-in-place restrictions. These recommendations will allow businesses to open more quickly and increase the likelihood of their survival, will enliven and increase safety on our streets and in our neighborhoods, and will help bolster the health of the local economy and city budgets in the long-term.

Recommendations

Information and Outreach

1. Share clear information quickly and widely.

Recommendations: Provide a single easy-to-find, easy-to-search online portal in multiple languages for businesses, employers and employees. Undertake active outreach to push information out to neighborhood-serving businesses, particularly in communities where the primary language is not English. Coordinate reopening timelines with the release of guidelines and requirements for businesses.

Today, businesses are trying to determine whether it makes sense to reopen. They need guidance to make informed business decisions. If cities don't address barriers and release requirements well in advance, many will not be able to reopen once restrictions are lifted, forcing more businesses to permanently close.

Businesses are already adapting but they want certainty and they want to operate legally and properly. Providing clarity and timely updates to them is of utmost importance as they assess their ability to survive and make decisions about their next steps. Major Bay Area cities already have collected comprehensive COVID-19 information on their websites for businesses and employees. Concerted and proactive (via business registration rolls, etc.) efforts must also be made to ensure that information gets to small businesses in neighborhoods that serve low income households and where the primary language is not English.

Unfortunately, businesses throughout the Bay Area were caught flat-footed in May when guidelines were provided less than a week prior to the announced reopening of retail curbside delivery. Businesses need time to prepare to meet new guidelines for how to operate a business during shelter-in-place. Many alterations and accommodations will take time to implement as supplies must be purchased, interior spaces reorganized and new protocols and processes established.

County public health departments have a critical role to play in coordinating with cities as they announce next steps toward reopening. Cities need time to create appropriate guidelines aligned with reopening plans and timelines. Coordinating announcements, guidelines and milestone dates is one way to ensure everyone has reasonable time to adapt.

These guidelines should include alternatives to physical distancing if they are being considered. How will business run with reduced occupancy? If distancing requirements might be removed from shared spaces and if there are alternatives being considered, businesses need to know as they consider their reopening options. For example, San Francisco's Shared Spaces program,² announced on May 26, will allow restaurants and retail to spill out into public spaces in order to maintain the distance needed to limit the spread of coronavirus.

2. Create "one stop shop" permitting and PPE stations at city hall and at newly established neighborhood sites.

Recommendation: Cities should create "one stop shop" locations throughout the city with representatives from regulatory agencies (planning, building, public works, transportation, fire, economic development) on hand to help streamline the approval of urgent permits and acceptance of proposed permit-less scopes of work (see Recommendation 8, i.e. takeout windows and other COVID-19 related retrofits).

These stations might be located in public libraries, community centers or already-vacant storefronts in neighborhood commercial districts, and they would be staffed by city staff members with appropriate language skills or contracted

² <https://www.sfexaminer.com/news/shared-spaces-program-will-let-restaurants-retail-expand-into-outdoor-spaces/>

interpreters for each neighborhood. Cities should first prioritize locating these stations in neighborhoods that are physically farther from city hall and in communities that are less connected to city hall.

Private entities willing to provide pro bono services (architecture/design, legal, health, insurance, technology) might also be stationed at these “one stop shops.” These stations also could be paired with distribution (or affordable purchasing) of PPE.

3. Continue gathering input from business owners. Make them part of the recovery process and facilitate information-sharing across businesses.

Recommendation: Proactively reach out to business owners across neighborhoods, industries and income to ask questions about what is needed. Connect business operators to each other in affinity-groups to allow for collective problem-solving by practitioners.

Business owners know what they need to re-open safely. It is essential to hear from them as guidelines are developed. In addition, cities could sponsor caucuses or affinity-groups for similar businesses to connect with each other and offer solutions to each other for shared or common challenges that may transcend the boundaries of merchant associations or business improvement districts.

Logistics

4. Bulk-purchase PPE items.

Recommendation: Cities and county health departments should bulk-purchase required supplies for affordable resale or free distribution to neighborhood-serving businesses.

Current and future guidelines will doubtless require many different PPE (Personal Protective Equipment) items for each type of business: hand sanitizer, gloves, masks, plexiglass dividers, etc. These items can be hard to find and costly, especially when businesses have to compete with each other to purchase them. We saw this in the state-vs-state competition for ventilators. The difficulty in finding these items will delay business openings.

San Francisco already has a central online listing for places that carry PPE supplies, but it should go one step further and assist in obtaining and distributing appropriate supplies for local businesses.

5. Allow businesses to more fully utilize the street, sidewalk, parking lots and other underutilized spaces to accommodate physical distancing requirements.

Recommendation: Allow outdoor public spaces to be utilized by restaurants and retail for curbside pickup and seating, in coordination with transportation needs. Streamline the permitting process for use of the public right-of-way. Rethink the use of public and private space currently devoted to parking.

Berkeley, San José (Al Fresco San José), San Francisco (Shared Spaces) and Oakland (Flex Streets Initiative) have already launched efforts to allow restaurants and other neighborhood businesses to use part of the public right-of-way (streets, sidewalks, parking lots and other spaces) for restaurant pick-up, outdoor dining and other retail activities once the health orders permit such activities. This is essential, since restaurants will be required to operate at a fraction of their former indoor capacity.

Additional space for restaurants, stores and street vendors can be achieved by the following:

- Allowing greater use of sidewalk space for seating and/or shopping
- Allowing use of the parking lane for seating and/or shopping (similar to the parklet program, but with streamlined design/construction requirements)

- Selecting additional “slow streets” that would allow for both pedestrian flow and additional seating, shopping and open space
- Closing streets and alleys during mealtimes to vehicle traffic
- Identifying underdeveloped parcels that can be used to set up temporary retail spaces, with a focus on city-owned parcels that could be provided rent-free (i.e. the former temporary Transbay Terminal, Under Ramp Park)
- Converting surface parking and side streets to curbside delivery/pickup stations
- Allowing private property owners to temporarily use private surface parking lots for outdoor restaurant, retail and recreational uses

Implementing these programs will not be simple, given conflicts with public transit and other transportation/access needs, disability access considerations, liability and insurance issues, the needs of unhoused residents and the cost of improvements among other challenges. These are real challenges that cities are grappling with in real time; we urge them to remain flexible and learn from their peers’ experience.

While some locations will be initiated by businesses, merchant associations and business improvement districts, cities should also map where neighborhood infrastructure and/or resources may currently be lacking and support the implementation of shared spaces/flex streets in those communities where desired. More coordinated decisions about these shared space locations should be determined quickly so they can be factored into businesses’ decisions about whether or not to reopen. This will also give restaurants time to purchase any needed equipment, like space heaters, or barricades. Cities should provide temporary barriers to the extent they can. Any city resources that are expended on these efforts should first benefit communities that serve low-income residents or have historically seen less investment.

Cities should prioritize and expedite processing of these permits when actually needed. While street or lane closures will need a more extensive review, use of the sidewalk for chairs and tables should be as-of-right, requiring only registration, and use of the parking lane should be widely and quickly approved. On June 5, a date when many businesses were permitted to re-open in the Bay Area, the city of San Jose released an emergency declaration allowing certain businesses to use the public sidewalk and adjacent private outdoor spaces (parking lots, vacant lots), requiring businesses to merely register online for instead of filing for an encroachment permit or other city authorization.

These efforts should not serve to privatize public space. The public realm must remain accessible and open to members of the public. Ground floor uses play an important public role and provide value to residents and our communities. If we want these uses to survive this crisis-period, we need to think of them as quasi-public goods and not merely as private enterprises.

Financial

6. Incentivize landlords to offer rent concessions and extend commercial eviction protections through the end of the year.

Recommendation: Cities should identify ways to offer incentives to small landlords – through reductions in gross receipts taxes, property tax rebates or other approaches – in return for offering rent concessions or waivers to their tenants. Where cities themselves are the landlords, they should offer rent concessions to neighborhood-serving business tenants.

The highest operating costs by far for restaurants and retail businesses are labor and rent. Many cities in the Bay Area have already implemented emergency commercial eviction protections (at least for small businesses) for a

short period of time, but full rent payments are still eventually expected. Given the strain neighborhood businesses are already under, further rent concessions will be needed for them to survive.

In turn, landlords, especially small ones, may also need assistance in the future if their tenants cannot pay rent. Costs of building ownership, taxes, maintenance and their own mortgages remain. However, it is small businesses that are feeling the impacts of the pandemic most swiftly and severely.

7. Identify and implement additional fee and tax breaks immediately.

Recommendation: Suspend or temporarily reduce fees and taxes that are assessed on small businesses.

There are many different fees, permits, and taxes that small businesses face, from business registration fees, business taxes and licensing fees, state sales taxes and state payroll taxes, to use permits and café table and chair permits, etc. Many cities and the state have already taken action on deferring or extending deadlines on many of these fees and taxes and should continue to assess where additional flexibility is possible.

Permit fees associated with the public right-of-way and alterations directly addressing COVID-19 guidelines should be waived or reduced for businesses at this time.

Legal/Permits

8. Create permit-less registration process for COVID-19 alterations.

Recommendation: Implement a no-cost same-day process for project sponsors to register a scope of limited set of improvements to existing facilities for the purposes of safety and business survival. Defer full permit approval of any permanent improvements to a future date (1-2 years from now).

During this uncertain period, businesses need to make minor physical alterations to their spaces in order to accommodate physical distancing. Some of these improvements include:³

- walk-up windows
- awnings
- minor transaction & dining surface changes
- additional sneeze guards & other barriers
- additional lighting – interior & exterior
- additional hand sinks
- re-arrange kitchen equipment for spacing
- expansion of seating to unused areas without increasing occupancy
- sidewalk seating and improvements (minor encroachments)
- change of use (on-site sale to take-away/ offsite, grocery, etc.)

(See Recommendation 9 for more detail)

For a limited set of common improvements like those listed above, cities should create a streamlined set of required documentation (scope of work, approval of the property owner, licensed and insured contractor, licensed architect if egress/occupancy impacts, engineer if structural impacts) that businesses would submit in order to register the improvements with the city. This streamlined registration process could take place in the “one stop shops” recommended above.

³ Source: Seth Boor and Charles Hemminger

9. Relax planning and zoning requirements to give existing businesses greater operating flexibility on a temporary basis.

Recommendation: Initiate an executive order or draft legislation that allows existing businesses in neighborhood commercial districts to change/shift among commercial uses without requiring a change-of-use permit for the next year. Allow flexible retail in neighborhood commercial districts citywide. Move to a performance-based standard for requiring businesses to engage with the public and the street.

During this time of crisis and transition, cities should build on the concept of “pink zones,” where cities strategically cut red tape in order to allow for flexibility and innovation. In this instance, cities should allow for implicit approval of flexible retail uses and switching among commercial uses (for example, retail sales and services, production, arts activities) uses without a burdensome permitting process.

In San Francisco in particular, the planning code has evolved over time to become notoriously specific and complex. Restaurant and business owners cite the many layers and specificity of restrictions that allow some uses but not others, distinctions that confound the layperson and may no longer be relevant today. Businesses need greater flexibility to allow for new sources of revenue during this time without needing to go through a time-intensive permitting process. Some examples:

- Allow restaurants to sell produce and grocery items
- Allow restaurant and retail spaces to increase the amount of space dedicated to production or light manufacturing
- Allow arts and some entertainment activities to occur in restaurants and retail spaces once the health order permits

Existing businesses would not be able to convert ground floor spaces to residential, office or heavy manufacturing uses, but would be given wide leeway within commercial and retail categories that maintain active uses at the street frontage.

Many businesses have already shifted their operations to adapt to the needs, but confirming the legality of their operations will allow their operators some peace of mind. Maximum flexibility needs to be provided immediately for the short-term to enable more businesses to survive through this crisis.

Note: SPUR will be putting forth additional recommendations for the medium and long-term that address more of the planning and zoning challenges faced by businesses in San Francisco, particularly as we look to streamline the path for new businesses to start up and occupy vacant storefronts.

Use Downtime Wisely

10. Encourage landlords to perform rehabilitation and repair where businesses are closed.

Recommendation: Provide additional incentives to entice landlords to perform work while businesses are closed, including facade improvements and soft-story seismic work.

Some businesses will not reopen and some would prefer not to reopen until the crisis has passed as they see no route to profitability during this time. While storefronts are closed (temporarily or otherwise), we should encourage property owners to complete mandated upgrades, including soft-story seismic work. City permitting agencies should prioritize the processing of these projects.

Businesses might also be encouraged to do façade upgrades with the help of local façade improvement programs (like the SF Shines program in San Francisco⁴). These efforts will also help create much-needed jobs for construction workers and others.

Next Steps

Neighborhood commercial districts and corridors already play an important role in our communities. They have been centers for local and small businesses, providing jobs and entrepreneurial opportunities for community members and economic benefits to the city. They embody neighborhood identity. And they have served as important public gathering spaces for residents and visitors and the neighborhood community.

This pandemic and the resulting physical distancing requirements we must follow present enormous challenges for neighborhoods and for small businesses in particular. These proposals are intended to create flexibility and help existing businesses pivot and survive this initial crisis stage.

Many questions still remain. What happens next, as the shelter-in-place orders are lifted? What about nightlife and entertainment activities that rely on in-person gatherings or experiences? How can we ensure that lower-income neighborhoods and businesses get the information and support that they need to survive and succeed? How do we integrate equitable values into decisions about investments in neighborhoods? The pandemic has only served to exacerbate challenges and patterns that already existed. At the time of this writing, stores are boarded up, business closed, and citizens are protesting in the streets in response to the tragic murder of George Floyd. The goal of these recommendations is to help retail and restaurants viable, operable safe and stable; the larger challenge ahead is to make our cities safe and equitable for everyone.

⁴ <https://oewd.org/sf-shines>

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