

ORDINANCE NO. 2300

AN ORDINANCE to amend Section 42-1 of Article I by adding thereto a new subsection (65) and to amend Article XV by adding thereto a new Section 42-102.2, all of Chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended; which Chapter 42 relates to ZONING, which Article I relates to DEFINITIONS, which Section 42-1 relates to SAME--ENUMERATION, which new subsection (65) relates to ZONING, CONDITIONAL, which Article XV relates to AMENDMENTS, ETC. and which new Section 42-102.2 relates to CONDITIONAL ZONING GENERALLY.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 42-1, Article I, Chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new subsection numbered (65) to read as follows:

(65) Zoning, conditional, means as part of classifying land into zones by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to the regulations provided for a particular zone by the overall zoning ordinance.

Section 2. That Article XV, Chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto a new section numbered 42-102.2 to read as follows:

Sec. 42-102.2. Conditional zoning generally.

The following regulations shall apply to conditional zoning:

(a) Proffer of conditions. Applicants for changes in zone boundaries, as part of their application, may voluntarily proffer in writing reasonable conditions which shall be in addition to those regulations provided in this chapter and applicable to the particular zone classification sought in said application; provided that (1) The rezoning itself must give rise to the need for the conditions; (2) Such conditions shall have a reasonable relation to the rezoning; (3) Such conditions shall not include a cash contribution to the city; (4) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities except for dedication of any street, curb, gutter, sidewalk, bicycle trail, drainage, water or sewer system; (5) Such conditions shall not include payment for or construction of off-site improvements except pro rata share of sewerage and drainage facilities; (6) No condition shall be proffered that is not related to the physical development or physical operation of the property and (7) All such conditions shall be in conformity with the consolidated master plan.

(b) Enforcement and guarantees. The zoning administrator shall administer and enforce conditions attached to a rezoning, including (1) the ordering in writing of the remedy of any noncompliance with such conditions; (2) the bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and (3) requiring a guarantee, satisfactory to the city council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the city council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use occupancy or building permits, as may be appropriate.

(c) Records. The zoning map of the city shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

(d) Petition for review of decision. Any zoning applicant who is aggrieved by the decision of the zoning administrator relating to the provisions of section 42-102.2(b) of this Code may petition the city council for the review of the decision of the zoning administrator.

(e) Amendments and variations of conditions. There shall be no amendment or variation of conditions created pursuant to the provisions of this section until after a public hearing before the city council which shall be advertised pursuant to the provisions of section 42-102 of this Code.

(f) Relation of section to other laws. The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other city ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other city ordinances.

Section 3. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

FRANK E. MANN
Mayor

FINAL PASSAGE: NOVEMBER 18, 1978