

ORDINANCE NO. 3496

AN ORDINANCE authorizing the owners of the property at 208-210 Queen Street, and the owners' successors in title, to establish and maintain encroachments into the public right-of-way of Queen Street, in the City of Alexandria, Virginia.

WHEREAS, Michael J. and Linda M. Armellino are the owners of the property located at 208-210 Queen Street in the City of Alexandria, Virginia at which they operate the Bilbo Baggins Restaurant; and

WHEREAS, the Armellinos desire to establish and maintain two brick entry staircases and a menu board which will encroach into the public right-of-way at 208-210 Queen Street; and

WHEREAS, the public right-of-way at that point on 208-210 Queen Street will not be significantly impaired by these encroachments; and

WHEREAS, these encroachments have been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that these encroachments are not detrimental to the public interest; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Michael J. and Linda M. Armellino and their successors in title (hereafter collectively the "Owners") be, and the same hereby are, authorized to establish and maintain encroachments into the public right-of-way of Queen Street immediately adjacent to the property at 208-210 Queen Street, in the City of Alexandria, said encroachments consisting of two new brick and wrought iron entry staircases and a menu display board. The staircases are located near the east and west ends of the property. The east staircase is 4 feet, 8 inches deep, 8 feet wide and 5 feet tall. The west staircase is 4 feet, 8 inches deep, 7 feet wide and 4 feet tall. Neither staircase may encroach more than 3 feet, 8 inches beyond the front property line of 208-210 Queen Street into the Queen Street right-of-way. The menu display board is 4 feet, 10 inches tall and less than 12 inches wide. It will be located at the center and lower portion of the building facade and may extend no more than one foot into the public right-of-way. The owners are authorized to establish and maintain these encroachments until the encroachments are removed or destroyed, or the authorization to maintain them is terminated by the city; provided, that this authorization to establish and maintain the encroachments shall not be construed to relieve Owners of liability for any negligence on their part on account of or in connection with the encroachment and shall be

subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachments shall be subject to and conditioned upon Owners maintaining, at all times and at their own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence
	\$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence
	\$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owners as named insureds and shall provide for the indemnification of the City of Alexandria and Owners against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachments. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owners shall, upon notice from the city, remove the encroachment from the public right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Owners. Nothing in this section shall relieve Owners of their obligations and undertakings required under this ordinance.

Section 3. That by accepting the authorization hereby granted to establish and maintain the encroachments and by so establishing and/or maintaining the encroachments, Owners 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) by reason of the establishment, construction, placement, existence, use or maintenance of the encroachments.

Section 4. That the authorization herein granted to establish and maintain the encroachments shall be subject to Owners' maintaining the area of the encroachments at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 5. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign

immunity by or on behalf of the City of Alexandria.

Section 6. That Owners shall timely pay to the City of Alexandria for the encroachments authorized herein the annual charge established in Section 3-2-85 of The Code of the City of Alexandria, 1981, as amended.

Section 7. That the authorization herein granted to establish and maintain the encroachments 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 Owners the removal of the encroachments. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be found, or shall fail or neglect to remove the encroachments within the time specified, the city shall have the right to remove the encroachments, at the expense of Owners, and shall not be liable to Owners for any loss or damage to the structure of the encroachment caused by the removal.

Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

PATRICIA S. TICER
Mayor

Final Passage: January 12, 1991