

ORDINANCE NO. 4001

AN ORDINANCE to amend and reordain Section 12-200 (NONCONFORMING USES) of Article XII (NONCONFORMITIES) of the City of Alexandria Zoning Ordinance, by adding thereto a new Section 12-214 (ABATEMENT OF NONCONFORMING USES), and by repealing Section 12-207 (STRUCTURAL ALTERATIONS PROLONGING LIFE OF NONCONFORMING USE) and Section 12-209 (MAINTENANCE, REPAIR, ETC. OF NONCONFORMING USES) (TA NO. 97-0009A).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 12-200 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 12-214 to read as follows:

Sec. 12-214 Abatement of Nonconforming Uses.

(A) Promptly upon becoming aware of the existence of a nonconforming use, the director shall notify the property owner and, if different, the property operator of the nonconforming status of such use. The nonconforming use shall be discontinued on or before the expiration of a period of seven years from the date of such notice, unless, prior to the expiration of such period, a special use permit which authorizes the continuation of the nonconforming use has been approved, or the seven-year period has been extended by the city council, pursuant to the following:

(1) The owner or operator of the nonconforming use may apply for a special use permit to continue such use, pursuant to section 11-500 and this section 12-214.

(2) The granting of a special use permit under this section 12-214 shall constitute authority for the applicant and any other persons expressly authorized therein to continue the use beyond the expiration of the seven-year period, subject to such terms and conditions as council may provide in granting the special use permit; provided, that no such permit may authorize a change to a different nonconforming use than that which existed on the date of notification, or any increase in the size or intensity of the use greater than that which existed on the date of notification, or excuse compliance with the provisions of section 12-303.

(3) When an application for a special use permit under this section 12-214 is considered, the following criteria shall apply in addition to those set forth in section 11-504:

(a) the degree to which the use serves the nearby neighborhood; and

(b) the degree to which the use is compatible with the uses in the nearby neighborhood.

(4) In the case of a conflict between the general nonconforming use provisions of section 12-200, the more specific provisions of this section 12-214, or the terms and conditions of a special use permit granted under section 12-214(A), the special use permit shall prevail over the provisions of section 12-200 and section 12-214(B), and the provisions of section 12-214 shall prevail over those of section 12-200.

(5) No later than the expiration of the seven-year period established pursuant to this subsection, the owner or operator of a nonconforming use may seek from city council an extension of the date by which it must come into conformity with this section 12-214 by filing with the director a petition which sets forth in detail the reasons why a fair and reasonable return on the investment in such nonconforming use, made by the petitioner prior to the date of notification, cannot be obtained prior to the expiration of the seven-year period. Following a public hearing, council may extend the seven-year period only if it finds that a strict application of the expiration date will deny the petitioner the opportunity to realize a fair and reasonable return on the investment in the nonconforming use made by the petitioner prior to the date of notification, in which case council shall extend the expiration date by the minimum time which it determines will provide such opportunity to the petitioner.

(B) Any nonconforming use existing on (May 16, 1998) shall comply with the following rules regarding repairs, improvements and alterations to the building and the use, unless a special use permit has been granted pursuant to section 12-214(A) which provides otherwise:

(1) No alteration to a building which directly prolongs the life of a nonconforming use shall be permitted.

(2) Trade fixtures, such as refrigerator cases, kitchen equipment and other fixtures used in the business, may not be replaced or upgraded, although ordinary repairs and maintenance to trade fixtures is permitted.

(3) Building components, such as HVAC equipment, electrical service, siding, shingles and roofing, may be repaired, replaced or upgraded.

(C) In the absence of any contrary provision in a text or map amendment, the provisions of this section 12-214 shall also apply to any nonconforming use created after (May 16, 1998).

Section 3. That Section 12-207 of the City of Alexandria Zoning Ordinance be, and the same hereby is, repealed, and the section number reserved, as follows:

Sec. 12-207 Reserved.

Section 4. That Section 12-209 of the City of Alexandria Zoning Ordinance be, and the same hereby is, repealed, and the section number reserved, as follows:

Sec. 12-209 Reserved.

Section 5. That Section 12-200 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 6. That this ordinance shall become effective upon the date at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or

board, or before city council, or on judicial review; shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

KERRY J. DONLEY
Mayor

Introduction: 5/12/98
First Reading: 5/12/98
Publication: 5/13/98; 5/14/98
Public Hearing: 5/16/98
Second Reading: 5/16/98
Final Passage: 5/16/98