

ORDINANCE NO. 4280

AN ORDINANCE to amend and reordain Sections 4-102 (PERMITTED USES) and 4-103 (SPECIAL USES) under Section 4-100 (CL/COMMERCIAL LOW ZONE), Sections 4-202 (PERMITTED USES) and 4-203 (SPECIAL USES) under Section 4-200 (CC/COMMERCIAL COMMUNITY ZONE), Sections 4-302 (PERMITTED USES) and 4-303 (SPECIAL USES) under Section 4-300 (CSL/COMMERCIAL SERVICE LOW ZONE), Sections 4-402 (PERMITTED USES) and 4-403 (SPECIAL USES) under Section 4-400 (CG/COMMERCIAL GENERAL ZONE), Section 4-502 (PERMITTED USES) and 4-503 (SPECIAL USES) under Section 4-500 (CD/COMMERCIAL DOWNTOWN ZONE), Sections 4-602 (PERMITTED USES) and 4-603 (SPECIAL USES) under Section 4-600 (CD-X/COMMERCIAL DOWNTOWN ZONE-OLD TOWN NORTH), Sections 4-802 (PERMITTED USES) and 4-803 (SPECIAL USES) under Section 4-800 (OC/OFFICE COMMERCIAL ZONE), Sections 4-902 (PERMITTED USES) and 4-903 (SPECIAL USES) under Section 4-900 (OCM(50)/OFFICE COMMERCIAL MEDIUM (50) ZONE), Sections 4-1002 (PERMITTED USES) and 4-1003 (SPECIAL USES) under Section 4-1000 (OCM(100)/OFFICE COMMERCIAL MEDIUM (100) ZONE), Sections 4-1102 (PERMITTED USES) and 4-1103 (SPECIAL USES) under Section 4-1100 (OCH/OFFICE COMMERCIAL HIGH ZONE), and Sections 4-1202 (PERMITTED USES) and 4-1203 (SPECIAL USES) under Section 4-1200 (I/INDUSTRIAL ZONE), all of Article IV (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES); and Sections 5-102 (PERMITTED USES) and 5-103 (SPECIAL USES) under Section 5-100 (CRMU-L/COMMERCIAL RESIDENTIAL MIXED-USED LOW ZONE), Sections 5-202 (PERMITTED USES) and 5-203 (SPECIAL USES) under Section 5-200 (CRMU-M/COMMERCIAL RESIDENTIAL MIXED-USE MEDIUM ZONE), Sections 5-302 (PERMITTED USES) and 5-303 (SPECIAL USES) under Section 5-300 (CRMU-H/COMMERCIAL RESIDENTIAL MIXED-USE HIGH ZONE), all of Article V (MIXED USE ZONES), and to amend and reordain Article XII (NONCOMPLIANCE AND NONCONFORMITY), by adding thereto a new Section 12-601(CERTAIN RETAIL SHOPPING ESTABLISHMENT USES DEEMED GRANDFATHERED OR CONFORMING), all of the City of Alexandria Zoning Ordinance (TA No. 2002-0006).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Sections 4-102, 4-202, 4-302, 4-402, 4-502, 4-602, 4-802, 4-902, 4-1002, 5-102, 5-202 and 5-302 of the City of Alexandria Zoning Ordinance be, and the same hereby are, amended by amending the several subsections thereof which establish a retail shopping establishment as a permitted use, the appropriate subsection heading to be assigned by the city attorney in preparing the codification of this ordinance, to read as follows:

- ( ) Retail shopping establishment, up to 20,000 gross square feet;

Section 2. That Subsection (M) of Section 4-1102 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

- (M) Retail shopping establishment, on the same lot as office use, up to 20,000 gross square feet;

Section 3. That Subsection (V.1) of Section 4-1202 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows; provided, however, that the phrase Ashopping establishment@ shall be deemed declaratory of existing law:

- (V.1) Retail shopping establishment, up to 20,000 gross square feet;

Section 4. That Sections 4-103, 4-203, 4-303, 4-403, 4-503, 4-603, 4-803, 4-903, 4-1003, 4-1203, 5-103, 5-203 and 5-303 of the City of Alexandria Zoning Ordinance be, and the same hereby are, amended by adding thereto a new subsection, the appropriate subsection heading to be assigned by the city attorney in preparing the codification of this ordinance, to read as follows:

- ( ) Retail shopping establishment, larger than 20,000 gross square feet;

Section 5. That Section 4-1103 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Subsection (X.1) to read as follows:

- (X.1) Retail shopping establishment, on the same lot as office use, larger than 20,000 gross square feet;

Section 6. That Article XII of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new Section 12-601, to read as follows:

Sec. 12-601 Certain retail shopping establishment uses deemed grandfathered or conforming.

(A) *Rules generally not applicable.* The rules in this Article XII for nonconforming and noncomplying uses shall not apply to retail shopping establishments larger than 20,000 gross square feet, which (1) are lawfully in existence on October 19, 2002, and for which no special use permit for the use has been approved prior to such date, or (2) for which a preliminary site plan, but no special use permit for the use, has been approved prior to October 19, 2002, and has not expired. Such uses shall be categorized as grandfathered uses, and shall be governed by the provisions of this Section 12-601. In case of conflict between the provisions of this section and any other provision of this ordinance, the provisions of this section shall control.

(B) *Expansion.* Physical expansion or enlargement of the use in the amount of 20,000 gross square feet or less is permitted without special use permit approval.

(C) *Intensification.* Intensification of the use not involving physical expansion or enlargement is permitted without special use permit approval.

(D) *Continuation or change in use.* The use may be continued by successive owners, and may be changed to a different retail use, without approval of a special use permit. The use may

be changed to any other use permitted in the zone in which it is located; provided, however, that if a special use permit is required for such other use by the regulations of such zone, then a special use permit shall be required for such change in use.

(E) *Repair and reconstruction.*

- (1) The building in which the use is located may be repaired, remodeled, upgraded and maintained, except as provided in paragraph (3).
- (2) If the building in which the use is located is damaged or destroyed as the result of a casualty loss, the use may be continued in a building reconstructed to the gross square footage which existed at the time of such loss, plus an additional amount not to exceed 20,000 gross square feet, without special use permit approval.
- (3) If the building in which the use is located is demolished or removed to the top of the foundation or below, other than as the result of a casualty loss, the property shall thereafter conform to the regulations of the zone in which it is located, and other applicable regulations of this ordinance.

(F) *Signs, parking and use characteristics.* Notwithstanding any other provision of this section, if the characteristics of the use, such as signs, off-street parking and loading, lighting or other features pertaining to the use of land, structures and premises are inconsistent with the regulations of the zone in which the use is located or other applicable regulations of this ordinance, no change to the use or such feature (to include in the case of off-street parking or loading a change or increase in the use served) shall be made which increases the inconsistency or lack of compliance with the zone or other applicable regulations, but a change may be made which decreases such inconsistency, or which complies with the zone and other applicable regulations.

(G) *Other changes.* Any change to the use other than as expressly permitted in subsections (B) through (F) of this section, and which is otherwise permitted by this ordinance, shall require special use permit approval for the entire use.

(H) *Abandonment.* In the event that, after October 19, 2002, the use ceases actual retail operation for a period of five consecutive years or more, the grandfathered status of the use shall terminate, and the use of the property shall thereafter conform to the use regulations of the zone in which it is located.

(I) *FAR, height, etc. not affected.* Nothing in this section shall be deemed to permit any increase in floor area ratio, height or other regulation expressed as a maximum, nor to permit any reduction in required parking, setbacks, open space or other regulation expressed as a minimum, otherwise applicable to the use under this ordinance.

(J) *Site plan required.* Nothing in this section shall be deemed to excuse the requirement for a site plan pursuant to Section 11-400 of this ordinance.

(K) *Conforming uses*. Retail shopping establishments larger than 20,000 gross square feet, which (1) are lawfully in existence on October 19, 2002, and for which a special use permit for the use has been approved prior to such date, or (2) for which a special use permit for the use has been approved prior to October 19, 2002, and has not expired shall be categorized as conforming uses; shall not be subject to the provisions of this section, and shall be subject to the terms and conditions of the special use permit.

Section 7. That Sections 4-102, 4-103, 4-202, 4-203, 4-302, 4-303, 4-402, 4-403, 4-502, 4-503, 4-602, 4-603, 4-802, 4-803, 4-903, 4-1002, 4-1003, 4-1102, 4-1103, 4-1202, 4-1203, 5-102, 5-103, 5-202, 5-203, 5-302, 5-303, and Article XII of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 8. That this ordinance shall become effective upon the date and at the time of its final passage, and shall apply to all applications for land use or land development approval provided for under the City of Alexandria Zoning Ordinance which are filed on and after October 19, 2002, and are pending on and after the effective date before any city department, agency or board, or before city council, or on judicial review, 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 said ordinance.

KERRY J. DONLEY  
Mayor

Final Passage: November 16, 2002