

ORDINANCE NO. 4366

AN ORDINANCE to amend and reordain Section 12-200 (NONCONFORMING USES) of Article XII (NONCOMPLIANCE AND NONCONFORMITY) of the City of Alexandria Zoning Ordinance, by adding thereto a new Section 12-216 (NONCONFORMING ELECTRICAL POWER GENERATING PLANTS) (TA No. 2004-0008).

WHEREAS, THE CITY COUNCIL FINDS AND DETERMINES THAT:

1. Since 1992, when the current City of Alexandria Zoning Ordinance was adopted, substantial evidence of harmful impacts from the continued operation of older, coal fired power plants has become available.

2. Older, coal fired power plants have been shown to emit into the air and water high volumes (up to 10 times dirtier as compared to newer plants with more advanced control technology or different fuel sources) of oxides of nitrogen (NO<sub>x</sub>) and sulphur dioxide (SO<sub>2</sub> or SO<sub>x</sub>), small (PM<sub>2.5</sub>) and large (PM<sub>10</sub>) particulate matter, as well as compounds of barium, chromium, copper, lead, manganese, mercury, nickel, selenium, vanadium, zinc and other toxics.

3. The harmful impacts on the surrounding area from such older plants with shorter stacks (as opposed to newer plants with taller stacks) are magnified because short stacks offer less opportunity for dilution and dispersion of pollutants, resulting in higher concentrations in the environs of the plant.

4. These pollutants contribute to summer ozone problems, cause acid rain, increase the incidence of pulmonary, cardiovascular and other diseases, and rain nuisance dusts and toxic metals on a plant=s environs and the entire region.

5. Harmful impacts from the continued operation of older, coal fired power plants are causing substantial injury to the public health, safety and general welfare of the residents of Alexandria.

6. Since 1992, other regulatory mechanisms have proven inadequate to control or abate such harmful impacts.

7. Based on the foregoing findings, and on all other pertinent facts and circumstances, of which the City Council hereby takes notice as the duly constituted legislative body of the City of Alexandria, Virginia, adoption of this ordinance is necessary and desirable to protect the public health, safety and general welfare of the residents of Alexandria. Now, therefore,

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 new Section 12-216 to read as follows:

Section 12-216 *Nonconforming electrical power generating plants.*

- (A) Notwithstanding any contrary provision of this ordinance, any electrical power generating plant in existence on December 18, 2004, which produces power through the combustion of coal, and is located in a zone in which such use is neither a permitted or special use permit use, or in a zone in which such use is a special use permit use but for which a special use permit for the entire use, including power generation, has not been granted, shall be deemed a nonconforming use, and shall be subject to abatement as provided in Section 12-214(A) of this ordinance.
- (B) Any nonconforming use subject to this Section 12-216 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 the nonconforming use shall be permitted.
  - (2) Fixtures used in connection with the generation of power, such as turbines, generators, boilers, smokestacks, fuel or ash receiving or handling facilities, control systems and pollution control equipment, may not be installed, replaced or upgraded, although ordinary repairs and maintenance to such fixtures as existed on December 18, 2004, is permitted; provided, however, that the installation, replacement or upgrade of pollution control equipment may be permitted if approval therefor is obtained by special use permit issued pursuant to the Section 11-500 of this ordinance.
  - (3) Ordinary repairs and maintenance to building components, such as HVAC equipment, electrical service, siding, shingles and roofing, are permitted.

Section 2. 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 3. 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 December 18, 2004, 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.

WILLIAM D. EUILLE

Mayor

Final Passage: December 18, 2004