

ORDINANCE NO. 4493

AN ORDINANCE to amend and reordain Section 2-100 (DEFINITIONS) of Article 2 (DEFINITIONS); by adding Sections 2-190.1 and 2-190.3, (RELATING TO SMOKE-FREE RESTAURANTS), and to amend and reordain Article VII (SUPPLEMENTAL ZONE REGULATIONS), by adding thereto a new Section 7-2200 (SMOKE-FREE RESTAURANTS REQUIRED), of the City of Alexandria Zoning Ordinance (TA No. 2007-0003).

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2007-0003, the city council initiated on its own motion and referred to the Planning Commission a text amendment to provide for smoke-free restaurants as a special or permitted zoning use in the City of Alexandria, and to categorize restaurants which are not smoke-free as nonconforming uses, and

2. The Planning Commission and City Council have approved the adoption of Text Amendment No. 2007-0003, and

3. Adoption of this ordinance is necessary and appropriate to protect and promote the health, safety and general welfare of residents, workers and visitors to the City, and to protect and promote the economic well being of the City and restaurant businesses within the City, which are part of and compete in the Washington, D.C. metropolitan region, and

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-100 of the City of Alexandria Zoning Ordinance be,

and the same hereby is, amended by adding thereto the following new sections:

2-190.1 Restaurant, smoke-free. A restaurant which does not permit patron or employee smoking within or on the premises, including without limitation in any bar, lounge, dining, waiting, storage or other enclosed area, or area under permanent roof or cover, and which does not permit patron or employee smoking within areas, or at seats or tables, located in the public right-of-way and used or controlled by the restaurant under license or permit from the city.

2-193.1 Smoking. The act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind, or lighting a cigar, cigarette or pipe of any kind.

Section 2. That Article VII of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto the following new section:

Section 7-2200 Smoke-free restaurants required.

7-2201 Any new restaurant for which a special use permit pursuant to Section 11-500, or for which an administrative permit pursuant to Section 6-600, Section 6-700 or Section 6-800, or for which a building permit pursuant to Section 4-700 of this ordinance, is approved after [effective date] shall, as a condition of such permit, agree to operate as a smoke-free restaurant.

7-2202 Any restaurant existing on July 1, 2008 for which a special use permit pursuant to Section 11-500, or for which an administrative permit

pursuant to Section 6-600, Section 6-700 or Section 6-800, or for which a building permit pursuant to Section 4-700 of this ordinance, is approved, reviewed or amended after July 1, 2008 shall, as a condition of such permit, agree to operate as a smoke-free restaurant, within three months after the approval, review or amendment of such permit.

7-2203 Every restaurant with outdoor seating located in the public right-of-way existing on July 1, 2008 shall, as a condition of the continued right to use the public right-of-way, agree to operate as a smoke-free restaurant within three months after July 1, 2008.

7-2203 Every grandfathered restaurant existing on July 1, 2008 shall, as a condition of the continued right to be classified as a grandfathered use, agree to operate as a smoke-free restaurant within three months of July 1, 2008.

7-2204 Every restaurant existing on July 1, 2008 for which a special use permit pursuant to Section 11-500, or for which an administrative permit pursuant to Section 6-600, Section 6-700 or Section 6-800, or for which a building permit pursuant to Section 4-700 of this ordinance, has been approved, shall agree to operate as a smoke-free restaurant within three months of July 1, 2008.

7-2205 Every restaurant which is not a smoke-free restaurant as required pursuant to Section 7-2203 and Section 7-2204 shall be classified as a nonconforming use subject to Section 12-214 of this ordinance.

7-2206 For purposes of this Section 7-2200, Aa restaurant existing on July

1, 2008@ shall not be deemed to include a new restaurant at the same location as a restaurant which operated on July 1, 2008. Indicia of a new restaurant shall include, without limitation, a change in ownership or control, a change in name, a change in Virginia Alcoholic Beverage Control Board licensee, or a change in type or style of cuisine.

7-2207 The provisions of this Section 7-2200 shall preempt any contrary provisions of the City Code or this ordinance.

7-2208 Notwithstanding any contrary provision of this Section 7-2200, a restaurant which, on May 1, 2007 and thereafter, has in operation a completely separate and independent HVAC system, to service all areas of the restaurant in which smoking is permitted, exclusive of all non-smoking areas, shall comply with the provisions of this Section 7-2200 within five years of July 1, 2008.

7-2209 The provisions of this Section 7-2200 shall not become effective unless reenacted by the City Council during the legislative session commencing in September 2007, and if so reenacted, the effective date of this Section 7-2200 shall be July 1, 2008.

Section 3. That Section 2-100 and Article VII 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 4. That this ordinance shall become effective as provided in Section 7-2209, above.

WILLIAM D. EUILLE
Mayor

Final Passage: June 26, 2007