

ORDINANCE NO. 4677

AN ORDINANCE to amend Section 1-400 (INTERPRETATION OF ORDINANCE) to Article I (GENERAL REGULATIONS), Article II (DEFINITIONS), Sections 4-100 (CL/COMMERCIAL LOW ZONE), 4-200 (CC/COMMERCIAL COMMUNITY ZONE), 4-300 (CSL/COMMERCIAL SERVICES LOW ZONE), 4-400 (CG/COMMERCIAL GENERAL ZONE), 4-500 (CD/COMMERCIAL DOWNTOWN ZONE), 4-600 (CD-X/COMMERCIAL DOWNTOWN ZONE (OLD TOWN NORTH)), 4-700 (CR/COMMERCIAL REGIONAL ZONE), 4-800 (OC/OFFICE COMMERCIAL ZONE), 4-900 (OCM(50)/OFFICE COMMERCIAL MEDIUM (50) ZONE), 4-1000 (OCM(100)/OFFICE COMMERCIAL MEDIUM (100) ZONE), 4-1100 (4-1100 OCH/OFFICE COMMERCIAL HIGH ZONE), 4-1200 (I/INDUSTRIAL ZONE), and 4-1400 (NR/NEIGHBORHOOD RETAIL ZONE) to Article 4 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONES), Sections 5-100 (CRMU/COMMERCIAL RESIDENTIAL MIXED USE (LOW)), 5-200 (CRMU-M/COMMERCIAL RESIDENTIAL MIXED USE (MEDIUM)), 5-300 (CRMU-H/COMMERCIAL RESIDENTIAL MIXED USE (HIGH)), and 5-400 (CRMU-X/CPOMMERCIAL RESIDENTIAL MIXED USE (OLD TOWN NORTH) ZONE to Article 5 (MIXED USE ZONES), Sections 6-600 (MOUNT VERNON AVENUE URBAN OVERLAY ZONE) and 6-700 (KR/KING STREET URBAN RETAIL ZONE) to Article VI (SPECIAL AND OVERLAY ZONES), Section 8-100 (OFF STREET PARKING REQUIREMENT) to Article VIII (OFF STREET PARKING AND LOADING), and Section 11-500 (SPECIAL USE PERMITS) to Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2010-0001.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2010-0001, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on June 3, 2010 of a text amendment to the Zoning Ordinance to adopt amendments related to small businesses, which recommendation was approved by the City Council at public hearing on June 12, 2010;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
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 1-400 of the Zoning Ordinance be, and the same hereby is, amended by deleting and inserting new language, as shown:

1-400 Interpretation of ordinance.

(B) *Interpretation of zone regulations.*

(3) Maximum floor area ratio and maximum density shall be calculated as follows:

(f) When calculating the floor area of an office, multifamily or mixed use building constructed after June 22, 2010, space devoted to day care facilities and programs offering early childhood education, elder care and other related services shall not be calculated as floor area, provided:

- (1) a maximum of 10,000 square feet of floor area may be excluded under this provision;
- (2) space for which this floor area exclusion has been allowed shall remain devoted to day care facilities and programs offering early childhood education, elder care and other related services unless a special use permit is approved for alternative community facilities or civic functions, including public schools; community arts exhibition or performance space; private education center; neighborhood reading room or library; space for community meetings and functions; or a youth center.

Section 2. That Article II of the Zoning Ordinance be, and the same hereby is, amended by inserting new language, as shown:

- 2-190.1 Restaurant, accessory. A use involving the sale or presentation of food and beverages which is clearly subordinate in area, extent, and purpose to an approved principal use and which is customarily found in connection with and serving that principal use. Typically, an accessory restaurant is not larger than 33% of the floor area of the entire business; does not offer table or delivery service; does not have hours of operation longer than the principal use; and does not have a separate entrance.
- 2-190.2 Restaurant, nightclub. A restaurant where entertainment, live or otherwise, predominates over food service, becoming the principal use for at least during part of the business' operations, with or without dancing, and typically involving a cover or other charge for admission and event advertising.
- 2-190.3 Restaurant, coffee or ice cream shop. A small restaurant, typically no more than two thousand square feet in area, where the principal business is either the sale of coffee and other hot beverages or the sale of ice cream, frozen yogurt or other related confections. Pastries, baked goods, cold beverages, sandwiches and other light fare may also be sold incidental to the service of coffee, and other confections, but no alcohol is served, no entertainment takes place and no significant cooking, other than the

application of heat by microwave, electric burner, espresso machine, the heating of soup or the boiling of water, typically takes place.

Section 3. That Sections 4-100, 4-200, 4-300, 4-400, 4-500, 4-600, 4-700, 4-800, 4-900, 4-1000, 4-1100, 4-1200, and 4-1400 of the Zoning Ordinance be, and the same hereby are, amended by deleting and inserting new language, as shown:

Sec. 4-100 CL/Commercial low zone.

4-102.1 *Administrative special uses.* The following uses may be allowed in the CL zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-103 *Special uses.* The following uses may be allowed in the CL zone pursuant to a special use permit:

- (G.1) *Delete in entirety.*

Sec. 4-200 CC/Commercial community zone.

4-202.1 *Administrative special uses.* The following uses may be allowed in the CC zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-203 *Special uses.* The following uses may be allowed in the CC zone pursuant to a special use permit:

- (K.1) *Delete in entirety.*

Sec. 4-300 CSL/Commercial service low zone.

4-302.1 *Administrative special uses.* The following uses may be allowed in the CSL zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-303 *Special uses.* The following uses may be allowed in the CSL zone pursuant to a special use permit:

- (P.1) *Delete in entirety.*

Sec. 4-400 CG/Commercial general zone.

4-402.1 *Administrative special uses.* The following uses may be allowed in the CG zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-403 *Special uses.* The following uses may be allowed in the CG zone pursuant to a special use permit:

- (R.1) *Delete in entirety.*

Sec. 4-500 CD/Commercial downtown zone.

4-502.1 *Administrative special uses.* The following uses may be allowed in the CD zone with administrative approval, subject to section 11-513 of this ordinance:

- ~~(A)~~ ~~Restaurant;~~
- ~~(B)~~(A) Massage establishment;
- ~~(C)~~ Outdoor garden center;
- ~~(D)~~ Outdoor food and crafts market;
- ~~(E)~~ Outdoor dining (beyond the boundaries of the King Street Outdoor Dining Zone);
- ~~(F)~~ Overnight pet boarding if located in a shopping center;
- ~~(G)~~ Valet parking.

- 4-503 *Special uses.* The following uses may be allowed in the CD zone pursuant to a special use permit:
(O.1) *Delete in entirety.*

Sec. 4-600 CD-X/Commercial downtown zone (Old Town North).

- 4-602.1 *Administrative special uses.* The following uses may be allowed in the CD-X zone with administrative approval, subject to section 11-513 of this ordinance:
- (A) Restaurant;
 - (B) Massage establishment;
 - (C) Outdoor garden center;
 - (D) Outdoor food and crafts market;
 - (E) Outdoor dining;
 - (F) Overnight pet boarding if located in a shopping center;
 - (G) Valet parking.

- 4-603 *Special uses.* The following uses may be allowed in the CD-X zone pursuant to a special use permit:
(N.1) *Delete in entirety.*

Sec. 4-700 CR/Commercial regional zone.

- 4-702.1 *Administrative special uses.* The following uses may be allowed in the CR zone with administrative approval, subject to section 11-513 of this ordinance:
- (A) Restaurant;
 - (B) Massage establishment;
 - (C) Outdoor garden center;
 - (D) Outdoor food and crafts market;
 - (E) Outdoor dining;
 - (F) Overnight pet boarding if located in a shopping center;
 - (G) Valet parking.

- 4-703 *Special uses.* The following uses may be allowed in the CR zone pursuant to a special use permit:
(I) Reserved

Sec. 4-800 OC/Office commercial zone.

- 4-802.1 *Administrative special uses.* The following uses may be allowed in the OC zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-803 *Special uses.* The following uses may be allowed in the OC zone pursuant to a special use permit:

(S.1) *Delete in entirety.*

Sec. 4-900 OCM(50)/Office commercial medium (50) zone.

4-902.1 *Administrative special uses.* The following uses may be allowed in the OCM (50) zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-903 *Special uses.* The following uses may be allowed in the OCM(50) zone pursuant to a special use permit:

(S.1) *Delete in entirety.*

Sec. 4-1000 OCM(100)/Office commercial medium (100) zone.

4-1002.1 *Administrative special uses.* The following uses may be allowed in the OCM (100) zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking;
- (H) Catering operation in an industrial or flex space center; and
- (I) Light auto repair in an industrial or flex space center.

- 4-1003 *Special uses.* The following uses may be allowed in the OCM(100) zone pursuant to a special use permit:
(S.1) *Delete in entirety.*

Sec. 4-1100 OCH/Office commercial high zone.

- 4-1102(E.3) Health and athletic club located in a shopping center, hotel, industrial or flex space building or office complex.

- 4-1102.1 *Administrative special uses.* The following uses may be allowed in the OCH zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking;
- (H) Catering operation in an industrial or flex space center; and
- (I) Light auto repair in an industrial or flex space center.

- 4-1103 *Special uses.* The following uses may be allowed in the OCH zone pursuant to a special use permit:
(L) Health and athletic club other than as a permitted or administrative SUP use
(Q.1) *Delete in entirety.*

Sec. 4-1200 I/Industrial zone.

- 4-1202 *Permitted uses.* The following uses are permitted in the I zone:

- (A) Ambulance service;
- (B) Animal shelter or kennel;
- (C) Automobile service station;
- (D) Bottling plant;
- (E) Building materials storage and sales;
- (F) Business or professional office
- (G) Catering operations;
- (H) Drive through facility;
- (I) [*Reserved*];
- (J) Funeral home;
- (K) Glass shop;
- (L) Health and athletic club
- (L.1) Ice and cold storage facility;
- (M) Laundry, dry cleaning operations;

- (N) Light assembly and crafts
- (N.1) Light automobile repair;
- (O) Machine shop;
- (P) Manufacturing;
- (Q) Medical laboratory;
- (Q.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (R) Parcel delivery;
- (S) Personal service establishment
- (S.1) Pet supplies, grooming and training, with no overnight accommodation;
- (T) Printing and publishing facilities;
- (U) Radio or television broadcasting office and studio;
- (V) Research and testing laboratory;
- (V.1) Restaurant located within a shopping center or hotel;
- (V.2) Retail;
- (W) Sheet metal shop;
- (X) Stone monument works;
- (Y) Storage buildings and warehouses;
- (Z) Utilities, as permitted by section 7-1200;
- (AA) Wholesale businesses;
- (BB) Accessory uses, as permitted by section 7-100.

4-1202.1 *Administrative special uses.* The following uses may be allowed in the I zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

4-1203 *Special uses.* The following uses may be allowed in the I zone pursuant to a special use permit:

- (A) Asphalt plant;
- (A.1) Amusement enterprise;
- (B) Automobile and trailer rental or sales area;
- (C) Business offices other than those listed in section 4-1202(F);
- (D) Bus shelter on private property;
- (E) Concrete mixing and batching plant;
- (F) Convenience store;
- (F.1) Day labor agency.
- (G) Freight distribution center;

- (G.1) Fuel yard;
- (H) General automobile repair;
- (I) Helistop;
- (J) Homeless shelter;
- (K) Hospital;
- (L) Interstate bus station;
- (M) Junkyard;
- (N) Medical care facility;
- (O) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Motor vehicle storage yard;
- (P.1) Outdoor food and crafts market, other than pursuant to section 4-1202.2;
- (P.2) Outdoor garden center, other than pursuant to section 4-1202.1;
- (P.3) Overnight pet boarding, other than pursuant to section 4-1202.1;
- (Q) Public building;
- (R) Recycling and materials recovery facility;
- (R.1) Restaurant, other than pursuant to section 4-1202 (V.1) or 4-1202.1;
- (S) Stone crushing operation;
- (T) Vehicle towing service and associated impound lot;
- (U) Waste to energy plant;
- (V) Any other use not listed elsewhere in this ordinance.

Sec. 4-1400 NR/Neighborhood retail zone (Arlandria).

4-1403 Permitted uses. In order to provide an active pedestrian-oriented retail environment along Mount Vernon Avenue, especially along the sidewalk and pedestrian way, permitted uses in the NR zone are limited as follows.

- (A) Permitted ground floor uses. The following uses are permitted on the ground floor of buildings facing the sidewalk:
 - (1) Retail establishment;
 - (2) Personal service, except banks;
 - (3) Banks, business and professional offices, medical laboratory or offices and laundromats, provided:
 - (a) The business facade shall be no wider than 30 feet along the street;
 - (b) No more than two such uses or entrances shall adjoin each other.
 - (4) Restaurants, when located within a shopping center or hotel, or with administrative approval pursuant to section 4-1403.1;
 - (5) Day care center.

- (B) Permitted uses above the ground floor:
 - (1) Uses listed under section 4-1403;
 - (2) Dwelling unit;
 - (3) Office;
 - (4) Church;

- 4-1403.1 Administrative special uses. The following uses may be allowed in the NR zone with administrative approval, subject to section 11-513 of this ordinance:
 - (A) Restaurant;
 - (B) Outdoor garden center;
 - (C) Outdoor food and crafts market;
 - (D) Overnight pet boarding located in a shopping center;
 - (E) Massage establishment;
 - (F) Valet parking;
 - (G) Outdoor dining.

- 4-1404 Special uses. The following uses may be allowed with a special use permit:
 - (D) *Reserved.*
 - (H) *Reserved.*

- 4-1407 Parking. The parking requirements of article XIII of the zoning ordinance and with an administrative permit granted by the director of planning and zoning, the following provisions shall apply as to off-street parking:
 - (A) In order to maintain the existing supply of private off-street parking spaces, these spaces shall be retained and may be shared until such time as centralized parking facilities are constructed. Such shared arrangements shall be reviewed and approved by the director of planning and zoning;
 - (B) Existing restaurants may add up to 20 outdoor dining seats with no additional off-street parking requirement;

- 4-1413 Use limitations.
 - (A) All operations, except those administrative uses enumerated in section 14-1103(B), (C) and (G) shall take place within a completely enclosed building except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the

location, size, duration and purpose of the accessory outdoor use.

- (B) Appliance sales, repair and rental shall be limited to small appliances only, such as televisions, radios, lawnmowers, kitchen counter and small electronic appliances and like items which do not exceed one horsepower in size.
- (C) No use shall be conducted in any manner which would render it noxious or offensive by reason of dust, refuse matter, odor, smoke, gas fumes, noise, vibration or glare.
- (D) The property owner and occupant shall maintain all building and property appurtenances located within or over the public right-of-way in a safe, clean and attractive fashion, as reasonably determined by the director.
- (E) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to the opening of its place of business.
- (F) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

Section 4. That Sections 5-100, 5-200, 5-300, and 5-400 of the Zoning Ordinance be, and the same hereby are, amended by deleting and inserting new language, as shown:

Sec. 5-100 CRMU-L/Commercial residential mixed use (low).

5-102.1 *Administrative special uses.* The following uses may be allowed in the CRMU-L zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (G) Valet parking.

5-103 *Special uses.* The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-109 below:

- (J.1) *Delete in entirety.*

Sec. 5-200 CRMU-M/Commercial residential mixed use (medium).

5-202.1 *Administrative special uses.* The following uses may be allowed in the CRMU-M zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Valet parking.

5-203 *Special uses.* The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-209 below:

- (J.1) *Delete in entirety.*

Sec. 5-300 CRMU-H/Commercial residential mixed use (high).

5-302 *Administrative special uses.* The following uses may be allowed in the CRMU-H zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Valet parking

5-303 *Special uses.* The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-309 below:

- (J.1) *Delete in entirety.*

Sec. 5-400 CRMU-X/Commercial residential mixed use (Old Town North) zone.

5-402.1 *Administrative special uses.* The following uses may be allowed in the CRMU-X zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- (C) Outdoor garden center;
- (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (G) Valet parking

Section 5. That Sections 6-600 and 6-700 of the Zoning Ordinance be, and the same hereby are, amended by deleting and inserting new language, as shown:

Sec. 6-600 Mount Vernon Avenue Urban Overlay Zone

6-603 Uses.

(D) *Administrative special uses.* Notwithstanding any contrary provisions of the zoning ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513.

- (1) Restaurants, ~~up to a maximum of 60 seats~~
- (2) Outdoor dining
- (3) Amusement enterprise, limited to live theater
- (4) Outdoor food and crafts markets
- (5) Neighborhood outdoor garden center, limited to a maximum size of 10,000 square feet
- (6) Outdoor display of retail goods
- (7) Massage establishment
- (8) Valet parking

6-604 *Parking requirements.* The provisions of article VIII of this ordinance shall apply within the overlay zone the following additions and modifications:

- (A) The requirements of sections 8-200(F)(1) and (2) regarding provision of parking as a result of a change of use, a significant enlargement or a significant alternation shall not apply if the use after the change, enlargement or alteration is a retail establishment.
- (B) Outdoor dining requires no parking for the first 20 seats.
- (C) Outdoor food and crafts markets shall have no parking requirement, and may, like other permitted temporary uses approved by the director, occupy areas with required parking spaces for their limited duration.
- (D) For form based development pursuant to section 6-606, parking additions or modifications are provided in that section.

[the following deletion was approved by City Council in Ordinance Number 4573 however it has not been removed from the code. The deletion is being included here again for ease of reference for the code company to implement the change.]

6-607 RESERVED [deleted in its entirety]

Sec. 6-700 KR/King Street Urban Retail Zone

6-702 *Uses.* Uses in the King Street urban retail zone are divided into two categories, depending on their location, in order to protect and enhance opportunities for existing and future retail uses. The two use categories, which are each further divided into permitted and special uses, are defined as followed:

(B) *Upper floor uses.*

(1) *Permitted uses:*

- (a) Any use permitted as a ground floor use under section 6-702(A)(1);
- (b) Multifamily dwelling units or accessory apartments;
- (c) Business and professional office;
- (c.1) Day care center
- (d) Medical office;
- (e) Medical laboratory;
- (f) Personal service establishment;
- (g) Radio or television broadcasting office and studio.

(2) *Special uses:*

- (a) Any use allowed as a ground floor special use under section 6-702(A)(2);
- (b) Apartment hotel;
- (c) Catering operation;
- (d) Congregate housing;
- (e) *Reserved.*
- (f) Home for the elderly;
- (g) Fraternal or private club;
- (g.1) *Delete in entirety.*
- (h) Medical care facility;
- (i) Motor vehicle parking or storage;
- (j) Newspaper office, including printing and publishing facilities;
- (k) Private school, commercial or academic;
- (l) Rooming house;
- (m) Social service use;
- (n) Wholesale business.

(C) *Administrative special uses.* Notwithstanding any contrary provisions of this ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513 of this ordinance:

- (1) Valet parking;
- (2) Massage establishment.

Section 6. That Sections 8-100 of the Zoning Ordinance be, and the same hereby are, amended by deleting and inserting new language, as shown:

Sec. 8-100 Off-street parking requirement

(A)

- (6) *Reduction of requirement by administrative special use permit.* An administrative special use permit may be obtained pursuant to section 11-513, where sufficient parking to meet the requirement is available at all times the use is operational, despite the fact that the same parking spaces are used, dedicated or available for other uses at other times.

Section 7. That Sections 11-500 of the Zoning Ordinance be, and the same hereby is, amended by deleting and inserting new language, as shown:

Sec. 11-500 Special use permits.

11-511 Administrative Amendment to SUP. The director is authorized to approve the following amendments to special use permits under the following circumstances and procedures.

(A) *Amendments Authorized.*

- (1) *Change in ownership.* Where an application is necessitated solely by a change in ownership of the use, the director may administratively approve such application and transfer the special use permit to the new applicant after determining that there have been no substantiated violations of the special use permit conditions which were not corrected immediately, constitute material or repeat violations or which created a material and direct adverse impact on the surrounding community.
- (2) *Minor Amendment.* Where an application proposes a change to a City Council approved special use permit which constitutes no more than a minimal enlargement or extension, the director may administratively approve the change after determining that:
- (a) the changes are so insignificant, when the overall use is considered, that they will have little or no zoning impact on the adjacent properties or the neighborhood;
- (b) the proposal will not change the character of the use or increase its overall intensity, including, without limitation,
- (i) no more than the following increases which may be permitted only once over the life of the permit:
- (a) two additional hours of operation, but not to exceed hours consistent with an established neighborhood standard;

- (b) 20% additional restaurant seats, up to a maximum of 12 additional seats and not to exceed 100 seats maximum;
 - (c) 20% additional classroom seats;
 - (d) 20% additional equipment;
 - (e) 20% additional floor area;
 - (f) similar increases for other aspects of the use; or alternatively,
 - (ii) the proposed change is no greater than what is allowed under the standards for administrative approval for the same use under Section 11-513;
- (c) there have been no substantiated violations of the special use permit conditions within the last five years;
 - (d) the proposed change when considered in conjunction with all amendments since City Council approval, does not exceed in the aggregate the limitations prescribed under this Section 11-511.
 - (e) the proposed change does not amend or delete conditions that were included to address community concerns.
- (3) *Special Events.* Notwithstanding any provision of this ordinance to the contrary, the director may approve a temporary extension in the hours of operation of a business subject to an approved special use permit, to coincide with the hours of operation of an event, promotional program or city-sponsored festival in which the business is participating. The procedures required under this section 11-511 shall not apply in such cases.

(C) *Procedure.*

- (1) The Director shall placard the property, cause email notice to the affected civic and business associations, send eNews or equivalent electronic notice, and prominently post a list of pending administrative applications on the department web page for review by the public. Such notice shall be given at least ~~30~~14 days prior to the approval of an amendment under this section.
- (2) An application for an administrative approval under this section 11-511 which is not approved by the director shall be subject to the same procedural requirements of any other application for a special use permit.
- (3) The director is authorized to issue regulations governing administrative approvals issued under this section 11-511.

- (4) The director's decision may be appealed to the planning commission by a person affected by the decision by filing a notice of appeal with the department of planning and zoning within 30 days from the date of the decision appealed. The notice shall be a written statement specifying the grounds on which the appellant is affected and the basis of the appeal. The Planning Commission shall hold a public hearing on the appeal, with notice pursuant to section 11-300 provided, and may affirm, reverse or modify the director's decision, or vacate the decision and remand the matter to the director for further consideration.

- (D) *Delete in entirety.*
- (E) *Delete in entirety.*
- (F) *Delete in entirety.*
- (G) *Delete in entirety.*

11-513 *Administrative Special Use Permit.* An applicant may seek the director's approval of a use identified in this ordinance as one for which administrative special use permit approval is available pursuant to the standards and procedures outlined in this section.

(A) Jurisdiction and procedures for administrative approval.

- (1) An applicant for an administrative SUP under this section shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose. The application shall include a statement identifying the applicant as required by section 11-503 of this ordinance.
- (2) Notice of a pending administrative permit application shall be made in a newspaper of general circulation in the city, posted on the subject property, given to nearby civic and business associations by email, by eNews or equivalent electronic notice, and prominently posted on the department web page in a list of pending administrative applications for review by the public. Such notice shall be given at least 21 days prior to the approval of an amendment under this section. The public may submit comments to the director regarding the application.
- (3) The application shall be reviewed for compliance with this section 11-513 as well as with applicable provisions of section 11-500.
- (4) As an alternative to an administrative approval, an applicant may choose to seek special use permit approval pursuant to section 11-500 of the zoning ordinance.
- (5) After review the director may approve, approve with conditions, or deny the application. An approval by the director shall be deemed to have the force and effect of a special use permit, under section 11-500, except that provisions of 11-507 shall not apply.

- (6) The director may determine that administrative approval is not appropriate and that special use permit approval shall be required if the proposal will not be compatible with the adjacent and surrounding properties, if the applicant fails to meet the standards for the permit, if the applicant fails to consent to the conditions of the administrative permit or if after consultation with the police department it is determined that there are criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator.
- (7) In the event any person, whether owner, lessee, principal, agent, employee or otherwise, materially fails to comply with any standard of this section, the director may suspend or revoke the administrative approval in whole or in part and on such terms and conditions as deemed necessary to effect the cure of such failure. The applicant or his successor in interest may appeal this suspension or revocation pursuant to section 11-205(B) et. seq. of this ordinance, except that such appeal shall be heard by the planning commission.

(B) *Appeals.*

- (1) Any person affected by a decision of the director issued pursuant to section 11-513(A)(5) may appeal the decision to the planning commission, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the director within 30 days of the issuance of the decision.
- (2) The planning commission shall conduct a public hearing on any appeal filed pursuant to section 11-513(B)(1), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the planning commission may affirm, reverse or modify the decision of the director, or vacate the decision and remand the matter to the director for further consideration.
- (3) Any person affected by a decision of the planning commission issued pursuant to section 11-513(B)(2) may appeal the decision to the city council, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the city clerk within five days of the issuance of the decision.
- (4) The city council shall conduct a public hearing on any appeal filed pursuant to section 11-513(B)(3), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the council may affirm, reverse or modify the decision of the commission, or vacate the decision and remand the matter to the planning commission or the director for further consideration.

- (K) *Specific standards for overnight pet boarding.*
- (1) The applicant shall comply with the Virginia Department of Agriculture and Consumer Services Division of Animal Industry Services laws and Animal Care, Control, Property and Protection Laws of Virginia regarding Boarding Establishments.
 - (2) *Delete in entirety.*
- (L) *Specific standards for restaurants.*
- (1) The number of seats at the restaurant may not exceed 100.
 - (2) The restaurant shall offer full service, including printed menus and wait service provided at tables and preset tables with nondisposable tableware, except that this full service requirement does not apply to a coffee or ice cream shop.
 - (3) The hours of operation shall be no greater than the prevailing hours of similar uses in the area, but in no event shall the restaurant stay open later than 12:00 midnight or open earlier than 5:00 a.m. Within the Mount Vernon Avenue Overlay zone and the NR zone areas, hours are limited to from 6:00 a.m. to 11:00 p.m., Sunday through Thursday, and from 6:00 a.m. to midnight, Friday and Saturday, although the closing hour for indoor seating may be extended until midnight four times a year for special events.
 - (4) The applicant shall post the hours of operation as well as the location of off street parking at the entrance to the restaurant.
 - (5) Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour.
 - (6) Limited, live entertainment may be offered at the restaurant. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment.
 - (7) Full service restaurants with a minimum of 40 seats may offer delivery service which shall be limited to one delivery vehicle, with a dedicated off-street parking space, and shall not be parked on the public right-of-way. No delivery of alcoholic beverages is permitted.
 - (8) Full alcohol service, consistent with a valid ABC license is permitted. No off-premise alcohol sales are permitted. Within the West Old Town neighborhood (bounded by Cameron, North West, Wythe and North Columbus Streets), no alcohol shall be served before 11:00 a.m. or after 10:00 p.m. daily. Within the Mount Vernon Avenue Overlay zone, the NR zone and the West Old town neighborhood_areas, alcohol service is limited to table service.
 - (9) No food, beverages, or other material shall be stored outside.

- (10) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (11) The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the department of transportation and environmental services.
- (12) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.
- (13) The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "Solid Waste and Recyclable Materials Storage Space Guidelines", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: www.alexandriava.gov or contact the City's Solid Waste Division at 703-519-3486 ext.132.

(M) *Specific standards for outdoor dining.*

- (1) Outdoor dining shall be accessory to an approved indoor restaurant.
- (2) Outdoor dining, including all its components such as planters, wait stations and barriers, shall not encroach onto the public right of way unless authorized by an encroachment ordinance.
- (3) A maximum of 20 seats may be located at outdoor tables in front of the restaurant. The outdoor seats permitted are in addition to the indoor seats.
- (4) The hours of operation for the outdoor dining shall be the same as permitted for the indoor restaurant, unless a neighborhood standard has been established with a different time. Within the NR Zone, the Mount Vernon Avenue Urban Overlay Zone and the West Old Town neighborhood areas, outdoor dining shall be closed and cleared of all customers by 10:00 p.m. Sunday through Thursday and by 11:00 p.m. on Friday and Saturday.
- (5) No live entertainment shall be permitted in the outdoor seating area.
- (6) Outdoor seating areas shall not include advertising signage, including on umbrellas.
- (7) On site alcohol service, to the extent allowed for indoor dining, is permitted; no off-premise alcohol sales are permitted.
- (8) A plan shall be submitted with dimensions showing the layout for the outdoor dining area and depicting the design, location, size and space of the dining area, chairs, tables, barriers, umbrellas planters, wait stations, and other components to be located within the area, and such additional information as the Director may reasonably require.

- (9) The outdoor dining area shall be cleared and washed at the close of each business day that it is in use.
- (10) *Reserved.*
- (11) The provisions of the King Street outdoor dining overlay zone in section 6-800 apply to regulate outdoor dining within the Central Business District.

(O) *Application to Certain Development Special Use Permits.* The provisions of this section 11-513 have no application to any CO Planned Residential/Commercial Development and shall not preempt any conditions in any DSUP or CDD Concept Plan adopted prior to or after December 13, 2008, which conditions pertain to the establishment of restaurants and other uses which may be classified as permitted uses or as administrative SUP uses under this section 11-513 and under Ordinance #4573, adopted December 13, 2008, except as provided below:

(1) *Cameron Station, DSUP #2004-0026.* In the commercial space along Brenman Park Drive, the following uses shall be permitted uses and the provisions of this section 11-513(O)(1) shall preempt any conflicting provisions of DSUP 2004-0026:

- (a) Business professional offices;
- (b) Catering;
- (c) Church;
- (d) Convenience store;
- (e) Day care center;
- (f) Health and athletic club;
- (g) Massage establishment;
- (h) Medical care facility;
- (i) Medical laboratory;
- (j) Medical office;
- (k) Personal service establishments;
- (l) Pet supplies, grooming and training with no overnight accommodations;
- (m) Restaurant; and
- (n) Retail shopping establishments.

Section 8. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 9. That Section 1-400, as amended pursuant to Section 1 of this ordinance, Article II, as amended pursuant to Section 2 of this ordinance, Sections 4-100, 4-200, 4-300, 4-400, 4-500, 4-600, 4-700, 4-800, 4-900, 4-1000, 4-1100, 4-1200, and 4-1400 as amended by Section 3 of this ordinance, Sections 5-100, 5-200, 5-300, and 5-400 as amended by Section 4 of this ordinance, Sections 6-600 and 6-700 as amended by Section 5 of this ordinance, Section 8-

100 as amended by Section 6 of this ordinance and Section 11-500, as amended pursuant to Section 7 of this ordinance, be, and the same hereby are, reordained as parts of the City of Alexandria Zoning Ordinance.

Section 10. That this ordinance shall become effective on the date and 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 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.

WILLIAM D. EUILLE
Mayor

Final Passage: June 22, 2010