EXHIBIT 1

38
6-12-04

47
6-9-04

Introduction and first reading:	6/09/04
Public hearing:	6/12/04
Second reading and enactment:	6/12/04

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Section 11-207 (CIVIL VIOLATIONS), under Section 11-200 (ENFORCEMENT AND PENALTIES), and Section 11-503 (PROCEDURE), under Section 11-500 (SPECIAL USE PERMITS), of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance (TA No. 2004-0003).

Summary

The proposed ordinance accomplishes the final adoption of Text Amendment No. 2004-0003, to increase the fine for repeat special use permit violations, and to improve the process for approving the change in ownership of special use permit uses.

Sponsor

Staff

Eileen Fogarty, Director of planning and Zoning
Ignacio B. Pessoa, City Attorney

Authority

§ 9.09, Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

EXHIBIT NO. 2

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Section 11-207 (CIVIL VIOLATIONS), under Section 11-200 (ENFORCEMENT AND PENALTIES), and Section 11-503 (PROCEDURE), under Section 11-500 (SPECIAL USE PERMITS), of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance (TA No. 2004-0003).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section11-207 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-207 Civil violations.

(A) General. Any person who, as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, who commits, permits, assists in or attempts any of the following violations of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:

(1) Violation of any use or occupancy regulation or performance standard applicable under this ordinance, including the failure to obtain a special use permit where so required: class five civil violation.

(2) Violation of any frontage regulation applicable under this ordinance: class five civil violation.

(3) Violation of any yard regulation applicable under this ordinance: class five civil violation.

(4) Violation of any floor area ratio regulation applicable under this ordinance: class five civil violation.

(5) Violation of any coverage, open space or landscaping regulation applicable under this ordinance: class five civil violation.

(6) Violation of any height regulation applicable under this ordinance: class five civil violation.

(7) Violation of any off-street parking or loading regulation applicable under this ordinance: class five civil violation.

(8) Violation of any floodplain district regulation applicable under section 6-300 of this ordinance: class five civil violation.

(9) Violation of any sign, marquee and awning regulation applicable under sections 9-100, 9-200 or 9-400 of this ordinance: class five civil violation.

(10) Violation of any specific statement, proffer, representation or plan made or submitted in connection with any application, permit or approval granted under the provisions of this ordinance, and violation of any condition imposed by the approving authority: class five civil violation.

(11) Violation of any regulation of this ordinance punishable as a civil violation and not set forth above and not subject to section 11-207(B): class five civil violation.

(12) The transfer, sale, offer to sell, or agreement to sell any land or portion of land by reference to or display of an unapproved and unrecorded plat, regardless of whether the land is described by metes and bounds; class five civil violation.

(B) Historic districts. Any person who, as the owner of any land, building or structure located within the Old and Historic Alexandria District, the Parker-Gray District, or listed for preservation pursuant to section 10-300 of this ordinance, or as the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, assists in or attempts any violation of Article X or section 9-300 of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:

(1) Violation of any sign, marquee, or awning regulation of section 9-300 of this ordinance: class four civil violation.

(2) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which no building permit under the Uniform Statewide Building Code is required: class three civil violation.

(3) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which a building permit is required under the Uniform Statewide Building Code: class two civil violation.

(4) Violation of section 10-103(B), 10-203(B) or 10-305, involving the unauthorized demolition of any building or structure: class one civil violation.

(C) Penalties.

(1) For a class one civil violation, the penalty for each individual offense shall be $1,500.00.

(2) For a class two civil violation, the penalty for each individual offense shall be $500.00 for the first violation, $1,000.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and $1,500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(3) For a class three civil violation, the penalty for each individual offense shall be $100.00 for the first violation, $150.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and $500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(4) For a class four civil violation, the penalty for each individual offense shall be $50.00 for the first violation, $100.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and $500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(5) For a class five civil violation, the penalty for each individual offense shall be $50.00 for the first violation, and $100.00 for each subsequent violation of the same regulation or requirement arising from the same set of operative facts; provided, however, that in the case of a third violation of a special use permit condition within any one 12 month period, the penalty shall be $500.

(6) Each day during which any class one civil violation exists shall constitute a separate individual offense. A class one civil violation shall be deemed to exist until such time as the director certifies to the board of architectural review that the unlawfully demolished building or structure has been reconstructed to the pre-existing footprint, envelope, configuration and appearance, using original materials and techniques of construction to the extent possible; provided, however, that, after a public hearing for which notice has been given pursuant to section 11-300, the board of architectural review may determine that a class one civil violation shall cease to exist at such time as the person responsible therefor shall have paid to the city a sum equivalent to the cost of reconstruction required under this section 11-207(C)(6), such sum to be used exclusively for the purpose of promoting historic preservation within the city as determined by the director. The civil penalty for a class one violation shall in no case exceed the market value of

the property, which shall include the value of any improvements together with the value of the land upon which any such improvements are located, and shall be determined by the assessed value of the property at the time of the violation.

(7) Each day during which any class two, three or four civil violation exists shall constitute a separate individual offense.

(8) Each day during which any class five civil violation exists shall constitute a separate individual offense. In no event shall a series of charges for the same class five civil violation arising from the same set of operative facts result in civil penalties which exceed a total of $3,000.00.

(D) Procedures.

(1) If the director determines that a civil violation enumerated in section 11-207(A) or (B) has occurred, he may cause a notice of the violation to be served on any or all persons committing or permitting such violation.

(2) The notice shall provide that the person served may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.

(3) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Alexandria Circuit Court. In any such proceeding, the interpretation of the zoning ordinance made by the director, by the board of zoning appeals, or by the Alexandria Circuit Court on writ of certiorari to the board of zoning appeals, as the case may be, shall be conclusive.

(4) A finding or admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal conviction for any purpose.

Section 2. That Section 11-503 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-503 Procedure.

(A) Application. An application for a special use permit shall be submitted to the director on such forms as the director may prescribe and shall include the following:

(1) A statement identifying the applicant, who shall be the owner, contract purchaser, lessee or other party having a legal interest in the subject property. It shall include a clear and concise statement identifying the applicant and, if different, the owner of the property, including the name and address of each person or entity owning an interest in the applicant or owner and the extent of such ownership interest unless any of such entities is a corporation or a partnership, in which case only those persons owning an interest in excess of ten percent in such corporation or partnership need be identified by name, address and extent of interest. For purposes of this section 11-503(A)(1), the term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

(2) A map showing the location of the property in question as well as all property within 300 feet of the boundaries of the property for which the special use permit is sought, including as to all property identified, the following information:

(a) Existing uses;

(b) Existing zoning;

(c) Land use designation contained in the master plan.

(3) A detailed description of the operation of the proposed use.

(4) Plans to control any potential impacts of the proposed use on the nearby community, including:

(a) Noise.

(1) Noise levels anticipated from all mechanical equipment.

(2) A statement as to whether the anticipated noise complies with the levels permitted by chapter 5 of title 11 of the city code.

(3) Plans to control these anticipated noise levels.

(4) Plans to control noise levels emanating from patrons.

(b) Odors. Methods to be used to control odors emanating from the use.

(c) Trash and litter.

(1) The type and volume of trash and garbage the proposed use will generate.

(2) The planned frequency of trash collection.

(3) Planned methods to prevent littering on the property, streets and nearby properties.

(d) Loading/unloading.

(1) Availability and adequacy of off-street loading facilities.

(2) Hours and frequency of off-street loading.

(e) Parking.

(1) Location of parking either on the site or within 300 feet of the site.

(2) Number of spaces available to serve residents, employees and patrons during the hours of operation.

(f) Streets. The design capacity of all streets providing access to the property.

(g) Use capacity.

(1) The estimated number of patrons, clients, pupils and other such users.

(2) The proposed number of employees, staff and other personnel.

(h) Hours. The proposed hours and days of operation of the use.

(i) Signs. Existing and proposed signage to be erected or utilized on the property.

(j) Hazardous materials. Name, monthly quantity and specific disposal method of any state or federally defined hazardous materials or waste to be handled, stored, or generated on the property.

(k) Organic compounds. Name, monthly quantity and specific disposal method of any paint, ink or lacquer thinner, cleaning or degreasing solvent to be handled, stored, processed or generated on the property.

(l) Security. Methods proposed to ensure the safety of residents, employees and patrons.

(5) Where new construction is proposed, a site plan consistent with the requirements for same in section 11-400 shall be submitted and reviewed and approved as part of the special use permit application and pursuant to the procedures and standards of this section 11-500.

(6) Plans and other documents exhibiting compliance with any other requirements contained in this ordinance for the special use proposed.

(7) Such additional plans and information as the director determines are necessary and desirable for adequate review.

(8) The fee prescribed by section 11-104.

(B) Review by staff. The director shall review the application to determine if the application's contents are complete and adequate for appropriate review and shall send the application to other relevant departments for their review and recommendation. Upon receipt of the departments' recommendations, the director shall prepare a staff report indicating the departments' judgment on the merits of the application. If the director does not agree with a recommendation prepared by another department, that recommendation shall be set down separately and the reasons for the director's disagreement shall be included in the report.

(C) Docketing. At the time the director determines that an application is complete, he shall schedule the matter for public hearing before the planning commission and shall confer with the city manager who shall schedule the matter for public hearing before the city council.

(D) Recommendation by planning commission. The planning commission shall hold a public hearing, shall review the application and shall recommend to the city council that the application be approved, disapproved, or approved with conditions. The planning commission shall submit its recommendation to the city council together with its reasons therefor not later than three days prior to the city council hearing on

the application. If the planning commission determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.

(E) Action by city council. The city council shall hold a public hearing, shall review the application and recommendation of the planning commission and shall act on the application by approving it, disapproving it, or approving it with conditions. If the city council determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.

(F) Change in ownership only. Where an application under this section 11-500 is necessitated solely by a change in ownership of the use that is subject to the special use permit, and the circumstances set forth in paragraph (1) below apply, the director may administratively approve such application and transfer the special use permit to the new applicant only.

(1) The circumstances which are a condition to such administrative approval are as follows:

(a) The applicant is not requesting a change in the conditions of the special use permit.

(b) 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.

(c) There are no changes proposed or anticipated in the operation of the use involved.

(d) The director has concluded that no new conditions, ~~other than standard conditions promulgated by the director, approved by city council and agreed to by the applicant,~~ and no amendments to existing conditions are necessary, other than ~~to conform to such standard conditions~~ as may be required by the following:

(1) standard conditions promulgated by the director, approved by City Council and agreed to by the applicant in writing; or

(2) such additional conditions as the director finds necessary for the public benefit, in keeping with the use and the special use permit approved therefor, and agreed to by the applicant in writing.

(e) Following notice of the application in a newspaper of general circulation in the city, no person has requested the director to forward the application to city council.

(2) Where the director approves an application under this section 11-503(F), sections 11-503(A) through (E) shall not apply to the application. However, where such application is not approved by the director, it shall be subject to the same procedural requirements of any other application for a special use permit. The director is authorized to issue regulations governing administrative approvals issued under this section 11-503(F).

Section 3. That Section 11-207 and Section 11-503 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 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 June 12, 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, except as may be provided in Article XII of said Ordinance.

WILLIAM D. EUILLE
Mayor

Introduction:	6/9/04
First Reading:	6/9/04
Publication:	
Public Hearing:	
Second Reading:	
Final Passage:	

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ORDINANCE NO. 4356

AN ORDINANCE to amend and reordain Section 11-207 (CIVIL VIOLATIONS), under Section 11-200 (ENFORCEMENT AND PENALTIES), and Section 11-503 (PROCEDURE), under Section 11-500 (SPECIAL USE PERMITS), of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance (TA No. 2004-0003).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section11-207 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-207 Civil violations.

(A) General. Any person who, as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, who commits, permits, assists in or attempts any of the following violations of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:

(1) Violation of any use or occupancy regulation or performance standard applicable under this ordinance, including the failure to obtain a special use permit where so required: class five civil violation.

(2) Violation of any frontage regulation applicable under this ordinance: class five civil violation.

(3) Violation of any yard regulation applicable under this ordinance: class five civil violation.

(4) Violation of any floor area ratio regulation applicable under this ordinance: class five civil violation.

(5) Violation of any coverage, open space or landscaping regulation applicable under this ordinance: class five civil violation.

(6) Violation of any height regulation applicable under this ordinance: class five civil violation.

(7) Violation of any off-street parking or loading regulation applicable under this ordinance: class five civil violation.

(8) Violation of any floodplain district regulation applicable under section 6-300 of this ordinance: class five civil violation.

(9) Violation of any sign, marquee and awning regulation applicable under sections 9-100, 9-200 or 9-400 of this ordinance: class five civil violation.

(10) Violation of any specific statement, proffer, representation or plan made or submitted in connection with any application, permit or approval granted under the provisions of this ordinance, and violation of any condition imposed by the approving authority: class five civil violation.

(11) Violation of any regulation of this ordinance punishable as a civil violation and not set forth above and not subject to section 11-207(B): class five civil violation.

(12) The transfer, sale, offer to sell, or agreement to sell any land or portion of land by reference to or display of an unapproved and unrecorded plat, regardless of whether the land is described by metes and bounds; class five civil violation.

(B) Historic districts. Any person who, as the owner of any land, building or structure located within the Old and Historic Alexandria District, the Parker-Gray District, or listed for preservation pursuant to section 10-300 of this ordinance, or as the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, assists in or attempts any violation of Article X or section 9-300 of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:

(1) Violation of any sign, marquee, or awning regulation of section 9-300 of this ordinance: class four civil violation.

(2) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which no building permit under the Uniform Statewide Building Code is required: class three civil violation.

(3) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which a building permit is required under the Uniform Statewide Building Code: class two civil violation.

(4) Violation of section 10-103(B), 10-203(B) or 10-305, involving the unauthorized demolition of any building or structure: class one civil violation.

(C) Penalties.

(1) For a class one civil violation, the penalty for each individual offense shall be $1,500.00.

(2) For a class two civil violation, the penalty for each individual offense shall be $500.00 for the first violation, $1,000.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and $1,500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(3) For a class three civil violation, the penalty for each individual offense shall be $100.00 for the first violation, $150.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and $500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(4) For a class four civil violation, the penalty for each individual offense shall be $50.00 for the first violation, $100.00 for the second violation of the same regulation or requirement arising from the same set of operative facts, and $500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(5) For a class five civil violation, the penalty for each individual offense shall be $50.00 for the first violation, and $100.00 for each subsequent violation of the same regulation or requirement arising from the same set of operative facts; provided, however, that in the case of a third violation of a special use permit condition within any one 12 month period, the penalty shall be $500.

(6) Each day during which any class one civil violation exists shall constitute a separate individual offense. A class one civil violation shall be deemed to exist until such time as the director certifies to the board of architectural review that the unlawfully demolished building or structure has been reconstructed to the pre-existing footprint, envelope, configuration and appearance, using original materials and techniques of construction to the extent possible; provided, however, that, after a public hearing for which notice has been given pursuant to section 11-300, the board of architectural review may determine that a class one civil violation shall cease to exist at such time as the person responsible therefor shall have paid to the city a sum equivalent to the cost of reconstruction required under this section 11-207(C)(6), such sum to be used exclusively for the purpose of promoting historic preservation within the city as determined by the director. The civil penalty for a class one violation shall in no case exceed the market value of the property, which shall include the value of any improvements together

with the value of the land upon which any such improvements are located, and shall be determined by the assessed value of the property at the time of the violation.

(7) Each day during which any class two, three or four civil violation exists shall constitute a separate individual offense.

(8) Each day during which any class five civil violation exists shall constitute a separate individual offense. In no event shall a series of charges for the same class five civil violation arising from the same set of operative facts result in civil penalties which exceed a total of $3,000.00.

(D) Procedures.

(1) If the director determines that a civil violation enumerated in section 11-207(A) or (B) has occurred, he may cause a notice of the violation to be served on any or all persons committing or permitting such violation.

(2) The notice shall provide that the person served may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.

(3) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Alexandria Circuit Court. In any such proceeding, the interpretation of the zoning ordinance made by the director, by the board of zoning appeals, or by the Alexandria Circuit Court on writ of certiorari to the board of zoning appeals, as the case may be, shall be conclusive.

(4) A finding or admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal conviction for any purpose.

Section 2. That Section 11-503 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

11-503 Procedure.

(A) Application. An application for a special use permit shall be submitted to the director on such forms as the director may prescribe and shall include the following:

(1) A statement identifying the applicant, who shall be the owner, contract purchaser, lessee or other party having a legal interest in the subject property. It shall include a clear and concise statement identifying the applicant and, if different, the owner of the property, including the name and address of each person or entity owning an interest in the applicant or owner and the extent of such ownership interest unless any of such entities is a corporation or a partnership, in which case only those persons owning an interest in excess of ten percent in such corporation or partnership need be identified by name, address and extent of interest. For purposes of this section 11-503(A)(1), the term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

(2) A map showing the location of the property in question as well as all property within 300 feet of the boundaries of the property for which the special use permit is sought, including as to all property identified, the following information:

(a) Existing uses;

(b) Existing zoning;

(c) Land use designation contained in the master plan.

(3) A detailed description of the operation of the proposed use.

(4) Plans to control any potential impacts of the proposed use on the nearby community, including:

(a) Noise.

(1) Noise levels anticipated from all mechanical equipment.

(2) A statement as to whether the anticipated noise complies with the levels permitted by chapter 5 of title 11 of the city code.

(3) Plans to control these anticipated noise levels.

(4) Plans to control noise levels emanating from patrons.

(b) Odors. Methods to be used to control odors emanating from the use.

(c) Trash and litter.

(1) The type and volume of trash and garbage the proposed use will generate.

(2) The planned frequency of trash collection.

(3) Planned methods to prevent littering on the property, streets and nearby properties.

(d) Loading/unloading.

(1) Availability and adequacy of off-street loading facilities.

(2) Hours and frequency of off-street loading.

(e) Parking.

(1) Location of parking either on the site or within 300 feet of the site.

(2) Number of spaces available to serve residents, employees and patrons during the hours of operation.

(f) Streets. The design capacity of all streets providing access to the property.

(g) Use capacity.

(1) The estimated number of patrons, clients, pupils and other such users.

(2) The proposed number of employees, staff and other personnel.

(h) Hours. The proposed hours and days of operation of the use.

(i) Signs. Existing and proposed signage to be erected or utilized on the property.

(j) Hazardous materials. Name, monthly quantity and specific disposal method of any state or federally defined hazardous materials or waste to be handled, stored, or generated on the property.

(k) Organic compounds. Name, monthly quantity and specific disposal method of any paint, ink or lacquer thinner, cleaning or degreasing solvent to be handled, stored, processed or generated on the property.

(l) Security. Methods proposed to ensure the safety of residents, employees and patrons.

(5) Where new construction is proposed, a site plan consistent with the requirements for same in section 11-400 shall be submitted and reviewed and approved as part of the special use permit application and pursuant to the procedures and standards of this section 11-500.

(6) Plans and other documents exhibiting compliance with any other requirements contained in this ordinance for the special use proposed.

(7) Such additional plans and information as the director determines are necessary and desirable for adequate review.

(8) The fee prescribed by section 11-104.

(B) Review by staff. The director shall review the application to determine if the application's contents are complete and adequate for appropriate review and shall send the application to other relevant departments for their review and recommendation. Upon receipt of the departments' recommendations, the director shall prepare a staff report indicating the departments' judgment on the merits of the application. If the director does not agree with a recommendation prepared by another department, that recommendation shall be set down separately and the reasons for the director's disagreement shall be included in the report.

(C) Docketing. At the time the director determines that an application is complete, he shall schedule the matter for public hearing before the planning commission and shall confer with the city manager who shall schedule the matter for public hearing before the city council.

(D) Recommendation by planning commission. The planning commission shall hold a public hearing, shall review the application and shall recommend to the city council that the application be approved, disapproved, or approved with conditions. The planning commission shall submit its recommendation to the city council together with its reasons therefor not later than three days prior to the city council hearing on the application. If the planning commission determines that it requires additional

information in order to render its decision, it may defer action on the application in order to receive such information.

(E) Action by city council. The city council shall hold a public hearing, shall review the application and recommendation of the planning commission and shall act on the application by approving it, disapproving it, or approving it with conditions. If the city council determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.

(F) Change in ownership only. Where an application under this section 11-500 is necessitated solely by a change in ownership of the use that is subject to the special use permit, and the circumstances set forth in paragraph (1) below apply, the director may administratively approve such application and transfer the special use permit to the new applicant only.

(1) The circumstances which are a condition to such administrative approval are as follows:

(a) The applicant is not requesting a change in the conditions of the special use permit.

(b) 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.

(c) There are no changes proposed or anticipated in the operation of the use involved.

(d) The director has concluded that no new conditions, and no amendments to existing conditions are necessary, other than as may be required by the following:

(1) standard conditions promulgated by the director, approved by City Council and agreed to by the applicant in writing; or

(2) such additional conditions as the director finds necessary for the public benefit, in keeping with the use and the special use permit approved therefor, and agreed to by the applicant in writing.

(e) Following notice of the application in a newspaper of general circulation in the city, no person has requested the director to forward the application to city council.

(2) Where the director approves an application under this section 11-503(F), sections 11-503(A) through (E) shall not apply to the application. However, where such application is not approved by the director, it shall be subject to the same procedural requirements of any other application for a special use permit. The director is authorized to issue regulations governing administrative approvals issued under this section 11-503(F).

Section 3. That Section 11-207 and Section 11-503 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 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 June 12, 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, except as may be provided in Article XII of said Ordinance.

WILLIAM D. EUILLE
Mayor

Final Passage: June 12, 2004

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