

Introduction and first reading:	6/16/2007
Public hearing:	6/26/2007
Second reading and enactment:	6/26/2007

INFORMATION ON PROPOSED ORDINANCE

Title

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).

Summary

The proposed ordinance provides for smoke-free restaurants as a special or permitted zoning uses in the City of Alexandria, and categorizes restaurants which are not smoke-free as nonconforming uses. The proposed ordinance also includes a "reenactment clause," which provides that the ordinance will 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 will July 1, 2008.

Sponsor

Staff

Faroll Hamer, Director of Planning and Zoning
Ignacio B. Pessoa, City Attorney

Authority

§§ 2.04(w), 3.12, 9.12, Alexandria City Charter, § 15.2-2283, Code of Virginia
§ 11-800, City of Alexandria Zoning Ordinance

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance

None

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ORDINANCE NO. _____

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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:

*THE FOLLOWING IS ALL NEW LANGUAGE.
REVISIONS TO THE TEXT AMENDMENT DATED MAY 25, 2007
ARE SHOWN WITH STRIKEOUTS AND UNDERLINING.*

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, ~~patio, outdoor seating~~, waiting, storage or other enclosed area, or area under permanent roof or cover. ~~except for exterior sidewalks and parking~~

1 ~~areas 20 feet or more from an entrance, operable window, patio or outdoor seating~~
2 ~~area.~~

3
4 2-193.1 Smoking. The act of smoking or carrying a lighted or smoldering cigar, cigarette
5 or pipe of any kind, or lighting a cigar, cigarette or pipe of any kind.
6

7 Section 2. That Article VII of the City of Alexandria Zoning Ordinance be, and the
8 same hereby is, amended by adding thereto the following new section:
9

10 Section 7-2200 Smoke-free restaurants required.

11
12 7-2201 Any new restaurant for which a special use permit pursuant to Section 11-500, or
13 for which an administrative permit pursuant to Section 6-600, Section 6-700 or
14 Section 6-800, or for which a building permit pursuant to Section 4-700 of this
15 ordinance, is approved after [effective date] shall, as a condition of such permit,
16 agree to operate as a smoke-free restaurant.
17

18 7-2202 Any restaurant existing on [effective date] for which a special use permit pursuant
19 to Section 11-500, or for which an administrative permit pursuant to Section 6-
20 600, Section 6-700 or Section 6-800, or for which a building permit pursuant to
21 Section 4-700 of this ordinance, is approved, reviewed or amended after
22 [effective date] shall, as a condition of such permit, agree to operate as a smoke-
23 free restaurant, within three months after the approval, review or amendment of
24 such permit.
25

26 7-2203 Every restaurant with outdoor seating located in the public right-of-way existing
27 on [effective date] shall, as a condition of the continued right to use the public
28 right-of-way, agree to operate as a smoke-free restaurant within three months
29 after [effective date].
30

31 7-2203 Every grandfathered restaurant existing on [effective date] shall, as a condition of
32 the continued right to be classified as a grandfathered use, agree to operate as a
33 smoke-free restaurant within three months of [effective date].
34

35 7-2204 Every restaurant existing on [effective date] for which a special use permit
36 pursuant to Section 11-500, or for which an administrative permit pursuant to
37 Section 6-600, Section 6-700 or Section 6-800, or for which a building permit
38 pursuant to Section 4-700 of this ordinance, has been approved, shall agree to
39 operate as a smoke-free restaurant within three months of [effective date].
40

41 7-2205 Every restaurant which is not a smoke-free restaurant as required pursuant to
42 Section 7-2203 and Section 7-2204 shall be classified as a nonconforming use

1 subject to Section 12-214 of this ordinance.

2
3 7-2206 For purposes of this Section 7-2200, “a restaurant existing on [effective date]”
4 shall not be deemed to include a new restaurant at the same location as a
5 restaurant which operated on [effective date]. Indicia of a new restaurant shall
6 include, without limitation, a change in ownership or control, a change in name, a
7 change in Virginia Alcoholic Beverage Control Board licensee, or a change in
8 type or style of cuisine.

9
10 7-2207 The provisions of this Section 7-2200 shall preempt any contrary provisions of
11 the City Code or this ordinance.

12
13 7-2208 Notwithstanding any contrary provision of this Section 7-2200, a restaurant
14 which, on May 1, 2007 and thereafter, has in operation a completely separate and
15 independent HVAC system, to service all areas of the restaurant in which
16 smoking is permitted, exclusive of all non-smoking areas, shall comply with the
17 provisions of this Section 7-2200 within five years of [effective date].

18
19 7-2209 The provisions of this Section 7-2200 shall not become effective unless reenacted
20 by the City Council during the legislative session commencing in September
21 2007, and if so reenacted, the effective date of this Section 7-2200 shall be July 1,
22 2008.

23
24 Section 3. That Section 2-100 and Article VII of the City of Alexandria Zoning
25 Ordinance, as amended by this ordinance, be, and the same hereby are, reordained as part of the
26 City of Alexandria Zoning Ordinance.

27
28 Section 4. That this ordinance shall become effective as provided in Section 7-2209,
29 above.

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31
32 WILLIAM D. EUILLE
33 Mayor

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36 Introduction: 6/16/2007
37 First Reading: 6/16/2006
38 Publication:
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