

# City of Alexandria, Virginia

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## MEMORANDUM

DATE: OCTOBER 18, 2008

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: FAROLL HAMER, DIRECTOR, PLANNING AND ZONING

SUBJECT: SMALL BUSINESS TEXT AMENDMENT, TA #2008-2004

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Based on the work of the Small Business Task Force, Planning staff, the Planning Commission and the community – both businesses and residents – have been working for many months to collectively determine how best to amend the existing special use permit system to make it easier to open and maintain a small business in Alexandria. After significant outreach discussions over several months, and after two public hearings, the Planning Commission has recommended a series of changes to the zoning ordinance to assist small businesses.

Although the list of revisions identified in the recommended zoning amendments is not long, the Planning Commission is recommending approval of a change from requiring SUPs, with full process and public hearings, for several uses that now require them. That shift constitutes a significant change in philosophy and policy for the City. Staff believes the package of changes is a tempered and carefully considered attempt to strike a balance between the potential hardships to businesses of unnecessary regulation on the one hand, and the protection for neighborhoods on the other, and recommends its approval.

### **SUMMARY OF RECOMMENDATIONS**

The Planning Commission considered staff's recommended zoning changes on May 6, and again on July 1, 2008. Those changes remove certain uses out of the SUP category and move them to either permitted uses or uses which can be approved by administrative SUP. Staff and the Commission recommend approval of the following changes to the City's zoning ordinance:

1. *New permitted uses:*
  - **Child care center or preschool** in commercial zones
  - **Small commercial schools**, with up to 20 students, such as yoga or computer classes
2. *New uses allowed by administrative SUP:*
  - **Child care center or preschool in a church or school building** in residential zones
  - **Small garden centers** with standards, including for deliveries and loading.
  - **Outdoor food and crafts market** with standards, similar to the Del Ray Farmers Market.

3. *New uses permitted or allowed with administrative SUP depending on the location and type of building:*
  - Shopping Center
    - **Health and athletic club** as a permitted use
    - **Overnight pet accommodations** with administrative SUP
  - Industrial or Flex space center, such as the buildings on West Eisenhower Ave
    - **Light auto repair** with administrative SUP
    - **Catering operation** with administrative SUP
    - **Health and athletic club** as a permitted use
  - Office complex of four stories or more
    - **Health and athletic club** as a permitted use
    - **Convenience store** as a permitted use.
4. *Restaurants* are treated differently in P&Z's proposal, depending on their type, scope, and location
  - Permitted use in shopping center, hotel or an industrial or flex space center;
  - Administrative SUP for all other full service restaurants, except in Old Town; and
  - Restaurants that do not meet the administrative approval standards (too large, entertainment, fast food, etc) will require a full SUP.
5. *Procedural changes:*
  - **Minor amendment and change of ownership** have been combined, clarified and changed slightly; the criteria for minor amendment have been relaxed slightly and clarified, and an appeal to the Planning Commission has been added.
  - **Administrative SUP** procedures and standards are reorganized and consolidated, and an appeal to both the Planning Commission and Council are included.

## **DISCUSSION**

Among a variety of issues discussed over several months, the tension between the concerns of the community and burdens on small businesses found its voice in two questions that were debated more than others in community meetings and at the Planning Commission:

- Appropriate treatment of restaurants
- Appropriate administrative procedures that protect neighborhoods without being unduly burdensome on businesses

### **Restaurants**

The proposed zoning changes recommend that restaurants, all of which now require an SUP, be treated differently in the future. Some, if located in a shopping center, industrial building or major office complex, will be considered permitted uses. Others, if limited in size and scope, may be approved by administrative SUP, without public hearings, but subject to specific standards set out in the zoning ordinance. This approach is similar to the approach that now exists in Arlandria and Del Ray. The remaining restaurants, because they are large, offer fast food, include prominent entertainment, or are open late, will continue to require an SUP and public hearings for approval.

Over the course of the last eight months, the proposal for restaurants has shifted slightly, with the greatest change being that staff changed its recommendation to exclude Old Town from the changes, maintaining the SUP requirement for all restaurants there. Staff came to support this approach because of Old Town's unique role in the City's economic landscape, with less need for an incentive to attract restaurants there, and because Council acted in a similar way when the King Street Retail Strategy was before it only three years ago. Staff notes as a technical matter that "Old Town" is not a zone by itself; therefore, the agreed on treatment for Old Town is shown in the proposed changes in the KR and CD zones, which together cover almost all of the commercial areas in what is commonly considered to be Old Town.

#### Administrative Process

Significant attention has also been spent discussing and analyzing both the minor amendment and the administrative SUP procedures. Citizens have voiced concern about incorporating safeguards, including notice of pending applications and potential appeals from any administrative decision. Businesses are concerned about the burden that a lengthy process, even an administrative one, adds in terms of time, expense and uncertainty.

Staff has significantly rewritten its proposal for minor amendments to address these concerns, and has attempted to balance the opportunity for public input during the administrative SUP approval process with the needs of both businesses and the community. The proposed administrative SUP process will include notice of applications via newspaper, placards, emails to citizen and business associations, Internet listing of pending applications and ENews to subscribers. In addition, citizens may appeal an administrative decision by the Planning Director. Originally, and as now applies in Arlandria and Del Ray, an appeal from the Director's decision on an administrative SUP could be taken to the Planning Commission. In response to citizen concerns, staff added the potential of a second appeal, from the Commission to City Council. In the minor amendment process, staff added an appeal to the Planning Commission.

#### Changes by Planning Commission

The Commission's recommendation includes two changes to the substance of the staff recommendation it received for consideration on July 1, and they refine the proposal as to procedures and restaurants:

1. The Commission changed the standard for appealing an administrative decision (either a minor amendment or administrative SUP) from those *aggrieved* by the decision to those *affected* by it, thus enlarging the circle of potential appellants. Although the change may be troubling to businesses, the Planning Commission was concerned that the legal definition of "aggrieved" is too narrowly drawn. It therefore, acted to widen the scope of appeals to the Commission or Council.

2. Because restaurants in Old Town (CD and KR zones) will require SUP approval, the Commission also acted to ensure that restaurants in hotels in Old Town also require SUP approval. The proposed text changes recommend that, elsewhere in the City, a restaurant within a hotel is a permitted use.

## **DOCUMENTS**

The extensive written discussion and exhibits, including 76 pages of zoning text, which were presented to and considered by the Planning Commission on two separate occasions, are attached here for Council's review. Because of the chronology of the debate, and the fact that recommendations changed during that time, staff notes the following areas of discussion and material that may be of interest to Council in order that Council may review its entirety in a logical manner without the necessity of repeating the material:

- History of outreach to business and community groups. (pp. 105, 113)
- Policy discussion regarding special use permits, and balancing the need for protection of the community with the hardship to businesses. (p. 14)
- Rationale for the individual zoning use changes. (pp. 17-25)
- Definitions of *shopping center*, *industrial or flex space complex* and *office center*, and rationale for identifying these building types for use changes. (pp. 21-25)
- Discussion of restaurants and the SUP approach in Alexandria. (pp. 25-28, 109-112), including the rationale for maintaining the SUP requirement for restaurants on for King Street (p. 110), a comparison of administrative restaurant standards by neighborhood (p.128), and a review of restaurant regulations in other jurisdictions in the region (pp. 119-127).
- Minor amendment procedures discussion (pp. 29-32, 106-108), including a chart of potential regulations (p.117), an outreach document clarifying the procedure (pp. 114-116), and the actual recommended zoning text (pp. 91-92).
- Administrative SUP procedures discussion (pp. 108-109), with a flowchart of process (p. 118) and the proposed zoning text (pp. 93-102).
- Zoning text affected by all recommendations, with proposed Planning Commission changes highlighted by underlining and ~~strikeout~~. (pp. 34-102)
- Staff's revised recommendations for the July 1 Planning Commission hearing, identifying all changes from staff's original proposal, with a thorough discussion of the minor amendment, administrative procedure, and Old Town restaurant issue, and with a series of exhibits to clarify issues. (pp. 104-128)
- Small Business Task Force recommendations regarding SUP changes. (p. 33)
- Need to review experience two years after changes are adopted. (p. 112)
- Additional steps that can and should be taken to assist small businesses. (p. 112)

**STAFF RECOMMENDATION**

Staff recommends approval of the proposed text amendment, with the changes recommended by the Planning Commission.

**STAFF:**

Richard Josephson, Deputy Director, Planning and Zoning

Valerie Peterson, Principal Planner

Richard Bray, Urban Planner

Nathan Randall, Urban Planner

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Docket Item #4

Text Amendment #2008-0004  
SMALL BUSINESS ZONING

Planning Commission Meeting  
July 1, 2008

ISSUE: Consideration of a text amendment to the Zoning Ordinance in order to implement the recommendations of the Small Business Task Force, eliminating the requirement for SUP approval for a variety of uses, changing them to either permitted or administrative SUP uses, and amending the procedures and standards for minor and change of ownership amendments and for administrative SUPs.

STAFF: Department of Planning and Zoning

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**CITY COUNCIL ACTION, OCTOBER 18, 2008:** City Council approved the Planning Commission recommendation with the following amendments: (1) staff should bring the proposed checklist for the SUPs back to the Planning Commission and City council for review and adoption within two months of the final adoption of the ordinance relating to this item; (2) keep the appeals process the same for restaurants as it relates to the Planning Commission. As it relates to all other uses, move to a 14 day appeals process after the Planning and Zoning Director has made a recommendation and to a five day appeal process from Planning Commission to City Council, including restaurants; (3) SUP applications be made available on-line for review; and (4) there will be a review of the process in one year following the implementation.

**PLANNING COMMISSION ACTION, JULY 1, 2008:** On a motion by Mr. Dunn, seconded by Ms. Lyman, the Planning Commission voted to recommend approval of the request with amendments to allow those *affected*, instead of aggrieved, to file an appeal. The Planning Commission also amended the language permitting restaurant uses in shopping centers and hotels to exclude Old Town. The motion carried on a vote of 6 to 0. Mr. Robinson was absent.

**Speakers:**

Andrew Palmieri, Chair of the Government Relations Committee of the Alexandria Chamber of Commerce, stated that the existing system is onerous and unpredictable. He supports a more identifiable SUP process and favors more administrative approvals for restaurants, schools and auto related uses. Mr. Palmieri stated that recent amendments may undermine the intent of the changes.

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The Chamber recommends that if there is an appeal of an administrative decision, that the appeal be heard at the next scheduled Planning Commission meeting; also, if not acted upon within 45 days, the administrative SUP should be deemed approved.

Christine Michaels, Director, Alexandria Chamber of Commerce, asked that notice be provided to the Chamber and business associations as part of notice process that the change be evaluated one year after adopted and that this is a welcome step and should be adopted.

Charnelle Herring, West End Business Association, supports the text amendments; she stated that 91% of revenue from businesses in the City comes from small businesses. She questioned whether 21 days notice to the public was too long. She was in favor of providing a deadline as to when approval would occur.

Lori Murphy, land use attorney in Northern Virginia, resident of Del Ray and member of Del Ray Business Association, supports the text amendment and the Chamber's position. She indicated that the proposed changes are similar to how other jurisdictions operate; she feels that this will help small businesses in the City.

Tim Elliot, member of Old Town Civic Association and Small Business Task Force, agrees with most of the recommendations. Mr. Elliot has concerns about appeals and who is an aggrieved party and who has standing; he opposed the recommendations allowing Old Town restaurants through an administrative SUP process at the May Planning Commission hearing.

Tara Zimmick-Calico, member of Old Town Business and Professional Association, supports streamlining the SUP process and acknowledges that staff has put considerable attention into this matter. She believes that an administrative SUP for restaurants in Old Town should be included in the changes.

David Fromm, Del Ray Citizens Association, is gratified that a number of DRCA recommendations have been included in the proposed regulations. Mr. Fromm doesn't agree that small commercial schools should be included as a personal service and is concerned that there may not be enough turnover of customers, and people will be parking all day long. There should be a shared parking and loading program. In regard to outdoor seating for restaurants, allowing 16 outdoor seats needs to be done in conjunction with a shared parking program; standard conditions should be listed in one place and online information should be clear.

Stuart Litvin, Director, Alexandria Economic Development Partnership, supports the proposed changes. He is concerned with the omission of restaurants in Old Town from the proposed administrative SUP. He is working with some independent restaurants who want to come to Old Town but without the administrative process and he indicated they would pass on coming here.

## Small Business Zoning Staff Report and Recommendations

Jill Erber, owner of Cheesetique in Del Ray, went through both the administrative and full SUP process. The proposed changes don't go far enough. It still takes too long to get approved. The process is complex and time consuming. Other businesses have languished and died waiting for SUP approval. It took her four months and would have cost \$25,000 if her landlord had not forgiven some fees.

Christina Richardson, Brighton Square condo association member and member of Del Ray Business Association (DRBA), endorses the proposed changes and is looking forward to making the process easier for small businesses.

Ingrid Sanden, Cameron Station Civic Association President and member of the Landmark Van Dorn advisory committee, supports the proposed changes. Ms. Sanden believes they will help small businesses in the West End of the City, where more small businesses are needed and wanted; she said that a small pilates studio took too long going through the process in Alexandria and decided to move to Arlington. Small business owners can go broke waiting for approvals here. There are many benefits to Alexandria to make small businesses more welcome.

Michael Hobbs stated that the recommendations have the balance right and warrant support. The recommendations in May did not strike a balance. Having more restaurants in Old Town would not strike a balance and would not be consistent with the King Street Retail Strategy. Aggrieved parties is something that is entirely new to this process. Currently there is no test as to who has standing. Anyone has the opportunity to speak and to be heard at a public hearing and that is the way it should remain.

David Martin, owner of Goldworks jewelry and past president of the Old Town Business and Professional Association, stated that many businesses get lost in the process of going through an SUP. There is a need to better define what needs an SUP and what doesn't. He is supportive of the proposed changes.

Leslie Zupan, president of the Inner City Civic Association, is concerned about restaurants and child care centers. The Parker Gray neighborhood is a unique juxtaposition of residential and commercial uses where there are potential impacts on neighbors from these uses. She stated that the original recommendations were for restaurants to be located a certain distance from residential uses. The ICCA was not represented on the Small Business Task Force. She is concerned that there is a lack of sensitivity to issues in the community such as a new child care center with drop off in an alley and a restaurant with later closing hours than the community prefers. She is looking for more sensitivity on the part of staff to these issues.

Katy Canady stated that she has heard all of the stories about how hard it is to get a SUP but no one talks about how hard it is to revoke a SUP. She doesn't think it works if it's easy to get a SUP but hard to lose one. She predicts that residing in a mixed use neighborhood will be less desirable as a

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result. Alexandria should be for people who live here, first and foremost.

Maria Wasowski, president of the Del Ray Business Association, stated that the city is like an ecosystem - businesses and the community have to work together. Small business owners are doubly invested. Many own houses in the City and own and operate their businesses here. Small businesses have a huge impact on the local economy. The more taxes paid by small businesses, the less taxes have to be paid by residents.

Agnes Artemel stated that she has helped many small businesses through the SUP process. It takes time and money and is a hardship on small business people. The proposed regulations may not go far enough to help small businesses, but it is a good first step and needs to be approved.

Kathleen Henry, Arlandria Chirilagua Coop, stated she was not involved early on in the outreach process and would not have agreed to some of the proposed changes; she is concerned about parking if restaurants are allowed in shopping centers. She doesn't agree with changes in hours for administrative approval of restaurants from 7 am to 11 pm to 6 am to 12 am. There are a large number of residential units near the Arlandria shopping center. She thinks that streamlining the SUP process is okay, but is concerned with just one person making a decision with no oversight. There needs to be a test and a review.

Joanne Lepanto, Seminary Hills Civic Association, stated she supports small businesses but wants to see modifications to proposed changes. She does not support the change to allow child care without a SUP in churches or schools. She does not support commercial schools without a SUP and is opposed to those uses that will now become permitted uses. Notice should be provided to adjacent property owners. Pet shops and outdoor food and crafts should not be located near residential areas. The 21 day comment period is too short, it should be 31 days. She is concerned that the administrative process will reduce public participation in the process. She is also concerned about unintended consequences of allowing certain uses without a SUP or through an administrative process.

Dick Hobson supported the administrative SUP process as long as notice and an appeal process is provided. He wants written notice to be mailed to property owners within 200 feet of the subject property. The comment period should be 31 days, not 21 days. He objects to restaurants as permitted uses in shopping centers, office buildings and industrial flex spaces. These should be changed to an administrative SUP. There is an issue with only allowing aggrieved parties to appeal an administrative decision. We need a better definition of "aggrieved".

Bill Reagan, Alexandria Small Business Development Corporation and long time City resident, spoke in support of the proposed changes, which he said were modest and restrained, but are sorely needed. He stated that the present system is cumbersome, unpredictable and costly to small businesses.

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Patricia Schubert, member of the Small Business Task Force and resident of Inner City, spoke in support of the proposed changes and said that streamlining the current process is needed.

Wendy Albert representing the West End Business Association, spoke in support of the proposed changes.

Amy Slack, Del Ray Citizens Association, said that the proposed changes generated five pages of comments from citizens in Del Ray, which were posted on the DRCA website; some of the concerns expressed were that traffic from small businesses has an impact on the neighborhood and there is a need for a shared parking program. On the matter of parking for outdoor dining for restaurants, she indicated that the community supports keeping the current allowance that no parking is required for the first 16 seats of outdoor dining.

Megan Brown, 311 E. Oxford, is a physical therapist and supports the proposed changes. She teaches pilates and yoga and favors the changes that would allow small commercial schools without a SUP.

Eric Nelson, owns Artfully Chocolate. He wanted to add tables and chairs for his business and was advised that he would need a SUP to do so. He looked for and found another location in Del Ray that already had a SUP where he could have tables and chairs. He feels that there is ample parking in Del Ray for businesses and residents.

**PLANNING COMMISSION ACTION, MAY 6, 2008:** On a motion by Mr. Robinson, seconded by Mr. Dunn, the Planning Commission voted to defer the request to allow further community involvement and input. The motion carried on a vote of 7 to 0.

Speakers:

Charlotte Landis, resident of North Patrick Street, spoke and indicated that last month was the first time she heard about the proposed SUP changes. Inner City is concerned about new businesses that sell alcohol, and with loitering and noise.

Lynn Hampton of AEDP spoke in support of the proposed changes. She stated that the requirements for DSUPs should be the same as for SUPs. She also indicated that extending the notice requirement from 14 to 21 days would create a financial burden for applicants.

Richard Ward, resident of Peacock Avenue, asked about the minor amendment process and questioned whether SUPs like Virginia Paving would be subject to minor amendments. He stated that he thought there was a danger in giving technical issues to an administrative body. He asked that the proposed changes be deferred until October.

Van Van Fleet, representing the OTCA, spoke concerning the proposal to allow restaurants in Old

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Town through an administrative process. He stated that nothing has changed since the King Street Retail Strategy was approved several years ago to warrant allowing restaurants by an administrative process. His concerns with the proposed changes included that there was not enough transparency in the process, that there wasn't sufficient time for notice to associations, who meet at various times and that there were already too many restaurants on King Street.

Geoffrey Goodale, representing the Brookville-Seminary Valley Civic Association, spoke and stated that many of the recommendations were beneficial, however, he asked that the proposal be deferred. He was concerned about several issues, including notice to nearby property owners, with the time allowed for the 21 day comment period, with the ability to meet and discuss specific requests with the Planning Director, and with who has the ability to appeal the Director's decision.

Timothy Elliott, of South Fairfax Street, a member of the Old Town Civic Association and a member of the SBTF spoke and said he agreed with most of the SBTF recommendations; however he filed a minority report. He questioned whether Carlyle was the correct model for King Street with regard to allowing an administrative SUP for restaurants and was concerned with whether the proposed changes were consistent with the Old Town Restaurant Policy and thought there was an oversupply of restaurants on King Street.

Christine Michaels, representing the Alexandria Chamber of Commerce, spoke in support and indicated that the proposed changes were a welcome first step to ease the burden on restaurants, schools and some auto related uses. She would like the Chamber to also receive notice of pending Administrative SUPs under the proposed regulations and felt that DSUPs should also be looked at as part of this process.

Leslie Zupan, representing the Inner City Civic Association, stated that she has concerns about child care and restaurants. She cited a case where a church wanted to operate child care in their building and wanted to have drop off and pick up in an alley, which was problematic. On restaurants, she would like to see a full SUP required for restaurants within 1000 feet of residential to address alcohol and noise issues.

Poul Hertel, resident of Michigan Court, spoke in opposition and stated that what was being proposed was a non-transparent process with no accountability.

Maria Wasowski, representing the Del Ray Business Association, spoke in support of the proposed changes. She indicated that the changes would help simplify and streamline the process, that there was need for reform and this was a good step.

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Joanne Lepanto, representing the Seminary Hills Association, spoke and indicated that there was not enough time to review the proposed changes and asked that the request be deferred. She indicated that there were concerns about child care in schools, and restaurants in shopping centers. The community needed time to review the process. The proposed 21 day period for review of administrative SUPs was too little and would place an undue burden on civic associations. She also felt that the administrative process places too much authority in one person.

David Fromm, representing the Del Ray Civic Association, stated that there were no statistics provided to indicate that getting through the SUP process was a problem. He questioned whether people were not familiar with the process and that was a reason why it was taking so long. There is a need to increase enforcement with regard to after hours and nighttime operations of SUP uses.

Amy Slack, resident of East Randolph Avenue spoke and stated that there needed to be more clarity with the proposed changes and more time to review them. She asked that the request be deferred until June.

Julie Crenshaw Van Sleet, resident of Wolfe Street, spoke and indicated that even if staff notifies civic associations about a proposed administrative SUP, keeping track of contacts would be difficult. She asked that the request be deferred until September.

Michael Hobbs, Alexandria Federation of Civic Associations, submitted a statement and spoke on the proposed zoning changes. He indicated that that the process for review of the proposed changes was incomplete and needed more time for review.

Pat Troy, business owner, spoke in support of the proposed changes.

Bill Reagan, Small Business Development Center, spoke in support of the proposed changes.

**STAFF RECOMMENDATION:** Staff recommends approval of the following changes to the Zoning Ordinance:

1. Changing the following from SUP uses to permitted uses:
  - A. Child care center and preschool in commercial zones
  - B. Small commercial school, with up to 20 students
  - C. Health and athletic clubs in a shopping center, industrial or flex space center, or an office complex
  - D. Convenience store in an office complex.
2. Changing the following from SUP uses to administrative SUP uses, subject to standards:
  - A. Child care center and preschool in residential zones in a church or school building
  - B. Outdoor garden center
  - C. Outdoor food and crafts market
  - D. Overnight pet accommodations in a shopping center
  - E. Light auto repair in an industrial or flex space center
  - F. Catering operation in an industrial or flex space center
3. Changing the requirement for an SUP for all restaurants to be as follows:
  - A. Permitted use within a shopping center, hotel or industrial or flex space center
  - B. Administrative SUP use in all other locations, subject to standards which vary by neighborhood
  - C. SUP requirement for those other restaurants that do not meet the administrative standards.
4. Making the following procedural changes
  - A. Combining the change of ownership and minor amendment procedures, with some changes to the standards and process
  - B. Consolidating regulations for administrative SUPs, combining all provisions of the ordinance in one location, Section 11-513.

**[ The above list of changes reflects the staff recommendations that were considered by the Planning Commission on July 1 and, together with the changes recommended by the Planning Commission on July 1, are proposed for Council’s consideration. The staff report that follows was prepared for the May 6 Planning Commission meeting. Staff changes made between May 6 and July 1 are explained in the memorandum which follows this report. See Attachment #4 and exhibits.]**

## **I. BACKGROUND**

The Small Business Task Force (SBTF) has identified a variety of programs and requirements of City government that creates obstacles for small businesses to open, become established and thrive in Alexandria. In response, on June 26, 2007, City Council asked staff to review the SBTF recommendations and make proposals for change.

As to zoning, the SBTF recommends that the SUP requirement for certain businesses be eliminated. In addition, the SBTF recommends that the zoning processes that attend opening and modifying businesses over time be streamlined in order to avoid the burden in terms of time, money and uncertainty that procedural hurdles create. The SBTF zoning recommendations are attached as Appendix 1.

### **SUP Protection**

The policy issue raised by the SBTF recommendations is whether the protections afforded by Alexandria's reliance on a case by case zoning review for certain uses is worth the burden it creates for small business. The SUP process provides three protections which are not afforded to permitted uses in the zoning ordinance:

- oversight on a case by case basis to ensure that a new use is compatible with its surroundings and appropriate to its site;
- an opportunity for the public to speak at two public hearings about their concerns; and
- attaching conditions to the approval, with review of them over time.

The SUP process requires an application, review by relevant staff departments, notice to citizens, and two public hearings. After a use's initial approval, the City has an elaborate system and process if a business owner wishes to expand or change the use or sell it to a new owner. One particularly criticized process is the "change of ownership" approval requirement, but small changes to approved uses also require specific approval, limiting a business' ability to grow and change without city intervention.

Special Use Permits have been part of the Alexandria Zoning Ordinance since the early 1930s, and the essence of today's SUP system was established in the zoning ordinance of the early 1950s. The 1992 Zoning Ordinance relied heavily on the SUP as a discretionary mechanism, with the result that many additional uses were brought within the SUP ambit at that time. Experience over the last 15 years, however, demonstrates that many of the uses captured by the 1992 revisions may not require SUP scrutiny, with its public hearing process, which is burdensome to the small business owner.

Although Alexandria requires that many businesses be treated as “special uses,” most uses permitted by the zoning ordinance do not require SUP approval. Doctors’ offices, retail stores, beauty salons, grocery stores, laundromats, and many other uses may be established without special review and approval.

### **Text Amendment**

Planning and Zoning staff has reviewed each of the SBTF recommendations carefully and, attempting to balance the need for protection for the community against the burden the SUP requirement imposes on small businesses, has made a judgment about whether the uses selected could be changed from SUP uses to permitted uses, or in some cases to SUPs granted administratively, without harm to the public. It found that it could support most of the SBTF recommendations, although it has modified a few of the SBTF recommendations slightly, and expanded a few suggestions for consistency.

This report discusses each of the proposed changes. A summary of the proposed changes is included at page 4 (**now page 6**). The technical zoning text language to be inserted, modified and changed is set forth in full in Attachment 2. A great deal of zoning text must be changed to effect the proposed changes, even though the list of proposed changes is not long. Even when the status of only one use is changed, the change may need to be reflected in the language of *every* zone. Thus, with 10-15 uses being changed, the text being changed is quite extensive. Staff has chosen to set out the full text changes in each case for clarity.

### **Outreach, Public Involvement, and Agency Input**

Staff has made a great effort to involve the public in its work on the SBTF recommendations, understanding that adjusting the SUP system presents a dramatic change for many. Staff has held a community meeting, met with the Federation of Civic Associations, met with the Economic Sustainability Implementation Monitoring Committee group, met with representatives of individual civic associations (Del Ray, Old Town, Rosemont, Arlandria and Seminary Hill), and held an in depth work session with the Planning Commission. Staff also received email comments and responded to them during the several months of outreach this winter and spring.

Staff has listened to all comments and been willing to change its proposal in response to the comments and reactions of the public and the Planning Commission. For example, it has removed its proposal to allow commercial uses on the ground floor of residential buildings as too difficult for residents of those buildings after the Planning Commission raised issues with it; it has made child care in a church or school building in residential zones an administrative SUP use instead of a permitted use in response to concerns from several neighborhoods; and it has included different administrative SUP standards for restaurants for different neighborhoods, recognizing the small area plan work that has already been done and the important sensitivities of neighborhoods to our City.

Planning staff has also conferred with staff from the agencies involved with SUP review and, based on comments from those perspectives, changed a few of its prior recommendations. Three uses – light auto repair and catering operations in industrial or flex space centers, and overnight pet boarding in shopping centers – had each been originally proposed as permitted uses. They are now recommended as administrative SUP uses because staff feels strongly that individual review and detailed standards are necessary so that these uses comply with best management practices and do not create impacts.

## II. SUMMARY OF STAFF’S RECOMMENDATIONS

### *New permitted uses:*

- **Child care center or preschool** in commercial zones
- **Small commercial schools**, with up to 20 students, such as yoga or computer classes

### *Uses permitted with administrative SUP:*

- **Child care center or preschool in a church or school building** in residential zones
- **Small garden centers** with standards, including for deliveries and loading
- **Outdoor food and crafts market** with standards, similar to the Del Ray Farmers Market.

### *Uses permitted or with administrative SUP depending on the location and type of building:*

- Shopping Center
  - **Health and athletic club**
  - **Overnight pet accommodations** with administrative SUP
- Industrial or Flex space center, such as the buildings on West Eisenhower Ave
  - **Light auto repair** with administrative SUP
  - **Catering operation** with administrative SUP
  - **Health and athletic club**
- Office complex of four stories or more
  - **Health and athletic club**
  - **Convenience store**

*Restaurants* are treated differently in P&Z's proposal, depending on their type, scope, and location

- Permitted use in shopping center, hotel or an industrial or flex space center;
- Administrative SUP for all other full service restaurants, retaining the Mount Vernon and Arlandria standards as adopted;
- Restaurants that do not meet the administrative approval standards (too large, entertainment, fast food, etc) will require a full SUP.

#### *Procedural changes*

- **Minor amendment and change of ownership** have been combined, clarified and changed slightly.
- **Administrative SUP** procedures and standards are reorganized and consolidated.

### **III. DISCUSSION OF INDIVIDUAL ZONING RECOMMENDATIONS**

Staff supports the proposed changes for several reasons. First, it has analyzed each of the limited lists of affected uses and found there to be little need for “special” oversight for them. Second, P&Z has chosen specific types of buildings or complexes in which to allow less regulation because those locations should provide much of the protection supplied now by the SUP conditions. Third, **parking requirements will not be changed** by the proposed changes. Any use that is deficient in parking will require a parking reduction SUP to be approved. Finally, staff notes that the above list is a limited and targeted one; most SUP requirements remain in the city's zoning without change.

#### **A. PERMITTED USES**

##### **Massage if incidental to another use**

Although not requiring a zoning text change, staff is recommending a change to the way it interprets the need for an SUP for a massage establishment. Because of the historical concern and need for oversight of massage uses in Alexandria, P&Z has followed a restrictive interpretation of what constitutes “accessory” massage. Specifically, to date, an accessory massage establishment is one with no more than one massage therapist at work at any one time. All other massage facilities require SUP approval.

On the other hand, massage establishments are heavily regulated businesses. In addition to any zoning review and approval, massage therapists and massage establishments are subject to review by the state and by the local police department. In addition, health department permits and building code requirements, as well as other laws and oversight, apply. Furthermore, massage is often just one of a series of beauty and therapeutic services offered at the same business, staff supports allowing massage without an SUP if it is part of another use, such as a beauty parlor, wellness center,

day spa or a hotel, regardless of the number of therapists. Under this approach, a massage establishment will still require an SUP if it is a stand alone use, but will not require an SUP if it is part of another use accessory to it.

**Child care center and preschool in commercial zones**

Each commercial zone allows a “day care center,” which is defined to include the care or supervision of either children or adults, but the use requires SUP approval. The land use questions related to day care centers typically concern adequate parking for staff, adequate areas for drop off and pick up of children, adequate outdoor play area, and potential noise and other impacts on adjacent uses. In addition, day care centers and preschools are subject to extensive state review. Licenses are required and operations are scrutinized for safety, staffing, and outdoor play space. Therefore, staff proposes that day care centers be permitted in commercial zones without an SUP, but with a requirement that a state license has already been issued prior to the onset of operations and that adequate pick up and drop off areas are provided.

To effect this change, the day care center use has been removed from the list of SUP uses in each of the commercial zones and the use has been added to the list of permitted uses.

**Small private schools of limited enrollment**

Small private commercial schools, such as yoga, dance, martial arts, personal training, and computer and tutoring facilities are allowed in commercial zones with an SUP. The use is a frequent one on the Planning Commission docket and the SUP requirement is burdensome for entrepreneurs who are just getting started in small facilities. The use, if small, is not very different from many other retail and personal service uses that are permitted without SUP approval. The principal impact from small commercial schools is from parking and parking requirements will not be affected by these zoning changes. Therefore, staff recommends allowing the use without an SUP, but limiting the use to a maximum of 20 students. Larger commercial schools, such as the Strayer University on Eisenhower Avenue and Liberty and George Washington University’s satellite facilities, have much more significant zoning impacts, especially in terms of traffic, and should be looked at on a case by case basis.

The text change is to add a new use, commercial school limited to 20 or fewer students at one time, to the definition of personal service establishment, which is an allowed use in each of the commercial zones.

## B. USES PERMITTED WITH ADMINISTRATIVE SUP SUBJECT TO STANDARDS

### Child care center and preschool in residential zones

In residential zones, a variety of early childhood terms and facilities are now used and allowed by the zoning ordinance, including:

**Child care home** is defined to include children under 14, permits up to and including 5 children without an SUP and up to 9 children with a SUP, counting resident and nonresident children in both cases.

**Day nursery** is defined to mean a facility offering care to six or more children under 14, is allowed in a church or school building in the R-12, R-8, R-5 and R-2-5 zones with SUP approval.

**Nursery school**, which is defined to mean a place operated primarily for educational instruction for six or more children from 2-6 yrs old for up to three hours a day, is allowed in the RA, RB, RC and RCX and RM zones with an SUP. Also, a nursery school is allowed in the R-20 zone in a church or school building with an SUP.

In order to balance the need to protect residential zones and still make opening and expanding early childhood facilities easier for providers, P&Z proposes a series of changes for residential zones. First, staff proposes to clarify the definition of early child care locations in the zoning ordinance for the city as a whole, as follows:

- The **day care center** definition is being amended to specifically state that it includes facilities known as “child care centers” and “preschools,” including both half day and full day programs. These are the terms now used by the City’s Office of Early Childhood Development and by the providers.
- The terms “**day nursery**” and “**nursery schools**,” which relate primarily to the residential zones, but also to some commercial zones, will be eliminated from the zoning ordinance, because, in modern parlance, all early childhood facilities are encompassed within the clarified and simplified definition for “day care center.” These terms are also referenced in the new day care definition to avoid any confusion.
- The following new definition language is recommended:  
*Sec. 2-133 Day care center.* A facility other than a private single family dwelling, which receives children or adults for care, protection and supervision during part of a 24 hour day unattended by a parent or guardian. The term includes a child care center, preschool, nursery school and day nursery, and includes half day and full day programs.

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Second, P&Z is proposing no change to the regulation of child care homes because these small facilities take place in single family homes and can clearly impact neighboring homes and areas. Beyond these small facilities, there are many examples of successful day care, preschool, nursery and academic schools in residential areas, but they are now typically in larger institutional uses or associated with a neighborhood church. Facilities in residential zones without an SUP, outside a church or school, could be problematic, especially if a single family home could be converted to a school facility, even a preschool, and even for a small number of students, because the essential character of the street, block and neighborhood could change from a place where people live to one where a potentially commercial enterprise takes place.

With regard to child care facilities within churches and schools, P&Z proposes to allow these with an administrative SUP. When located in an institutional setting, and typically in a larger building with parking and drive aisles, the nearby neighborhood is protected from impacts. Standards for approval will be included requiring adequate drop off and pick up areas, and a setting that buffers adjacent homes from noise. These standards and the administrative SUP process should work to protect residential areas from the atypical church or school location. In addition, the performance standards will require that a state license must be obtained before operations can begin. Originally, staff proposed that this use be permitted without any SUP approval, but several residential neighborhoods were concerned about the change. Staff understands their concerns, and has changed its recommendation to require an administrative SUP, allowing notice to the neighborhood and an opportunity to comment and be involved in the process.

Staff notes that “nursery schools” are now allowed as standalone uses in the RA, RB, RC, RCX and RM zones with SUP approval. Under the proposed new definition above, the use will be changed from “nursery school” to “day care center” and SUP approval will continue to be required for the standalone use in those zones. If the use is located within a church or school building it will be allowed by administrative SUP.

A final early childhood issue in residential zones relates to the definition of a “school,” which is an SUP use in single family zones, and the overlap with either “nursery schools” or “preschools” that provide pre-K educational instruction. By clarifying the “day care center” definition so that it expressly includes all nursery schools and preschools, and by allowing the use in a church or school building only, the ordinance will eliminate the ambiguity that allows a preschool to be deemed a school and be considered for SUP approval in a single family house.

### **Outdoor garden centers**

The SBTF and Staff recommend that garden centers be allowed by an administratively approved SUP, subject to standards that require that they be a distance from or provide buffering to nearby residential uses. The standards also require that they be small, no more than 10,000 square feet, and that a plan showing the locations for loading and other services be approved by staff before they can

be established. These conditions will distinguish between the large garden centers, such as at Home Depot, that will still require full SUP review at public hearings, and the small ones, such as Eclectic Nature, that could be permitted without public hearing.

**Outdoor food and crafts market**

An outdoor market, such as the Old Town or Del Ray Farmers' Markets is a community gathering place that creates a positive environment for a neighborhood. However, where they are located and how they are operated make the difference between a neighborhood supporting business and one that detracts from and negatively impacts nearby uses. Because there are so few of these uses, and because their requirements are readily captured in standards that can be incorporated in the ordinance, staff supports allowing community oriented farmers markets by administrative SUP subject to standards. This is precisely the approach already used by the City for Arlandria and Mount Vernon Avenue.

**C. USES PERMITTED OR PERMITTED BY ADMINISTRATIVE SUP DEPENDING ON THE LOCATION AND TYPE OF BUILDING**

Several of the SBTF's recommendations would allow uses without SUPs if they are located in specific types of buildings and locations. P&Z agrees and recognizes that certain building types, because of their size, layout and orientation have minimal connection with neighboring properties and therefore little impact on adjacent uses. In addition, larger facilities typically are commonly managed, with self interested owners and management seeking internally compatible uses and striving for problem-free uses. P&Z's recommendations, listed below, adopt the SBTF's approach, with slight modifications. In addition, these changes require three new definitions for the location categories, because the zoning ordinance does not now include them.

**Definitions**

**Shopping center.** *A building or complex of buildings under common ownership and control which includes at least five independent retail businesses, provides shared parking, and is at least 35,000 square feet of floor area in size.*

**Industrial or flex space center.** *A building or complex of buildings under common ownership and control, which is no more than two stories in height, includes at least three independent businesses within it, and consists of at least 45,000 sf of floor area.*

**Office or mixed use complex.** *A building or group of buildings under common ownership and control which is four or more stories in height, which is primarily office use, but which may include additional uses as well, and which is a minimum of 50,000 sq ft in size.*

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In each case, the proposed definition language is carefully designed to capture desirably shaped and sized building arrangements that should be appropriate locations for the uses being allowed without special review.

The proposed **shopping center** definition language above is carefully designed to capture the traditionally designed, suburban shopping center model, with its large parking areas and setbacks, as well as some other building arrangements which include multiple retail stores. The City has several traditional shopping centers of medium and large size:

Landmark Mall  
Potomac Yard  
Bradlee  
Alexandria Commons (Hechingers)  
Fox Chase  
Winkler  
South Van Dorn  
Home Depot/Trade Center  
Mount Vernon Village Center/Arlandria Shopping Center  
Seminary Plaza  
Plaza Center (Fairlington)

This list represents most of the shopping centers in the City but there may be others captured by the proposed definition. The definition's size limitation of 35,000 square feet will exclude many smaller buildings in the City, even with multiple stores, such as on King Street or Mount Vernon Avenue. As an example, the complex on Mount Vernon Avenue where Caboose Cafe and Cheestique are located includes approximately 27,000 square feet of space, and its size is typical of many retail blocks with public frontage. In addition, there are several locations which include retail stores on the ground floor of a large office or residential building, such as the Saul Center or the Calvert Apartments, which are included within the scope of the definition. The definition does not include the Montgomery Center in the 800 block of North Fairfax Street because that building fails to include parking. Within a shopping center, the self interest of the center in maintaining a mix of uses and managing traffic and parking for other tenants should work to self select appropriate locations.

The **industrial or flex space center** definition is designed to specifically reflect a certain type of building complex on West Eisenhower Avenue west of Clermont. Incubator space for small service uses is difficult to find in Alexandria's high price land market, but there are still a few opportunities, for example in the West Eisenhower area, where large buildings in a quasi-industrial setting include small tenant spaces for a multiple of small business uses. The buildings are large, sometimes sprawling, typically one story, and most of the businesses are housed in separate bays which do not have direct access to the street. Parking is provided adjacent to the business bays. In the West Eisenhower Avenue examples, the buildings are large, between 45,000 and 70,000 square feet. The

definition limits appropriate buildings to one or two stories in order to avoid the problem of allowing auto repair in larger buildings, which could capture Type A office buildings, and is clearly not intended. The SBTF recognized that these facilities are candidates for eliminating the SUP regulation because they are so valuable to small businesses just starting out, and because, depending on the location, there are minimal impacts from at least some uses.

The proposed definition for an **office complex** focuses on two aspects of the office building where additional uses are being allowed: size and the potential mix of uses. Both criteria help buffer uses that require special review in other locations, and are most likely to mean sufficient management control to provide additional protection. A good example on both points is the Old Town Athletic Club on North Fairfax Street. The definition includes that building because the complex is large enough (50,000 sq ft and four or more stories), and includes a mix of uses, i.e., some retail, a day spa, and the athletic club in what is primarily an office setting.

**Health and athletic club in a shopping center, hotel, industrial or flex space center or office complex**

Health and athletic clubs are now allowed in the CG and higher commercial zones but an SUP is required. Land use issues for health clubs typically include parking and traffic. The SBTF does not recommend and staff does not support any change to parking requirements. Otherwise, the use is generally desirable because it provides activity at times that other uses, such as office buildings, do not. Health clubs can therefore support around the clock activity which creates pedestrian activity, supports nearby retail uses, and provides eyes on the street. Traffic impacts can be a concern, however, although when the use is part of a mixed use building or complex, the impacts are reduced.

The SBTF and staff recommend that the use be permitted without an SUP in a shopping center. The Sports and Health facility that is part of the Bradlee Shopping Center has not been a problem. Health and athletic clubs, without an SUP required, are also good candidates for hotels, and for the West Eisenhower building complexes, where as an example a rock climbing facility is now located. Finally, a health club is a clearly good use within a larger office complex, assuming there is adequate parking. P&Z therefore supports allowing the use in these three locations without an SUP.

P&Z proposes one exception to the above approach, however, for Old Town. The recently adopted KR zone emphasizes the importance of using the first floor of buildings in Old Town for retail uses; non-retail uses, such as health and athletic clubs, are either limited to upper floors of a building or required to obtain a SUP, or both. P&Z proposes to keep those restrictions and requirements for health and athletic clubs in the KR, CD, CDX and CRMUX zones to support the effort in favor of first floor retail uses.

As a technical, definitional matter, the “Use Limitations” in those commercial zones where health clubs have been allowed include language making massage establishments part of the health and

athletic club definition. See §4-1106(E) for example. With the treatment recommended here for both health clubs and massage, staff is adding a new definition for health and athletic club as part of Article II, adding a separate listing for massage establishments in each commercial zone, (which will be subject to the interpretation discussed above) and deleting the health and athletic clubs use limitation because it is no longer necessary. Massage will be permitted if incidental to a health club and the health club use will be permitted without an SUP in the specific locations proposed in these recommendations.

**Pet supplies with overnight stay in a shopping center**

Pet supplies, grooming and training, is a use now permitted without a SUP in most of the commercial zones throughout the City. However, the use is limited to facilities that do not include overnight accommodations for pets. An “animal shelter or kennel” is only allowed in the Industrial zone. An “animal hospital” is not specifically allowed under the zoning ordinance; those that continue in the City do so as noncomplying uses. Overnight pet boarding – whether part of a retail operation or a medical facility – can create negative impacts on neighboring uses because of the need for outdoor space, and the potential noise and odors associated with pets.

However, as part of the modern demand for pet facilities of all types, there is a growing demand for overnight pet accommodations. The SBTF recommends that the use should be allowed with an administrative SUP within a shopping center, subject to standards of the Health Department and with regard to Animal Control. P&Z agrees that if a center is able to meet health and other requirements for overnight accommodations, and willing to include the use in its mix of tenants, then there is not likely to be any impact on neighboring uses.

**Light auto repair in an industrial or flex space center**

The SBTF recommends that a light auto repair business in one of the quasi-industrial buildings of West Eisenhower Avenue should be allowed without the necessity of SUP approval. Staff is recommending the use be allowed with an administrative SUP, and subject to standards in the ordinance similar to those found in approved SUPs. Auto repair businesses are allowed now in the ordinance by SUP only, even if the operation is “light” as opposed to “general” auto repair. The one exception is in the Industrial zone, where “light” auto repair is permitted without an SUP. So little of the city is zoned Industrial, however, that it is typical for an auto repair business to locate within a commercial zone where an SUP is required. P&Z staff supports this approach, and recommends an amendment to the zoning ordinance to list light auto repair in an industrial/office complex as an administrative SUP use. The change is only proposed for the OCM (100) zone in order to capture land in the West Eisenhower area. Although there are some other areas of the City where the zone appears, those areas lack the type of building described by the definition.

**Catering in an industrial or flex space center**

This recommendation is similar to light auto repair in the Eisenhower West area, and P&Z also supports its approval by administrative SUP, subject to standards. Catering is now allowed by SUP in the OC and OCM zones, as well as in the CD and CDX zones. The proposed change will only be included in the OCM (100) zone, however, where the appropriate industrial complexes are located.

**Convenience store in an office complex**

The SBTF and the business community have recommended that large office complexes should be allowed to have certain uses within them, without the requirement for an SUP because, again, the size of the facility and its management should provide sufficient protection against zoning impacts on surrounding uses. SBTF specifically proposed and P&Z supports allowing a convenience store and a health and athletic club in a large office building. Most of the other businesses found in large office settings, such as retail stores, newsstands, day spas and dry cleaning are permitted uses; an SUP is not required. However, a tenant space cannot be rented to a convenience store without SUP approval. The most serious impacts from a convenience store are its intense, small purchase, traffic, and the potential for alcohol sales. Limiting the use without an SUP to large facilities eliminates the problem with easy automobile access. A use limitation has also been added limiting alcohol sales in convenience stores to prohibit single sales. The use will thereby provide a convenience to users of the office building, and not an impact for adjacent uses. Again, staff has exempted the KR, CD, CDX and CRMUX zones from this change, in order to allow extra protection in Old Town, especially along Washington Street.

**D. RESTAURANTS**

For the last several decades, as a citywide rule, all restaurants have required SUP approval. Over the last several years, especially as the result of neighborhood planning efforts, several parts of the City have changed the rule for their independent neighborhood. Starting with Arlandria in 2001, Mount Vernon Avenue in 2005, and Carlyle most recently, these three areas have each amended the regulatory system for restaurants and, in each case, established instead an administrative SUP system, with procedures and standards overseen by the Planning and Zoning Department. While the City's experience with the administrative SUP program is not extensive, the results to date have been successful. Against this background of changing regulatory controls, the proposed text amendment recommends a new approach to restaurants for the City.

- First, in specific locations, it proposes that restaurants be permitted without any special oversight.
- Second, it recommends that in other locations citywide, an administrative SUP be available for restaurants of a limited size and type.

- Restaurants that do not meet the criteria for either of these two zoning elements must still be approved by a full SUP.

**Restaurants permitted in a shopping center, a hotel, or an industrial or flex space center.**

Similar to its approach with regard to health clubs, light auto repair and convenience stores, staff is recommending that in three specific locations: shopping centers, hotels and an industrial or flex space center, restaurants be classified as permitted uses. Again, these particular locations, as specifically defined, provide settings that should buffer impacts from the surrounding area.

Allowing restaurants within shopping centers is a reasonable request because with the typically large land areas covered by a shopping center, and the common management, restaurants are likely to be controlled and of minimal impact to the surrounding neighborhoods. Under the proposed approach, a new restaurant at the Bradlee Shopping Center will not need an SUP in the future. However, in all cases, parking is still required. If there is insufficient parking, then a parking reduction SUP will be required for the restaurant's approval. This approach is how restaurants have been handled in the zoning ordinance for the last 15 years at Landmark Mall.

In addition to shopping centers, staff notes that almost every hotel in the City includes a restaurant, and there have been few if any land use issues with those restaurant uses over time. Therefore, P&Z is recommending that these uses not require SUP approval. Staff notes that hotels themselves are subject to SUP approval, and a restaurant use is typically, but not always, part of the initial plan and approval. Again, parking requirements are not being amended. If a hotel does not include parking sufficient for all uses, then a parking reduction SUP will be required.

As to the industrial or flex space buildings, there are small restaurants already located in some of these industrial facilities, and P&Z supports allowing additional ones, if they desire to locate there, without an SUP. They are typically for employees working in the area, without impact on residential neighborhoods. As with light auto repair and catering, the approach will only be incorporated in the OCM (100) zone, and will be allowed only in these large, multi business industrial complexes.

Given the fairly restrictive definitions proposed above, and the limited number of locations where the change will apply, P&Z predicts minimal if any problems from this recommendation for restaurants.

**Administrative SUP for remaining restaurants**

Outside of the locational exceptions noted above, and as a citywide matter, P&Z supports allowing small restaurants by administrative SUP. This is the approach already being used in the NR zone in Arlandria, in the overlay zoning on Mount Vernon Avenue, and under the new provisions for Carlyle. It was also the approach proposed but not approved for King Street, when the King Street Retail Strategy was adopted in 2005.

Under the proposed administrative SUP program, a list of specific standards is included in the zoning ordinance which defines the type and scope of restaurants allowed administratively. If the standards are met, an applicant is entitled to be considered for an administrative SUP, with the approval or denial determined by the Director of Planning. Restaurant proposals that do not meet the ordinance standards, because they are too big, include fast food service or prominent entertainment, or wish to have greater hours or less parking than required, will require full SUP review and approval, with public hearings before the Planning Commission and City Council. Conditions, similar to those historically included in approved SUPs, are imposed on the administrative permit. The public is given notice of the application and an opportunity to comment.

*Administrative standards for restaurants citywide (section 11-513 (K)(1))*

Staff is recommending that, as a citywide matter, restaurants that meet the following standards be approvable by administrative SUP:

- 60 seat maximum
- Full service restaurants only
- Hours to be same as prevailing in neighborhood, but no greater than 5am – 12 midnight
- Limited entertainment that is subordinate to the main use of the restaurant for dining
- Beer, wine and alcohol for on premise consumption is permitted
- Delivery, limited to one car with a non public dedicated space, with 40 or more seats;
- Outdoor dining is permitted on private property for up to 20 seats (counted in addition to indoor seats); parking is a requirement for outdoor seats.

*Arlandria and Del Ray (sections 11-513(K)(2) and (3))*

Although it would be desirable to have consistent standards citywide for all neighborhoods, the adopted standards for Arlandria (NR zone) and Del Ray (Mount Vernon Overlay Zone) permit restaurants with an administrative SUP in slightly different circumstances. In discussions with representatives from those neighborhoods staff has been impressed with the strength of their desire to retain their specific standards, and has therefore incorporated them into the proposed text for those neighborhoods. Some differences among the neighborhoods include the fact that Arlandria does not include outdoor dining, limits entertainment to two performers, limits alcohol to only beer and wine, and has hours from 7am – 11pm daily. In Del Ray, hours are from 7am – 10 during the week and 7am – 11 on the weekend, outdoor dining is limited to 16 seats and parking is not required for it, and

alcohol is limited to beer and wine *table* service. Attachment 3 sets out the differences among the different neighborhoods for these key variables.

*Old Town (section 11-513(K)(4))*

Although representatives of Old Town Civic have made it clear that they do not support an administrative SUP program, staff is recommending one because it believes that such a program could be successful with appropriate standards. The proposed text amendment includes standards for Old Town (defined to include land within the Old and Historic Alexandria District) restaurants that are unique to that area and incorporates criteria from the Old Town restaurant policy adopted by City Council to guide the addition or expansion of restaurants there. For example, at section 11-513 (G), although the citywide standards for full service dining, seats and hours apply, delivery is limited to non vehicular modes (pedestrian and bicycle) and alcohol service is limited to beer and wine. As to Council's Old Town restaurant policy, standards require that the Director make the following findings:

- the request does not significantly impact nearby residential neighborhoods;
- the restaurant will not replace a retail use;
- the restaurant will not have an undue negative impact on the availability of off-street parking or the parking supply in the adjacent neighborhood;
- the restaurant is not expected to be open late in the evening with consumption of alcohol predominating over food consumption; and
- the restaurant is not expected to generate litter in the nearby neighborhoods.

In addition, under the general standards for administrative SUPs, participation in a parking program such as Park Alexandria is required if such a program becomes active and effective.

As to outdoor dining for Old Town, that is covered to the extent of the Central Business District under the King Street Outdoor Dining Overlay Zone of section 6-800 and staff proposes no changes to those regulations. Outside of the CBD but within Old Town, staff is recommending that the same standards apply as apply citywide: without an encroachment ordinance, the outdoor dining must be on private property, is allowed to have up to 20 seats, and neither signs nor entertainment is permitted within the outdoor dining area. The one exception is that the first eight seats will not require parking, on the assumption that customers will walk from home or from another destination.<sup>1</sup>

*Administrative SUP procedures*

One issue of paramount importance to citizens is the extent to which the process for administrative SUPs is inclusive, allowing input by citizens and neighborhoods about restaurants or any other administrative SUP uses. Staff has included extensive procedures and general standards under the new text in section 11-513 outlining the process for citizens and applicants alike. Modeled on the

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<sup>1</sup> The rules for administrative approval of restaurants and other uses in Carlyle are not affected by the proposed zoning ordinance changes, but are part of the Carlyle SUP which governs the uses in that area.

program adopted for the Mount Vernon Overlay Zone, it refines and reorganizes those regulations, and provides for:

- Filing an application with the Planning Department;
- Notice to the public in the newspaper, by posting the property, email to the affected civic associations, and posting on the Planning web site in a list of pending administrative applications;
- 21 days for the public to comment and discuss the application with staff;
- Review of the application by staff (Planning as well as other city departments);
- Director approval or denial;
- An appeal of the Director's decision to the Planning Commission
- Ability of the director to determine that a full SUP hearing review is necessary

One significant change from the administrative SUP procedures now applicable in Del Ray is increasing the time for citizen comment from 14 to 21 days. Staff is hopeful that the change will not be burdensome on businesses and will offer sufficient time for neighborhoods to be involved in the process by which new uses are approved administratively.

Conditions will attach to the SUP permit issued by the Director which will include the administrative standards and limitations in the zoning ordinance as well as any additional standards the Director believes are warranted. Requirements for façade improvements and landscaping can be included in the appropriate case. The applicant will also be required to participate in a future parking program designed for the neighborhood, such as a shared program in Del Ray or a Park Alexandria type program in Old Town.

Approved administrative SUPs will be inspected by P&Z on a regular basis, as is done for Council approved SUPs, one year and then three years after approval, in addition to complaint generated inspections as necessary. The Director is authorized to revoke the permit in whole or in part for failure to comply with permit conditions.

These extensive procedures and standards should allow ample protection to the public from the proposed administrative SUP program for restaurants.

## **E. PROCEDURAL CHANGES**

### **Administrative approval of minor amendments to SUPs [See June 20, 2008 memo for updated discussion]**

Section 11-511 of the zoning ordinance now permits minor changes to SUPs to be approved administratively. The SBTF recommends that the definition of "minor" under the existing provision be broadened so that more changes can be approved administratively in the future. P&Z agrees and is recommending that this provision should be amended.

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The SUP amendment process today is rarely used because few businesses can meet the exceptionally narrow criteria for applicants. Businesses cannot apply today when:

- there are any written or oral complaints, even if they are unfounded;
- there was any opposition to the use when the SUP was originally approved, even if over time no one has had a problem with the use;
- there is *any* increase in the intensity of the use, even if there are no impacts; an increase in intensity is defined as including at least *any* increase in hours, seats, number of employees, visitors or customers, or traffic trips generated.
- *any person* requests a public hearing.

P&Z is recommending a substitute procedure that allows performance criteria to govern because it should provide sufficient protection, while still being a useful procedure for businesses that seek small changes and wish to avoid the full SUP process. P&Z proposes that applications be allowed where:

1. There is no history of real or significant violations that were not immediately rectified;
2. The Director determines that there will be no negative zoning impacts on adjacent properties or neighborhood from the amendment over what was originally considered; and
3. New conditions can be included if they are standard conditions, those that the Director includes because they are clearly related to the use and those to which the applicant agrees.

These are the standards currently in the ordinance for change of ownership applications. See 11-503 (F), and staff sees no reason why they should not apply equally to minor amendment cases.

Furthermore, the minor amendment process and the change of ownership process in the ordinance are now stated separately and differently. To reduce the confusion and inconsistency between the two provisions in the ordinance, and because the two processes, although for slightly different purposes, both should share the same standards for approval and the same procedure, staff has rewritten both sections as one, eliminating section 11-503(F) and merging the two ideas in a revamped section 11-511.

In terms of an increase in intensity, staff agrees that additional leeway should be allowed, so that a businesses that is permitted to make a small change, even if it includes some measure of additional seats or hours, and additional employees, provided the change produces little discernible impact. It has included the following criteria for minor amendment applications:

- the proposed change constitutes no more than a minimal enlargement or extension;
- 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; and
- the proposal will not change the character of the use or increase its overall intensity,

including no more than the following increases:

- additional hours of operation, but not to exceed hours consistent with nearby uses;
- 10% additional seats for a restaurant; and
- similar increases for other aspects of the use.

Notice of pending applications will be given to affected civic associations, and posted on the Planning Department web page. In addition, the property will be posted so people in the vicinity know that an application is pending.

### **Consolidation of administrative procedures and standards**

Staff's proposed text changes include the consolidation of the Arlandria (NR zone), Del Ray (Mount Vernon overlay zone), and King Street (KR zone) provisions on administrative SUP uses into one new section of the ordinance which includes all of the rules for administrative SUPs for the city as a whole. Thus, the regulations at 4-1404, 6-607, and 6-706 have been eliminated, and section 11-513 has been created. The latter section organizes all of the procedures and general standards for administrative SUPs into a single, unified regulatory provision. As to the substantive standards for specific uses, such as garden centers and restaurants, the section identifies each separately and, where there are different standards for different parts of the City, identifies those differences in the application of the standards. Thus, all of the material regarding this administrative program can be found in one place in the zoning ordinance, making learning, understanding and referencing the material easier for the public, for applicants and for city staff.

### **F. EFFECT OF TEXT CHANGES ON EXISTING SUPS**

One key question that accompanies any change to uses in the zoning ordinance is how existing established uses will be affected. Staff is proposing the following application rules for uses with existing, approved SUPs which, while not appropriate in the zoning text, will appear in the adopting ordinance:

1. For those uses which now require an SUP and which become permitted uses, for which no SUP of any sort is required, an existing approved SUP and its conditions will cease to have effect.
2. For those uses which now require an SUP and which become uses for which an administrative SUP is required, an existing approved SUP continues to be effective, but can, at the applicant's option, be transferred to an administrative SUP, provided the use meets the administrative standards governing the use. The applicant will have to apply for the administrative SUP transfer, and subject itself to the procedural and substantive standards for the use.

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3. The proposed changes, being to zones that do not apply there, will have no effect on the land within the Carlyle approved SUP.
4. There are several existing approved DSUPs that include within their approved conditions rules for the establishment of restaurants and other uses that would also be covered by the amendments proposed here. Examples include Mill Race, Edmondson Plaza, Whole Foods, 1600 King Street, Monarch, Madison, Jaguar, 800 South Washington and Potomac Plaza. To the extent that the proposed text changes are covered by one of the above approved DSUPs and/or CDD concept plans, then the approved DSUP or concept plan will govern.

**IV. RECOMMENDATION**

Staff recommends each of the above changes to the zoning ordinance, as articulated in specific language of the proposed text changes attached in Attachment 2.

**ATTACHMENTS:**

1. Small Business Task Force Recommendations
2. Proposed revisions to the zoning text
3. Chart of Administrative SUP restaurant standards
4. **July 20, 2008 Memorandum to Planning Commission from Faroll Hamer outlining revisions to staff's original recommendations, with exhibits.**

**STAFF:**

Faroll Hamer, Director, Department of Planning and Zoning,  
Richard Josephson, Deputy Director,  
Steve Milone, Division Chief, Land Use Services  
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**SMALL BUSINESS TASK FORCE RECOMMENDATIONS** (from SBTF Report, CC docket item#27, p. 32, 06/26/07)

1. Light Auto Repair (if located within an office/industrial park setting, i.e. Eisenhower Avenue Office Commercial zones)
2. Catering operation (if located within an office/industrial park setting, i.e. Eisenhower Avenue Office Commercial zones)
3. Day care centers in commercial zones
4. Health and athletic clubs (in a shopping center or office/mixed use complex)
5. Restaurants (in a shopping center)
6. Restaurants less than a certain number of seats that do not have live entertainment, dancing or are a certain distance from residential uses
7. Private schools and nursery schools (of less than a certain enrollment)
8. Retail bakeries (of a certain floor area)
9. Garden centers, if located a certain distance from residential
10. Outdoor food and crafts markets, if located certain distance from residential
11. Pet supplies, grooming and training with no [sic] overnight accommodations (in a shopping center)
12. Massage if incidental and accessory to another permitted use
13. Convenience store if incidental to a multifamily or office complex
14. Allow minor amendments to approved SUPs through an administrative process.

## ARTICLE II: DEFINITIONS

**2-133 Day care center.** A facility other than a private family dwelling which receives children or adults for care, protection and supervision during part of a 24 hour day unattended by a parent or guardian. The term includes a child care center, preschool, nursery school and day nursery, and includes half day and full day programs.

**2-153.1 Health and Athletic Club.** An establishment which as its primary purpose provides facilities for exercise in both individual and class formats, and typically includes equipment for class exercises, ball court games, running and jogging, weight and strength training, swimming, and saunas, as well as showers and locker rooms. Accessory massage and similar services may be provided. Such establishments may be open only to members and their guests on a membership basis.

**2-193.1 Shopping Center.** A building or complex of buildings under common ownership and control which includes at least five independent retail businesses, provides shared parking, and is at least 35,000 square feet of floor area in size.

**2-161.1 Industrial or flex space center.** A building or complex of buildings under common ownership and control, which is no more than two stories in height, includes at least three independent businesses within it, and consists of at least 45,000 sf of floor area.

**2-179.1 Office complex.** A building or group of buildings under common ownership and control which is four or more stories in height and primarily office use, but may include other uses, and which is a minimum of 50,000 sq. ft. in size.

**2--183 Personal service establishment.** A store or shop providing personal, financial, technical or repair services, assistance or advice to individual consumers, including but not limited to:

Arts and crafts studios or stores;

Appliance repair and rental;

Banks, savings and loans, and credit unions;

Bicycle repair;

Barbershops and beauty shops;

Contractors' offices, without accessory storage;

Dressmakers and tailors;

Dry-cleaning and laundry pickup stations;

Laundromat;

Locksmiths;

Musical instrument repair;

Optical center;

Pawnshops;

Private school, academic or commercial, with a maximum of twenty students on the premises at any one time;

Professional photographer's studios;

Shoe repair;

Furniture upholstering shops;

Watch repair;

Printing and photocopy service;

Personal service establishments do not include, as either a primary or accessory use, automobile oriented uses; the sale, rental, storage, service or repair of any motor vehicles, including automobiles, trucks, buses, trailers, recreational vehicles and motorcycles; or any use separately listed in a zone.

### ARTICLE III. RESIDENTIAL ZONE REGULATIONS

#### Sec. 3-100 R-20/Single-family zone.

**3-102 Permitted uses.** The following uses are permitted in the R-20 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home, as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

**3-102.1 Administrative special uses.** The following uses may be allowed in the R-20 zone with administrative approval pursuant to section 11-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-103 Special uses.** The following uses may be allowed in the R-20 zone pursuant to a special use permit:

- (A) Cemetery;
- (B) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- ~~(C) Nursery school within a church or school building;~~
- (D) Private school;
- (E) Seminary, convent and monastery;
- (F) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

#### Sec. 3-200 R-12/Single-family zone.

**3-202 Permitted uses.** The following uses are permitted in the R-12 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home, as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

**3-202.1 Administrative special uses.** The following uses may be allowed in the R-12 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-203 Special uses.** The following uses may be allowed in the R-12 zone pursuant to a special use permit:

- (A) Cemetery;
- ~~(B) Day nursery within a church or school building;~~
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-300 R-8/Single-family zone.**

**3-302 Permitted uses.** The following uses are permitted in the R-8 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home, as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

**3-302.1 Administrative special uses.** The following uses may be allowed in the R-8 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-303 Special uses.** The following uses may be allowed in the R-8 zone pursuant to a special use permit:

- (A) Cemetery;
- ~~(B) Day nursery within a church or school building;~~
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-400 R-5/Single-family zone.**

**3-402 Permitted uses.** The following uses are permitted in the R-5 zone:

- (A) Single-family dwelling;
- (B) Accessory uses, as permitted by section 7-100;
- (C) Child or elder care home; as permitted by section 7-500;
- (D) Church;
- (E) Home occupation, as permitted by section 7-300;
- (F) Public park;
- (G) Public school;
- (H) Utilities, as permitted by section 7-1200.

**3-402.1 Administrative special uses.** The following uses may be allowed in the R-5 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-403 Special uses.** The following uses may be allowed in the R-5 zone pursuant to a special use permit:

- (A) Cemetery;
- ~~(B) Day nursery within a church or school building;~~
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-500 R-2-5/Single and two-family zone.**

**3-502 Permitted uses.** The following uses are permitted in the R-2-5 Zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Accessory uses, as permitted by section 7-100;
- (D) Child or elder care home, as permitted by section 7-500;
- (E) Church;
- (F) Home occupation, as permitted by section 7-300;
- (G) Public park;
- (H) Public school;
- (I) Utilities, as permitted by section 7-1200.

**3-502.1 Administrative special uses.** The following uses may be allowed in the R-2-5 zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-503 Special uses.** The following uses may be allowed in the R-2-5 zone pursuant to a special use permit:

- (A) Cemetery;
- ~~(B) Day nursery within a church or school building;~~
- (C) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;
- (D) Private school;
- (E) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-600 RA/Multifamily zone.**

**3-602 Permitted uses.** The following uses are permitted in the RA zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Townhouse dwelling;
- (D) Multifamily dwelling;
- (E) Accessory uses, as permitted by section 7-100;
- (F) Child or elder care home, as permitted by section 7-500;
- (G) Church;
- (H) Home occupation, as permitted by section 7-300;
- (I) Public park;
- (J) Public school;
- (K) Utilities, as permitted by section 7-1200.

**3-602.1 Administrative special uses.** The following uses may be allowed in the RA zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-603 Special uses.** The following uses may be allowed in the RA zone pursuant to a special use permit:

- (A) Cemetery;
- (A.1) Day care center,
- ~~(B) Day nursery in church or school building;~~
- (C) Home for the elderly;
- (D) Noncommercial, not-for-profit facilities, including indoor and outdoor recreational facilities and community centers, designed to serve the neighborhood;

- ~~(E) Nursery school;~~
- (F) Nursing or convalescent home or hospice;
- (G) Private school;
- (H) Rooming house;
- (I) Seminary, convent and monastery;
- (J) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-700 RB/Townhouse zone.**

**3-702 Permitted uses.** The following uses are permitted in the RB zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Townhouse dwelling;
- (D) Accessory uses, as permitted by section 7-100;
- (E) Child or elder care home as permitted by section 7-500;
- (F) Church;
- (G) Home occupation, as permitted by section 7-300;
- (H) Public park;
- (I) Public school;
- (J) Utilities, as permitted by section 7-1200.

**3-702.1 Administrative special uses.** The following uses may be allowed in the RB zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-703 Special uses.** The following uses may be allowed in the RB zone pursuant to a special use permit:

- (A) Cemetery;
- ~~(B) Day nursery in church or school building;~~
- (B) Day care center;
- (C) Home for the elderly;
- ~~(D) Nursery school;~~
- (E) Nursing or convalescent home or hospice ;
- (F) Private school;
- (G) Rooming house;
- (H) Seminary, convent and monastery;
- (I) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-800 RCX/Medium density apartment zone.**

**3-802 Permitted uses.** The following uses are permitted in the RCX zone:

- (A) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Accessory uses, as permitted by section 7-100;
- (D) Child or elder care home, as permitted by section 7-500;
- (E) Church;
- (F) Home occupation, as permitted by section 7-300;
- (G) Public park;
- (H) Public school;
- (I) Utilities, as permitted by section 7-1200.

**3-802.1 Administrative special uses.** The following uses may be allowed in the RCX zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-803 Special uses.** The following uses may be allowed in the RCX zone pursuant to a special use permit:

- (A) Apartment hotel;
- (B) Cemetery;
- ~~(C) Day nursery in church or school building;~~
- (C) Day care center;
- (D) Home for the elderly;
- (E) Nursery school;
- (F) Nursing or convalescent home or hospice;
- (G) Private school;
- (H) Rooming house;
- (I) Seminary, convent and monastery;
- (J) The following commercial uses in a multifamily building of four or more stories in height if limited to an area the size of the first floor or a floor below it, whichever is less, and located on the first floor or any floor below the first floor of the building:
  - (1) Bank, saving and loan bank or association, and similar financial institution;
  - (2) Barber shop or beauty shop;
  - (3) Cleaning, laundry or pressing agency with no actual operations on premises;
  - (4) Convenience store;
  - (4.1)Day care center.
  - (5) Drugstore;
  - (6) Gift shop;
  - (7) Grocery store, where products are not prepared or consumed on premises;
  - (8) Health and athletic club;
  - (9) Professional and business office, provided that no inventory, stock-in-trade,

materials or supplies other than general office supplies are stored on site and that no trucks, vans or similar vehicles are parked on site outside of business hours;

(10) Restaurant.

- (K) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-900 RC/High density apartment zone.**

**3-902 Permitted uses.** The following uses are permitted in the RC zone:

- (A) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Accessory uses, as permitted by section 7-100;
- (D) Child or elder care home, as permitted by section 7-500;
- (E) Church;
- (F) Home occupation, as permitted by section 7-300;
- (G) Public park;
- (H) Public school;
- (I) The following commercial uses in a residential development of at least 2,000 dwelling units if limited to an area the size of the first floor or any floor below it, whichever is less, and located on the first floor or any floor below the first floor of the building:
  - (1) Bank, saving and loan bank or association, and similar financial institution;
  - (2) Barbershop or beauty parlor;
  - (3) Cleaning, laundry or pressing agency with no actual operations on premises;
  - (4) Drugstore;
  - (5) Grocery store, where products are not prepared or consumed on the premises;
  - (6) Gift or florist shop;
  - (6.1) Health and athletic club;
  - (7) Professional, business and medical office provided that no inventory, stock-in-trade, materials or supplies other than general office supplies are stored on site and that no trucks, vans or similar vehicles are parked on site outside of business hours; and
- (J) Utilities, as permitted by section 7-1200.

**3-902.1 Administrative special uses.** The following uses may be allowed in the RC zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-903 Special uses.** The following uses may be allowed in the RC zone pursuant to a special use permit:

- (A) Apartment hotel;
- (B) Cemetery;
- ~~(C) Day nursery in church or school building;~~
- (C) Day care center;
- (D) Freestanding commercial buildings for office or retail use where clearly designed as part of and to serve a residential development of at least 2,000 dwelling units and where no such building exceeds 10,000 square feet;
- (E) Home for the elderly;
- ~~(F) Nursery school;~~
- (G) Nursing or convalescent home or hospice;
- (H) Private school;
- (I) Rooming house;
- (J) Seminary, convent and monastery;
- (K) The following commercial uses in a multifamily building of four or more stories in height if limited to an area the size of the first floor or a floor below it, whichever is less, and located on the first floor or any floor below the first floor of the building:
  - (1) Bank, saving and loan bank or association, and similar financial institution;
  - (2) Barber shop or beauty shop;
  - (3) Cleaning, laundry or pressing agency with no actual operations on premises;
  - (4) Convenience store;
  - (4.1) Day care center.
  - (5) Drugstore;
  - (6) Gift shop;
  - (7) Grocery store, where products are not prepared or consumed on premises;
  - (8) Health and athletic club;
  - (9) Professional and business office, provided that no inventory, stock-in-trade, materials or supplies other than general office supplies are stored on site and that no trucks, vans or similar vehicles are parked on site outside of business hours; and
  - (10) Restaurants and, in the case of a building which is seven or more stories, the restaurant may be located on the top floor or the roof of the building.
- (L) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

**Sec. 3-1100 RM/Townhouse zone.**

**3-1102 Permitted uses.** The following uses are permitted in the RM zone:

- (A) Single-family dwelling;
- (B) Two-family dwelling;
- (C) Townhouse dwelling;
- (D) Accessory uses, as permitted by section 7-100;
- (E) Child or elder care home, as permitted by section 7-500;
- (F) Church;
- (G) Home occupation, as permitted by section 7-300;
- (H) Public park;
- (I) Public school;
- (J) Utilities, as permitted by section 7-1200.

**3-1102.1 Administrative special uses.** The following uses may be allowed in the RM zone with administrative approval pursuant to section 5-513 of this ordinance.

- (A) Day care center within a church or school building.

**3-1103 Special uses.** The following uses may be allowed in the RM zone pursuant to a special use permit:

- (A) Bed and breakfast accommodation, as permitted by section 7-400;
- (B) Cemetery;
- ~~(C) Day nursery in church or school building;~~
- (C) Day care center;
- (D) Motor vehicle parking or storage, as permitted by section 8-600;
- ~~(E) Nursery school;~~
- (F) Nursing or convalescent home or hospice;
- (G) Private school;
- (H) Rooming house;
- (I) Seminary, convent and monastery;
- (J) Any church or school parking added after October 1, 1996 which exceeds the number of spaces required by this ordinance; provided, however, that no special use permit for such excess parking shall regulate or substantially burden any religious practice or belief.

## ARTICLE IV: COMMERCIAL, OFFICE AND INDUSTRIAL ZONES

### Sec. 4-100 CL/Commercial low zone.

#### 4-102 Permitted uses. The following uses are permitted in the CL zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Day care center
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training, with no overnight accommodation;
- (J) Public school;
- (J.1) Restaurant located within a shopping center;
- (K) Retail shopping establishment;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

#### 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) Outdoor garden center;
- (C) Outdoor food and crafts market;
- (D) Overnight pet boarding if located in a shopping center.

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

- (A) Bus shelter on private property;
- (B) Congregate housing facility;
- ~~(C) Day care center;~~
- (C.1) Day labor agency.
- ~~(D) Day nursery;~~
- (E) Fraternal or private club;
- (F) Funeral home;
- (G) Home for the elderly;

- (G.1) Massage establishment;
- (H) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(I) Nursery school;~~
- (J) Nursing or convalescent home or hospice;
- (J.1) Outdoor food and crafts market, other than pursuant to section 4-102.1;
- (J.2) Outdoor garden center, other than pursuant to section 4-102.1;
- (J.3) Overnight pet boarding, other than pursuant to section 4-102.1;
- (K) Private school, academic or commercial, with more than 20 students on the premises at any one time;
- (L) Public building;
- (M) Restaurant, other than pursuant to 4-102 (J.1) or 4-102.1;
- (N) Rooming house;
- (O) Social service use.

**4-107 Use limitations.**

- (G) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (H) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

**Sec. 4-200 CC/Commercial community zone.**

**4-202 Permitted uses.** The following uses are permitted in the CC zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Day care center
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (H.1) Pet supplies, grooming and training business with no overnight accommodation;
- (I) Public school;
- (I.1) Restaurant located within a shopping center or hotel;
- (J) Retail shopping establishment;
- (K) Seminary, convent or monastery;
- (L) Utilities, as permitted by section 7-1200;

- (M) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center;
- (C) Outdoor food and crafts market;
- (D) Overnight pet boarding located in a shopping center

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

- (A) Automobile service station;
- (B) Bus shelter on private property;
- (C) Congregate housing facility;
- (D) Convenience store;
- ~~(E) Day care center;~~
- ~~(F) Day nursery;~~
- (G) Drive through facility;
- (H) Fraternal or private club;
- (I) Funeral home;
- (J) Home for the elderly;
- (K) Light automobile repair;
- (K.1) Massage establishment;
- (L) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(M) Nursery school;~~
- (N) Nursing or convalescent home or hospice;
- (N.1) Outdoor food and crafts market, other than pursuant to section 4-202.1;
- (N.2) Outdoor garden center, other than pursuant to section 4-202.1;
- (O) Overnight pet boarding, other than pursuant to section 4-202.1; ~~Pet supplies, grooming and training, with no overnight accommodation;~~
- (P) Private school, academic or commercial, with more than 20 students at any one time;
- (Q) Public building;
- (R) Restaurant, other than pursuant to sections 4-202(I.1) or 4-202.1;
- (S) Rooming house;
- (T) Social service use.

**4-207 Use limitations.**

- (F) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (G) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

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

**4-302 Permitted uses.** The following uses are permitted in the CSL zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Day care center;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (H.1) Pet supplies, grooming and training business with no overnight accommodation;
- (I) Public school;
- (J) Retail shopping establishment;
- (J.1) Restaurant located within a shopping center or hotel;
- (K) Seminary, convent or monastery;
- (L) Utilities, as permitted by section 7-1200;
- (M) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

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

- (A) Automobile service station;
- (B) Automobile and trailer rental or sales area;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;

- (C) Building materials storage and sales;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G) Convenience store;
- ~~(H) Day care center;~~
- (H.1) Day labor agency.
- ~~(I) Day nursery;~~
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Glass shop;
- (N) Home for the elderly;
- (O) Laundry, dry cleaning operation;
- (O.1) Light assembly, service and crafts;
- (P) Light automobile repair;
- (P.1) Massage establishment;
- (Q) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(R) Nursery school;~~
- (S) Nursing or convalescent home or hospice;
- (S.1) Outdoor food and crafts market, other than pursuant to section 4-302.1;
- (S.2) Outdoor garden center, other than pursuant to section 4-302.1;
- (S.3) Overnight pet boarding, other than pursuant to section 4-302.1;
- (T) Parcel delivery;
- ~~(U) Pet supplies, grooming and training, with no overnight accommodations;~~
- (V) Private school, academic or commercial, with more than 20 students on the premises at any one time;
- (W) Public building;
- (X) Research and testing laboratory;
- (Y) Restaurant, other than pursuant to sections 4-302 (J.1) or 4-302.1;
- (Z) Rooming house;
- (AA) Social service use;
- (BB) Storage buildings and warehouses, not to include freight distribution centers;
- (CC) Wholesale business.

**4-307 Use limitations.**

- (F) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.
- (G) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

**Sec. 4-400 CG/Commercial general zone.**

**4-402 Permitted uses.** The following uses are permitted in the CG zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center;
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (H.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming, training and medical treatment with no overnight accommodation;
- (J) Public school;
- (J.1) Restaurant located within a shopping center or hotel;
- (K) Retail shopping establishment;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

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

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (C) Automobile service station;
- (D) Automobile and trailer rental or sales area;
- (D.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (E) Bus shelter on private property;
- (F) Congregate housing facility;

- (G) Convenience store, other than pursuant to section 4-402 (E.1);
- ~~(H) Day care center;~~
- (H.1) Day labor agency.
- ~~(I) Day nursery;~~
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-402 (E.3);
- (N) Home for the elderly;
- (O) Hospital;
- (P) Hotel;
- (Q) Laundry, dry cleaning operation;
- (R) Light automobile repair;
- (R.1) Massage establishment;
- (S) Medical care facility;
- (T) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(U) Nursery school;~~
- (V) Nursing or convalescent home or hospice;
- (V.1) Outdoor food and crafts market, other than pursuant to section 4-402.1;
- (V.2) Outdoor garden center, other than pursuant to section 4-402.1;
- (V.3) Overnight pet boarding, other than pursuant to section 4-402.1;
- (W) Private school, academic or commercial, with more than 20 students on the premises at any one time;
- (X) Public building;
- (Y) Restaurant, other than pursuant to sections 4-402 (J.1) or 4-402.1;
- (Z) Rooming house;
- (AA) Social service use.

#### **4-407 Use limitations.**

~~(D) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

(D) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.

(E) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

(F) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid

ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

**Sec. 4-500 CD/Commercial downtown zone.**

**4-502 Permitted uses.** The following uses are permitted in the CD zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (F) City sponsored farmers' market;
- (F.1) Day care center;
- (G) Medical laboratory;
- (H) Medical office;
- (H.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (I) Personal service establishment;
- (J) Pet supplies, grooming and training business, with no overnight accommodation;
- (K) Public school;
- (L) Radio or TV broadcasting office and studio;
- ~~(L.1) Restaurant located within a shopping center or hotel;~~
- (M) Retail shopping establishment;
- (N) Seminary, convent or monastery;
- (O) Utilities, as permitted by section 7-1200;
- (P) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (B) Outdoor food and crafts market
- (C) Overnight pet boarding located in a shopping center

**4-503 Special uses.** The following uses may be allowed in the CD zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bed and breakfast accommodation, as permitted by section 7-400;
- (D) Bus shelter on private property;
- (E) Catering operation;

- (F) Congregate housing facility;
- ~~(G) Day care center;~~
- (G.1) Day labor agency.
- ~~(H) Day nursery;~~
- (H.1) Drive through facility, limited to banks, savings and loan institutions and credit unions on Washington Street; provided, that access to the drive through facility is solely provided on the exclusive property of the bank, savings and loan institution or credit union offering the drive through facility.
- (I) Fraternal or private club;
- (J) Funeral home;
- (K) Health and athletic club;
- (L) Home for the elderly;
- (M) Homeless shelter;
- (N) Hospital;
- (O) Hotel;
- (O.1) Massage establishment;
- (P) Medical care facility;
- (Q) Motor vehicle parking or storage for more than 20 vehicles;
- (R) Newspaper office, including printing and publishing facilities;
- ~~(S) Nursery school;~~
- (T) Nursing or convalescent home or hospice;
- (T.1) Outdoor food and crafts market, other than pursuant to section 4-502.1;
- (T.2) Outdoor garden center, other than pursuant to section 4-502.1;
- (T.3) Overnight pet boarding, other than pursuant to section 4-502.1;
- (U) Private school, commercial or academic, with more than 20 students on the premises at any one time;
- (V) Public building;
- (W) Restaurant;
- (X) Rooming house;
- (Y) Social service use;
- (Z) Tourist home;
- (AA) Wholesale business.

#### **4-507 Use limitations.**

~~(D) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

(D) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.

- (E) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

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

**4-602 Permitted uses.**

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Church;
- (D.1) Day care center;
- (E) Medical laboratory;
- (F) Medical office;
- (F.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (G) Personal service establishment;
- (H) Pet supplies, grooming and training business, with no overnight accommodation;
- (I) Public school;
- (J) Radio or TV broadcasting facility;
- (K) Retail shopping establishment;
- (K.1) Restaurant located within a shopping center or hotel;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding.

**4-603 Special uses.**

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Catering operation;
- (E) Congregate housing facility;
- ~~(F) Day care center;~~
- (F.1) Day labor agency.

- ~~(G) Day nursery;~~
- (H) Fraternal or private club;
- (I) Funeral home;
- (J) Health and athletic club, other than pursuant to section 4-602 (D.2);
- (K) Home for the elderly;
- (L) Homeless shelter;
- (M) Hospital;
- (N) Hotel;
- (N.1) Massage establishment;
- (O) Medical care facility;
- (O.1) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Newspaper office, including printing and publishing facilities;
- ~~(Q) Nursery school;~~
- (R) Nursing or convalescent home or hospice;
- (R.1) Outdoor food and crafts market, other than pursuant to section 4-602.1;
- (R.2) Outdoor garden center, other than pursuant to section 4-602.1;
- (R.3.) Overnight pet boarding, other than pursuant to section 4-602.1;
- (S) Private school, commercial or academic, with more than 20 students on the premises at any one time;
- (T) Public building;
- (U) Restaurant, other than pursuant to sections 4-602(K-1) or 4-602.1;
- (V) Rooming house;
- (W) Social service use;
- (X) Tourist home;
- (Y) Wholesale business.

#### 4-607 Use limitations.

~~(D) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferrable to any other firm or individual.~~

(D) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates required prior to opening its place of business.

(E) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

**Sec. 4-700 CR/Commercial regional zone.**

**4-702 Permitted uses.** The following uses are permitted in the CR zone:

- (A) Amusement enterprise;
- (A.1) Day care center;
- (B) Health and athletic club;
- (C) Light auto repair or drive through facility located in a freestanding building not part of an integrated and connected complex of structures;
- (D) Motor vehicle parking or storage;
- (E) Personal service establishment;
- (E.1) Pets supplies, grooming and training business with no overnight accommodation;
- (E.2) Private school, commercial;
- (F) Restaurant;
- (G) Retail shopping establishment;
- (H) Utilities, as permitted by section 7-1200;
- (I) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (B) Outdoor food and crafts market
- (C) Overnight pet boarding located in a shopping center

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

- (A) Automobile service station;
- (A.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (B) Bus shelter on private property;
- ~~(C) Day care center;~~
- ~~(D) Day nursery;~~
- (E) Drive through facility;
- (F) Hotel;
- (G) Interstate bus station;
- (H) Light automobile repair;
- ~~(I) Outdoor garden center.~~
- (I) Massage establishment.
- (J) Overnight pet boarding, other than pursuant to section 4-702.1

~~4-707 Use Limitations. Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

**Sec. 4-800 OC/Office commercial zone.**

**4-802 Permitted uses.** The following uses are permitted in the OC zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center;
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training business with no overnight accommodation;
- (J) Radio or TV broadcasting office and studio;
- (K) Retail shopping establishment;
- (K.1) Restaurant located within a shopping center or hotel;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

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

- (A) Amusement enterprise;
- (B) Apartment hotel;

- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G) Convenience store other than pursuant to section 4-802 (E.1);
- ~~(H) Day care center;~~
- (H.1) Day labor agency.
- ~~(I) Day nursery;~~
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-802 (E.3)
- (N) Home for the elderly;
- (O) Homeless shelter;
- (P) Hospital;
- (Q) Hotel;
- (R) Interstate bus station;
- (S) Light automobile repair;
- (S.1) Massage establishment;
- (T) Medical care facility;
- (U) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(V) Nursery school;~~
- (W) Nursing or convalescent home or hospice;
- (W.1) Outdoor food and crafts market other than pursuant to section 4-802.1;
- (W.2) Outdoor garden center other than pursuant to section 4-802.1;
- (W.3) Overnight pet boarding, other than pursuant to section 4-802.1;
- (X) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (Y) Public building;
- (Z) Research and testing laboratory;
- (AA) Restaurant, other than pursuant to sections 4-802(K.1) and 4-802.1;
- (BB) Rooming house;
- (CC) Social service use;
- (DD) Wholesale business.

#### **4-807 Use limitations.**

~~(E) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be~~

~~transferable to any other firm or individual.~~

- (E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening 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.
- (G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

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

**4-902 Permitted uses.** The following uses are permitted in the OCM(50) zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training, with no overnight accommodation;
- (J) Radio or TV broadcasting office and studio;
- (K) Retail shopping establishment;
- (K.1) Restaurant located within a shopping center or hotel;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

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

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Catering operation;
- (F) Congregate housing facility;
- (G) Convenience store, other than pursuant to section 4-902(E.1);
- ~~(H) Day care center;~~
- (H.1) Day labor agency.
- ~~(I) Day nursery;~~
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-902(E.3);
- (N) Home for the elderly;
- (O) Homeless shelter;
- (P) Hospital;
- (Q) Hotel;
- (R) Interstate bus station;
- (S) Light automobile repair;
- (S.1) Massage establishment;
- (T) Medical care facility;
- (U) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(V) Nursery school;~~
- (W) Nursing or convalescent home or hospice;
- (W.1) Outdoor food and crafts market, other than pursuant to section 4-902.1;
- (W.2) Outdoor garden center, other than pursuant to section 4-902.1;
- (W.3) Overnight pet boarding, other than pursuant to section 4-902.1;
- (X) Private school, academic or commercial; with more than 20 students on the premises at any one time;
- (Y) Public building;
- (Z) Research and testing laboratory;
- (AA) Restaurant, other than pursuant to sections 4-902(K.1) and 4-902.1;
- (BB) Rooming house;
- (CC) Social service use;
- (DD) Wholesale business.

**4-906 Use limitations.**

~~(E) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

(E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening 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.

(G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

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

**4-1002 Permitted uses.** The following uses are permitted in the OCM(100) zone:

- (A) Single-family dwelling, except as limited by section 4-1003(A.1);
- (A.1) Two-family dwelling, except as limited by section 4-1003(A.1);
- (A.2) Townhouse dwelling, except as limited by section 4-1003(A.1);
- (B) Multi-family dwelling, except as limited by section 4-1003 (A.1);
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center
- (E.3) Health and athletic club located within a shopping center, hotel, industrial or flex space center or office complex;
- (F) Medical laboratory;
- (G) Medical office;
- (G.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (H) Personal service establishment;
- (I) Pet supplies, grooming and training business with no overnight accommodation;
- (J) Radio or TV broadcasting office and studio;
- (K) Retail shopping establishment;
- (K.1) Restaurant, located within a shopping center, hotel or industrial or flex space center;
- (L) Seminary, convent or monastery;
- (M) Utilities, as permitted by section 7-1200;
- (N) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center;
- (C) Outdoor food and crafts market ;
- (D) Catering operation within an industrial or flex space center;
- (E) Light auto repair within an industrial or flex space center;
- (F) Overnight pet boarding located in a shopping center.

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

- (A) Amusement enterprise;
- (A.1) Single-family, two-family, townhouse and multi-family dwellings on lots located within 1,000 feet of the centerline of Eisenhower Avenue;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Catering operation, other than pursuant to section 4-1002.1;
- (F) Congregate housing facility;
- (G) Convenience store, other than pursuant to section 4-1002(E.1);
- ~~(H) Day care center;~~
- (H.1) Day labor agency.
- ~~(I) Day nursery;~~
- (J) Drive through facility;
- (K) Fraternal or private club;
- (L) Funeral home;
- (M) Health and athletic club, other than pursuant to section 4-1002(E.3);
- (N) Home for the elderly;
- (O) Homeless shelter;
- (P) Hospital;
- (Q) Hotel;
- (R) Interstate bus station;
- (S) Light automobile repair, other than pursuant to section 4-1002.1;
- (S.1) Massage establishment;
- (T) Medical care facility;
- (U) Motor vehicle parking or storage for more than 20 vehicles;
- ~~(V) Nursery school;~~
- (W) Nursing or convalescent home or hospice;
- (W.1) Outdoor food and crafts market, other than pursuant to section 4-1002.1;
- (W.2) Outdoor garden center, other than pursuant to section 4-1002.1;
- (W.3) Overnight pet boarding, other than pursuant to section 4-1002.1;

- (X) Private school, academic or commercial; with more than 20 students on the premises at any one time;
- (Y) Public building;
- (Z) Research and testing;
- (AA) Restaurant, other than pursuant to sections 4-1002(K.1) and 4-1002.1;
- (BB) Rooming house;
- (CC) Social service use;
- (DD) Wholesale business.

**4-1006 Use limitations.**

~~(E) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

- (E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening 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.
- (G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

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

**4-1102 Permitted uses.** The following uses are permitted in the OCH zone:

- (A) Single-family dwelling, except as limited by section 4-1103(A.1);
- (A.1) Two-family dwelling, except as limited by section 4-1103(A.1);
- (A.2) Townhouse dwelling, except as limited by section 4-1103(A.1);
- (B) Multi-family dwelling, except as limited by section 4-1103 (A.1);
- (C) Business and professional office;
- (D) Cemetery;
- (E) Church;
- (E.1) Convenience store within an office complex;
- (E.2) Day care center;
- (E.3) Health and athletic club located within a shopping center, hotel or office complex;
- (F) Hospital;
- (G) Medical care facility;
- (H) Medical laboratory;
- (I) Medical office;

- (I.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (J) Personal service establishment, on the same lot as office use;
- (K) Pet supplies, grooming and training business with no overnight accommodation;
- (L) Radio or television broadcasting office and studio;
- (L.1) Restaurant located within a shopping center or hotel;
- (M) Retail shopping establishment, on the same lot as office use;
- (N) Seminary, convent or monastery;
- (O) Utilities, as permitted by section 7-1200;
- (P) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

**4-1103 Special uses.** The following uses may be allowed in the OCH zone pursuant to a special use permit:

- (A) Amusement enterprise;
- (A.1) Single-family, two-family, townhouse and multi-family dwellings on lots located within 1,000 feet of the centerline of Eisenhower Avenue;
- (B) Apartment hotel;
- (C) Automobile service station;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Bus shelter on private property;
- (E) Congregate housing facility;
- (F) Convenience store, other than pursuant to section 4-1102(E.1);
- ~~(G) Day care center;~~
- ~~(H) Day nursery;~~
- (H.1) Day labor agency.
- (I) Drive through facility;
- (J) Fraternal or private club;
- (K) Funeral home;
- (L) Health and athletic club, other than pursuant to section 4-1102(E.3);
- (M) Home for the elderly;
- (N) Homeless shelter;
- (O) Hotel;
- (P) Interstate bus station;
- (Q) Light automobile repair;
- (Q.1) Massage establishment;
- (R) Motor vehicle parking or storage for more than 20 vehicles;

- ~~(S) Nursery school;~~
- (T) Nursing or convalescent home or hospice;
- (T.1) Outdoor food and crafts market, other than pursuant to section 4-1102.1;
- (T.2) Outdoor garden center, other than pursuant to section 4-1102.1;
- (T.3) Overnight pet boarding, other than pursuant to section 4-1102.1;
- (U) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (V) Public building;
- (W) Restaurant, other than pursuant to sections 4-1102 (L.1) and 4-1102.1;
- (X) Retail shopping or personal service establishments on a lot which does not include office buildings, provided such use supports and serves office uses in the immediate zoned area;
- (Y) Rooming house;
- (Z) Social service use;
- (AA) Wholesale business.

#### **4-1106 Use limitations.**

~~(E) Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

(E) A day care center, commercial school or massage establishment shall obtain all state, federal and local licenses and certificates prior to opening 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.

(G) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

#### **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 office accessory to and on the same site as an industrial use;
- (G) Catering operations;

- (H) Drive through facility;
- (I) [*Reserved* ];
- (J) Funeral home;
- (K) Glass shop;
- (L) Ice and cold storage facility;
- (M) Laundry, dry cleaning operations;
- (N) 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) 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) Outdoor garden center
- (C) Outdoor food and crafts market
- (D) Overnight pet boarding located in a shopping center

**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: the ground floor use facing the sidewalk in the NR zone shall be solely retail, restaurant, or personal service, except banks, uses defined in sections 2-183, 2-191, and 2-190 of the zoning ordinance.

~~Banks, business and professional offices, medical laboratory/offices and laundromats shall be permitted in the NR zone on the ground floor, only subject to the following standards:~~

- ~~(1) The business facade shall be no wider than 30 feet along the street;~~
- ~~(2) No more than two such uses or entrances shall adjoin each other.~~

**(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, shall be permitted in the NR zone on the ground floor, only subject to the following standards; 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.

**(B) Permitted uses above the ground floor:**

- (1) Uses listed under section 4-1403;
- (2) Dwelling unit;
- (3) Office;
- (4) Church.

**4-1103.1 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

**4-1404 Special uses.** The following uses may be allowed with a special use permit:

- (A) Amusement enterprise;
- (B) Banks, business and professional offices, medical laboratories/offices and laundromats on the ground floor, other than pursuant to ~~when not in conformance with the standards set forth in~~ section 4-1403 (A);
- (C) Convenience store;
- (D) Day care center;
- (E) Day nursery;
- (F) Fraternal or private club;
- (G) Live theater, other than pursuant to ~~when not in conformance with the standards as set forth in~~ section 4-1403.1;
- (H) Massage establishment;
- (I) Nursing or convalescent home or hospice;
- (J) Outdoor food and crafts market, other than pursuant to ~~when not in conformance with the standards as set forth in~~ Section 4-1403.1;
- (K) Private school, academic or commercial;
- (L) Public building;
- (M) Restaurant, other than pursuant to sections 4-1403 (A) (4) and 4-1403.1; ~~when not in conformance with the standards set forth in~~ section 4-1404
- (O) Townhouse dwellings, subject to the RB regulations for density, lot requirements, bulk and open space, and height and; allowed only in locations where the development of residential units will not interfere with the existing or the creation of the desired streetscape pattern of contiguous and active retail uses.

**[The procedure and standards for NR administrative SUPs are moved and incorporated into section 11-513]**

~~**4-1404 Uses allowed subject to standards.** Notwithstanding any contrary provisions of the zoning ordinance, the following uses shall be allowed in the NR zone subject to the following standards and administrative review and approval by the director of planning and zoning. However, if upon consultation with the police department it is determined that there are documented violations at the proposed location or with the proposed operator, the director of planning and zoning may determine that special use permit approval shall be required. Alternatively, at the applicant's discretion, the applicant may seek special use permit approval for such uses pursuant to section 11-500 of the zoning ordinance.~~

~~(A) Live theater (indoor amusement enterprise);~~

~~(B) Outdoor food and crafts market;~~

~~(C) Restaurant, with limited indoor and outdoor seating, limited hours of operation, limited beer and wine sales, limited delivery service, and limited, nonamplified live entertainment. Existing restaurant special use permit uses may intensify to the level outlined in the standards, provided they otherwise meet all the standards outlined in this section.~~

~~(D) *General standards for all uses:*—~~

~~(1) The administrative permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. Any change in the ownership of the use that is the subject of the administrative permit may be transferred administratively with the approval of the director pursuant to the requirements of section 11-503(F) of the zoning ordinance;~~

~~(2) The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities;~~

~~(3) The applicant shall require its employees who drive to work to use off-street parking;~~

~~(4) The applicant shall install signs inside the building indicating the location of off-street parking in the area and shall inform customers about the parking;~~

~~(5) Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those containers;~~

~~(6) The applicant shall contact the crime prevention unit of the city police department for a security survey and robbery awareness program for employees prior to the operation of the business;~~

~~(7) The director of planning and zoning shall review the administrative permit. Notice of this review shall be made in a newspaper in general circulation in the city, posted on the subject property, and given to nearby civic associations. In the event any person, whether owner, lessee, principal, agent, employee or otherwise, materially fails to comply with any standard described herein, 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 the zoning ordinance, except that such appeal shall be heard by the planning commission;~~

~~(8) Improvements may be required to the facade or in front of the business establishment, including landscaping and site improvements, consistent with the long term vision for the Arlandria~~

~~Neighborhood plan as adopted as part of the master plan and as determined by the director of planning and zoning;~~

~~(9) Any change in the nature of the use or any enlargement, extension or increase in the intensity of that use shall be subject to review by the director of planning and zoning and may require a special use permit approved by the city council if it exceeds the guidelines herein;~~

~~(10) Any additional condition the director of planning and zoning determines is reasonable in order for the development of properties in compliance with Section 4-1402.~~

~~(E) *Specific standards for live theater (indoor amusement enterprise)*~~

~~(1) The applicant may offer limited wine and beer sales in conjunction with performances at the intermission or one hour before the performances commence, with the appropriate licenses as required by law;~~

~~(2) The applicant may offer wine and beer in conjunction with a show opening or other wine and cheese event, with the appropriate licenses as required by law. A maximum of four such events is permitted per calendar year;~~

~~(3) The hours of performances shall be limited to 11:00 a.m. to 11:00 p.m. daily;~~

~~(4) No amplified sound shall be audible at the property line;~~

~~(5) Off-street parking shall be provided pursuant to section 8-200(A) of the zoning ordinance.~~

~~(6) The administrative permit, and standards, approved by the director pursuant to section 4-1404 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.~~

~~(F) *Specific standards for outdoor food and crafts market:*~~

~~(1) No alcohol sales shall be permitted;~~

~~(2) No on-site storage of trailers is permitted;~~

~~(3) No on-site food preparation shall be permitted;~~

~~(4) No off-street parking spaces shall be required;~~

~~(5) The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m. on Saturdays and Sundays;~~

~~(6) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice during the day and at the close of the market, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the market is in operation;~~

~~(7) Market operations:~~

~~(a) The applicant shall designate one person to serve as the market master, and another person to serve as alternate, and shall provide the names of those persons and their home and work telephone numbers to the department of planning and zoning prior to opening of the market;~~

~~(b) The market master or his/her designee shall be present prior to the opening of the market and at the closing of the market and shall oversee the cleanup of the lot and adjacent sidewalk areas at the end of the market;~~

~~(c) The market master shall prepare a plan for the layout of the market for approval by the director of planning and zoning prior to beginning operations, and shall obtain approval of the director of planning and zoning for changes to those plans;~~

- ~~(d) The market master shall prepare a set of rules for operation of the market for approval by the director of planning and zoning, who shall review any changes to those rules. Copies of those rules shall be given to each vendor, to nearby residents and businesses, and to the civic associations in the vicinity;~~
- ~~(e) The rules shall state who is eligible to sell goods in the market and under what conditions. It is the expectation that the produce will be predominantly grown by the vendors, except during the spring and late fall when resale produce may predominate. It is also the expectation that baked and prepared goods will be sold at the market;~~
- ~~(f) The market master shall maintain a list of vendors with addresses and telephone numbers.~~
- ~~(G) *Specific standards for restaurants:*~~
- ~~(1) The hours of operation shall be limited to 7:00 a.m. to 11:00 p.m. daily;~~
- ~~(2) The applicant shall post the hours of operation at the entrance to the restaurant;~~
- ~~(3) 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;~~
- ~~(4) Restaurant seating shall be limited to 60 seats. Of that number, no more than sixteen seats may be located at outdoor tables in front of the restaurant. Outdoor seating shall not encroach onto the public right-of-way unless authorized by an encroachment ordinance;~~
- ~~(5) Limited, non-amplified live entertainment consisting of not more than two performers may be offered at the restaurant;~~
- ~~(6) 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;~~
- ~~(7) Limited beer and wine service may be provided;~~
- ~~(8) No food, beverages, or other material shall be stored outside;~~
- ~~(9) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public;~~
- ~~(10) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers;~~
- ~~(11) No amplified sound shall be audible at the property line;~~
- ~~(12) 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.~~
- ~~(13) The administrative permit, and standards, approved by the director pursuant to section 4-1404 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.~~

## ARTICLE V. MIXED USE ZONES

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

**5-102 Permitted uses.** The following uses are permitted in the CRMU-L zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (C.1) Convenience store within an office complex;
- (C.2) Day care center;
- (C.3) Health and athletic club located within a shopping center, hotel or office complex;
- (D) Medical laboratory;
- (E) Medical office;
- (E.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (F) Personal service establishment;
- (G) Radio or television broadcasting office and studio;
- (G.1) Restaurant located within a shopping center or hotel;
- (H) Retail shopping establishment;
- (I) Utilities, as permitted by section 7-1200;
- (J) Accessory uses, as permitted by section 7-100;

**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:

- (D) Restaurant;
- (E) Outdoor garden center;
- (F) Outdoor food and crafts market.

**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:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-102 (C.1);
- ~~(F) Day care center;~~
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-102(C.3);
- (I) Home for the elderly;
- (J) Hotel;

- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (K.1) Outdoor food and crafts market, other than pursuant to section 5-102.1;
- (K.2) Outdoor garden center, other than pursuant to section 5-102.1;
- (L) Nursing or convalescent home or hospice;
- (M) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (N) Restaurant, other than pursuant to section 5-102 (G.1) or 5-102.1.

**5-110 Use limitations.** ~~Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

- (A) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (B) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (C) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

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

**5-202 Permitted uses.** The following uses are permitted in the CRMU-M zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (C.1) Convenience store within an office complex;
- (C.2) Day care center;
- (C.3) Health and athletic club located within a shopping center, hotel or office complex;
- (D) Medical laboratory;
- (E) Medical office;
- (E.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (F) Personal service establishment;
- (G) Radio or television broadcasting office and studio;
- (G.1) Restaurant located within a shopping center or hotel;

- (H) Retail shopping establishment;
- (I) Utilities, as permitted by section 7-1200;
- (J) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center;
- (C) Outdoor food and crafts market.

**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:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-202 (C.1);
- ~~(F) Day care center;~~
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-202(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (L) Nursing or convalescent home or hospice;
- (L.1) Outdoor food and crafts market, other than pursuant to section 5-202.1;
- (L.2) Outdoor garden center, other than pursuant to section 5-202.1
- (M) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (N) Restaurant, not covered in section 5-202(G.1).

**5-210 Use limitations.** ~~Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

- (A) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (B) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

- (C) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

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

**5-302 Permitted uses.** The following uses are permitted in the CRMU-H zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (B) Multifamily dwelling;
- (C) Business and professional office;
- (C.1) Convenience store within an office complex;
- (C.2) Day care center;
- (C.3) Health and athletic club located within a shopping center, hotel or office complex;
- (D) Medical laboratory;
- (E) Medical office;
- (E.1) Motor vehicle parking or storage for 20 vehicles or fewer;
- (F) Personal service establishment;
- (G) Radio or television broadcasting office and studio;
- (G.1) Restaurant located within a shopping center or hotel;
- (H) Retail shopping establishment;
- (I) Utilities, as permitted by section 7-1200;
- (J) Accessory uses, as permitted by section 7-100;
- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market.
- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-302 (C.1);
- ~~(F) Day care center;~~
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-302(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;

- (L) Nursing or convalescent home or hospice;
- (L.1) Outdoor food and crafts market, other than pursuant to section 5-302.1;
- (L.2) Outdoor garden center, other than pursuant to section 5-302.1;
- (M) Private school, academic or commercial, with more than twenty students on the premises at one time;
- (N) Restaurant, other than pursuant to section 5-302 (G.1) or 5-302.1.

**5-302.1 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) Outdoor garden center;
- (C) Outdoor food and crafts market.

**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:

- (A) Amusement enterprise;
- (B) Apartment hotel;
- (B.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (C) Bus shelter on private property;
- (D) Congregate housing facility;
- (E) Convenience store, other than pursuant to section 5-202 (C.1);
- ~~(F) Day care center;~~
- (G) Drive through facility;
- (H) Health and athletic club, other than pursuant to section 5-202(C.3);
- (I) Home for the elderly;
- (J) Hotel;
- (J.1) Massage establishment;
- (K) Motor vehicle parking or storage for more than 20 vehicles;
- (L) Nursing or convalescent home or hospice;
- (L.1) Outdoor food and crafts market, other than pursuant to section 5-202.1;
- (L.2) Outdoor garden center, other than pursuant to section 5-202.1
- (M) Private school, academic or commercial, with more than 20 students on the premises at one time;
- (N) Restaurant, not covered in section 5-202(G.1).

**5-310 Use limitations.** ~~Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

- (A) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
- (B) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
- (C) A convenience store within an office complex shall limit alcohol sales as follows: Beer or wine coolers may be sold only in 4 packs, 6 packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.

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

**5-402 Permitted uses.** The following uses are permitted in the CRMU-X zone:

- (A) Single-family dwelling;
- (A.1) Two-family dwelling;
- (A.2) Townhouse dwelling;
- (A.3) Motor vehicle parking or storage for 20 vehicles or fewer;
- (B) Utilities, subject to section 7-1200;
- (C) Accessory uses, as permitted by section 7-100.

**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) Outdoor garden center;
- (C) Outdoor food and crafts market.

**5-403 Special uses.** The following uses may be approved, subject to the procedures and regulations for special use permits and subject to the limitations of section 5-609 below:

- (A) Multifamily dwelling;
- (B) Amusement enterprise;
- (C) Apartment hotel;
- (C.1) Bakery exceeding 3,500 square feet which includes a retail component;
- (D) Business and professional office;
- (E) Bus shelter on private property;
- (F) Congregate housing facility;
- (G) Convenience store;
- (H) Day care center;
- (I) Fraternal or private club;
- (J) Health and athletic club;

- (K) Home for the elderly;
- (L) Hotel;
- (M) Medical care facility;
- (N) Medical laboratory;
- (O) Medical office;
- (O.1) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Nursing or convalescent home or hospice;
- (P.1) Outdoor food and crafts market, other than pursuant to section 5-402.1;
- (P.2) Outdoor garden center, other than pursuant to section 5-402.1;
- (Q) Personal service establishment;
- (R) Pet supplies, grooming and training, with no overnight accommodations;
- (S) Private school, academic or commercial;
- (T) Public building;
- (U) Radio or television broadcasting office and studio;
- (V) Restaurant, other than pursuant to section 5-402.1;
- (W) Retail shopping establishment;
- (X) Social service use.

**5-410** Use limitations. ~~Health club use shall include health, athletic, and bath clubs or establishments, massage establishment, including facilities incidental to such uses; provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

**5-600 CDD/Coordinated development district.**

**5-602 Coordinated development districts created, consistency with master plan, required approvals.**

....

- (E) Within each CDD, the following uses are permitted unless in specific conflict with the approved CDD concept plan or DSUP:
  - (1) convenience store in an office complex;
  - (2) health and athletic club in an office complex.

## ARTICLE VI: SPECIAL AND OVERLAY ZONES

### 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. ~~6-608 of this ordinance; provided however that the director may determine that a special use permit approval shall be required 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 documented criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator. Alternatively, at the applicant's discretion, the applicant may seek special use permit approval for such uses pursuant to section 11-500 of this ordinance.~~

- (1) Restaurants, up to a maximum of 60 seats
- (2) Outdoor dining, up to a maximum of 16 seats
- (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

**[Procedures and standards for the Mount Vernon Overlay administrative SUPs are moved and incorporated into section 11-513]**

#### ~~6-607 Standards and procedures for administrative approvals.~~

~~(A) *Application of this Section generally.*~~

~~(1) An applicant may seek administrative approval of a use listed in section 6-603(D) pursuant to the standards and procedures outlined in this section.~~

~~(2) At the applicant's discretion, the applicant may choose, as an alternative to an administrative permit, to seek special use permit approval for such uses pursuant to section 11-500 of the zoning ordinance.~~

~~(3) Any change in the nature of the use or any enlargement, extension or increase in the intensity of that use beyond that outlined in the standards of this section shall be subject to review by the director and shall require a special use permit approved by the city council;~~

~~(4) 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) *Procedure.*~~

~~(1) Applicants for administrative permits 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, and given to nearby civic and business associations. The public may submit comments to the director within 14 days after publication of the notice.~~

~~(3) After review for compliance with the standards of this section 6-607, the director may approve, approve with conditions, or deny the application. The decision of 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. The director's decision may be appealed to the planning commission. Such appeal shall be filed within 30 days from the date of the decision appealed by filing a notice of appeal with the department of planning and zoning. Such notice shall be a written statement specifying the grounds on which the person is aggrieved and the basis for the appeal.~~

~~(C) Standards for administrative permits.—~~

~~(1) General standards for all administrative uses:—~~

~~(a) The application shall be reviewed for compliance with this section 6-607 as well as with applicable provisions of section 11-500.~~

~~(b) The director may determine that administrative approval is not appropriate and that special use permit approval shall be required 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.~~

~~(c) The administrative permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. Any change in the ownership of the use that is the subject of the administrative permit may be transferred administratively with the approval of the director pursuant to the requirements of section 11-503(F) of this ordinance.~~

~~(d) The applicant shall provide information on alternative forms of transportation to access Mt. Vernon Avenue including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. The applicant shall encourage its employees and customers to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities.~~

~~(e) At such time that a shared parking program has been adopted by the city council, the applicant shall participate in the program. In addition, the applicant shall require its employees who drive to work to use off-street parking.~~

~~(f) The applicant shall install signs inside the building indicating the location of off-street parking in the area and shall inform customers about the parking.~~

~~(g) Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those containers. Outdoor trash receptacles shall be screened to the satisfaction of the director of planning~~

~~and zoning.~~

~~(h) The applicant shall contact the crime prevention unit of the Alexandria Police Department for a security survey and robbery awareness program for employees prior to the operation of the business.~~

~~(i) Litter on the site and on public rights of way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.~~

~~(j) No outdoor speakers shall be permitted.~~

~~(k) The administrative permit approved by the director pursuant to this section 6-607 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.~~

~~(l) Improvements may be required to the facade or the front of the business establishment, including landscaping and site improvements, consistent with chapter 6 of the Mount Vernon Avenue Business Area Plan as adopted as part of the master plan, and as determined by the director to be necessary and appropriate to achieve the design and streetscape objectives of that plan.~~

~~(m) The director may require conditions additional to those listed in the standards of this section if the director finds it to be reasonable to support the use and its compatibility with surrounding uses and the neighborhood.~~

~~(2) *Specific standards for live theater:*~~

~~(a) The applicant may offer limited wine and beer sales in conjunction with performances at the intermission or one hour before the performances commence, with the appropriate licenses as required by law.~~

~~(b) The applicant may offer wine and beer in conjunction with a show opening or other wine and cheese event, with the appropriate licenses as required by law. A maximum of one event each month is permitted.~~

~~(c) The hours of performances shall be limited to 11:00 a.m. to 11:00 p.m. daily.~~

~~(d) The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol.~~

~~(3) *Specific standards for outdoor food and crafts markets:*~~

~~(a) No alcohol sales shall be permitted;~~

~~(b) No on-site storage of trailers is permitted;~~

~~(c) No on-site food preparation shall be permitted;~~

~~(d) The hours of operation shall be limited to 7:00 a.m. to sundown and the market shall be open on those days specified in the approved permit, not to exceed a maximum of two days a week.~~

~~(e) Market operations shall include:~~

~~(1) The applicant shall designate one person to serve as the market master, and another person to serve as alternate, and shall provide the names of those persons and their home and work telephone numbers to the director prior to the opening of the market;~~

~~(2) The market master or his/her designee shall be present prior to the opening of the market and at~~

~~the closing of the market and shall oversee the cleanup of the lot and adjacent sidewalk areas at the end of the market;~~

~~(3) The market master shall prepare a plan for the layout of the market for approval by the director prior to beginning operations, and shall obtain approval of the director for any changes to those plans.~~

~~(4) The market master shall prepare a set of rules for operation of the market for approval by the director who shall review any changes to those rules. Copies of those rules shall be given to each vendor, to nearby residents and businesses, and to the civic associations in the vicinity;~~

~~(5) The rules shall state who is eligible to sell goods in the market and under what conditions. It is expected that the market shall include the sale of produce, and baked and prepared goods, and that the produce will be predominantly grown by the vendors, except during the spring and late fall when resale produce may predominate;~~

~~(6) The market master shall maintain a list of vendors with addresses and telephone numbers.~~

~~(4) *Specific standards for restaurants:*~~

~~(a) The hours of operation shall be limited to 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The closing hour for indoor seating may extend until 12:00 midnight four times a year for special events.~~

~~(b) The applicant shall post the hours of operation at the entrance to the restaurant.~~

~~(c) 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.~~

~~(d) Restaurant seating shall be limited to 60 seats.~~

~~(e) Limited, non-amplified 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.~~

~~(f) 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.~~

~~(g) Beer and wine table service may be provided. No off-premise alcohol sales are permitted.~~

~~(h) No food, beverages, or other material shall be stored outside.~~

~~(i) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.~~

~~(j) 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.~~

~~(k) The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol.~~

~~(5) *Specific standards for outdoor dining:*~~

~~(a) No more than sixteen seats may be located at outdoor tables in front of the restaurant. Outdoor seating shall not encroach onto the public right of way unless authorized by an encroachment ordinance.~~

- ~~(b) The outdoor dining shall be an accessory use to an approved restaurant.~~
- ~~(c) The hours of operation of the outdoor dining area shall be limited to 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The outdoor dining area shall be cleared and washed at the close of each business day that it is in use.~~
- ~~(6) Specific standards for neighborhood outdoor garden center:—~~
  - ~~(a) The site for the outdoor garden center may be no larger than 10,000 square feet.~~
  - ~~(b) The hours of operation shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Saturday, and from 8:00 a.m. to 8:00 p.m. on Sunday.~~
  - ~~(c) A plan showing the layout of the garden center, including areas for storage, on-site deliveries, and vehicles; appropriate screening; the design of any building or structure; and the view from Mount Vernon Avenue and neighboring properties shall be submitted for review and approval by the director.~~
  - ~~(d) Deliveries shall be limited to during normal business hours and shall occur in the location shown in the approved plan.~~
- ~~(7) Specific standards for outdoor display. Notwithstanding any contrary provisions of this ordinance, the display of goods from a retail sales establishment is permitted, subject to the following:—~~
  - ~~(a) The requirements of section 4-107(A) shall apply.~~
  - ~~(b) Only goods from the adjacent store are permitted to be displayed.~~
  - ~~(c) Signage for the outdoor display is allowed in addition to signage otherwise permitted for the business, but shall be limited to a maximum aggregate size of one square foot.~~
  - ~~(d) No sales may occur in the outdoor display area.~~
  - ~~(e) The outdoor display area may include no structures or other permanent changes to the exterior.~~
  - ~~(f) There shall be no music, speakers, or amplified sounds associated with the outdoor display.~~
  - ~~(g) The approved duration of the outdoor display shall be specified in the permit which may but is not required to be limited to four times a year.~~
  - ~~(h) The outdoor sales may not encroach into the public right of way.~~

## **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:

*Ground floor uses:* Retail and other active uses are emphasized in the ground floor uses category. The ground floor uses category applies to uses to be located in the space within the first 50 feet of a building, measured from the front building wall, and in a building that is set back no further than 30 feet from a front property and with a first floor of the building within four feet above the sidewalk grade.

*Upper floor uses:* The second category of uses is all space that is not located within the ground floor of a building, as that is defined above. Upper floor uses may be located on floors above the ground floor, in the space on the ground floor beyond the 50 feet threshold for ground floor uses, and in buildings not considered retail appropriate because they are elevated above grade or set back an excessive distance from the street as expressed above.

(A) *Ground floor uses*

(1) *Permitted uses.*

- (a) Building lobby, with a frontage of less than 30 feet along King Street;
- (b) City sponsored farmers' market;
- (c) Personal service establishment, with a frontage of less than 30 feet along King Street;
- (d) Pet supplies, grooming/training with no overnight accommodations;
- (e) Retail shopping establishment, less than 10,000 square feet in size;
- (f) Utilities, as permitted by section 7-1200;
- (g) Accessory uses.

(2) *Special uses:*

- (a) Amusement enterprise;
- (b) Bakery, exceeding 3500 square feet, which includes a retail component;
- (c) Church;
- (d) Convenience store;
- (e) Health and athletic club;
- (f) Hotel;
- (g) Outdoor food and craft market;
- (h) Motor vehicle parking and storage, including as an accessory use to accommodate required parking, in a structure that is visually screened with active uses for at least 25 feet, measured from the property line on King Street.
- (i) Personal service establishment or building or hotel lobby, extending for more than 30 feet along King Street;
- (j) Public building;
- (k) Restaurant;
- (l) Retail shopping establishment, over 10,000 square feet in size;

(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;
- (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) Day care center, day nursery or nursery school;
- (f) Home for the elderly;
- (g) Fraternal or private club;
- (g.1) Massage establishment;
- (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: ~~6-706 of this ordinance; provided however that the director may determine that a special use permit approval shall be required 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 documented criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator. Alternatively, at the applicant's discretion, the applicant may seek special use permit approval for such uses pursuant to section 11-500 of this ordinance.~~

~~(1) Outdoor dining, up to a maximum of 20 seats, pursuant to section 6-706 and the King Street outdoor dining overlay zone, section 6-800;~~

(1) Valet parking;

**[Standards and procedures for King Street administrative SUPs are moved and incorporated into section 11-513]**

~~**6-706 Standards and procedures for administrative approvals.**~~

~~(A) *Application of this section generally.*~~

~~(1) An applicant may seek administrative approval of a use listed in section 6-702(C) pursuant to the standards and procedures outlined in this section 6-706.~~

~~(2) At the applicant's discretion, the applicant may choose, as an alternative to an administrative permit, to seek special use permit approval for such uses pursuant to section 11-500 of the zoning ordinance.~~

~~(3) Any change in the nature of the use or any enlargement, extension or increase in the intensity of that use beyond that outlined in the standards of this section 6-706 shall be subject to review by the director and may require a special use permit approved by the city council;~~

~~(4) 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) Procedure.—~~

~~(1) Applicants for administrative permits 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, and given to nearby civic and business associations. The public may submit comments to the director within 14 days after publication of the notice.~~

~~(3) After review for compliance with the standards of this section 6-706, the director may approve, approve with conditions, or deny the application. The decision of 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. The director's decision may be appealed to the planning commission. Such appeal shall be filed within 30 days from the date of the decision appealed by filing a notice of appeal with the department of planning and zoning. Such notice shall be a written statement specifying the grounds on which the person is aggrieved and the basis for the appeal.~~

~~(C) Standards for administrative permits.—~~

~~(1) General standards for all administrative uses :-~~

~~(a) The application shall be reviewed for compliance with this section 6-706 as well as with applicable provisions of section 11-500.~~

~~(b) The director may determine that administrative approval is not appropriate and that special use permit approval shall be required 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 documented criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator.~~

~~(c) The administrative permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. Any change in the ownership of the use that is the subject of the administrative permit may be transferred administratively with the approval of the director pursuant to the requirements of section 11-503(F) of this ordinance.~~

~~(d) The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities.~~

~~(e) The applicant shall require its employees who drive to work to use off-street parking.~~

- ~~(f) The applicant shall participate in any organized program to assist with both employee and customer parking for businesses, such as the Park Alexandria program, that is formed as a result of suggested parking strategies in the King Street retail strategy.~~
- ~~(g) The applicant shall install signs inside the building indicating the location of off-street parking in the area, post similar information on the business' website and otherwise inform customers about the parking.~~
- ~~(h) Trash and garbage shall be stored inside the building or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those containers.~~
- ~~(i) The applicant shall contact the crime prevention unit of the Alexandria Police Department for a security survey and robbery awareness program for employees prior to the operation of the business.~~
- ~~(j) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and cleaned up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.~~
- ~~(k) No amplified sound shall be audible at the property line.~~
- ~~(l) The administrative permit approved by the director pursuant to this section 6-706 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.~~
- ~~(m) Improvements may be required to the facade or the front of the business establishment, including landscaping and site improvements, consistent with the King Street retail strategy as adopted as part of the master plan, and as determined by the director to be necessary and appropriate to achieve the design and streetscape objectives of that strategy.~~
- ~~(n) The director may require conditions additional to those listed in the standards of this section if the director finds it to be reasonable to support the use and its compatibility with surrounding uses and the neighborhood.~~
- ~~(2) *Specific standards for valet parking.*—~~
- ~~(a) The applicant shall submit a detailed plan for approval by the director and the director of transportation and environmental services. The plan shall include the following at a minimum:~~
- ~~(1) The location of the drop-off area as well as the location for the parked vehicles to be stored;~~
- ~~(2) The proposed days and hours of operation of the valet parking plan;~~
- ~~(3) The number of spaces available at the vehicle storage site, which shall be of sufficient capacity for the use or uses from which vehicles will be valeted;~~
- ~~(4) Adequate assurance that the owner and operator of the vehicle storage site is agreeable to the proposed valet plan;~~
- ~~(5) The size and design of the drop-off site and identification of any on-street parking spaces that will be lost during the period that the valet parking plan is in effect, such spaces to be kept to a minimum;~~
- ~~(6) Demonstration that the location of the drop-off site will not interfere with traffic, remaining parking, bus stops, or transit passengers or pedestrians;~~

- ~~(7) The proposed graphics for the drop-off site, including signage and uniformed staff, with sufficient visibility but designed to be compatible with the streetscape as determined by the director;~~
- ~~(8) The proposed number of attendants, which shall be sufficient to adequately staff the operation;~~
- ~~(9) If the proposed valet plan includes more than one business, the identity of the party or entity responsible for compliance with the approved valet parking plan.~~
- ~~(b) No vehicle shall be parked or temporarily stored by an attendant on streets, alleys, or sidewalks.~~
- ~~(c) No structures are permitted in conjunction with a valet parking program, unless associated with a shared parking program among several businesses, and only after the design is reviewed for comment by the Old and Historic Alexandria district board of architectural review.~~
- ~~(d) An approved permit for a valet parking operation shall be valid for an initial six month period, after which it shall be reviewed for compliance with these standards and for its effectiveness in handling the drop-off, ferrying, parking and retrieving of vehicles efficiently and effectively, and without undue interference with non-valet parking and traffic. If, on review, the directors determine that the valet parking program has operated successfully and in compliance with its permit, then the permit shall be extended indefinitely, with a similar review to occur at the end of each one year period from that point forward. As part of the initial or annual review under this paragraph, the directors may require the operator to adjust the features of the program or, alternatively, to apply for a special use permit if there are concerns about the effectiveness, success or impacts of the valet parking program.~~
- ~~(e) The provisions of section 8-300 of this ordinance, requiring an SUP for valet parking, shall not apply for valet parking approved under this section 6-706(C)(3). In addition, a permit approved under this section may authorize valet parking to displace otherwise required parking spaces, notwithstanding the requirements of section 8-200, if it is determined that those spaces are not in demand during the times that the valet parking program will be in effect and that the use of the spaces for the valet parking program will reduce potential parking congestion on the public streets.~~

### **6-707 Use limitations.**

- (A) All operations, except those administrative uses enumerated in section 6-702(C) (1) 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) Health club use shall include health, athletic, and bath clubs or establishments, including facilities incidental to such uses, provided, however, that a special use permit granted for the operation of a massage establishment as defined in section 11-4-1 of the city code shall apply exclusively to the permittee named therein and shall not be transferable to any other firm or individual.~~

(DE) 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.

## ARTICLE XI: DEVELOPMENT APPROVALS AND PROCEDURES

Sec. 11-500 Special use permits.

11-503 Procedure.

~~(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 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, no more than the following increases:

    - (i) two additional hours of operation, but not to exceed hours consistent with an established neighborhood standard;
    - (ii) 10% additional restaurant seats;
    - (iii) 10% additional classroom seats;
    - (iv) 10% additional equipment;
    - (v) 10% additional floor area;
    - (vi) similar increases for other aspects of the use;
  - (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, constitutes no more than a single minor amendment as defined by Section 11-511 and when compared to the original approval.
- (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.

- (B) New Conditions. New conditions or amendments to existing conditions may be added if they are either:
- (a) standard conditions promulgated by the director, approved by City Council and agreed to by the applicant in writing; or
  - (b) 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.
- (C) Procedure.
- (1) The Director shall placard the property, cause email notice to the affected civic associations 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 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 aggrieved** 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 aggrieved** 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.

~~11-511 Administrative approval of minor changes. The director is authorized to approve those changes to an approved special use permit which constitute no more than a minimal enlargement or extension of the special use, where the director determines that [the] following requirements are met:-~~

- ~~(A) There have been no written or oral complaints that the use is in violation of the zoning ordinance.~~
- ~~(B) At the time the special use permit was approved, no opposition was presented to the planning commission or the city council by persons speaking at a public hearing or submitting written comments.~~
- ~~(C) The proposed changes do not involve an increase in the intensity of the use. An increase in the following, without limitation, would typically constitute an increase in intensity of use:~~

- ~~(1) Hours of operation;~~
- ~~(2) Number of seats;~~
- ~~(3) Number of employees, visitors or customers; or~~
- ~~(4) Number of vehicle trips generated.~~
- ~~(D) In addition to publishing newspaper notice of the proposed changes, the director has notified the planning commission and each docket subscriber under section 11-304, and no person, including a planning commission member, has requested that the proposal be docketed for consideration by the planning commission.~~
- ~~(E) The changes are so insignificant that they will have little or no zoning impact on the adjacent properties or the neighborhood.~~
- ~~(F) No new conditions and no amendments to existing conditions are necessary.~~
- ~~(G) 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 a city sponsored festival, event, or promotional program in which the business is participating.~~

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, and prominently posted on the department web page in a list of pending administrative applications for review by the public. The public may submit comments to the director regarding the application. No application may be approved sooner than 21 days from the time notice is given to the public.
- (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 aggrieved** 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 aggrieved** 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 aggrieved** 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 aggrieved** and the grounds of appeal, with the city clerk within 14 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.

(C) General standards for all administrative uses:

- (1) The administrative permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. Any change in the ownership of the use that is the subject of the administrative permit may be transferred administratively with the approval of the director pursuant to the requirements of section 11-511 of this ordinance.
- (2) The applicant shall provide information about alternative forms of transportation to access the location of the use, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods.
- (3) The applicant shall encourage its employees and customers to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities.
- (4) At such time as an organized parking program is adopted by city council to assist with employee or customer parking for the area in which the subject property is located, such as a shared parking program or the Park Alexandria program, the applicant shall participate in the program.
- (5) The applicant shall require its employees who drive to work to use off-street parking.
- (6) The applicant shall install signs inside the building indicating the location of off-street parking in the area and shall inform customers about the parking.
- (7) Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those containers. Outdoor trash receptacles shall be screened to the satisfaction of the director.
- (8) The applicant shall contact the crime prevention unit of the Alexandria Police Department for a security survey and robbery awareness program for employees prior to the operation of the business.
- (9) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.
- (10) The use must comply with the City's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line.
- (11) The administrative permit approved by the director pursuant to this section 11-513 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.
- (12) Improvements may be required to the facade or the front of the business

establishment, including landscaping and site improvements, consistent with design guidelines and principles enumerated in the adopted small area plan for the neighborhood, and as determined by the director to be necessary and appropriate to achieve the design and streetscape objectives of that plan.

- (13) The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and methods to prevent underage sales of alcohol.
  - (14) The director may require conditions additional to those listed in the standards of this section if the director finds it to be reasonable to support the use and its compatibility with surrounding uses and the neighborhood.
  - (15) The request will not significantly and negatively impact nearby residential neighborhoods.
- (D) *Specific standards for day care in a church or school building.*
- (1) The facility shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
  - (2) The facility shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
  - (3) The facility shall be located on a site so that adequate distance or buffering is provided to protect nearby residential uses from impacts from the use.
- (E) *Specific standards for live theater:*
- (1) The applicant may offer limited wine and beer sales in conjunction with performances at the intermission or one hour before the performances commence, with the appropriate licenses as required by law.
  - (2) The applicant may offer wine and beer in conjunction with a show opening or other wine and cheese event, with the appropriate licenses as required by law. A maximum of one event each month is permitted.
  - (3) The hours of performances shall be limited to 11:00 a.m. to 11:00 p.m. daily.
- (F) *Specific standards for outdoor food and crafts markets:*
- (1) No alcohol sales shall be permitted;
  - (2) No on-site storage of trailers is permitted;
  - (3) No on-site food preparation shall be permitted;
  - (4) The hours of operation shall be limited to 7:00 a.m. to sundown and the market shall be open on those days specified in the approved permit, not to exceed a maximum of two days a week.
  - (5) Market operations shall include:
    - (a) The applicant shall designate one person to serve as the market master, and another person to serve as alternate, and shall provide the names of those persons and their home and work telephone numbers to the director prior to the opening of the market;

- (b) The market master or his/her designee shall be present prior to the opening of the market and at the closing of the market and shall oversee the cleanup of the lot and adjacent sidewalk areas at the end of the market;
  - (c) The market master shall prepare a plan for the layout of the market for approval by the director prior to beginning operations, and shall obtain approval of the director for any changes to those plans.
  - (d) The market master shall prepare a set of rules for operation of the market for approval by the director who shall review any changes to those rules. Copies of those rules shall be given to each vendor, to nearby residents and businesses, and to the civic associations in the vicinity;
  - (e) The rules shall state who is eligible to sell goods in the market and under what conditions. It is expected that the market shall include the sale of produce, and baked and prepared goods, and that the produce will be predominantly grown by the vendors, except during the spring and late fall when resale produce may predominate;
  - (f) The market master shall maintain a list of vendors with addresses and telephone numbers.
- (6) All vendors shall adhere to, and the market master shall enforce, appropriate food safety guidelines developed by the Alexandria Health Department.

(G) Specific standards for outdoor garden center:

- (1) The site for the outdoor garden center may be no larger than 10,000 square feet.
- (2) The hours of operation shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Saturday, and from 8:00 a.m. to 8:00 p.m. on Sunday.
- (3) A plan showing the layout of the garden center, including areas for storage, on site deliveries, and vehicles; appropriate screening; the design of any building or structure; and the view from Mount Vernon Avenue and neighboring properties shall be submitted for review and approval by the director.
- (4) Deliveries shall be limited to during normal business hours and shall occur in the location shown in the approved plan.
- (5) The use shall be located a suitable distance or otherwise protected from nearby residential uses in order to avoid undue impacts.

(H) Specific standards for outdoor display Notwithstanding any contrary provisions of this ordinance, the display of goods from a retail sales establishment is permitted, subject to the following:

- (1) The requirements of section 4-107(A) shall apply.
- (2) Only goods from the adjacent store are permitted to be displayed.
- (3) Signage for the outdoor display is allowed in addition to signage otherwise

permitted for the business, but shall be limited to a maximum aggregate size of one square foot.

- (4) No sales may occur in the outdoor display area.
- (5) The outdoor display area may include no structures or other permanent changes to the exterior.
- (6) There shall be no music, speakers, or amplified sounds associated with the outdoor display.
- (7) The approved duration of the outdoor display shall be specified in the permit which may but is not required to be limited to four times a year.
- (8) The outdoor sales may not encroach into the public right-of-way.

(I) *Specific standards for catering operation.*

- (1) The applicant shall post the hours of operation at the entrance of the business.
- (2) No alcohol service is permitted.
- (3) No food, beverages, or other material shall be stored outside.
- (4) The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by Transportation & Environmental Services.
- (5) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.
- (6) 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](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132.
- (7) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.

(J) *Specific standards for light automobile repair.*

- (1) Repair work done on the premises shall be limited to light automobile repair.
- (2) No repair work shall be done outside.
- (3) No junked, abandoned, or stripped vehicles shall be parked or stored outside.
- (4) No vehicles shall be loaded or unloaded on the public right-of-way.
- (5) No debris or vehicle parts shall be discarded on the public right-of-way.
- (6) No vehicles shall be displayed, parked, or stored on a public right-of-way.
- (7) No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure.
- (8) The area around the building shall be kept free of debris and maintained in an orderly and clean condition.

- (9) All waste products including but not limited to organic compounds (solvents), motor oils, and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and shall not be discharged to the sanitary or storm sewers.
- (10) The applicant shall comply with the City of Alexandria Best Management Practices manual for automotive related industries. Contact the T&ES Engineering division (703)383-4327 to obtain a copy of the manual.
- (11) The applicant shall control odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- (12) Car wash discharges resulting from a commercial operation shall not be discharged into a storm sewer. It is recommended that the car washes be done at a commercial car wash facility.

(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) The applicant shall submit a plan for review and approval to the Health Department that includes proposed methods of ventilation, storage and operations in order to address issues including, without limitation, noise, and waste and odor control.

(L) Specific standards for restaurants.

- (1) The number of seats at the restaurant may not exceed 60.
- (2) The restaurant shall offer full service, including printed menus and wait service provided at tables and preset tables with nondisposable tableware.
- (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, Saturday and Sunday, 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 Mount Vernon Avenue Overlay zone and the NR zone 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](http://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.
- (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) Within the NR zone area, parking is not required for the first 16 outdoor seats.
- (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.

(N) *Specific standards for valet parking.*

- (1) The applicant shall submit a detailed plan for approval by the director and the director of transportation and environmental services. The plan shall include the following at a minimum:
  - (a) The location of the drop off area as well as the location for the parked vehicles to be stored;
  - (b) The proposed days and hours of operation of the valet parking plan;
  - (c) The number of spaces available at the vehicle storage site, which shall be of sufficient capacity for the use or uses from which vehicles will be valeted;
  - (d) Adequate assurance that the owner and operator of the vehicle storage site is agreeable to the proposed valet plan;
  - (e) The size and design of the drop off site and identification of any on street parking spaces that will be lost during the period that the valet parking plan is in effect, such spaces to be kept to a minimum;
  - (f) Demonstration that the location of the drop off site will not interfere with traffic, remaining parking, bus stops, or transit passengers or pedestrians;
  - (g) The proposed graphics for the drop off site, including signage and uniformed staff, with sufficient visibility but designed to be compatible with the streetscape as determined by the director;
  - (h) The proposed number of attendants, which shall be sufficient to adequately staff the operation; and
  - (i) If the proposed valet plan includes more than one business, the identity of the party or entity responsible for compliance with the approved valet parking plan.
- (2) No vehicle shall be parked or temporarily stored by an attendant on streets, sidewalks.
- (3) No structures are permitted in conjunction with a valet parking program, unless associated with a shared parking program among several businesses, and only after the design is reviewed for comment by the Old and Historic Alexandria district board of architectural review.

- (4) An approved permit for a valet parking operation shall be valid for an initial six month period, after which it shall be reviewed for compliance with these standards and for its effectiveness in handling the drop off, ferrying, parking and retrieving of vehicles efficiently and effectively, and without undue interference with non-valet parking and traffic. If, on review, the directors determine that the valet parking program has operated successfully and in compliance with its permit, then the permit shall be extended indefinitely, with a similar review to occur at the end of each one year period from that point forward. As part of the initial or annual review under this paragraph, the directors may require the operator to adjust the features of the program or, alternatively, to apply for a special use permit if there are concerns about the effectiveness, success or impacts of the valet parking program.
- (5) The provisions of section 8-300 of this ordinance, requiring an SUP for valet parking, shall not apply for valet parking approved under this section 11-513(M). In addition, a permit approved under this section may authorize valet parking to displace otherwise required parking spaces, notwithstanding the requirements of section 8-200, if it is determined that those spaces are not in demand during the times that the valet parking program will be in effect and that the use of the spaces for the valet parking program will reduce potential parking congestion on the public streets.

<b>STANDARDS FOR ADMINISTRATIVE RESTAURANT SUPS, BY NEIGHBORHOOD: [This is the original standards as presented to Planning Commission on May 6, 2008. See <u>page 128</u> for standards updated by staff and recommended by Planning Commission]</b>					
<i>Neighborhood</i>	<b>ARLANDRIA</b>	<b>MOUNT VERNON</b>	<b>CARLYLE</b>	<b>OLD TOWN</b>	<b>PROPOSED CITYWIDE</b>
<i>Restaurant Type</i>	N/A	N/A	Full service only Host or hostess Printed menus and wait service at preset tables with non disposable tableware	Same as citywide	Full service only Printed menus and wait service at preset tables with non disposable tableware
<i>Seats Allowed</i>	60 seats	60 seats	No limit	60 seats	60 seats
<i>Hours of Operation</i>	7am-11pm	7-10 Sun-Th 7-11 Fri - Sa Outdoor: same Indoor: 12midn for 4xyear	Midnight	Same as citywide	Prevailing in area, but no more than 5a – 12midnight Outdoor: same
<i>Entertainment</i>	Limited non amplified entertainment 2 performer maximum	Limited non amplified entertainment No cover Subordinate to restaurant	No limit	Same as citywide	Limited entertainment No cover or admission charge Subordinate in nature and scope to restaurant
<i>Alcohol</i>	Beer and wine service	Beer and wine table service No off premise	No limit No off premise sales No alcohol deliveries	Beer and wine service No off premise sales No alcohol deliveries	Beer, wine and alcohol no off premise sales no alcohol deliveries
<i>Delivery</i>	Delivery with 40 seats, limited to one vehicle with dedicated non public space	Same	Nonvehicular deliveries	Nonvehicular deliveries	Same as Arlandria and Mount Vernon
<i>Outdoor Seating</i>	No outdoor dining	Outdoor seats: 16 No parking required for 1st 16 seats		King St Outdoor dining overlay applies in CBD. Outside CBD: same as citywide but no parking for 1 <sup>st</sup> 8 seats	Outdoor seats: 20 No live entertainment No signs in the outdoor area Plan approved by staff Full parking required

# City of Alexandria, Virginia

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## MEMORANDUM

DATE: JUNE 20, 2008

TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: FAROLL HAMER, DIRECTOR, PLANNING AND ZONING

SUBJECT: UPDATE: SMALL BUSINESS ZONING TEXT CHANGES

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### **I. SUMMARY OF CHANGES**

This memo updates the Planning Commission as to the outreach activities, issues, and staff's newly proposed zoning text changes since the Commission's May 6 hearing on the Small Business Zoning project. In response to concerns expressed at that hearing and since then, staff is recommending amendments to its prior proposal with regard to the minor amendment process, the administrative SUP appeal process, and the standards for approval of administrative SUPs for certain neighborhoods. Staff is proposing the following changes from its May 6 recommendation:

- Minor amendment process text changes:
  - Revised language to prohibit approval if there were violations within last five years;
  - Added more specific examples of increases in intensity;
  - Added language prohibiting incremental changes beyond what is allowed for one minor amendment; and
  - Added appeal to Planning Commission.
- Administrative SUP Process
  - Added more detailed language for appeals, and
  - Added an appeal to City Council.
- Standards for administrative SUPs
  - Added new standard for all uses: the use will not significantly and adversely impact nearby residential neighborhoods;
  - Added new standards for catering and light auto repair, consistent with staff's May 6 memo re text changes;

- Added new language to citywide standards for restaurants regarding the location of parking signs and need to keep all components of outdoor dining within the private, approved area.
- Combined the Mount Vernon Overlay (Del Ray) and NR Zone (Arlandria) restaurant standards with standards applicable citywide. For Mount Vernon and NR, neighborhood representatives are agreeable to most of the previously proposed citywide standards, although a few distinctions (hours, alcohol at table service, and parking for outdoor dining in Arlandria) which have been noted in the standards, remain.
- Deleted the Old and Historic Alexandria District from the application of the administrative SUP standards for restaurants and deleted the administrative SUP use from the KR zone.

The documents the Planning Commission and public should review on this matter include:

- This June 20 memorandum discussing the updates to the prior proposal, including its several exhibits;
- The May 6 staff report, with proposed zoning text changes attached, with pages numbered consecutively. This document has been updated to reflect the current changes. The staff report includes notes to the reader to alert them where this June 20 memo updates the May 6 information. The last portion of the zoning text attached to the May staff report includes the procedural provisions that have received the most attention and include all of the revisions. ~~See pp. 109 through 125 [now pp. 110-122].~~ All substantive changes to the zoning text are shown in underlining and ~~strikeout~~.

## **II. OUTREACH: DISCUSSIONS WITH THE COMMUNITY**

In the last two months, staff has engaged in a series of discussions with both community and business groups, held an information session for the public generally, and attempted to disseminate as much information and answer as many questions about the proposed zoning changes as possible. Since the May 6 Planning Commission hearing, staff has met with and/or communicated directly with representatives of:

Seminary Hill Association

Old Town Civic Association

Del Ray Citizens Association

Arlandria (Arlandria Civic Association, Tenants and Workers Support Group, and Chirilagua Cooperative Housing Association)

Warwick Village Civic Association

Rosemont Civic Association

Inner City Civic Association  
Northridge Civic Association  
Cameron Station Civic Association  
Old Town Business and Professional Association  
West End Business Association  
Queen Street Business Association  
Retailers Off King Street  
Eisenhower Partnership  
Del Ray Business Association

In addition, staff held a well-advertised Information Session on May 29 to provide a forum for explaining and clarifying the material, answering questions and sharing staff's ideas for revisions to the minor amendment and administrative SUP procedures. Additional civic and business associations were represented at the meeting, including:

Notice Citizens Association  
Lynhaven Civic Association  
Vital Public Spaces  
Chamber of Commerce  
Small Business Development Center  
Federation of Civic Associations  
Brookville-Seminary Valley Civic Association

A copy of the full history of outreach efforts and events attending the proposed Small Business Zoning project is attached as Exhibit 1 to this memo.

### **III. MINOR AMENDMENT PROCESS.**

The existing minor amendment procedures and criteria, found at section 11-509 of the zoning ordinance, have been specifically identified by businesses as being too limited to be of practical effect, with the result that essentially any change to an existing approved SUP business requires a full set of public hearings before the Commission and Council for approval. The Small Business Task Force therefore recommended that the ordinance be changed to allow more SUP amendments to be approved administratively. However, there was significant concern expressed at the May 6 hearing by members of the public as well as the Commission with regard to staff's proposed changes. Specific issues cited included the general nature of the language, the lack of specific examples of what would and would not be considered "minor," and the potential for SUP violators to take advantage of the administrative approval process.

In an effort to maintain the intent of the Small Business Task Force but to address concerns, staff is suggesting a series of changes to its original proposal. Staff has discussed most of these changes with the public already and created two documents to assist that effort which were disseminated at

the Information Session on May 29. A document styled Minor Amendment Procedure, attached as Exhibit 2, discusses the concept of minor amendments in the land use context generally. It cites the universal difficulty of defining “minor” with precision, but attempts to clarify the concept for Alexandria’s SUP system with a series of examples of cases that would and would not fit within the definition. The paper also discusses a series of potential text changes, some of which have been incorporated in staff’s current recommendations to address the public and Commission’s concerns.

1. *Violations.* On the issue of whether to allow a minor amendment in the case of an SUP use which has been in violation of its conditions, staff originally recommended the same test as has long applied to change of ownership applications:

*No substantiated violations of SUP conditions which were not corrected immediately, constitute material or repeat violations or which created a material or direct adverse impact on the surrounding community.*

In light of concerns about distinguishing among different degrees and types of violations, staff is now recommending that a use be allowed to proceed with a minor amendment application only if it has been violation-free for the last five years. In this way, a use with a poor enforcement history that improved over time and has not had violations in the recent past may proceed, but those with any violations in the last five years may not. Staff thinks this standard balances the need to require violators to be heard before the Commission and Council, but allows those who have improved to avail themselves of the administrative process.

2. *Examples of increases in intensity.* Another area of concern was section 11-511(A)(2)(b) of staff’s proposed minor amendment language because, while it states that minor amendments may not change the character of the use or increase the overall intensity of it, the examples in the proposal related mainly to restaurants, and did not give the public sufficient clarity to provide comfort with the changes. In response, in addition to Exhibit 2 which gives examples of cases that do and do not qualify for a minor amendment, staff has amended the actual zoning text to cover a variety of contexts as well as restaurants. Staff recommends the following amended text that may more clearly express the criteria for the minor amendment process.

(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; and
- (b) the proposal will not change the character of the use or increase its overall intensity, including, **without limitation**, by no more than the following increases:
  - (i) **no more than two** additional hours of operation, but not to exceed hours

consistent with nearby uses **the neighborhood standard**:

(ii) 10% additional seats for a restaurant;

**(iii) 10% increase in classroom seats;**

**(iv) 10% increase in added equipment;**

**(v) 10% increase in floor area; and**

~~(iv)~~ **(vi)** similar increases for other ~~aspects~~ **elements** of the use.

(**Bold** text indicates language change from May 6 proposal)

3. *Incremental changes over time.* Language has been added to the text making clear that amendments will be considered in the aggregate; an amendment can be approved only when, in conjunction with all amendments since approval, they remain “minor” as defined by the zoning ordinance and when compared to the original approval. Thus, a 100 seat restaurant may seek 10 additional seats only once. A subsequent request for additional seats would trigger the need for a full SUP process.

4. *Appeal to Planning Commission.* Finally, staff has added an appeal to the minor amendment process. It is similar to the appeal for administrative SUPs, although the Planning Commission will have the authority to make a final decision. It provides that “aggrieved” parties may appeal, allows appeals to be filed within 30 days of a decision, and requires a properly noticed public hearing at the Planning Commission. Although this suggestion arose after staff’s paper and Information Session, staff thinks it will supply an added layer of safeguard to the process.

Together these changes should provide both clarity and safeguards for a process that assists small businesses with normal and practical changes that occur over time. Exhibit 3 provides a comparison of the existing zoning language (left handed column), the May 6 staff proposal (middle column), and the above proposed changes (right handed column).

#### **IV. ADMINISTRATIVE SUP PROCEDURE**

Questions and comments were raised at the Planning Commission hearing, as well as in staff’s meetings with citizens and businesses, suggesting that more explanation is needed for comfort with the proposed administrative SUP process. Staff has pointed out that the process was originally designed as part of the Arlandria planning effort for the then new NR zone. It was refined for administrative SUPs adopted as part of the Mount Vernon Overlay Zone. To aid the public with the overall process as well as the steps that are part of it, staff disseminated the attached flow chart (Exhibit 4) and discussed it at its May 29 Information Session.

Considerable attention at the Commission hearing focused on the appeal that is part of the administrative SUP process. To address the concerns raised, staff is proposing additional language in its current zoning text, expanding on the original appeal provisions, providing more detail regarding the process, appeal requirements, and decisions on appeal. In addition, staff is proposing that the process be expanded to include an appeal to City Council from the Planning Commission

appellate decision, if necessary. The new language on appeals is included in staff's proposed text at section 11-513(B). In order to balance the benefit of providing an appeal with the time involved, staff intends to bring all appeals to the Commission and Council as soon as is legally possible: at the very next scheduled meeting for which the required notice can be given.

There have been questions about exactly who may appeal an administrative SUP decision by the Director, and how the term "aggrieved" is defined to identify those with appeal rights. The City Attorney's office has assisted on this issue, which was discussed further at staff's Information Session. Planning staff expects a City Attorney representative to be present on July 1 to discuss this issue further, if the Commission seeks additional information.

Finally, it has been suggested that staff prepare a user-friendly version of the administrative SUP standards, in the form of a checklist, for use by applicants, the public, staff and others, so that understanding the requirements for individual uses can be easier, clearer and more immediate. Staff has prepared a draft, working checklist and discussed it with some participants in this process. Staff endorses the idea and, when the final administrative standards are adopted, will complete the checklist for use and dissemination by Planning and Zoning.

## V. RESTAURANTS

Staff's general recommendation for restaurants remains unchanged from its original proposal.

- In specific locations (shopping centers, hotels and industrial buildings), it proposes that restaurants be permitted without any special oversight.
- In other locations citywide, an administrative SUP should be available for restaurants of a limited size and type.
- Restaurants that do not meet the criteria for either of these two zoning elements must still be approved by a full SUP.

1. Restaurant regulations in other jurisdictions. Staff has researched the numerous other jurisdictions in the Washington, D.C. region to assess each one's restaurant regulations. In summary, Alexandria stands alone in its approach to restaurants; no other jurisdiction in the region requires an SUP, or any other special approval, for each and every restaurant within its borders. Some jurisdictions require special approval for certain types of restaurants (e.g., fast food) or for including certain characteristics in the restaurant (e.g. entertainment, drive through window, reduced parking, delivery). The most common approach is to require special approval for certain restaurants or certain characteristics *and to do that only in certain locations or zones* within the jurisdiction. The range of different approaches is complex and multifaceted; it is not simple to present because each jurisdiction has its own zone names, definitions, and regulatory arrangements. Nevertheless, staff has attempted to summarize each jurisdiction's regulations in the attached memorandum, Exhibit 6.

2. Mount Vernon Avenue and Arlandria restaurants. With the additional time allowed to consider the small business zoning changes, representatives of both Del Ray and Arlandria have suggested that the specific administrative regulations for their areas be amended to be, in large part, the same as the administrative standards staff proposed for application citywide. There are still a few distinctions between the citywide standards and the ones for these two neighborhoods, but they are very limited. For example, both neighborhoods are agreeable to allowing full alcohol service in addition to beer and wine, but both seek to limit it to table service only. The hours of operation for both neighborhoods will be slightly different from the citywide approach. Del Ray's land use representative has suggested a few good additions to the regulations that staff is adopting for its citywide approach, including the notion that none of the outdoor dining area, including all its component parts, such as planters and wait stations, may be located in the public right of way.

While neighborhood representatives and staff have come to agreement on near-all of the neighborhood's proposals, there remain a few that staff cannot support. First, several suggestions by Del Ray were already covered or otherwise not necessary. For example, Del Ray suggests that a distinction be made between those restaurants that have a parking reduction and those that do not. It would allow only the latter, what it labels "full-complying" restaurants, to apply for the limited live entertainment and limited delivery service outlined in the administrative regulations. However, a restaurant that requires a parking reduction SUP will necessarily be required to obtain an SUP for the restaurant, so the administrative regulations will not apply.

As to outdoor dining, Del Ray and Arlandria's recommendation is to increase the number of outdoor seats permitted (from 16 to 20) to be consistent with the citywide approach, but to decrease the number of outdoor seats that do not have to meet parking requirements (from 16 to 8). Staff is recommending, and has amended the zoning text to show, an increase in the number of seats within the Mount Vernon Overlay and NR zone areas to be consistent with the citywide rules (20), and retaining the number of parking-free seats as originally adopted for Del Ray (16). The alternative would be to retain both the number of seats (16) and parking-free seats (16) as originally adopted for Del Ray. No specific language is necessary in the administrative standards with regard to parking in Del Ray because that provision is already captured in the parking rules within the Mount Vernon Overlay Zone, at section 6-604(B). Staff has added language for Arlandria, exempting the first 16 seats of outdoor dining.

With these changes, and the several compromises and agreements between staff and Del Ray and Arlandria, staff has eliminated the separate sections for those neighborhoods in the administrative standards for restaurants. Where slightly different standards apply, staff has noted those distinctions within the list of standards that apply citywide. This change makes for a more streamlined, less cumbersome, zoning text.

3. Old Town restaurants. Staff has met with representatives from Old Town Civic Association, who remain steadfast in their opposition to staff's original recommendation to allow small, full-service restaurants within the Old and Historic District by administrative SUP. Staff has now changed its

recommendation, having been convinced that the uniqueness of Old Town can support a different approach from the remainder of the City. First, staff agrees that Old Town is a uniquely important area of the City, and that it includes characteristics, both in terms of its history and the proximity of homes to businesses, which other neighborhoods do not possess to the same degree. In addition, one of the factors favoring an administrative process for restaurants – providing an incentive for small, independent, new businesses to open – which is so important for Cameron Station, Del Ray, Arlandria, Inner City and Carlyle, is not as strong in Old Town.

Finally, and perhaps most importantly, staff is aware that in 2005, when staff recommended an administrative SUP program for restaurants on King Street as part of the King Street Retail Strategy, Council disagreed. Old Town Civic Association representatives view that action as simply too recent to fairly revisit the question. The last three years have included events which led staff to endorse the administrative SUP with its business-friendly approach for Old Town, as well as the remainder of the City, including the opening of National Harbor, the water taxi, and the King Street trolley; increased property values and average incomes citywide, which results in increased disposable income for restaurant dining; new leadership at ACVA; and continued attention to making King Street as healthy and vital as possible.

Staff views the principal land use issues that relate to King Street businesses as (1) providing adequate parking for businesses and (2) the appropriate mix of uses along the street, including the balance between retail and restaurants as well as fast food and chain restaurants. However, staff does not believe either the SUP or the administrative SUP process is the appropriate mechanism for fully addressing those needs. Staff is committed to working with both businesses and residents in Old Town to address these issues, and it may be that with solutions to the parking and mix of uses questions, an administrative SUP program may be more appropriate in the future. Staff is not abandoning the administrative SUP approach for Old Town completely and will revisit the issue again because it believes it will ultimately be workable for Old Town businesses and residents alike.

4. Inner City restaurants. Since the May 6 Planning Commission hearing, staff has met and discussed the small business proposal with representatives of the Inner City Civic Association. They have some concerns about parking and day care in their transitional neighborhood, and specific suggestions about restaurants, including that entertainment and off premise alcohol sales be prohibited, that alcohol only be permitted in conjunction with dining and that language about the effect on parking in the neighborhood be included. Staff has not included these particular regulations in its proposal, and has discussed the reasons with neighborhood representatives. Some of the Inner City concerns apply in other neighborhoods as well, and staff's approach already addresses several of the suggestions. However, ICCA did suggest a new standard that staff has adopted and has, in fact, applied to all uses within the administrative SUP program: that no permit be approved that significantly and negatively impacts nearby residential neighborhoods. This concept while implicit in the entire administrative approach and the long list of standards is not explicitly stated, and should be. Staff has therefore amended the zoning text to include it, at section 11-513(C)(15).

Staff has updated the chart produced for the May hearing to reflect the changes to administrative standards for restaurants in the different neighborhoods (Exhibit 6).

## **VI. TWO YEAR REVIEW OF SMALL BUSINESS ZONING PROGRAM**

Although not part of the proposed legislation, staff recommends that after the Small Business Zoning program contained in these recommendations has been effective for two years, staff should report to the Commission and Council with a summary of the program's operation and results during that time. The report should include a tally of business proposals approved or rejected under the new small business approach, whether as a permitted use, administrative SUP, or minor amendment. In addition, citizen involvement, controversial or difficult cases, appeals filed and generally instructive examples should be noted. Finally, the report should include any staff suggestions for improving whatever regulations are adopted now.

## **VII. CONCLUSION: CONTINUING EFFORT TO ASSIST SMALL BUSINESS**

The Small Business Zoning proposal is just one of many efforts by Alexandria to make opening and growing a business in the City less difficult for entrepreneurs. Another specific suggestion that arose in the course of the community outreach work for the zoning proposal is that a check list of performance standards be created that spans departments and agencies, and encompasses all of the requirements for business in one place. It is a good idea and will be pursued. Further effort already underway is the creation of a centrally located permitting center, where all agencies interact to assist applicants with information about permit requirements and help expedite processing of permit applications to achieve whatever permit they need for the desired operation. The Small Business Zoning program and these additional programs need to be adopted in order to assist small entrepreneurs do business in the City, and for the City to be business-friendly and competitive in the region.

### **ATTACHMENTS:**

- Exhibit 1. Outreach History
- Exhibit 2. Minor Amendment Procedure
- Exhibit 3. Minor Amendment Comparison Chart
- Exhibit 4. Administrative SUP Process flowchart
- Exhibit 5. Restaurants in Other Jurisdictions memorandum.
- Exhibit 6. Standards for Administrative SUP Restaurants, updated.

### **STAFF:**

Rich Josphson, Deputy Director, Department of Planning and Zoning;  
Richard Bray, Urban Planner  
Nathan Randall, Urban Planner

### **SMALL BUSINESS ZONING: OUTREACH HISTORY**

June 2006	Small Business Task Force formed and began work with Business Facilitator.
June 2007	City Council received report and recommendations of Small Business Task Force, including recommendations to change a list of specific SUP uses in zoning ordinance. Council asked that it be informed of the status of the recommendations prior to the end of 2007.
Fall 2007	Staff report to Council with its specific recommendations for zoning changes as to SUP requirements and minor amendments, and presented an outreach plan to make its recommendations public and discuss the proposal with business and community groups.
January 2008	Planning Department website for Small Business Zoning created, with information, a list of specific recommendations, issues, and tentative schedule.
January 30	Planning staff attended Federation of Civic Association meeting to discuss the proposal generally.
February 19	Small Business Zoning report disseminated and posted on website, including all recommended zoning changes and specific proposed text changes for Minor Amendments and Change of Ownership process.
February 28	Community Meeting to discuss Small Business Zoning proposal. Flyer about meeting sent to community and business associations and P&Z ENews list.
March 20	Revised Small Business Zoning report posted on webpage, including minor changes from prior report.
March 19	Meeting with Federation, and neighborhood representatives.
April 1	Planning Commission work session.
April 8	Economic Sustainability Implementation Committee meeting.
April 17	Meetings with Del Ray Citizens and Del Ray Business Associations, and with Old Town Civic Association.
April 28	Meeting with Arlandria Civic Association.
April 29	Staff report and proposed text published. Some changes to proposals based on Planning Commission and community input, but none to minor amendment process, administrative SUP procedures, or most of zone change recommendations.
May 6	Planning Commission hearing.
May 8	Attended Seminary Hill Association meeting.
May 13	Economic Sustainability Implementation Committee meeting.
May 29	P&Z Staff held a community Information Session to clarify provisions and answer questions. Staff provided several documents, including potential text revisions.
June 2	Attended Cameron Station Civic Association meeting.
June 3	Contact with numerous civic associations inviting discussions and meetings.
June 5	Meeting with Arlandria and Del Ray Citizens Association.
June 9	Attended Northridge Civic Association meeting.
June 13	Meeting with Inner City Civic Association.
June 16	Meeting with Old Town Civic Association.
June 19	Meeting with Business Associations.

# Minor Amendment Procedure

## **Small Business Task Force recommendation**

The SBTF specifically recommended that the minor amendment procedure be changed to allow more flexibility so that businesses who wish to change their operations over time are not required to go through the full SUP process. The existing minor amendment procedure, at section 11-511 of the zoning ordinance, was adopted in 1992, but has only rarely been used. Staff predicts that, even with the changes proposed by staff in May, or with the potential changes now included in the attached chart, the process is one that will not be appropriate for many circumstances, and will have limited application.

## **Minor amendments are generally accepted practice in land use systems**

There is no question but that the minor amendment to an approval – whether the approval authorizes development, a comprehensive plan or an SUP – is difficult to define. However, there is also no question but that in the course of a construction project, over the years that a comprehensive plan exists or, in the case of an SUP approval, in the course of a business, small changes are sometimes required or desired even though they present different circumstances from the original application and/or the original approval. The concept of a minor amendment is well established in land use practices as a way of dealing with such matters.

## **General definition**

As a general matter, a minor amendment is defined to mean a minor variation to an approved scheme which does not raise significant new issues (requiring submission of a new application) provided that, cumulatively, the changes would not result in substantial departure from what was originally approved.

## **Examples of minor amendments in the SUP context**

- A light auto repair business that seeks to add a small amount of floor space or a new, additional lift for repairs, or to increase its hours, and its location is not near residential uses.
- A general auto repair business that seeks to include painting of vehicles, even though when it was approved it had no plan for painting, with conditions added regarding the need for a paint booth and other environmental protections.
- A computer school with five classrooms that seeks to add a sixth classroom, or to add hours, and there is sufficient parking to meet parking requirements.
- A car rental agency that seeks a small expansion of floor area, or a small area for an additional number of parked rental cars, or that seeks to expand its hours slightly.
- A health club that seeks to add a sauna room, spa services or a juice bar for members only, with no expansion to floor space.

- A 100 seat restaurant that wants to add 10 seats.

While important, these examples could be handled administratively, and arguably do not reasonably justify the submission of a new application.

### **Examples of SUP changes that would NOT constitute a minor amendment**

- Adding 50 seats to a 100 seat restaurant.
- Adding a nightclub to a hotel.
- Adding alcohol service to an SUP that says either “no alcohol” or “beer and wine only.”
- A day care home approved for 6 children that seeks to include 9 children.
- A health club that wants to add a restaurant that is open to the public.
- Adding general auto repair services to light auto repair business.

### **Potential new language for staff proposal**

The attached chart points out the existing zoning language for minor amendments and compared it with the changes staff proposed that were considered by the Planning Commission on May 6. Several concerns were raised at that time about the staff proposal, and staff’s chart shows potential changes to two areas of the text that were the source of much of the concern:

1. **Violations.** One question about minor amendments is whether to allow the administrative procedure to apply in the case of a SUP use which has been in violations of its conditions. Currently, any violation in the past, no matter how distant, and any complaint of violation, even if not substantiated, is a bar to proceeding with a minor amendment. Any change would require a new SUP application and the full public hearing process. The staff recommended for minor amendments the same test as to violations currently applied to change of ownership applications:

*No substantiated violations of SUP conditions which were not corrected immediately, constitute material or repeat violations or which created a material or direct adverse impact on the surrounding community.*

In light of concerns about distinguishing among different degrees and types of violations, staff’s chart shows the potential for a different approach for minor amendments: allowing a use to proceed with a minor amendment only if it has been violation-free for the last five years. In this way, a use with a poor enforcement history that improved over time and has not had violations in the recent past may proceed, but those with any violations in the last five years may not.

2. **Examples of increases in intensity.** Another area of concern was section 11-511(A)(2)(b) of staff’s proposed minor amendment language because, while it states that minor amendments may not change the character of the use or increase the overall intensity of it, the examples that would appear in the ordinance relate mainly to restaurants, and do not give the public a sense of what is and what is not acceptable. In response, staff is doing two things. First, this paper helps to explain the process in

the land use as well as the SUP context. Secondly, the attached chart lists some different and additional examples that could be included in the ordinance text that may more clearly express the criteria for this rarely used process.

3. **Incremental changes over time.** One issue relating to minor amendments that could use refinement in the text is the potential for a business to seek a series of “minor” amendments over time, with the result that the changes since the time of Council approval become significant. Language can be added to proposed text making clear that amendments will be considered in the aggregate; an amendment can be approved only when, in conjunction with all amendments since approval, they remain “minor” as defined by the zoning ordinance and when compared to the original approval. Thus, a 100 seat restaurant may seek 10 additional seats only once. A subsequent request for additional seats would trigger the need for a full SUP process.

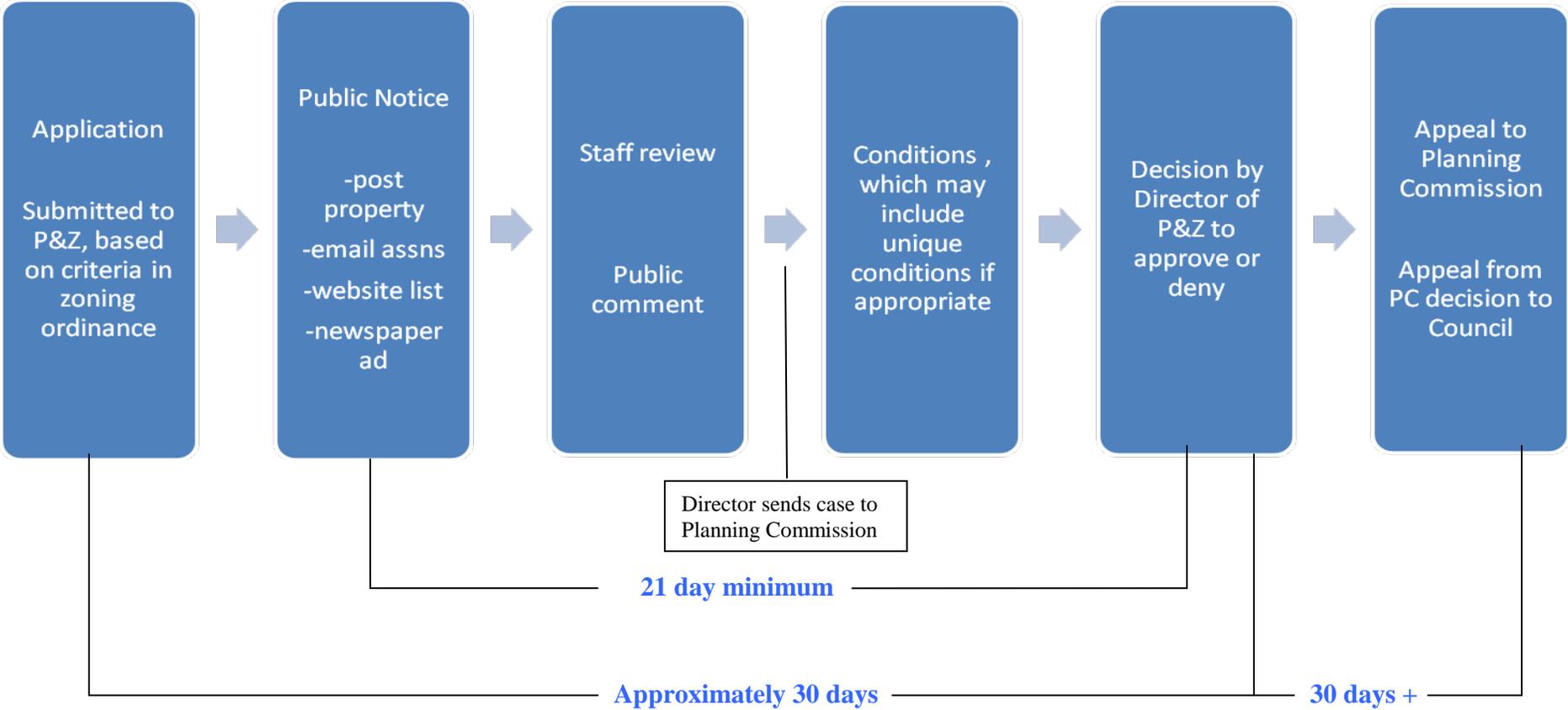
4. **Sunset clause.** If there is concern about changing the procedures and criteria for minor amendments, but there is support for change, in keeping with the recommendations of the Small Business Task Force, then language can be added to the ordinance whereby the new process is adopted for only two years, allowing a close review of the cases considered and decisions rendered during that time. The ordinance could also indicate that if not specifically renewed by City Council, the prior, now-existing, procedures and criteria would return as the effective zoning rules.

**MINOR AMENDMENT COMPARISON\* (Updated 6/16/08)**

\*All language in the chart is taken from the existing or proposed zoning ordinance text.

	<b>Existing regulations</b>	<b>Proposed regulations presented in May</b>	<b>Proposed Revisions</b>
<b>Defined</b>	A change that constitutes no more than minimal enlargement or extension of the use	Same	
<b>Who can apply</b>	Applicant with approved SUP	Applicant with Council approved SUP (not administrative approval)	
<b>Criteria: violations</b>	No written or oral complaints of violation	No substantiated violations of SUP conditions which were not corrected immediately, constitute material or repeat violations or which created a material or direct adverse impact on surrounding community**	<i>No substantiated violations of SUP conditions within the last five years.</i>
<b>Criteria: opposition</b>	No opposition at time of approval either at PC or Council hearing or in writing		
<b>Criteria: increase in intensity</b>	No increase in intensity of use. Examples: No increase in <ul style="list-style-type: none"> <li>• hours</li> <li>• seats</li> <li>• # employees, visitors or customers</li> <li>• # vehicle trips generated</li> </ul>	<ul style="list-style-type: none"> <li>• Change is insignificant when compared to use as a whole, with little or no zoning impact and</li> <li>• Will not change the character or increase the overall intensity of the use by more than the following: <ul style="list-style-type: none"> <li>-additional hours; no more than neighborhood standard</li> <li>-10% increase in restaurant seats</li> <li>-similar increases for other uses</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>-no more than 2 additional hours, but no more than neighborhood standard</li> <li>-10% increase in restaurant seats</li> <li>-10% increase in classroom seats</li> <li>-10% increase in added equipment</li> <li>-10% increase in floor area</li> <li>-similar increases for other elements of use</li> </ul>
<b>Conditions</b>	The application must require no new conditions.	No new conditions are required other than <ul style="list-style-type: none"> <li>• Standard conditions</li> <li>• Those necessary for public benefit, in keeping with approval, and agreed to by applicant.</li> </ul>	
<b>Incremental changes</b>			<i>Incremental additions that amount to more than allowed for single minor amendment are prohibited.</i>
<b>Appeal</b>			<i>Appeal to Planning Commission provided.</i>

# Administrative SUP Process



# City of Alexandria, Virginia

## MEMORANDUM

DATE: JUNE 20, 2008

TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: FAROLL HAMER, DIRECTOR, PLANNING AND ZONING

SUBJECT: RESTAURANT REGULATIONS IN OTHER AREA JURISDICTIONS

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### **I. SUMMARY OF FINDINGS**

This memorandum provides the Planning Commission with the results of staff research regarding zoning regulations for restaurants in other jurisdictions in the Washington, DC area and draws conclusions comparing these regulations to those existing in the City of Alexandria.

Staff researched the following 11 jurisdictions for this report:

Arlington County, VA	District of Columbia
Fairfax County, VA	City of Annapolis, MD
City of Fairfax, VA	Montgomery County, MD
City of Falls Church, VA	Prince George's County, MD
Loudoun County, VA (Revised 1993 Z.O.)	City of Rockville, MD (Proposed 2008 Z.O.)
Prince William County, VA	

The research revealed that no other jurisdiction in the Washington, D.C., area requires special permits for restaurants in its zoning regulations as broadly as does the City of Alexandria. Every jurisdiction researched has multiple zoning districts in which full-service restaurants are permitted as a by-right use. Most jurisdictions also allow other types of restaurants by-right in multiple zoning districts, sometimes subject to standards. While the practice of requiring special permits for restaurants exists in some form in every area jurisdiction, its use is generally limited to specific circumstances, as discussed below.

***Restaurants are allowed by-right in multiple zoning districts in every area jurisdiction, except for the City of Alexandria.***

Perhaps the most important finding from staff research is that every jurisdiction in the area, except for the City of Alexandria, permits standard, full-service restaurants as a by-right use in the majority of their commercial zoning districts. This fact is true in jurisdictions as varied as Arlington County, the City of Falls Church, Prince William County, and the District of Columbia.

Additionally, many jurisdictions allow restaurants by-right in zones other than the typical commercial zoning districts, such as mixed-use zones or high-density residential zones. Montgomery County is a good example, since its zoning ordinance contains several mixed-use districts in which restaurants without drive-through windows are allowed by-right. Jurisdictions with similar provisions for restaurants in either mixed-use or high-density residential zones include: the City of Annapolis, Arlington County, the District of Columbia, Fairfax County, the City of Falls Church, and the City of Rockville. In some cases, such as Prince William County and Fairfax County, restaurants are also allowed in industrial zones by-right as either a primary or an accessory use.

Whether any other types of restaurants are permitted by-right, and whether any standards, conditions, or exceptions exist, does vary by jurisdiction. For instance, Arlington County permits restaurants without drive-through windows, delivery, live entertainment or dancing to be located in nearly all of its standard commercial zones. It also requires special approval if a restaurant lacks parking, although it exempts restaurants located within 1,000 feet of a Metro station from any parking requirements. Fairfax County defines fast-food restaurants and allows them by-right (without a drive-through window) in some of its commercial districts when the restaurants meet a number of standards and are located in qualifying shopping centers. Finally, the City of Annapolis requires all restaurants approved by-right to meet standards regarding a number of operating elements, such as noise, garbage, and standard operating hours.

***In certain circumstances, special permits are required for restaurants in all area jurisdictions.***

Staff research also indicates that all area jurisdictions contain provisions in their zoning ordinances requiring special permits for restaurants in certain zones or certain instances. Generally speaking, area jurisdictions require a special permit for a restaurant in one or more of the following four situations: for restaurants located in limited commercial zones or special zones, for restaurants not meeting standards for by-right approval, for certain types of restaurants, or for certain restaurant features. Such special permits are similar in nature to special use permits in the City of Alexandria, although they may be named “special exceptions” or “special permits” instead.

Most area jurisdictions have created commercial zoning districts of varying intensity. In some cases, restaurants may be allowed only by special permit in the most restrictive of the commercial zones. For instance, in the City of Annapolis restaurants are allowed only by special exception in waterfront

zones and in the zoning district applied to Main Street from the waterfront to Church Circle. Another example may be found in Montgomery County where restaurants in limited office zones may only be allowed by special exception.

In addition, some area jurisdictions allow restaurants by special permit when they do not meet standards for by-right approval. As mentioned previously, such standards may stipulate noise or operating hours or require certain site-related conditions. Three examples of this practice are found in the District of Columbia, the City of Annapolis, and Prince George's County.

In some jurisdictions, a special permit is required depending on the type of restaurant, namely fast-food or carry-out restaurants. Most commonly, this practice works in combination with other special circumstances. For instance, the District of Columbia requires a special exception for fast-food restaurants when located in one of two limited commercial districts. Prince William County requires a special use permit for carry-out restaurants located in its village zone.

The most common restaurant element triggering the need for a special permit in area jurisdictions is the drive-through window. In some cases, drive-through windows need a special permit for operation anywhere in the jurisdiction, regardless of their location. This is true in Arlington County, the City of Falls Church, Prince William County, and the City of Rockville. It is also true in Alexandria; where drive through is permitted, it requires a special use permit. In other cases, such as the District of Columbia and Montgomery County, drive-through windows need a special permit when located in a limited commercial district. In Fairfax County, a restaurant with a drive-through window that does not meet certain standards for by-right approval in applicable zoning districts may apply for a special permit.

Another restaurant element that necessitates a special permit in some area jurisdictions is live entertainment/dancing. In Arlington County, the City of Fairfax, and Prince William County, a special permit is required for live entertainment/dancing in every zone where it is allowed.

Finally, some jurisdictions allow restaurants in certain zoning districts only when they have been included in a special development project that must receive City Council/ County Board action. These cases are somewhat different from the typical case, because both the site/building design and the use are approved or denied at the same time. Three examples of this practice may be found in planned-unit development (PD) zones in Loudoun County and Fairfax County and the "site plan" process for high-density redevelopment in Arlington County, the latter of which is similar to the Development Special Use Permit (DSUP) procedure in Alexandria.

### ***Conclusion***

It is common practice in all area jurisdictions except Alexandria to allow standard, full-service restaurants in most zoning districts. Furthermore, other restaurant types may be allowed by-right in

particular zones in most jurisdictions, especially if they meet specific standards. At the same time, all jurisdictions require special permits for restaurants in some circumstances and some locations. The practice of requiring special use permits for virtually all restaurants in the City of Alexandria exceeds that of all other jurisdictions researched for this report.

### *Summary of Restaurant Zoning Regulations by Jurisdiction*

#### **City of Annapolis, MD**

“Standard restaurants” are permitted by-right in nearly all commercial zones of the city, subject to a number of standards listed in Chapter 21.64.300. These standards require a site design plan, stipulate garbage and noise requirements, ban restaurants next to residential uses on particular downtown streets, and require restaurants to close at 12:00 midnight unless grandfathered. When not meeting the required standards, standard restaurants may be allowed by special exception in nearly all commercial zones in the city.

Standard restaurants are only permitted by special exception in C2, which is the zoning district covering Main Street from Church Circle to the waterfront. Fast food restaurants are permitted by special exception in four commercial zoning districts. Drive-throughs are permitted by-right or by special exception, depending on whether the primary restaurant use is by-right or by special exception in the subject zone. Standard restaurants are also allowed by-right (with standards) or special exception (with different standards) in the mixed-use zone. Fast food restaurants require a special exception in this zone. Standard restaurants are permitted by special exception in most waterfront districts.

Annapolis defines coffee shops, sidewalk cafes, delicatessens, and bars/taverns as separate uses in its zoning ordinance.

#### **Arlington County, VA**

Restaurants are permitted by-right in virtually all standard commercial zones. In these zones, no drive-through windows are allowed by-right and no restaurants with more than 20% or 30% of sales from delivery are allowed by-right. In these zones, businesses with drive-through windows, live entertainment and dancing and food delivery services must obtain a (special) use permit in order to operate. Restaurants are also permitted by right when developed under the form-based code zoning district and the mixed-use zone at Virginia Square, with some restrictions.

Restaurants located within 1,000 feet of a Metro station entrance are exempt from any parking requirements.

In several medium and high density commercial/office/hotel zoning districts, as well as certain high-density residential or mixed-use zoning districts, restaurants may be allowed in buildings approved by special exception site plan. (Most of the Rosslyn-Ballston corridor falls within these zones.) Most site plans in Arlington govern both architectural/site features as well as uses within a building. Site plans may vary from one to the next with regard to approved uses. New restaurants seeking to locate in "site plan" buildings may be able to do so either by-right or with an "administrative change" in which staff investigates whether the use is permitted in the subject location per original site plan. If a restaurant use was not previously approved for the exact location requested by applicant, typically the applicant would need to apply for either a minor or major site plan amendment. In some ways this process is similar to the DSUP in the City of Alexandria. One important difference, however, is that once a space is approved for a restaurant use by site plan in Arlington, subsequent restaurants in that space do not need their own SUP unless dancing, live entertainment, or delivery is involved.

### **District of Columbia**

Restaurants are allowed by-right in most commercial zones, though the type of restaurant allowed and the presence of standards does vary by zone. Restaurants are allowed in the C-1 and C-2 zone by right without fast-food, drive-in, or delivery. Sub-category C-2-A allows fast food and delivery by special exception. (Most of the M Street and Wisconsin Avenue corridors in Georgetown are zoned C-2-A.)

Restaurants are allowed by right in C-3-A, and with fast-food and delivery under certain conditions. Otherwise, fast-food and delivery are permitted by special exception, subject to different conditions. Restaurants, with fast-food restaurants, drive-throughs, and delivery subject to conditions, are allowed by-right in C-4 and C-5. If conditions are not met for fast-food or delivery, they may be allowed by special exception.

Restaurants, fast-food, delivery, and accessory drive-through (per Section 2304) are also allowed by right in CM (commercial/manufacturing) and M (general industry). Restaurants, fast-food, and delivery are allowed in the mixed-use (CR) zone, waterfront (W) zone and some Capital Interest Overlay (CAP) zones by-right, but not with drive-through windows.

### **City of Fairfax, VA**

Most restaurants are allowed by-right in most commercial districts. The zoning ordinance differentiates between restaurant and fast food restaurant, and the definition of fast-food restaurant appears to include the presence of drive-through windows. In the CPD zone, restaurants and fast-food restaurants, subject to conditions and without drive-through windows, are allowed by-right. Restaurants are only allowed by-right in C-1 when occupying not more than 20% of an office building. Restaurants, fast-food restaurants subject to conditions and without drive-through windows, and specialty food establishments are permitted by right in the C-2 and C-3 zones. The

entire Route 29/50 corridor (which is also known as Lee Hwy or Fairfax Boulevard) is zoned either C-2 or C-3. Restaurants in C-3 not meeting conditions or with drive-through windows may be allowed by special use permit subject to several detailed site-related conditions. Restaurants are also allowed by-right in the Planned Development (PD) zone.

Dancing and entertainment uses are allowed in most commercial zones and in PD, but only by SUP.

### **Fairfax County, VA**

Restaurants are allowed by-right in most commercial zones. The ordinance includes at least three separate restaurant definitions: eating establishments, fast-food restaurants, and quick-service restaurants. Eating establishments are allowed by special permit in some cases in C-1, by special exception in C-2, and by-right in C-3 and C-4 only when located in a large office building. Eating establishments are permitted by-right in the remaining five commercial zoning districts. Fast-food and quick service restaurants are also allowed by right in all of these zones if certain conditions regarding shopping center size are met. In all of the above cases, fast-food and quick service restaurants are subject to a unified site plan approval and vehicular access must be from within the shopping center property. If the applicable above-listed conditions are not met, these uses are eligible for special exception.

Eating establishments are permitted by-right as an accessory use, and by special exception as a primary use, in most industrial zones. In some cases fast-food or drive-throughs may be allowed, mostly by special exception. Eating establishments and quick service restaurants are also allowed by-right as an accessory use in large multi-family buildings in certain residential zones. They are also allowed by-right as an accessory use in office buildings in limited office zones.

Eating establishments, fast-food, and quick service are allowed in planned-development districts (PDH, PDC, and PRM) with varying regulation subject to final site plan approval. Eating establishments in PDH are allowed by-right as either an accessory or secondary use (on final site plan). Fast food may be allowed by special exception. Eating establishments are allowed by-right in PDC, with fast food allowed as either a secondary use or by special exception when primary use. Eating establishments, fast-food, and quick service are allowed by right as a secondary use in PRM.

### **City of Falls Church, VA**

Restaurants are permitted by-right in all commercial/industrial districts. They are allowed by-right, with conditions, in two additional zoning districts. R-M allows restaurants by-right when on bottom level in multi-family dwelling of more than 3 stories. Restaurants are allowed by-right in O-D when not more than 200 feet away from a primary state highway. Drive-through windows require a special use permit in any commercial zone in which restaurants are allowed.

### **Loudoun County, VA**

This jurisdiction has three zoning ordinances in effect simultaneously. For the purposes of this review, only the Revised 1993 Zoning Ordinance was considered. This ordinance is Loudoun County's most recent (having been adopted in January 2003) and its most commonly applicable ordinance. Also, it should be noted that Loudoun does not have many standard commercial districts, perhaps because several towns located within the County (notably Leesburg, Middleburg, and Purcellville) are separate jurisdictions with their own zoning regulations.

Restaurants are permitted by-right in RC. Carry-out restaurants (only) are permitted by right in GB. Restaurants are allowed by special exception in CLI and JLMA (Joint Land Management Area) zones. Restaurants are permitted by-right in most planned-development zoning districts. (However, most planned development requires a site plan approved by the County Board.) In some PD districts they are permitted by-right, but only when limited to approved subareas or when limited to a certain percentage (often 20%) of office building. In others, whether restaurants, carry-out restaurants, fast-food restaurants, and fast-food restaurants with drive-through windows are permitted in a given planned development district or subarea usually depends on the density proposed for the development.

Additionally, restaurants are permitted by-right in certain agriculture zones when associated with agriculture or wineries. Otherwise restaurants are allowed in certain agriculture zones by minor special exception with performance standards.

### **Montgomery County, MD**

Eating and drinking establishments without a drive-through window are permitted by-right in most commercial zones. In two zones, no entertainment except music may be offered, though dancing is allowed as long as the dancing area does not exceed a certain size. In C-5, patrons cannot access the establishment directly from the exterior of the building. In the O-M zone, an eating/drinking establishment needs a special exception when the office building in which it is located abuts a one-family residential zone.

Eating and drinking establishments with a drive-through window are permitted by-right in C-3. They are permitted by special exception in four standard commercial districts. Eating and drinking establishments without drive-through windows require a special exception in three special office zones. They also require a special exception in certain industrial zones.

Eating and drinking establishments without drive-through windows are permitted by-right in all CBD zoning districts and on the first floor of buildings located in the R-CBD zone. Such establishments with drive-through windows are permitted by-right with minimal conditions. If conditions are not met, a special exception is required. Eating and drinking establishments without drive-through windows are also permitted by-right in most PUD districts and all mixed-use or transit-oriented districts.

**Prince George's County, MD**

Eating and drinking establishments without drive-through service are permitted by-right in all of the County's standard commercial zoning districts when attached to or located within a group of buildings. It includes a number of conditions and exceptions to its restaurant zoning regulations, perhaps more than any other jurisdiction surveyed. For instance, in about half of its standard commercial districts, eating and drinking establishment are allowed by-right, subject to site plan approval. Eating and drinking establishments with full drive-through service are permitted by right in two standard commercial zoning districts, subject to detailed site plan approval.

Fast food restaurants are regulated to varying degrees in standard commercial zones depending on a number of detailed conditions. Fast-food restaurants are allowed by-right in a few commercial zoning districts subject to conditions. Those not meeting conditions are permitted by special exception. Eating and drinking establishments of any type that include music and patron dancing past 12:00 midnight (excluding adult-oriented uses) are permitted by special exception in two zoning districts.

It should also be noted that eating and drinking establishments are mostly permitted only by special exception within industrial zones. The major exception to this is that eating and drinking establishments, including fast-food, within an office building are permitted by-right in I-1 and I-2.

**Prince William County, VA**

Restaurants are allowed by-right in most commercial zones. Drive-throughs and live entertainment/dancing require special use permit or special exception in all zones where they are allowed. Restaurants and quick-service restaurants are allowed by-right in V (village) zone. Carry-out is allowed by special exception in this zone. Restaurants, carry-out, and quick service are allowed by-right in three zones. Restaurants, carry-out, and quick service are allowed by right as accessory/secondary use in many office or industrial zones.

**City of Rockville, MD**

This jurisdiction is about to adopt a new zoning ordinance. For the purposes of this review, only the proposed ordinance was considered.

Restaurants and carry-out restaurants are permitted by-right in the C zone. Restaurants with drive-throughs require a special exception. Restaurants in the LI (light industrial) zone require a special exception, though carry-out restaurants are permitted by-right. Alcohol in restaurants is permitted by-right in C and LI.

Small Business Zoning  
Attachment #4, Exhibit #5

Restaurants and carry-out restaurants (neither with drive-through windows) are also permitted in all mixed-use zones. Alcohol in restaurants is also permitted by-right in all mixed-use zones. Of the mixed-use zones, drive-through windows are permitted only in the mixed-use corridor district and only by special exception.

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<b>STANDARDS FOR ADMINISTRATIVE RESTAURANT SUPS, BY NEIGHBORHOOD: Updated to June 18, 2008 w/ bold and <del>strikeout</del> to show changes</b>					
<i>Neighborhood</i>	<b>ARLANDRIA</b>	<b>MOUNT VERNON</b>	<b>CARLYLE</b>	<b>OLD TOWN</b>	<b>PROPOSED CITYWIDE</b>
<i>Restaurant Type</i>	<b>Same as citywide</b>	<b>Same as citywide</b>	Full service only Host or hostess Printed menus and wait service at preset tables with non disposable tableware	<del>Same as citywide</del>	Full service only Printed menus and wait service at preset tables with non disposable tableware
<i>Seats Allowed</i>	60 seats	60 seats	No limit	<del>60 seats</del>	60 seats
<i>Hours of Operation</i>	<del>7am-11pm</del> <b>Same as Mount Vernon</b>	<del>7-10</del> <b>6-11</b> Sun-Th <del>7-11</del> <b>6-12</b> Fri - Sa Outdoor: same Indoor: 12midn for 4xyear	Midnight	<del>Same as citywide</del>	Prevailing in area, but no more than 5a – 12midnight Outdoor: same
<i>Entertainment</i>	<del>Limited non amplified entertainment 2 performer maximum</del> <b>Same as citywide</b>	<del>Limited non amplified entertainment</del> <del>No cover</del> Subordinate to restaurant <b>Same as citywide.</b>	No limit	<del>Same as citywide</del>	Limited entertainment No cover or admission charge Subordinate in nature and scope to restaurant
<i>Alcohol</i>	<del>Beer and wine service</del> <b>Full alcohol but at tables only</b>	<del>Beer and wine table service</del> <b>Full alcohol but at tables only</b>	No limit No off premise sales No alcohol deliveries	<del>Beer and wine service</del> <del>No off premise sales</del> <del>No alcohol deliveries</del>	Beer, wine and alcohol no off premise sales no alcohol deliveries
<i>Delivery</i>	Delivery with 40 seats, limited to one vehicle with dedicated non public space	Same	Nonvehicular deliveries	<del>Nonvehicular deliveries</del>	Same as Arlandria and Mount Vernon
<i>Outdoor Seating</i>	<del>16 seats taken from 60 total</del> <b>20 seats</b> <b>No parking required for 1st 16 seats</b>	Outdoor seats: <del>16</del> <b>20</b> No parking required for 1st 16 seats		King St Outdoor dining overlay applies in CBD. <del>Outside CBD: same as citywide but no parking for 1<sup>st</sup> 8 seats</del>	Outdoor seats: 20 No live entertainment No signs in the outdoor area Plan approved by staff Full parking required