

## ORDINANCE NO. 5227

AN ORDINANCE to amend and reordain Section No. 2-181.1 (OUTDOOR DINING ENCLOSURE), Section No. 2-181.2 (OUTDOOR DINING FURNITURE), Section No. 2-181.3 (OUTLOT), Section No. 2-181.4 (PARCEL), and Section No. 2-181.5 (PARK) of Article No. II (DEFINITIONS) and Section No. 6-801 (PURPOSE), Section No. 6-805 (STANDARDS FOR OUTDOOR DINING), Section No. 6-806 (ADDITIONAL ENCROACHMENT REQUIREMENTS), and Section No. 6-807 (SECTION CONTROLLING) of Article No. VI (SPECIAL AND OVERLAY ZONES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2019-0002.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2019-0002, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on April 2, 2019 of a text amendment to the Zoning Ordinance to adopt updates to the King Street outdoor dining overlay zone, including to allow the securing of outdoor dining enclosures, which recommendation was approved by the City Council at public hearing on April 13, 2019;

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;

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

### THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 2-181.1 of the Zoning Ordinance be, and the same hereby is, amended by deleting the current section in its entirety and inserting new language, as shown:

2-181.1 Outdoor dining enclosure.

Barriers surrounding a dining area which provide a clear separation between the approved dining area and pedestrian area.

Section 2. That Section 2-181.2 of the Zoning Ordinance be, and the same hereby is, amended by deleting the current section in its entirety and inserting new language, as shown:

2-181.2 Outdoor dining furniture.

Any movable tables, chairs, planters, umbrellas or other components used for the outdoor dining. This does not include outdoor dining enclosures.

Section 3. That Section 2-181.3 of the Zoning Ordinance be, and the same hereby is, amended by deleting the current section in its entirety and inserting new language, as shown:

### 2-181.3 Outlot.

Any unit of land that does not meet the requirements of section 11-1700.

Section 4. That Section 2-181.4 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

### 2-181.4 Parcel.

A unit of land of such size and dimensions that it may be divided into two or more lots in accordance with the requirements of the zone in which it is situated.

Section 5. That Section 2-181.4 of the Zoning Ordinance be, and the same hereby is, added and ordained, as shown:

### 2-181.5 Park.

A public area reserved for natural or artificial landscaping, which may include recreational facilities and structures.

Section 6. That Section 6-801 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

### 6-801 – Purpose.

The King Street Outdoor Dining Overlay Zone is intended to facilitate outdoor dining in Old Town in order to create an active ~~street-scape~~ streetscape, enhance the economic and social vitality of King Street, and promote pedestrian and retail friendly activity; to allow for the use of the public ~~right-of-way~~ right-of-way for such outdoor dining; and to expedite the approval of such facilities while ensuring that the public's use of the sidewalks will not be significantly impaired by such dining, and that adjacent commercial and residential uses will be protected from any adverse impacts from such dining.

Section 7. That Section 6-805 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

### 6-805 - Standards for outdoor dining.

\*\*\*

(C) If the outdoor dining area is in a location on the property that is not in the sidewalk area in front or on the side of the restaurant, it shall be reviewed to determine whether its location supports the purpose of the zone to create an active ~~street-scape~~ streetscape and to protect residential areas from adverse impacts.

\*\*\*

(F) In order to allow adequate pedestrian traffic areas and emergency access around outdoor dining areas, the following dimensional requirements must be observed:

- (1) At least five feet, or such additional space as the director deems necessary, of unobstructed corridor space must be maintained past the outside dining area for sidewalk pedestrian traffic in order to ensure a clear pedestrian passageway along the sidewalk. In

locations where the sidewalk provides additional width or where there are fewer obstructions, the director may require more than five feet. In order to achieve a continuous pedestrian walkway, the pedestrian passageway shall be a straight line, parallel to the building face and the curb line, for the entire length of the dining area. The director may require additional measures that contribute to maintaining a straight and unobstructed pedestrian passageway along the entire block face.

- (2) A space at least 44 inches wide for unobstructed ingress/egress must be maintained between any restaurant doorway and the pedestrian traffic corridor.
- (3) Outdoor dining areas located near the sidewalk curb must leave at least two feet of unobstructed sidewalk depth between the curb and the outer dimension of the outdoor dining area.
- (4) An unobstructed clearance of five feet must be maintained between a fire hydrant and any outdoor dining furniture or enclosures. ~~fixtures related to outdoor dining.~~
- (5) An unobstructed clearance of three feet must be maintained between a fire department connection and any outdoor dining furniture or enclosures.

\*\*\*

(I) Tents or awnings are not permitted without obtaining a separate building permit. Table umbrellas are permitted if they do not have signs or advertisements on them, if the umbrellas are completely contained within the outdoor dining area, even when fully extended, and if the lowest dimension of the umbrella maintains a minimum vertical clearance of ~~six feet, eight inches~~ seven feet above the sidewalk to allow for patron and server circulation.

\*\*\*

(K) Loudspeakers outside are prohibited on the frontage of the restaurant facing King Street, and amplified sounds from inside the restaurant must not be audible in any outside dining area on the public right-of-way.

\*\*\*

(O) The design of the outdoor dining facilities which are visible from the public street or way, shall comply with the following:

- (1) All improvements (outdoor dining furniture and enclosures ~~fixtures~~) used in an outdoor dining area on the public right-of-way must be ~~readily~~ removable without damage to the surface of the public right-of-way.
- (2) An outdoor dining area within the public right-of-way shall be contained by sturdy ~~barriers~~ outdoor dining enclosures in conformity with City Standards. The City will, following issuance of the King Street Outdoor Dining permit, mark the corners of the approved outdoor dining area with conspicuous markers.
- (3) Permits must be obtained from the Department of Transportation and Environmental Services in order to penetrate the public sidewalk surface or install an outdoor dining enclosure which penetrates the public sidewalk. ~~There shall be no penetration of the public sidewalk surfaces, except that the City will, following issuance of the permit, mark the corners of the approved outdoor dining area with conspicuous markers.~~
- (4) The design of the area shall comply with any Board of Architectural Review approved design guidelines. The Board's guidelines shall provide reasonably objective guidance as to acceptable colors, materials and related design standards.
- (5) Storage and removal of outdoor dining furniture and enclosures: ~~Furniture and enclosures may not be stored on the public right of way for extended periods, and~~

~~must be removed from the right-of-way daily when the restaurant is closed to the public, in accordance with Section 6-805(E), between the Monday before Thanksgiving and March 31 of the following calendar year.~~

- (a) Between April 1 and the Sunday before Thanksgiving of the same calendar year, all outdoor dining furniture and enclosures may be stored on the public right-of-way daily when the restaurant is open or closed to the public.
- (b) Between the Monday before Thanksgiving and March 31 of the following calendar year, all outdoor dining furniture and enclosures must be removed from the public right-of-way daily when the restaurant is closed to the public, in accordance with Section 6-805(E).
- (6) Tall tables and tall seating for tables shall not be permitted in the public right-of-way. As used in this Section 6-805, a “tall table” is defined as any table with a table-top surface higher than 32 inches above the ground, and “tall seating” is defined as chairs, seats, stools, or benches designed or intended for use with tall tables.

\*\*\*

Section 8. That Section 6-806 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

6-806. - Additional encroachment requirements.

(A) Any such encroachment shall be subject to and conditioned upon the restaurant maintaining a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest) and the City as an additional named insured, against all claims, demands, suits and related costs, including attorneys’ fees, arising from any bodily injury or property damage which may occur as a result of the encroachment. A policy of general liability insurance to establish and maintain the encroachment and operate a restaurant within the encroachment area shall not be construed to relieve the restaurant of liability for any negligence on the restaurant’s part on account of or in connection with the encroachment. ~~liability insurance, with commercially reasonable limits and coverages, including for its operation within the encroachment area, and permission to establish and maintain the encroachment shall not be construed to relieve the restaurant of liability for any negligence on the restaurant’s part on account of or in connection with the encroachment.~~

\*\*\*

(C) The authorization granted by a permit approved under this {Section} 6-800 to establish and maintain the encroachment is not intended to constitute, and shall not be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

\*\*\*

Section 9. That Section 6-807 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

6-807. - Section Controlling.

In order to establish a uniform set of regulations for outdoor dining in the public right-of-way, the provisions of this Section 6-800 shall supersede ~~supereede~~ and preempt conflicting provisions applicable in the public right-of-way, which are included in any encroachment ordinance, special use permit or administrative permit approved prior to June 26, 2007; provided, however, that nothing in this Section 6-807 shall be deemed to reduce the approved number of seats, or to require the removal of any approved barrier permanently fixed or attached to the right-of-way, authorized by any such ordinance or permit.

Section 10. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 11. That Section No. 2-181.1, Section No. 2-181.2, Section No. 2-181.3, Section No. 2-181.4 (PARCEL), Section No. 2-181.5, Section No. 6-801 (PURPOSE), Section No. 6-805, Section No. 6-806, and Section No. 6-807, as amended pursuant to Sections 1 through 9 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

JUSTIN M. WILSON  
Mayor

Final Passage: May 18, 2019