

ORDINANCE NO. 5545

AN ORDINANCE to amend and reordain Section 11-207 (CIVIL VIOLATIONS) of Article XI (DEVELOPMENT APPROVALS AND PROCEDURES) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2024-00004.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2024-00004, 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 May 7, 2024 of a text amendment to the Zoning Ordinance to adopt amendments to the civil penalty provisions, which recommendation was approved by the City Council at public hearing on May 18, 2024;
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 11-207 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:

11-207 Civil violations.

- (A) *General.* Any person who, as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, who commits, permits, assists in or attempts any of the following violations of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:
- (1) Violation of any use or occupancy regulation or performance standard applicable under this ordinance, including the failure to obtain a special use permit where so required: class five civil violation.
 - (2) Violation of any frontage regulation applicable under this ordinance: class five civil violation.
 - (3) Violation of any yard regulation applicable under this ordinance: class five civil violation.
 - (4) Violation of any floor area ratio regulation applicable under this ordinance: class five civil violation.
 - (5) Violation of any coverage, open space or landscaping regulation applicable under this ordinance: class five civil violation.
 - (6) Violation of any height regulation applicable under this ordinance: class five civil violation.

- (7) Violation of any off-street parking or loading regulation applicable under this ordinance: class five civil violation.
 - (8) Violation of any floodplain district regulation applicable under section 6-300 of this ordinance: class five civil violation.
 - (9) Violation of any sign, marquee and awning regulation applicable under sections 9-100, 9-200 or 9-400 of this ordinance: class five civil violation.
 - (10) Violation of any specific statement, proffer, representation or plan made or submitted in connection with any application, permit or approval granted under the provisions of this ordinance, and violation of any condition imposed by the approving authority: class five civil violation.
 - (11) Violation of any regulation of this ordinance punishable as a civil violation and not set forth above and not subject to section 11-207(B): class five civil violation.
 - (12) The transfer, sale, offer to sell, or agreement to sell any land or portion of land by reference to or display of an unapproved and unrecorded plat, regardless of whether the land is described by metes and bounds; class five civil violation.
- (B) *Historic districts.* Any person who, as the owner of any land, building or structure located within the Old and Historic Alexandria District, the Parker-Gray District, or listed for preservation pursuant to section 10-300 of this ordinance, or as the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, assists in or attempts any violation of article X or section 9-300 of this ordinance, whether by act or omission, shall be liable for a civil violation as follows:
- (1) Violation of any sign, marquee, or awning regulation of section 9-300 of this ordinance: class four civil violation.
 - (2) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which no building permit under the Uniform Statewide Building Code is required: class three civil violation.
 - (3) Violation of section 10-103(A), 10-203(A) or 10-304, involving the construction, alteration or repair of a building or structure for which a building permit is required under the Uniform Statewide Building Code: class two civil violation.
 - (4) Violation of section 10-103(B), 10-203(B) or 10-305, involving the unauthorized demolition of any building or structure: class one civil violation.
- (C) *Penalties.*
- (1) For a class one civil violation, the penalty for each individual offense shall be \$5,000.00 ~~1,500.00~~.
 - (2) For a class two civil violation, the penalty for each individual offense shall be \$1,000.00 ~~500.00~~ for the first violation, \$1,500.00 ~~1,000.00~~ for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$2,500.00 ~~1,500.00~~ for each additional violation of the same regulation or requirement arising from the same set of operative facts.
 - (3) For a class three civil violation, the penalty for each individual offense shall be \$200.00 ~~100.00~~ for the first violation, \$500.00 ~~150.00~~ for the second

violation of the same regulation or requirement arising from the same set of operative facts, and ~~\$1,000.00~~ ~~500.00~~ for each additional violation of the same regulation or requirement arising from the same set of operative facts.

- (4) For a class four civil violation, the penalty for each individual offense shall be ~~\$200.00~~ ~~50.00~~ for the first violation, ~~\$100.00 for the second violation of the same regulation or requirement arising from the same set of operative facts~~, and \$500.00 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

- (5) For a class five civil violation, the penalty for each individual offense shall be ~~\$200.00~~ ~~50.00~~ for the first violation, and ~~\$500.00~~ ~~100.00~~ for each subsequent violation of the same regulation or requirement arising from the same set of operative facts; provided, however, that in the case of a third violation of a special use permit condition within any one 12-month period, the penalty shall be ~~\$1,000.00~~ ~~500.00~~.

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

- (7) Each day during which any class two, or three ~~or four~~ civil violation exists shall constitute a separate individual offense. In no event will any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period.

- (8) Each day during which any class four or five civil violation exists shall constitute a separate individual offense. In no event will any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period. In no event shall a series of charges for the same class five civil violation arising from the same set of operative facts result in civil penalties which exceed a total of ~~\$5,000.00~~ ~~3,000.00~~.

(D) *Procedures.*

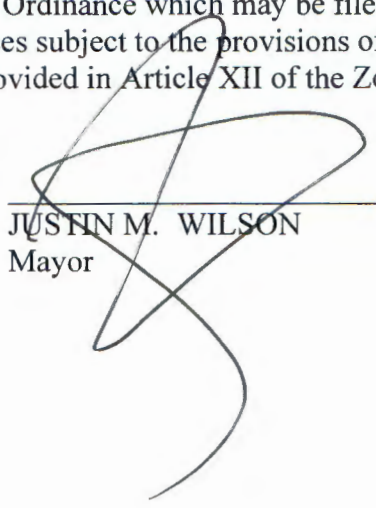
- (1) If the director determines that a civil violation enumerated in section 11-207(A) or (B) has occurred, he may cause a notice of the violation to be served on any or all persons committing or permitting such violation.

- (2) The notice shall provide that the person served may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.
- (3) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, the violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Alexandria Circuit Court. In any such proceeding, the interpretation of the zoning ordinance made by the director, by the board of zoning appeals, or by the Alexandria Circuit Court on writ of certiorari to the board of zoning appeals, as the case may be, shall be conclusive.
- (4) A finding or admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal conviction for any purpose.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-207, as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, 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

ATTEST:



Gloria A. Sitton, CMC City Clerk

Approved as to Form:



Cheran Cordell Ivery City Attorney

Final Passage: 06/15/24