1	ORDINANCE NO.
2	
3	AN ORDINANCE authorizing the owners of the property located at 300 Hume Avenue to
4	maintain an encroachment for a fence along the public right-of-way on Hume Avenue.
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6	WHEREAS, Jeffrey W. and Jenafer B. Howard are the Owners ("Owners") of the
7	property located at 300 Hume Avenue, in the City of Alexandria, Virginia; and
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9	WHEREAS, Owners desire to maintain a fence which will encroach into the public
10	right-of-way on Hume Avenue; and
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12	WHEREAS, the public right-of-way at that location will not be significantly
13	impaired by this encroachment; and
14	
15	WHEREAS, in Encroachment No. 2022-00001 the Planning Commission of the City
16	of Alexandria recommended approval to the City Council subject to certain conditions at one of
17	its regular meetings held on September 6, 2022, which recommendation was approved by the
18	City Council at its public hearing on September 17, 2022; and
19	
20	WHEREAS, it has been determined by the Council of the City of Alexandria that
21	this encroachment is not detrimental to the public interest; now, therefore,
22	
23	THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:
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25	Section 1. That Owners be, and the same hereby are, authorized to establish and
26	maintain an encroachment into the public right-of-way at 300 Hume Avenue as shown in the
27	attached Encroachment Plat, in the City of Alexandria, said encroachment consisting of fencing
28	in the public right-of-way on Hume Avenue, until the encroachment is removed or destroyed or
29	the authorization to maintain it is terminated by the city; provided, that this authorization to
30	establish and maintain the encroachment shall not be construed to relieve Owners of liability for
31	any negligence on their part on account of or in connection with the encroachment and shall be
32	subject to the provisions set forth below.
33	
34	Section 2. That the authorization hereby granted to establish and maintain said
35	encroachment shall be subject to and conditioned upon Owners maintaining, at all times and at
36	their own expense, liability insurance, covering both bodily injury and property damage, with a
37	company authorized to transact business in the Commonwealth of Virginia and with minimum
38	limits as follows:
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40	Bodily Injury: \$1,000,000 each occurrence
41	\$1,000,000 aggregate
42	
43	Property Damage: \$1,000,000 each occurrence
44	\$1,000,000 aggregate
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1 2 3 4 5 6 7 8 9 10 11 12 13	insureds and any and all maintenand with the ci- event this force and of shall, at the that event, right-of-w Owners. N	ity insurance policy shall identify the City of Alexandria and Owners as named nd shall provide for the indemnification of the City of Alexandria and Owners against l loss occasioned by the establishment, construction, placement, existence, use or ice of the encroachment. Evidence of the policy and any renewal thereof shall be filed ity attorney's office. Any other provision herein to the contrary notwithstanding, in the policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in effect, the authorization herein granted to establish and maintain the encroachment e option of the city, forthwith and without notice or demand by the city, terminate. In Owners shall, upon notice from the city, remove the encroachment from the public ay, or the city, at its option, may remove the encroachment at the expense and risk of Nothing in this section shall relieve Owners of their obligations and undertakings nder this ordinance.			
13 14	icquirea u	nder tills ördillahee.			
14		Section 3. That the authorization hereby granted to establish and maintain said			
15 16	encroachr	nent shall in addition be subject to and conditioned upon the following terms:			
10	Cherodelini	tent shan in addition be subject to and conditioned upon the following terms.			
18	(a)	Neither the City of Alexandria nor any public or private utility company shall be			
19	(u)	responsible for damage to Owners' property encroaching into the public right-of-way			
20		during repair, maintenance or replacement of the public right-of-way or any public			
21		facilities or utilities in the area of encroachment.			
22					
23	(b)	The Owners shall be responsible for replacement and repairs to the adjacent City			
24		right-of-way, including any areas damaged during construction activity.			
25					
26	(c)	In the event the City shall, in the future, have need for the area of the proposed			
27		encroachment, the Owners shall remove any structure that encroached into the public			
28		right-of-way, within 60 days, upon notification by the City. The Owner shall bear all			
29		the cost associated with any future removal of the encroachment.			
30					
31	(d)	The Owners shall bear all of the cost associated with maintenance of the			
32		improvements within the encroachment and associated with any future removal of			
33		the improvements within the encroachment.			
34					
35	(e)	The fence shall remain 50% open and there shall not be any shrubs, trees, or any			
36		other landscape planted or placed within the vision clearance triangle located behind			
37		the fence.			
38					
39		Section 4. That by accepting the authorization hereby granted to establish and			
40	maintain the encroachment and by so establishing and/or maintaining the encroachment, Owners				
41	shall be deemed to have promised and agreed to save harmless the City of				
42	Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by				
43		reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.			
44	encroachm	nent.			

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2	Section 5. That the authorization herein granted to establish and maintain the
3	encroachment shall be subject to Owners maintaining the area of the encroachment at all times
4	unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous
5	matter.
6	
7 8	Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any
o 9	of its officers or employees.
9 10	of its officers of employees.
11	Section 7. That the authorization herein granted to establish and maintain the
12	encroachment shall be terminated whenever the City of Alexandria desires to use the affected
12	public right-of-way for any purpose whatsoever and, by written notification, demands from
14	Owners the removal of the encroachment. Said removal shall be completed by the date specified
15	in the notice and shall be accomplished by Owners without cost to the city. If Owners cannot be
16	found, or shall fail or neglect to remove the encroachment within the time specified, the city shall
17	have the right to remove the encroachment, at the expense of Owners, and shall not be liable to
18	Owners for any loss or damage to the structure of the encroachment or personal property within
19	the encroachment area, caused by the removal.
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21	Section 8. The terms "Owners" shall be deemed to include Jeffrey W. and Jenafer
22	B. Howard and their respective successors in interest.
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24	Section 9. That this ordinance shall be effective upon the date and at the time of its
25	final passage.
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28	JUSTIN WILSON
29	Mayor
30 31	Attachmont: Encroachmont plat
31 32	Attachment: Encroachment plat
33	Introduction: 10/11/2022
34	First Reading: 10/11/2022
35	Publication:
36	Public Hearing: 10/15/2022
37	Second Reading: 10/15/2022
38	Final Passage: 10/15/2022
39	
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