

ORDINANCE NO. 4987

AN ORDINANCE to amend and reordain Article A (GENERAL PROVISIONS) and Article G (POSTING OF SIGNS IN THE RIGHT OF WAY) both of Chapter 2 (STREETS AND SIDEWALKS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article A of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

TITLE 5 - Transportation and Environmental Services

CHAPTER 2 - Streets and Sidewalks

ARTICLE A - General Provisions

Sec. 5-2-29 - Street encroachments.

Any encroachment into a public street, alley, sidewalk or other right-of-way may be authorized only by a special ordinance adopted by City Council, unless the encroachment is authorized pursuant to one of the following exceptions or is otherwise authorized by this code or the City of Alexandria Zoning Ordinance:

- (i) **Street or Alley Crossing Banner. With a special event permit pursuant to City of Alexandria Special Event Policy and Procedures approved by the City Council on January 23, 2010 as the same may be amended, the permittee may place a banner across a public street or alley for up to ten (10) days upon a determination made by the City Manager that the sign does not pose a danger to the safety of the public.**

- (i-j) Encroachment requirements. In addition to any other restrictions or requirements imposed by this code or the City of Alexandria Zoning Ordinance, the owner of any sign, canopy, awning or marquee, nonpermanent planter, bench, bicycle display or similar street furniture that encroaches into a public right-of-way pursuant to this section shall also comply with the following:

- (1) Liability insurance. The owner shall obtain and maintain 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.

- (2) Removal of encroachment. The owner or any successor in interest shall remove the encroachment if the City determines that the encroachment interferes with public access or is otherwise inconsistent with the public welfare. In such case, the City shall provide the owner or successor in interest with written notice of the need to remove the encroachment at least 10 days prior to the date on which the removal must be completed. If the owner or successor in interest cannot be found, or fails to remove the encroachment within the time specified, the City shall have the right to remove the encroachment, at the expense of the owner or successor, and shall not be liable for any loss or damage to the encroaching structure that may occur as a result of the removal.

Section 2. That Title 5, Chapter 2, Article G of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

ARTICLE G: Posting of Signs in the Right-of-way

Sec. 5-2-170. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fixture means a pole; streetlight; tree; tree box; tree stake; fire hydrant; fire alarm box; trash receptacle; stand; wire; rope; public bridge; railroad trestle; drinking fountain; life buoy or any other lifesaving equipment; standard serving as a base or support for a directional sign, traffic regulation or control signal, sign or device; and any other fixture or structure, whether publicly or privately owned or whether permanently or temporarily placed in, on or over a public way. But the term shall not include a fixture permanently attached to a building, structure, pole or standard on private property serving as a base or support for a sign and projecting over a part of a public way installed and maintained in accordance with law.

Public way means a street, sidewalk, alley, road, highway, bridge, viaduct, subway, underpass, park, parkway, playfield, playground and any other similar place in the City opened to and used by the public.

Sign means a sign, placard, banner, flag, bulletin and any other device of any kind posted for the purpose of communication.

Sec. 5-2-171 - Unlawful conduct.

It shall be unlawful for any person to paint, mark or write on or post or otherwise affix to or upon a public way or fixture thereon any sign. It shall furthermore be unlawful for any person to cause or, with knowledge, permit such actions to be taken on such person's behalf.

Willful interference with a person who is engaged in abatement under Section 5-2-173 shall also constitute a violation of this article.

Sec. 5-2-172. - Exceptions.

(a) This article shall not apply to the following signs:

(1) Regulatory, traffic, or informational signs established or posted by or at the direction of an authorized City department.

(2) Signs required to be posted pursuant to State, local, or Federal laws.

(b) Nothing in this division shall apply to the installation of a plaque, plate, statue, or other commemorative monument or marker in accordance with permission from an authorized City Department with the approval of the City Council.

Sec. 5-2-173. - Removal and collection of costs.

Any violation of this article is hereby declared to be a nuisance. No person shall have any legal right to the continued presence of a sign in a public way in violation of this article, nor shall there be any legal remedy against any person solely for the removal from a public way of a sign which is in violation of this article. Any person may abate the nuisance created by a violation of this article without liability for doing so. If abatement is made by the City, the reasonable costs incurred in removal may be assessed against any person responsible for or benefited by the violation, and such costs shall be collected in the same manner as City taxes. For a willful violation, the City shall be entitled to recover costs, the reasonable value of attorney's fees, and punitive damages in any proceeding which it may bring to enjoin future violations.

Sec. 5-2-174. - Penalty for violation.

Violation of this article shall be a class four civil violation which shall be enforced through the levying of a civil penalty pursuant to section 1-1-11 of this code, provided, that the penalty for the first violation shall be \$100, for a second violation of the same regulation or requirement the penalty shall be \$250, and for each additional violation of the same regulation or requirement the penalty shall be \$500. Each individual sign shall be deemed a separate offense. Each day during which any such violation is continued may be treated for all purposes as a separate offense.

Section 3. That Title 5 Chapter 2 as amended pursuant to Section 1 and Section 2 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 3. That this ordinance shall become effective on March 1, 2016.

ALLISON SILBERBERG
Mayor

Final Passage: February 20, 2016