

ORDINANCE NO. _____

AN ORDINANCE authorizing the owner of the property located at 815 Green Street to construct and maintain an encroachment into the public right-of-way at that location for a fence and existing steps.

WHEREAS, Cecily Crandall is the owner ("Owner") of the property located at 815 Green Street in the City of Alexandria, Virginia; and

WHEREAS, Owner desires to construct and maintain a fence and obtain authorization for existing steps, which will encroach into the public right-of-way at that location; and

WHEREAS, the public right-of-way at that location will not be significantly impaired by this encroachment; and

WHEREAS, in Encroachment No. 2018-0009, the Planning Commission of the City of Alexandria recommended approval to the City Council subject to certain conditions at one of its regular meetings held on September 4, 2018, which recommendation was approved by the City Council at its public hearing on September 15, 2018, and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Owner be, and the same hereby is, authorized to establish and maintain an encroachment into the public right-of-way at 815 Green Street in the City of Alexandria, as shown on the attached encroachment plat, said encroachment measuring approximately 161 square feet and consisting of existing stairs and a continuation of an existing fence perpendicular to the sidewalk, until the encroachment is removed or destroyed or the authorization to maintain it is terminated by the city; provided that this authorization to establish and maintain the encroachment shall not be construed to relieve Owner of liability for any negligence on their part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Owner maintaining, at all times and at her own expense, general liability insurance in the amount of \$1,000,000 with a company authorized to transact business in the Commonwealth of Virginia.

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance

1 of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city
2 attorney's office. Any other provision herein to the contrary notwithstanding, in the event this
3 policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and
4 effect, the authorization herein granted to establish and maintain the encroachment shall, at the
5 option of the city, forthwith and without notice or demand by the city, terminate. In that event,
6 Owner shall, upon notice from the city, remove the encroachment from the public right-of-way,
7 or the city, at its option, may remove the encroachment at the expense and risk of Owner.
8 Nothing in this section shall relieve Owner of her obligations and undertakings required under
9 this ordinance.

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11 Section 3. That the authorization hereby granted to establish and maintain said
12 encroachment shall in addition be subject to and conditioned upon the following terms:

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14 a) Neither the City nor any Private utility company will be held responsible for damage to
15 the private improvements in the public right-of-way during repair, maintenance or
16 replacement of any utilities that may be located within the area of the proposed
17 encroachment.
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19 b) In the event the City shall, in the future, have need for the area of the proposed
20 encroachment, the applicant shall remove any structure that encroached into the public
21 right-of-way, within 60 days, upon notification by the City. The Owner shall bear all
22 costs associated with removal of the encroachments.
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24 c) The fence shall not be installed within one (1.0) foot of a city-owned paved surface.
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26 Section 4. That by accepting the authorization hereby granted to establish and
27 maintain the encroachment and by so establishing and/or maintaining the encroachment, Owner
28 shall be deemed to have promised and agreed to save harmless the City of
29 Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by
30 reason of the establishment, construction, placement, existence, use or maintenance of the
31 encroachment.
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33 Section 5. That the authorization herein granted to establish and maintain the
34 encroachment shall be subject to Owner maintaining the area of the encroachment at all times
35 unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous
36 matter.

37 Section 6. That nothing in this ordinance is intended to constitute, or shall be
38 deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any
39 of its officers or employees.
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41 Section 7. That the authorization herein granted to establish and maintain the
42 encroachment shall be terminated whenever the City of Alexandria desires to use the affected
43 public right-of-way for any purpose whatsoever and, by written notification, demands from
44 Owner the removal of the encroachment. Said removal shall be completed by the date specified

1 in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be
2 found or shall fail or neglect to remove the encroachment within the time specified, the City shall
3 have the right to remove the encroachment, at the expense of Owner, and shall not be liable to
4 Owner for any loss or damage to the structure of the encroachment or personal property within
5 the encroachment area, caused by the removal.

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7 Section 8. The term "Owner" shall be deemed to include Cecily Crandall and her
8 respective successors in interest.

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10 Section 9. That this ordinance shall be effective upon the date and at the time of its
11 final passage.

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14 ALLISON SILBERBERG
15 Mayor

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17 Attachment: Encroachment Plat

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19 Introduction: November 13, 2018

20 First Reading: November 13, 2018

21 Publication:

22 Public Hearing: November 17, 2018

23 Second Reading: November 17, 2018

24 Final Passage: November 17, 2018