



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: APRIL 6, 2016

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /s/

DOCKET TITLE:

Introduction and First Reading. Consideration. Passage on First Reading of an Ordinance to Amend Section 5-2-27 of the City Code Penalty for Violating the Conditions and Restrictions of the Code of the City of Alexandria for Hauling of Waste Materials, Construction Materials, etc. from a Criminal Penalty to a Civil Penalty.

ISSUE: Consideration of a proposed ordinance to amend Section 5-2-27 of the City Code penalty for violating the conditions and restrictions of the City Code for hauling of waste materials, construction materials, etc. from a criminal penalty to a civil penalty.

RECOMMENDATION: That City Council pass the attached ordinance to amend Section 5-2-27 of the City Code penalty for violating the conditions and restrictions of the code for hauling of waste materials, construction materials, etc. from a criminal penalty to a civil penalty on first reading, and to set it for public hearing and final passage on April 16, 2016.

BACKGROUND: The General Assembly of Virginia, in Section 2.04(j) of the City Charter, has given the City authority to “regulate or prohibit . . . the transportation of any offensive or dangerous substance.” With respect to solid waste haulers and other haulers, City Council has established a uniform regulatory scheme which requires concentrated, high-volume, high-frequency bulk haulers to obtain a permit which specifies the designation of reasonable haul routes designed to minimize harmful impacts and promote safety. As a result, City Code Section 5-2-27 (e) (1) regulates truck hauling on City streets by requiring a permit from the City when five or more trips for pickup or delivery of such materials or equipment occur in any consecutive 30-day period.

DISCUSSION: During the implementation of waterfront projects, the City received nineteen (19) complaints from residents regarding truck drivers violating the conditions of their hauling permits. Transportation & Environmental Services (T&ES) currently enforces violations by rescinding hauling permits. T&ES also has the authority, with the assistance of the Alexandria Police Department, to pursue criminal charges when

necessary, although this enforcement has been difficult to impose by T&ES staff and therefore is rarely utilized. The members of the Ad Hoc Monitoring Group for Waterfront Construction recommended that the City amend the penalty for violating hauling permits from a criminal penalty to a civil penalty.

The proposed ordinance amends City Code Section 5-2-27 item (c) and (d), specifically changing the current penalty charge from a class two misdemeanor to a class four civil violation and will allow T&ES to enforce the violation by providing staff the ability to issue civil penalties.

The attached proposed ordinance section (f), establishes civil penalties, utilizing the existing penalty schedule found in Section 1-1-11 of the Code. In this case violations would be a class four civil violation, the penalty for each individual violation shall be \$100 for the first violation, \$250 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$500 for each additional violation of the same regulation or requirement arising from the same set of operative facts. The proposed ordinance will allow T&ES staff to serve a Notice of Violation (NOV) on any or all persons committing, assisting or permitting such violation and accordingly enforced by Section 1-1-11 (c), Procedures.

In addition to haul route violations, there are other concerns that have been raised by the Ad Hoc Monitoring Group for Waterfront Construction and other residents concerned about proximate construction. These violations are outlined in the City's Erosion and Sediment Control Regulations, Section 13. Some specific regulations are defined as the following:

Section 13-1-21.1 (d) 1&2 will assist T&ES staff to address violations from improper covered and wet/dripping trucks. Section 13-1-21.1 (d)(1) requires all motor vehicles used to transport any material along streets, roads, or highway of the City to be constructed, maintained, and loaded in such a manner as to prevent such vehicle's content from dripping, sifting, leaking or otherwise escaping. Section 13-1-21.1 (d)(2) prohibits any person to transport any litter, rubbish or solid waste in an open or uncovered vehicles along the streets, roads, or highways of the City, unless the load is covered by a tarpaulin or other suitable cover in such a manner as to contain the entire load. The T&ES Director or designee shall be responsible for the administration of the provision and has the authority to enforce compliance through the use of civil penalty. Violation of the provision shall constitute a traffic violation punishable by a fine not to exceed \$250.

FISCAL IMPACT: No significant fiscal impact is expected, but the City will issue civil penalties to individuals who violate City Code Section 5-2-27 and 13-1-21.

ATTACHMENTS:

Attachment 1: Ordinance Cover

Attachment 2: Proposed Ordinance

Attachment 3: City Code Section 1-1-11

STAFF:

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