



Legislation Text

File #: 14-5314, Version: 1

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 4, 2016

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

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

DOCKET TITLE:

Public Hearing, Second Reading and Final Passage of an Ordinance to Amend and Reordain Article G (Posting of Signs in the Right of Way) 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. [ROLL-CALL VOTE]

ISSUE: Consideration of an amendment to the prohibition on signs in the right of way to clarify the enforcement.

RECOMMENDATION: Staff recommends that City Council:

- 1) Hold the public hearing and adopt the ordinance amending Article G to clarify that the Director of Planning and Zoning will direct all enforcement of this Article; and
- 2) Direct staff to coordinate a volunteer program to assist staff in the removal of signs in the right-of-way.

DISCUSSION: In June 2015 the U.S. Supreme Court issued a ruling in *Reed v. Town of Gilbert* that created the need for the City of Alexandria, and jurisdictions across the country, to revise its sign ordinance to address the content neutrality required by the First Amendment. As a first stage to this overall revision, the City Council adopted changes to regulations of signs in the right-of-way by removing the regulations from the zoning ordinance and adopting Article G (Posting of Signs in the Right of Way) in Chapter 2 of Title 5 of the City Code which prohibited the posting of any signs, other the governmental signs, in the right-of-way. (See staff report TA #2015-00005 dated January 23, 2016)

One of the goals of this change was to strengthen the enforcement mechanisms available to staff by including

provisions that a) declared any sign in the public right-of-way to be a nuisance and b) allowed “any person...” to “...abate the nuisance created by a violation of this article without liability for doing so.” This is an approach taken in a few other Virginia jurisdictions with successful outcomes, such as a program in Prince William County where trained teams of volunteers are educated as to what constitutes an illegal sign prior to engaging in organized enforcement initiatives. In recommending this language for the City of Alexandria, staff was envisioning that any volunteer enforcement would be organized by the City to ensure that the volunteers have the proper training, are engaging in legal enforcement activities (such as, for example, not targeting certain signs based on content), and are mindful to avoid the safety hazards that can result from activities in the right-of-way.

While the language that staff proposed is identical to other jurisdictions with similar programs, staff did not intend to encourage individual enforcement activities completely independent of government oversight. In addition to concerns about the safety of volunteer enforcers, staff has concerns that untrained volunteers could unknowingly engage in selective enforcement that may not be consistent with the Supreme Court’s guidance.

With the proper reflection and a few months’ experience, City staff now proposes an ordinance to amend sections 5-2-173 and 5-2-174 of the City Code regarding sign removal and penalties, respectively. This amendment will allow the Planning and Zoning Director to designate representatives to assist with sign removal and clarify that the Department of Planning and Zoning or its designated representatives are solely responsible for sign enforcement. This will help ensure that people assisting in enforcement and removal of non-permitted signs are properly trained and can perform sign removal in a safe manner.

CONCLUSION: Staff recommends adopting this ordinance change in order to narrow of the scope of the code language that would allow the Director to engage trained volunteers in the removal of illegal signs.

FISCAL IMPACT: None.

ATTACHMENTS:

Attachment 1: Ordinance

Attachment 2: Staff Report for the Sign Ordinance Zoning Text Amendment

STAFF:

Emily A. Baker, Deputy City Manager

Karl Moritz, Director Planning and Zoning

Alex Dambach, Division Chief, Planning and Zoning

Yon Lambert, Director, Transportation and Environmental Services

Joanna C. Anderson, Deputy City Attorney