

# Ordinance No. 1311

**AN ORDINANCE** authorizing the owner of the premises known as the Virginia Plaza Shopping Center, located on the Fairfax County side of North Beauregard Street near Lincolnia Road, and his successors in title to maintain an encroachment in, upon and over the public right of way of North Beauregard Street, one of the public streets in the City of Alexandria, Virginia.

WHEREAS, Leo Goodwin, Jr. is the owner of the premises known as the Virginia Plaza Shopping Center, located on the Fairfax County side of North Beauregard Street near Lincolnia Road, and

WHEREAS, the owner of said premises has allowed his lessee, S. Klein Department Stores, Inc., to construct a structural retaining wall which inadvertently has been allowed to encroach into the public right of way of North Beauregard Street in the City of Alexandria, Virginia, and

WHEREAS, it is determined that the said encroachment is not detrimental to the public interest; therefore,

## THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Leo Goodwin, Jr., and his successors in title, be and they are hereby authorized to maintain the hereinafter described structural retaining wall, which said wall encroaches into the public right of way of North Beauregard Street to a depth which varies from 1.06 feet to 1.53 feet for a distance of approximately 83 feet, commencing approximately 325 feet from the near or southerly curb line of Lincolnia Road and thence running approximately 83 feet toward Duke Street on the Fairfax County side of North Beauregard Street, a public street in the City of Alexandria, until the retaining wall is removed or destroyed other than by way of replacement as provided in Section 2 of this ordinance, provided this authority shall not be construed to relieve such owners of any negligence on their part on account of such encroachment, and subject to the hereinafter contained provisions.

Section 2. That the privilege hereby granted shall be subject to the owner's maintaining the structural stability of the said wall and replacing it, if in the opinion of the Director of Public Works such replacement is necessary for the safety and well being of the people of Alexandria; provided, however, that any such replacement wall shall not exceed the presently existing wall in depth and length of encroachment into the public right of way.

Section 3. That the privilege hereby granted to install and maintain the encroachment shall be subject to the maintaining by the owner of the premises abutting said encroachment public liability and property damage insurance indemnifying the City of Alexandria, such policy to be presented forthwith to the City Attorney for approval.

Section 4. That the installation and use of the said encroachment, pursuant to the authority hereby granted, shall be considered an agreement by the owner and his successors and assigns, to save harmless the City of Alexandria from any liability by reason of the installation, use and maintenance of the said encroachment.

Section 5. That the privilege hereby granted to install and maintain the encroachment as hereinabove described shall be terminated whenever the City of Alexandria shall desire to regain that portion of the public right of way for any purpose whatsoever, and shall, by written notification, demand from the owner the removal of such encroachment, which said removal shall be completed promptly, within not more than thirty (30) days from the date of such notice, without cost to the City of Alexandria.

Section 6. That this ordinance shall be published in a newspaper of general circulation in the City not later than five days following its introduction together with a notice containing the time and place for a public hearing. The Clerk of the Council shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

**FRANK E. MANN**  
**Mayor**

Final Passage: March 9, 1965