

Ordinance No. 1334

AN EMERGENCY ORDINANCE to amend and reordain Section 42-86, Section 42-91, Section 42-93, Section 42-94, Section 42-95, Section 42-96, and Section 42-97 of Article XIV, and to amend Article XIV by adding four new sections thereto numbered Sections 42-95.1, 42-96.1, 42-96.2, and 42-96.3, all of Chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended which said Section 42-86 relates to CERTIFICATES OF APPROPRIATENESS GENERALLY, which said Section 42-91 relates to BOARD OF ARCHITECTURAL REVIEW—PROCEDURE FOR MEETINGS, which said Section 42-93 relates to MATTERS TO BE CONSIDERED IN PASSING UPON APPROPRIATENESS OF ERECTION, RECONSTRUCTION, ALTERATION OR RESTORATION OF BUILDINGS OR STRUCTURES, which said Section 42-94 relates to MATTERS TO BE CONSIDERED IN DETERMINING WHETHER TO GRANT PERMIT TO RAZE BUILDINGS ERECTED DURING OR PRIOR TO 1846, which said section 42-95 relates to ISSUANCE OF CERTIFICATE OF APPROPRIATENESS OR PERMIT TO RAZE; ISSUANCE OF SAME BY COUNCIL ON APPEAL, which said Section 42-96 relates to APPEALS FROM THE BOARD TO THE CITY COUNCIL, which said Section 42-97 relates to PROVISIONS OF ARTICLE NOT TO PREVENT RAZING OF HAZARDOUS STRUCTURES, which said new Section 42-95.1 relates to EXPIRATION OF CERTIFICATES OF APPROPRIATENESS AND PERMITS TO RAZE, which said new Section 42-96.1 relates to APPEALS FROM THE CITY COUNCIL TO THE COURT, which said new Section 42-96.2 relates to ADDITIONAL OR CONCURRENT RIGHT TO RAZE BUILDINGS ERECTED DURING OR PRIOR TO 1846; CONDITIONS AND PROCEDURES, which new Section 42-96.3 relates to BONA FIDE OFFER TO SELL; PROCEDURES FOR FILING NOTICE OF OFFER AND QUESTIONING PRICE, which said Article XIV relates to OLD AND HISTORIC ALEXANDRIA DISTRICT, and which said Chapter 42 relates to ZONING.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 42-86, article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 42-86. Certificate of appropriateness generally.

In order to promote the general welfare through the preservation and protection of historic places and areas of historic interest in the city and through the preservation of the memorial character of the George Washington Memorial Highway, no building or structure shall be erected, reconstructed, altered or restored within the Old and Historic Alexandria District, unless and until an application for a certificate of appropriateness shall have been approved by the board of architectural review or the City Council or appeal as to exterior architectural features, including signs, which are subject to public view from a public street, way or place. Evidence of such

required approval shall be a certificate of appropriateness issued by the board of architectural review or the City Council on appeal.

Section 2. That section 42-91, article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 42-91. Same—Procedure for meetings.

The chairman shall conduct the meetings of the board of architectural review. The secretary shall keep the minutes of the meetings and a permanent record of all resolutions, motions, transactions and determinations. All members of the board shall be entitled to vote and the decisions of the board shall be determined by a majority vote. A quorum of four members present is required before the board may take any official action. The board shall meet within twenty-one days after notification by the building inspector of an application for a certificate of appropriateness or permit requiring action by the board. The meetings of the board shall be open to the public, and a full and impartial hearing shall be granted. When voting on any question, the determination may be made by secret ballot, but no proxy shall be allowed at any time. The board shall vote and announce its decision on any matter properly before it not later than fourteen days after the conclusion of the public hearing on the matter, unless the time is extended by mutual agreement between the board and the applicant. The board shall not reconsider any decision made by it, except in cases where an applicant appears within ninety days with his application amended as hereinafter provided. The board shall not hear the subject matter of any application which has been denied for a period of one year, except in cases where an applicant appears within ninety days with his application amended as hereinafter provided.

In case of disapproval of the erection, reconstruction, alteration or restoration of a building or structure, the board of architectural review shall briefly state its reasons therefore in writing and it may make recommendations to the applicant with respect to the appropriateness of design, arrangement, texture, material, color, location and the like of the building or structure involved. In case of disapproval accompanied by recommendations, the applicant may again be heard before the board if, within ninety days, he comes before the board with his application so amended that it will comply with all of the recommendations of the board.

In case of disapproval of the razing of a building which existed within the Old and Historic Alexandria District in 1846 or prior thereto, the board shall state its reasons therefor in writing in some detail.

If there is an appeal taken to the city council from any denial of a certificate of appropriateness or a permit to raze, the board shall forward its reasons in writing to the council.

In matters covering the procedure for meetings not covered by this article, the board may establish its own rules, provided they are not contrary to the spirit of this article.

Section 3. That section 42-93, article XIV, chapter 42 of The Code of the City of Alexandria, Virginia 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 42-93. Matters to be considered in passing upon appropriateness of erection, reconstruction, alteration or restoration of buildings or structures.

The board of architectural review or the city council on appeal shall not consider interior arrangement, relative size of the building or structure, detailed design or features not subject to any public view and shall not make any requirements except for the purpose of preventing developments incongruous to the old and historic aspects of the surroundings or the memorial character of the George Washington Memorial Highway, if, in the latter case, the building or structure faces on such highway.

The board or the city council on appeal shall consider the following in passing upon the appropriateness of architectural features:

(a) Exterior architectural features, including all signs which are subject to public view from a public street, way or place.

(b) General design and arrangement.

(c) Texture, material and color.

(d) The relation of the factors in subsections (a), (b), and (c) of this section to similar features of buildings and structures in the immediate surroundings.

(e) The extent to which the building or structure would be harmonious with or incongruous to the old and historic aspect of the surroundings or the memorial character of the George Washington Memorial Highway.

(f) The extent to which the building or structure will preserve or protect historic places and areas of historic interest in the city.

(g) The extent to which the building or structure will preserve the memorial character of the George Washington Memorial Highway.

(h) The extent to which the building or structure will promote the general welfare of the city and all citizens by the preservation and protection of historic places and areas of historic interest in the city and the memorial character of the George Washington Memorial Highway.

(i) The extent to which such preservation and protection will promote the general welfare by maintaining and increasing real estate values, generating business creating new positions, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage and making the city a more attractive and desirable place in which to live.

Section 4. That section 42-94, article XIV, Chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 42-94. Matters to be considered in determining whether to grant permit to raze buildings erected during or prior to 1846.

The board of architectural review or the city council on appeal shall consider any or all of the following criteria in determining whether or not to grant a permit to raze a building which existed within the Old and Historic Alexandria District in the year 1846 or prior thereto:

(a) Is the building of such architectural or historical interest that its removal would be to the detriment of the public interest?

(b) Is the building of such interest that it could be made into an historic shrine?

(c) Is the building of such old and unusual or uncommon design, texture and material that it could not be reproduced or be reproduced only with great difficulty?

(d) Would retention of the building help preserve the memorial character of the George Washington Memorial Highway?

(e) Would retention of the building help preserve and protect an historic place or area of historic interest in the city?

(f) Would retention of the building promote the general welfare by maintaining and increasing real estate values, generating business, creating new positions, attracting tourists, students, writers, historians, artists and artisans, attracting new residents, encouraging study and interest in American history, stimulating interest and study in architecture and design, educating citizens in American culture and heritage and making the city a more attractive and desirable place in which to live?

(g) In the instance of a building owned by the City of Alexandria or the Alexandria Redevelopment and Housing Authority, said building having been acquired pursuant to a duly approved urban renewal (redevelopment) plan, would retention of the building promote the general welfare in view of needs of the city for an urban renewal (redevelopment) project?

Section 5. That section 42-95, article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 42-95. Issuance of certificate of appropriateness or permit to raze; issuance of same by council on appeal.

Immediately upon approval by the board of any erection, reconstruction, alteration or restoration, a certificate of appropriateness, signed by the secretary of the board and bearing the date of issuance, but subject, however, to the provisions of section 42-96 of this Code, shall be made available to the applicant.

Immediately upon approval by the board of any application to raze a building which existed in the year 1846 or prior thereto, a permit to raze such a building, signed by the secretary of the board and bearing the date of issuance, but subject, however, to the provisions of section 42-96 of this Code, shall be made available to the applicant.

In instances where the city council on appeal approves any erection, reconstruction, alteration or restoration, or where the city council on appeal approves the razing of a building which existed in the year 1846 or prior thereto, a certificate of appropriateness or a permit to raze, as the case may be, bearing the date of issuance, shall forthwith be signed by the mayor and made available to the applicant.

Section 6. That article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto new section 42-95.1 to read as follows:

Sec. 42-95.1. Expiration of certificates of appropriateness and permits to raze.

Any certificate of appropriateness issued pursuant to section 42-86 and any permit to raze a building issued pursuant to section 42-87 of this article shall expire of its own limitation twelve months from the date of issuance if the work authorized thereby is not commenced by the end of said twelve-month period; and further any said certificate and permit shall also expire and become null and void if such authorized work is suspended or abandoned for a period of twelve months after being commenced. Any period or periods of time during which the right to use any such certificate or permit is stayed pursuant to this article shall be excluded from the computation of the said twelve months.

Section 7. That section 42-96, article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended be and the same hereby is amended and reordained to read as follows:

Sec. 42-96. Appeals from the board to the city council.

Whenever the board of architectural review shall, in a final decision, disapprove an application for a certificate of appropriateness as prescribed by section 42-86 of this Code, or whenever the board of architectural review shall, in a final decision, disapprove an application for a permit to raze a building which existed in the year 1846 or prior thereto as prescribed by section 42-87 of this Code, the applicant for such certificate or for such permit shall have the right to appeal to and be heard before the city council; provided that he files with the clerk of the city council, on or before fourteen days after the decision of the board, a notice in writing of his intention to appeal. Upon receipt of such notice, the clerk of the city council shall forthwith notify the city manager, who shall schedule a public hearing before the city council at a time not less than thirty days after the receipt by the clerk of such notice, but no such hearing shall be had until the city manager has caused to be prepared an advertisement stating the time, date and place of the proposed hearing before the city council, the location of the property involved, and the nature of the hearing, and has caused such advertisement to be published at least once in a newspaper of general circulation within the city at least seven days before the proposed hearing. Each such notice shall be accompanied by a check or money order in at least the sum of ten dollars to cover the costs in connection with the notice.

Whenever the board shall, in a final decision, approve an application for a certificate of appropriateness as prescribed by section 42-86 of this Code, or whenever the board of architectural review shall, in a final decision, approve an application for a permit to raze a building which existed in the year 1846 or prior thereto as prescribed by section 42-87 of this Code, opponents to the granting of such certificate or of such permit shall have the right to appeal to and be heard before the city council; provided, that there is filed with the clerk of the city council, on or before fourteen days after the decision of the board, a petition in writing signed by at least twenty five persons owning real estate within the old and historic district, indicating their intention to appeal. Upon receipt of such notice, the clerk of the city council shall forthwith notify the city manager, who shall schedule a public hearing before the city council at a time not less than thirty days after the receipt by the clerk of such notice, but no such hearing shall be had unless and until the city manager has caused to be prepared an advertisement stating the time, date and place of the proposed hearing before the city

council, the location of the property involved and the nature of the hearing, and has caused such advertisement to be published at least once in a newspaper of general circulation within the city at least seven days before the proposed hearing.

On any such appeal, the final decision of the board of architectural review appealed from shall be stayed pending the outcome of the appeal before the council. The council shall conduct a full and impartial public hearing on the matter before rendering any decision. The same standards shall be applied by the council as are established for the board of architectural review. The council may affirm, reverse or modify the decision of the board, in whole or in part. The decision of the council, subject to the provisions of section 42-96.1, shall be final.

Section 8. That article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto new section 42-96.1 to read as follows:

Sec. 42-96.1. Appeals from the city council to the court.

Any applicant or any of the petitioners aforesaid aggrieved by a final decision of the city council shall have the right to appeal such decision to the corporation court for a review, provided such appeal is filed within a period of thirty days after the rendering of the final decision by the city council. Such appeal shall be taken by filing a petition, at law, to review the decision of council, and the filing of said petition shall stay the council's decision pending the outcome of the appeal to the court. Findings of fact by the council shall be conclusive on the court in any such appeal. The court may reverse or modify the decision of the council, in whole or in part, if it finds upon review that the decision of the council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of council.

Section 9. That article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto new section 42-96.2 to read as follows:

Sec. 42-96.2. Additional or concurrent right to raze building erected during or prior to 1846; conditions and procedures.

In addition to the right of appeal hereinabove set forth, the owner of a building or structure, the razing or demolition of which is subject to the provisions of this article, shall, as a matter of right, be entitled to raze or demolish such building or structure provided that:

(a) He has applied to the board for such right and has also been a party to an appeal from the board's decision to the council.

(b) That the owner has for the period of time set forth in the time schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell such building or structure, and the land pertaining thereto, to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto.

(c) That no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such building or structure, and the land pertaining thereto, prior to the expiration of

the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to the court from the decision of the council, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after a final decision by the city council. The time schedule for offers to sell shall be as follows:

1. Three months when the offering price is less than twenty-five thousand dollars.
2. Four months when the offering price is twenty-five thousand dollars or more but less than forty thousand dollars.
3. Five months when the offering price is forty thousand dollars or more but less than fifty-five thousand dollars.
4. Six months when the offering price is fifty-five thousand dollars or more but less than seventy-five thousand dollars.
5. Seven months when the offering price is seventy-five thousand dollars or more but less than ninety thousand dollars.
6. Twelve months when the offering price is ninety thousand dollars or more.

Section 10. That article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by adding thereto new section 42-96.3 to read as follows:

Sec. 42-96.3 Bona fide offer to sell; procedures for filing notice of offer and questioning price.

(a) Notice. Before making a bona fide offer to sell, provided for in section 42-96.2, an owner shall first file a statement with the Director of Construction and Inspection of the City. The statement shall identify the property, state the offering price, the date the offer of sale is to begin and name the real estate agent, if any. No time period set forth in the schedule contained in section 42-96.2 shall begin to run until the statement has been filed. Within five days after receipt of a statement the director shall mail a copy of the statement to the mayor, the city council, the city manager and subscribers to notice provided for in section 42-98.

(b) Question as to price. The fact that an offer to sell a building or structure is at a price reasonably related to fair market value may be questioned, provided there is filed with the city manager, on or before fifteen days after the offer for sale has begun, a petition in writing signed by at least twenty-five persons owning real estate located within the Old and Historic District. Upon the receipt of such a petition, the city manager shall, at city expense, forthwith appoint three disinterested real estate appraisers, familiar with property values in the Old and Historic District, who shall forthwith make an appraisal of the building or structure in question and forthwith file a written report with the city manager whether or not in their opinion the offer to sell the building or structure is at a price reasonably related to its fair market value. The opinion of any two

of the three appraisers shall be binding and final. In the event the opinion is to the effect that the offer to sell the building or structure is at a price reasonably related to its fair market value, the owner may continue pursuant to section 42-96.2 as if no question had been raised. In the event the opinion is to the effect that the offer to sell the building or structure is not at a price reasonably related to its fair market value the offer to sell shall be void and of no force and effect and the owner, if he wishes to take advantage of the additional or concurrent right provided for in section 42-96.2, must file the notice provided for in (a) above and proceed in accord with section 42-96.2. Notwithstanding an adverse opinion by the appraisers, if an owner has entered into a binding bona fide contract as provided for in section 42-96.2 prior to the date the appraisers have filed their report with the city manager, the price shall be deemed reasonably related to fair market value.

Section 11. That section 42-97, article XIV, chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

Sec. 42-97. Provisions of article not to prevent razing of hazardous structures.

Nothing in this article shall apply to or in any way prevent the razing of any building or structure in the city which is in such a dangerous, hazardous or unsafe condition that it has been ordered demolished by the director of construction and inspection or by the board of housing hygiene, pursuant to the Code of the City of Alexandria, Virginia; provided, however, that before a razing can be ordered by the board, the director of public health of the city shall have first mailed to the subscribers provided for in section 42-98, not less than ten days before the meeting, a notice of the meeting of the board of housing hygiene to be held pursuant to section 18-31; and provided further that before a razing can be ordered by the director of construction and inspection, the director of construction and inspection shall have first delivered a copy of the proposed order to the city manager and mailed to the subscribers provided for in section 42-98 a copy of the proposed order.

Section 12. That in the opinion of the City Council an emergency exists and this ordinance is hereby declared an **EMERGENCY ORDINANCE** in order to prevent a three-month delay in enacting into law this comprehensive zoning plan change and revision.

Section 13. 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: May 25, 1966