

ORDINANCE NO. 1731

AN ORDINANCE to amend and reordain Sections 42-101, 42-102, 42-103 and 42-104, Article XV, Chapter 42 of The Code of the City of Alexandria, Virginia, 1963, as amended; which Chapter 42 relates to ZONING, which Article XV relates to AMENDMENTS, ETC., which Section 42-101 relates to ADVERTISEMENT AND NOTICE OF AMENDMENTS, ETC., INITIATED BY COUNCIL ON ITS OWN MOTION, which Section 42-102 relates to APPLICATIONS FOR AMENDMENT, ETC., GENERALLY, which Section 42-103 relates to RECOMMENDATION OF PLANNING COMMISSION; ACTION BY COUNCIL; REFERENCE TO PLANNING COMMISSION FOR FURTHER STUDY, and which Section 42-104 relates to PROTEST OF LANDOWNERS.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 42-101, Article XV, 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. 42-101. Advertisement and notice of amendments, etc., initiated by council on its own motion.

No amendment, supplement or change in this chapter initiated by the city council on its own motion shall be made unless and until the city manager has caused to be prepared an advertisement stating the time, date and place of a proposed hearing before both the planning commission and the council the nature of the amendment, supplement or change and the location of property, if property is to be zoned, and has caused such advertisement to be published two times in a newspaper of general circulation published in the city, one of which publications shall be at least seven days before the proposed hearings before the planning commission and the other publication shall be after that hearing and at least ten days before the proposed hearing before the city council. In the event there is no newspaper of general circulation published in the city, then such notice may be published in a newspaper of general circulation in the city. Except in the case of comprehensive changes in the zoning plan, like notice of the hearings shall also be given by mail to the owner, abutting property owners and owners directly opposite when the property borders on a street or right of way. Placing in the mail shall be sufficient service of this notice.

In addition to the requirements contained hereinabove, the city manager shall cause notice of any proposed amendment of, supplement to or change in zone boundaries to be given by posting placard notice at least seven days before the proposed planning commission hearing and fifteen days before the proposed council hearing. The form of the placard shall be prescribed by the city manager, but it shall contain at least the time, date and place of the proposed hearing before both the planning commission and the council, the nature of the amendment of, supplement to, or change in zone boundaries, and the location of the property. The location, number

and manner of posting the placards shall be prescribed by the city manager; provided, however, that where the property in question has frontage on one or more streets, the placard or placards shall be located at least on the street frontage or frontages of such property; and provided, further, that in the event such motion covers adjacent or contiguous lots or parcels the city manager shall determine the need for posting placard notice for each and every lot or parcel involved and cause placard notices to be posted in accord with such determination. The posting of such placards shall be deemed sufficient compliance with this paragraph, notwithstanding any subsequent destruction, defacement or removal thereof. The city manager shall cause posted placards to be removed no later than seven days after a final determination has been made with respect to the motion. Such removals shall not constitute violations of section 42-102.1.

Section 2. That Section 42-102, Article XV, 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. 42-102. Applications for amendment, etc., generally.

Applications for amendment, supplement or change in this chapter made by the owner of property or parties in interest shall be addressed to the city council and shall be filed with the director of planning and * regional affairs. Each such application for change in zoning classification of property shall correctly list the names and addresses of all abutting property owners, and when the property borders on a street, public way or public service company right of way, the names and addresses of the property owners directly opposite the property across such street, public way or public service company right of way. Each such application shall be accompanied by a check or money order for the sum of one hundred dollars for the first half acre or portion thereof, plus twenty dollars for each additional half acre of land or portion thereof involved.

Upon the filing of such application, the director of planning and * regional affairs shall confer with the city manager for the purpose of scheduling hearing dates before the planning commission and before the city council, respectively. The city manager shall then cause to be prepared an advertisement stating the dates and times of the proposed hearings before the planning commission and the city council and the nature of each proposed amendment, supplement or change in this chapter, and the location of the property, if any, to be rezoned, and he shall cause such advertisement to be published two times in a newspaper of general circulation published in the city, one of which publications shall be at least seven days before the proposed hearing before the planning commission and the other publication shall be after that hearing and at least ten days before the proposed hearing before the city council. In the event there is no newspaper of general circulation published in the city, then such notice may be published in a newspaper of general circulation in the city. Except in the case of comprehensive changes of the zoning law, like notice of the hearings

shall also be given by mail to the applicant and to each of the property owners listed in each application for change in zoning classification as required by this section. Placing in the mail shall be sufficient service of this notice.

If any person shall pay to the city through the city manager the sum of ten dollars to cover costs, the city manager shall cause to be mailed to each such person for a period of one year notice of the respective public hearings on all zoning matters, which notice shall be mailed at least seven days before the hearing of the planning commission and shall state the dates, places and nature.

The planning commission shall meet at such times arranged in relation to the meetings of the city council as will permit of proper maturing of the publications hereinbefore provided for.

In addition to the requirements contained hereinabove, the city manager shall cause notice of any proposed amendment of, supplement to or change in zone boundaries to be given by posting placard notice at least seven days before the proposed planning commission hearing and fifteen days before the proposed council hearing. The form of the placard shall be prescribed by the city manager, but it shall contain at least the time, date and place of the proposed hearing before both the planning commission and the council, the nature of the amendment of, supplement to or change in zone boundaries, and the location of the property. The location, number and manner of posting the placards shall be prescribed by the city manager; provided, however, that where the property in question has frontage on one or more streets, the placard or placards shall be located at least on the street frontage or frontages of such property; and provided, further, that in the event such application covers adjacent or contiguous lots or parcels the city manager shall determine the need for posting placard notices for each and every lot or parcel involved and cause placard notices to be posted in accord with such determination. The posting of such placards shall be deemed sufficient compliance with this paragraph, notwithstanding any subsequent destruction, defacement or removal thereof. The city manager shall cause posted placards to be removed no later than seven days after a final determination has been made with respect to the application. Such removals shall not constitute violations of section 42-102.1.

Section 3. That Section 42-103, Article XV, 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. 42-103. Recommendation of planning commission; action by council; reference to planning commission for further study.

After the public hearing by it, the planning commission shall make its recommendation to the city council either for or against adoption of the proposed amendment, supplement or change and give its reason. Such recommendation shall be sent to the city council the day after the hearing before the planning commission. The city council, at the time scheduled, shall conduct a full and impartial public hearing on each application, and it may grant such application by the adoption of an ordinance effecting such amendment, supplement or change, or it may deny such application by

motion; provided, that if the planning commission shall disapprove or recommend against adoption of any change in zoning classification of property or amendment, supplement or change in this chapter, it shall require a record three-fourths vote of all members of the city council to adopt any ordinance effecting the change against such recommendation; provided further, that the city council may also refer the matter to the planning commission for further study.

In any event, at this point the city council shall either approve such application, reject such application or refer it to the planning commission; provided, that if such application is rejected, it may also be referred to the commission for further study. If a referral is made, the city council may include such suggestions and modifications as it shall see fit.

The planning commission shall hold at least one public hearing on any such referral, notice of which hearing shall be advertised once in a * newspaper of general circulation published in the city, and which publication shall be at least seven days before the proposed hearing. In the event there is no newspaper of general circulation published in the city, then such notice may be published in a newspaper of general circulation in the city. The planning commission shall act on such referral within fifteen days and submit its reviewed recommendation to the city council. If adopted by a vote of two-thirds of the entire membership of the planning commission *, a recommendation of disapproval at the referral meeting may be overruled only by a recorded affirmative vote of three-fourths * of all the members of the city council. If the planning commission fails to act within the prescribed period or by a two-thirds vote, the city council may adopt such application by a simple majority of its membership. The public hearing on any matter referred by the city council to the planning commission for further study may be continued by the city council over a period not to exceed thirty days, but the city council shall take final action on or before thirty days after such referral. Time, not to exceed thirty days, may be taken to prepare an appropriate draft of an ordinance or to follow the proper procedure for the passage of an ordinance and such time shall not be considered any part of the above-mentioned thirty day referral period or the three month time period prescribed in section 42-105.

The council in adopting an ordinance to determine the boundaries of zones may adopt an ordinance for a zone change by a more restrictive zone than that originally applied for or moved, provided; (1) that the planning commission recommends in favor of such more restrictive zone change at its first public hearing required by sections 42-101 or 42-102 of this Code; (2) that the applicant agrees to the more restrictive zone change at or before the said planning commission hearing in cases where the zone change procedure is initiated by other than the planning commission through comprehensive plan zoning or the council on its own motion; and (3) that at least a ten * day notice of the more restrictive zone change and of the time and place of the public hearing before council required by sections 42-101 or 42-102 of this Code shall be given by publication thereof in a * newspaper of general circulation published in the city. In the event * there is no newspaper of general circulation published in the city, then such

notice may be published in a newspaper of general circulation in the city. A protest under section 42-104 of this Code against a less restrictive zone change shall not be effective against a more restrictive change. This shall not, however, preclude the filing of an effective new protest against a more restrictive zone change under section 42-104 of this Code nor shall it preclude the effectiveness of a protest filed against both a less restrictive and a more restrictive zone change.

Section 4. That Section 42-104, Article XV, 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. 42-104. Protest of landowners.

If a protest is filed with the city clerk against such amendment, supplement or repeal signed by the owners of twenty per cent or more either of the area of land within the boundaries of such proposed change or of the area of land within three hundred feet of the boundaries of such proposed change, the council shall not adopt the ordinance making such amendment, supplement or repeal by a less than three-fourths affirmative votes of the members of council. Streets, alleys and land dedicated to public use or land owned by the city, state or federal governments shall not be included in computing the above-mentioned areas. The provisions of this section shall, except for city-owned property, apply to comprehensive zoning when the council adopts comprehensive zoning changes or revisions.

Any such protest shall be filed not later than 12:00 noon on the day first advertised for public hearing before the city council pursuant to the sentence of section 9.12 of the Charter which reads as follows: "At least fifteen days' notice of the time and place of any such hearing before the council shall be given by publication thereof in a * newspaper of general circulation published in the city. In the event there is no newspaper of general circulation published in the city, then such notice may be published in a newspaper of general circulation in the city." Once any such protest has been filed no changes thereto by way of addition, substitution, amendment or withdrawal may be made after such 12:00 noon deadline. In those instances where a change is made in the description of the land sought to be rezoned from that shown in the application for rezoning, and such change in description is made subsequent to the publication of the fifteen day notice requirement of section 9.12 of the Charter, any such protest shall be filed not later than 12:00 noon on the day advertised for second reading and public hearing of the proposed ordinance to rezone.

Section 5. 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.

Charles E. Beatley, Jr.
Mayor

FINAL PASSAGE: NOVEMBER 9, 1971

N.B. Asterisks denote deletions.