

ORDINANCE NO. 2099

AN ORDINANCE to amend and reordain subsections (c) and (i) of Section 1, Section 5, Section 9, Section 10 and Section 12 of Ordinance No. 1671 of the City of Alexandria, Virginia, adopted on September 8, 1970; to further amend said Sections 5 and 12 of said ordinance by adding thereto new last paragraphs; which Section 1 relates to DEFINITIONS, which subsection (c) thereof relates to AUTHORITY FACILITIES, which subsection (i) thereof relates to REVENUES, which Section 5 relates to POWERS OF THE AUTHORITY, which new last paragraph of Section 5 relates to AUTHORIZATION FOR THE AUTHORITY TO ISSUE REVENUE BONDS SUBJECT TO CITY COUNCIL APPROVAL, which Section 9 relates to RENT, FEES AND OTHER CHARGES, which Section 10 relates to AUTHORITY NON-PROFIT, which Section 12 relates to CONSTRUCTION OF ORDINANCE, which new last paragraph of Section 12 relates to SEVERABILITY, and which Ordinance No. 1671 relates to the INDUSTRIAL DEVELOPMENT AUTHORITY.

WHEREAS, the City Council of the City of Alexandria created the "Industrial Development Authority of the City of Alexandria, Virginia" under the Industrial Development and Revenue Bond Act, being Chapter 33 of Title 15.1 of the Code of Virginia of 1950, as amended (the Act) vesting such authority with the powers conferred upon industrial development authorities by the Act in order to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in the City of Alexandria or its environs; and

WHEREAS, the General Assembly of the State of Virginia, has amended the Act and determined to empower such authorities to acquire, own, lease and dispose of properties to the end that such authorities may be able to promote industry and develop trade by inducing manufacturing, industrial, governmental and commercial enterprises to locate in or remain in this Commonwealth and further the use of its agricultural products and natural resources, and to vest such authorities with all powers that may be necessary to enable them to accomplish such purposes, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either for or through the increase of their commerce, for or through the promotion of their safety, health, welfare, convenience or prosperity, but not to authorize any such authority to operate any such manufacturing, industrial or commercial enterprise; and

WHEREAS, it is the further intention of the General Assembly of the State of Virginia to grant to such authorities the powers contained in the Act with respect to pollution control facilities to the end that such authorities may protect and promote the health of the inhabitants of the Commonwealth and the conservation, protection and improvement of its natural resources by exercising such powers for the control or abatement of land, sewer, water, air, noise and general environmental pollution derived from the operation of any industrial or medical facility and to vest such authorities with all powers that may be necessary to enable it to accomplish such purpose, which powers shall be exercised for the benefit of the inhabitants of the Commonwealth, either through the increase of their commerce, or through the promotion of their safety, health, welfare, convenience or prosperity; and

WHEREAS, the City Council desires to conform the provisions of the ordinance creating the authority to reflect recent amendments to the Act and to permit the Authority to issue revenue bonds subject to the approval of City Council; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

That Sections 1(c), 1(i), 5, 9, 10 and 12 of Ordinance No. 1671 be amended and reordained as follows:

Section 1. (c) "Authority facilities" or "facilities" shall mean any or all medical (including, but not limited to, office and treatment facilities), pollution control and industrial facilities, located within or without or partially within or without the municipality creating the authority, now existing or hereafter acquired, constructed or installed by or for the authority for lease or sale by the authority pursuant to the terms of the Act this chapter. Any facility may consist of or include any or all buildings, improvements, additions, extensions, replacements, machinery or equipment, and may also include appurtenances, lands, rights in land, water rights, franchises, furnishings, landscaping, utilities, approaches, roadways, and other facilities necessary or desirable in connection therewith or incidental thereto, acquired, constructed, by or installed by or on behalf of the authority. A pollution control facility shall include any facility acquired, constructed or installed or any expenditure made, including the reconstruction, modernization or modification of any existing building, improvement, addition, extension, replacement, machinery or equipment, and which is designed to further the control or abatement of land, sewer, water, air, noise or general environmental pollution derived from the operation of any industrial or medical facility. Any facility may be constructed on or installed in or upon lands, structures, rights-of-way, easements, air rights, franchises or other property rights or interests whether owned by the authority or others.

(i) "Revenues" shall mean any or all fees, rates, rentals and receipts collected by, payable to or otherwise derived by the authority from, and all other moneys and income of whatsoever kind or character collected by, payable to or otherwise derived by the authority in connection with the ownership, leasing or sale of the authority facilities.

Section 5. Powers of the Authority. The Authority shall have such public and corporate powers as are conferred upon it by the Act, including the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated: (a) to sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties; (b) to adopt and use a corporate seal and to alter the same at pleasure; (c) to contract and be contracted with; (d) to acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish one or more Authority facilities including all real and personal properties which the board of directors of the Authority may deem necessary in connection therewith and regardless of whether or not any such facilities shall than be in existence; (e) to lease to others any or all of its facilities and to charge and collect rent therefor and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof; and to include in any such lease, if desired, a provision that the lessee thereof shall have options to renew such lease or to purchase any or all of the leased facilities, or that upon payment of all of the indebtedness of the Authority it may lease or convey any or all of its facilities to the lessee thereof with or without consideration; (f) to sell, exchange, donate, and convey any or all of its facilities or properties whenever its board of directors shall find any such action to be in furtherance of the purposes for which the Authority was organized; (g) to issue its bonds for the purpose of carrying out any of the powers including specifically, but without intending to limit any power conferred, the issuance of bonds to provide long-term financing of any pollution control facility, whether any such facility was constructed prior to or after the enactment hereof or the receipt of a commitment from the Authority to undertake financing pursuant hereto, unless the major part of the proceeds of such bonds will be used to redeem any prior long-term financing of such facility other than financing pursuant to the

Act or any similar law; (h) as security for the payment of the principal of and interest on any bonds so issued and any agreements made in connection therewith, to mortgage and pledge any or all of its facilities or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues therefrom or from any part thereof; (i) to employ and pay compensation to such employees and agents, including attorneys, as the board of directors shall deem necessary in carrying on the business of the Authority; (j) to exercise all powers expressly given the Authority by the City Council of Alexandria and to establish bylaws and make all rules and regulations, not inconsistent with the provisions of this Ordinance and the Act, deemed expedient for the management of the Authority's affairs; (k) to appoint an industrial advisory committee to advise the Authority, consisting of such number of persons as it may deem advisable; however, such persons shall not receive any compensation for their services, but may be reimbursed for necessary traveling and other expenses incurred while on the business of the Authority; and (l) to borrow money and to accept contributions, grants, and other financial assistance from the United States of America and agencies or instrumentalities thereof, the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth, for or in aid of the construction, acquisition, ownership, maintenance or repair of the Authority facilities, or for the payment of principal of any bond of the Authority, interest thereon, or other cost incident thereto, and to this end the Authority shall have the power to comply with such conditions and to execute such agreements, trust indentures, and other legal instruments as may be necessary, convenient or desirable and to agree to such terms and conditions as may be imposed. The Authority shall not have power to operate any facility as a business other than as lessor, provided, however, that the Authority shall have the power to apply for, establish, operate and maintain a foreign-trade zone in accordance with the provisions of Chapter 14 (Section 62.1-159 et seq.) of Title 62.1 of the Code of Virginia 1950, as amended. Any meeting held by the board of directors at which formal action is taken shall be open to the public.

The Authority is hereby authorized to exercise all of the powers granted by the Act, including the power to issue the revenue bonds of the Authority in accordance with the Authority's resolution of July 23, 1975, for the purpose of providing funds to pay the cost of certain pollution control facilities at Potomac Electric Power Company's Potomac River Generating Station in the City of Alexandria; provided, however, that notwithstanding any other provisions of this Ordinance, the Authority may not issue any revenue bonds under said Act other than those described above unless the City Council shall by resolution approve the purpose for which such revenue bonds will be issued and the maximum aggregate principal amount of such bond issue.

Section 9. Rent, fees and other charges. The Authority shall fix and revise from time to time the rents, fees and other charges to be paid to it in connection with the lease or sale of various Authority facilities and for any other services furnished or provided by the Authority. Such rents, fees and charges shall be fixed so as to provide at least sufficient funds to pay the cost of maintaining, repairing and operating such projects and the principal and interest of any bonds issued by the Authority or other debts contracted as the same shall become due and payable. The Authority and the political subdivision in which all or any part of a particular Authority facility is located may agree on payment by the Authority on account of governmental services to be rendered by the political subdivisions in such amounts as the Authority may find to be consistent with the purposes of the Act. A reserve may be accumulated and maintained out of the revenues and receipts of the Authority for extraordinary repairs and expenses and for such other purposes as may be provided in any resolution authorizing a bond issue or in any trust indenture securing the Authority's bonds. Subject to such provisions and restrictions as may be set forth in the resolution or in the trust indenture authorizing or securing any of the bonds or other obligations hereunder, the Authority shall have exclusive control of the revenues and receipts derived from the lease or sale of any Authority facility and the right to use the revenues and receipts in the exercise of its powers and duties set forth in this Ordinance and the Act.

Section 10. Authority nonprofit. The Authority shall be nonprofit and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event the board of directors of the Authority shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the Authority then any net earnings of the Authority thereafter accruing shall be paid to the City; provided, however, that nothing herein contained shall prevent the board of directors from transferring all or any part of its facilities or properties in accordance with the terms of any contract entered into by the Authority.

Section 12. Construction of Ordinance; Severability. Nothing herein shall be construed to deprive the City of its police powers over properties of the Authority or to impair any power thereover of any official or agency of the City which may be otherwise provided by law. Nothing herein shall be deemed to authorize the Authority to occupy or use any land, streets, buildings, structures or other property of any kind, owned or used by any political subdivision within its jurisdiction, or any public improvement or facility maintained by such political subdivision for the use of its inhabitants without first obtaining the consent of the governing body thereof.

The provisions of this Ordinance are derivative from the Act, such that it is the intention of the City Council of Alexandria that (i) the provisions of this Ordinance be construed as a grant of, and not a limitation upon, the powers that may be conferred upon the Authority by the Act, from time to time, (ii) the Authority have such other powers as may be conferred upon it by law, and (iii) this Ordinance be consistent with the provisions of the Act and decisions of the Virginia Supreme Court of Appeals, provided, however, that this Ordinance may be amended, from time to time, when the City Council of Alexandria deems such action desirable.

The powers granted and the duties imposed in this Ordinance shall be construed to be independent and severable. If any one or more sections, subsections, sentences, or parts of any of this ordinance shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

Section 13. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published 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 city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk 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: April 13, 1976