

ORDINANCE NO. 3117

AN ORDINANCE to amend and reordain subsection (31) of Section 4-2-22, all of Article B, Chapter 2, Title 4 of The Code of the City of Alexandria, Virginia, 1981, as amended; which Title 4 relates to PUBLIC SAFETY, which Chapter 2 relates to FIRE PROTECTION AND PREVENTION, which Article B relates to FIRE PREVENTION, which Section 4-2-22 relates to CHANGES IN BOCA BASIC FIRE PREVENTION CODE and which subsection (31) relates to FLAMMABLE AND COMBUSTIBLE LIQUIDS and to add in Appendix F, MISCELLANEOUS ORDINANCES NOT CODIFIED OR OTHERWISE LISTED of The Code of the City of Alexandria, Virginia, 1981, as amended, an ordinance related to ADOPTION OF FEDERAL TRANSPORTATION AND SAFETY REGULATIONS.

WHEREAS, the City Council of the City of Alexandria recognizes the inherent danger of the transportation and storage, both for use and incidental to transportation, of hazardous materials and wastes of various kinds and by various modes in and through the City of Alexandria; and

WHEREAS, the city council recognizes its obligation to protect the health, safety and welfare of the general public; and

WHEREAS, the city council finds that:

1. The current framework of federal and state safety regulation and the enforcement of existing regulations on the transportation and storage of hazardous materials does not, without local augmenting regulations, adequately protect the citizens of the city;

2. There is a probability of a petroleum spill in the city, and for that reason, the enforcement effort should initially seek to prevent petroleum spills, a term used herein to mean any transportation-related or non-transportation-related discharge of petroleum, be it accidental, intentional or by neglect, which is not authorized by a federal, state or local authority;

3. The unauthorized discharge of petroleum results in one or all of the following: a fire hazard, explosion or the risk of explosion, disruption of transportation if it is a transportation-related event, a threat of or actual contamination of the ground water and other waters such as rivers, streams and lakes, toxic air pollution and other pernicious effects of an indirect nature such as disruption of the commerce of the city; and

4. The prevention of unauthorized discharges from transportation accidents and from incidents at storage facilities is imperative at a time when the resources available to federal,

state and local agencies for response to a spill event are decreasing; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That subsection (31), Section 4-2-22, Article B, Chapter 2, Title 4 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained to read as follows:

(31) Part C, Article 28, Sections F-2801.0, F-2804.0, F-2807.0 and F-2807.3 are amended and reordained to read:

Article 28. Flammable and combustible liquids.

F-2801.0. Fire safety requirements.

Containers, tanks, equipment and apparatus and all piping, fittings and appliances used or intended to be used for the storage, handling, use or movement of flammable or combustible liquids shall be constructed and tested in accordance with NFPA 30 listed in Appendix A and approved by the fire official. It is required for any storage facility comprised of any number of tanks above or below ground with a total capacity of 5,000 gallons or more that there be prepared and maintained on site a plan for oil spill prevention and countermeasures certified by a professional engineer and approved by the fire official. The certification of the professional engineer shall be that the plan is in substantial compliance with the spill prevention control and countermeasures plan requirements of the Environmental Protection Agency contained in part 112, subchapter D, chapter I of title 40, Code of Federal Regulations. Such a plan approved by the Environmental Protection Agency may be submitted to the fire official in lieu of one certified by a professional engineer.

F-2801.9. Spills and leaks.

Flammable and combustible liquid spills and leaks shall be promptly reported to the fire official. The owner, tenant or other person in control of the premises when a spill or leak occurs is responsible for taking effective countermeasures to contain the spill, clean up the flammable or combustible liquid and dispose of the waste. Upon notification the city is not satisfied such person has the capability and intention to perform those tasks as needed, that person shall have a reasonable opportunity considering the nature of the emergency then existing to choose, and to so inform the city of the choice, to contract for the containment, clean-up and disposal needed or to join the city in a contract for such work and in either instance pay the entire cost of the work. If the owner, tenant or other person in control of the premises fails to respond to the notification from

the city concerning that person's lack of capability or intention to undertake effective countermeasures, the city will proceed without delay as the emergency requires and charge to the owner, tenant or other person in control of the premises the entire cost of containment, clean-up and disposal as a fee owed to the city.

F-2807.0. Tank vehicles.

F-2807.3. Maintenance.

Tank vehicles operating within the city while in transit into or out of the city shall be maintained in accordance with the federal regulations contained in 49 Code of Federal Regulations 390 through 397, section 397.3 of which makes applicable to every motor vehicle containing hazardous materials state laws and local ordinances and regulations in conformance to the federal regulations. When in the course of performance of the duty imposed by section 18.2-278.4 of the Code of Virginia (1950), as amended, a law enforcement officer observes a condition or characteristic of an operating tank vehicle which indicates there exists a violation of the applicable provisions of the city code, the federal regulations or the state regulations on transporting hazardous materials, any duly sworn law enforcement officer of this jurisdiction, including those fire officials authorized to arrest persons for fire code violations, may halt the tank vehicle long enough to determine if the permits required for transporting hazardous material have been obtained, if the cargo is secure and if the observed condition or characteristic presents an immediate threat of a transportation-related spill or other catastrophic event. The tank vehicle may resume operation if the official finds that in accordance with NFIPA 385, the tank vehicle is in good repair and free of leaks. If that finding is not made, the vehicle shall not be detained any longer than necessary for the official to determine that arrangements for the repair of the vehicle where situated or for its removal to a safe place and repair there, whichever in the judgment of the official is appropriate, are made. Upon the refusal of the operator to make the arrangements required by the official, the vehicle shall be impounded by the official and held until the repair is made or it is certain it will be made.

Section 2. That there is hereby adopted to the extent needed to provide adequate protection of the health, safety and welfare of the general public from the dangers attendant to the transportation and storage of hazardous materials the following federal and motor carrier safety regulations:

a. Title 49 of the Code of Federal Regulations, sections 171 through 199, governing the transportation of hazardous materials in commerce; and

b. Title 49 of the Code of Federal Regulations, parts 391 through 397, imposing safety requirements on motor carriers.

When any regulation adopted under section 2 is found to be in conflict with any provision of title 4, chapter 2, including any adopted therein by reference, the provision which establishes the higher standard for the promotion and protection of the health, safety and welfare of the general public shall prevail to the extent necessary to ensure that protection is adequate.

Section 3. The provisions of sections 1 and 2 of this ordinance are severable from each other by section.

Section 4. 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.

JAMES P. MORAN, JR.
Mayor

Final Passage: March 22, 1986