

ORDINANCE NO. 3475

AN ORDINANCE to repeal Section 7-6-190.4 (PENALTIES) of Division 4 (ADMINISTRATION AND ENFORCEMENT), Article I (SIGNS, MARQUEES AND AWNINGS) and Section 7-6-214 (PENALTY FOR VIOLATION OF CHAPTER; INJUNCTIONS) of Article L (ADMINISTRATION; PENALTY); to enact new Sections 7-6-214 (CRIMINAL VIOLATIONS), 7-6-215 (CIVIL VIOLATIONS -- GENERAL), 7-6-216 (CIVIL VIOLATIONS -- HISTORIC DISTRICTS), 7-6-217 (CIVIL VIOLATIONS -- PENALTIES), 7-6-218 (CIVIL VIOLATIONS -- PROCEDURES) and 7-6-219 (CUMULATIVE REMEDIES), of Article L (ADMINISTRATION; PENALTY), all of Chapter 6 (ZONING), Title 7 (PLANNING AND DEVELOPMENT), of The Code of the City of Alexandria, Virginia, 1981, as amended, and to provide a savings clause.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 7-6-190.4 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is repealed and the catch line thereof shall be amended and reordained as follows.

Sec. 7-6-190.4 Reserved.

Section 2. That Section 7-6-214 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is repealed, and is replaced by new Section 7-6-214 as set out in Section 3 of this ordinance.

Section 3. That Article L, Chapter 6, Title 7, of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended and reordained by adding thereto new Sections 7-6-214 through 7-6-219, to read as follows:

THE FOLLOWING IS ALL NEW MATERIAL

Sec. 7-6-214 Criminal violations.

Any person who, as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, knowingly commits, permits, assists in or attempts any violation of this chapter, whether by act or omission, which violation results in the injury or death of any person, or knowingly refuses or neglects to comply with any written order issued pursuant to this section by the director to abate any violation of this chapter, shall be guilty of a class 1 misdemeanor.

Sec. 7-6-215 Civil violations -- general.

Any person who, as the owner of any land, building or structure, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder,

contractor or otherwise, who commits, permits, assists in or attempts any of the following violations of this chapter, whether by act or omission, shall be liable for a civil violation as follows:

(a) Violation of any use or occupancy regulation or performance standard applicable under this chapter, including the failure to obtain a special use permit where so required: class 5 civil violation.

(b) Violation of any frontage regulation applicable under this chapter: class 5 civil violation.

(c) Violation of any yard regulation applicable under this chapter: class 5 civil violation.

(d) Violation of any floor area ratio regulation applicable under this chapter: class 5 civil violation.

(e) Violation of any coverage, open space or landscaping regulation applicable under this chapter: class 5 civil violation.

(f) Violation of any height regulation applicable under this chapter: class 5 civil violation.

(g) Violation of any off-street parking or loading regulation applicable under this chapter: class 5 civil violation.

(h) Violation of any flood plain district regulation applicable under article D of this chapter: class 5 civil violation.

(i) Violation of any sign, marquee and awning regulation applicable under divisions 1, 2 or 4 of article I of this chapter: class 5 civil violation.

(j) Violation of any specific statement, proffer, representation or plan made or submitted in connection with any application, permit or approval granted under the provisions of this chapter, and violation of any condition imposed by the approving authority: class 5 civil violation.

(k) Violation of any regulation of this chapter not set forth above and not subject to section 7-6-214 or 7-6-216: class 5 civil violation.

Sec. 7-6-216 Civil violations -- historic districts.

Any person who, as the owner of any land, building or structure located within the Old and Historic Alexandria District, the Parker-Gray District, or listed for preservation pursuant to article N of this chapter, or as the agent thereof

having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, assists in or attempts any of the following violations of article M, article N or division 3 of article I of this chapter, whether by act or omission, shall be liable for a civil violation as follows:

(a) Violation of any sign, marquee, or awning regulation of division 3 of article I of this chapter: class 4 civil violation.

(b) Violation of section 7-6-222, 7-6-239.1 or 7-6-257, involving the construction, alteration or repair of a building or structure for which no building permit under the Uniform Statewide Building Code is required: class 3 civil violation.

(c) Violation of section 7-6-222, 7-6-239.1 or 7-6-257, involving the construction, alteration or repair of a building or structure for which a building permit is required under the Uniform Statewide Building Code: class 2 civil violation.

(d) Violation of any plan, drawing, specific statement or representation made or submitted in connection with a certificate of appropriateness or permit to demolish approved under article M or N of this chapter, and violation of any condition imposed by the board of architectural review or city council on appeal: class 2 civil violation.

(e) Violation of section 7-6-223, 7-6-239.2 or 7-6-258, involving the unauthorized demolition of any building or structure: class 1 civil violation.

Sec. 7-6-217 Civil violations -- penalties.

(a) For a class 1 civil violation, the penalty for each individual offense shall be \$1,500.

(b) For a class 2 civil violation, the penalty for each individual offense shall be \$500 for the first violation, \$1,000 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$1,500 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(c) For a class 3 civil violation, the penalty for each individual offense shall be \$100 for the first violation, \$150 for the second violation of the same regulation or requirement arising from the same set of operative facts, and \$500 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(d) For a class 4 civil violation, the penalty for each individual offense shall be \$50 for the first violation, \$100 for the second violation of the same regulation or requirement

arising from the same set of operative facts, and \$500 for each additional violation of the same regulation or requirement arising from the same set of operative facts.

(e) For a class 5 civil violation, the penalty for each individual offense shall be \$50 for the first violation, and \$100 for each subsequent violation of the same regulation or requirement arising from the same set of operative facts.

(f) Each day during which any class 1 civil violation exists shall constitute a separate individual offense. A class 1 civil violation shall be deemed to exist until such time as the director certifies to the board of architectural review that the unlawfully demolished building or structure has been reconstructed to the pre-existing footprint, envelope, configuration and appearance, using original materials and techniques of construction to the extent possible; provided, however, that, after a public hearing for which notice has been given pursuant to article P of this chapter, the board of architectural review may determine that a class 1 civil violation shall cease to exist at such time as the person responsible therefore shall have paid to the city a sum equivalent to the cost of reconstruction required under this subsection, such sum to be used exclusively for the purpose of promoting historic preservation within the city as determined by the director.

(g) Each day during which any class 2, 3 or 4 civil violation exists shall constitute a separate individual offense.

(h) Each day during which any class 5 civil violation exists shall constitute a separate individual offense. However, in no event shall the same class 5 civil violation arising from the same set of operative facts be charged more frequently than once in any ten day period, and in no event shall a series of charges for the same class 5 civil violation arising from the same set of operative facts result in civil penalties which exceed a total of \$3,000.

Sec. 7-6-218 Civil violations -- procedures.

(a) If the director determines that a civil violation enumerated in section 7-6-215 or 7-6-216 has occurred, he may cause a notice of the violation to be served on any or all persons committing or permitting such violation.

(b) The notice shall provide that the person served may elect to make an appearance in person, or in writing by mail, to the treasurer of the city, and admit liability for or plead no contest to the violation, abate the violation, and pay the civil penalty established for the violation, all within the time period fixed in the notice.

(c) If a person charged with a violation does not elect to admit liability or plead no contest, and abate the violation, the

violation shall be tried in the Alexandria General District Court upon a warrant in debt or motion for judgment, with the same right of appeal as provided for civil actions at law. In the event the violation exceeds the jurisdictional limits of the General District Court, the violation shall be tried in the Alexandria Circuit Court. In any such proceeding, the interpretation of the zoning code made by the director, by the board of zoning appeals, or by the Alexandria Circuit Court on writ of certiorari to the board of zoning appeals, as the case may be, shall be conclusive.

(d) A finding or admission of liability or a plea of no contest to a civil violation shall not be deemed a criminal conviction for any purpose.

Sec. 7-6-219 Cumulative remedies.

The remedies provided in this article are cumulative and not exclusive, and the designation of any violation of the provisions of this chapter as a criminal misdemeanor or civil violation shall not be construed as prohibiting city officials from initiating appropriate administrative or civil procedures to prevent, correct, restrain or abate violations of this chapter.

Section 4. The repeal of Section 7-6-190.4 and Section 7-6-214, effective as of October 13, 1990, shall not affect any act or offense done or committed, or any penalty incurred, or any right established or accrued on or before such date, or any proceeding, prosecution, suit or action pending on that date. Neither the repeal of Section 7-6-190.4 or Section 7-6-214, nor the enactment of new Sections 7-6-214 through 7-6-219 shall apply to offenses committed prior to October 13, 1990, and prosecution for such offenses shall be governed by the prior law, which is continued in effect for that purpose. For the purpose of this section, an offense was committed prior to October 13, 1990, if any essential element of the offense occurred prior thereto.

Section 5. That this ordinance shall become effective upon the date and at the time of its final passage.

JAMES P. MORAN, JR.  
Mayor

Final Passage: October 13, 1990