

ORDINANCE NO. 3835

AN ORDINANCE authorizing the owner of 601 Queen Street, and the owner's successors in title, to establish and maintain three encroachments into the public rights-of-way of Queen and North Saint Asaph Streets, in the City of Alexandria, Virginia.

WHEREAS, Linda M. Fuselier is the owner of the property located at 601 Queen Street in the City of Alexandria, Virginia; and

WHEREAS, Linda M. Fuselier desires to establish and maintain three brick planter boxes, the first four feet by six feet five inches, which will encroach four and one-half feet into the public right-of-way at 601 Queen Street, a second 15 feet nine inches in length by three feet five inches wide, and the third, 19 feet five inches in length by three feet five inches wide, both of which will project approximately 41 inches into the right-of-way of North Saint Asaph Street; and

WHEREAS, the public rights-of-way at those points on North Saint Asaph and Queen Streets will not be significantly impaired by these encroachments; and

WHEREAS, these encroachments have been reviewed by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that these encroachments are not detrimental to the public interest; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Linda M. Fuselier and her successors in title (hereinafter collectively the "Owner") be, and the same hereby is, authorized to establish and maintain two encroachments into the public right-of-way of the 300 block of North Saint Asaph Street and a third into the public right-of-way of 601 Queen Street, all encroachments consisting of brick planter boxes, one 15 feet nine inches in length and projecting 41 inches into the public right-of-way of the 300 block of North Saint Asaph Street, a second 19 feet five inches in length and also projecting 41 inches into the public right-of-way of the 300 block of North Saint Asaph Street, and the third projecting four and one-half feet into the public right-of-way of 601 Queen Street, until said encroachments are removed or destroyed or the authorization to maintain them is terminated by the city; provided, that this authorization to establish and maintain the encroachments shall not be construed to relieve Owner of liability for any negligence on its part on account of or in connection with the encroachments and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain said encroachments shall be subject to and conditioned upon Owner maintaining, at all times and at its own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:	\$1,000,000 each occurrence
	\$1,000,000 aggregate
Property Damage:	\$1,000,000 each occurrence
	\$1,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Owner as named insureds and shall provide for the indemnification of the City of Alexandria and Owner against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachments. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachments shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Owner shall, upon notice from the city, remove the encroachments from the public rights-of-way, or the city, at its option, may remove the encroachments at the expense and risk of Owner. Nothing in this section shall relieve Owner of its obligations and undertakings required under this ordinance.

Section 3. That by accepting the authorization hereby granted to establish and maintain the encroachments and by so establishing and/or maintaining the encroachments, Owner shall be deemed to have promised and agreed to save harmless the City of Alexandria from any and all liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachments.

Section 4. That the authorization herein granted to establish and maintain the encroachments shall be subject to Owner's maintaining the area of the encroachments at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 5. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 6. That the authorization herein granted to establish and maintain the encroachments shall be terminated whenever the City of Alexandria desires to use the affected public rights-of-way for any purpose whatsoever and, by written notification, demands from Owner the removal of the encroachments. Said removal shall be completed by the date specified in the notice and shall be accomplished by Owner without cost to the city. If Owner cannot be found, or shall fail or neglect to remove the encroachments within the time specified, the city shall have the right to remove the encroachments, at the expense of Owner, and shall not be liable to Owner for any loss or damage to the structure of the encroachments caused by the removal.

Section 9. That this ordinance shall be effective upon the date and at the time of its final passage.

PATRICIA S. TICER
Mayor

Final Passage: November 18, 1995