

ORDINANCE NO. 3849

AN ORDINANCE to: (1) amend Article D (INOPERABLE MOTOR VEHICLES) of Chapter 8 (PARKING AND TRAFFIC REGULATIONS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES), by adding a new Section 5-8-65 (CIVIL VIOLATION AND PENALTY); (2) to amend and reordain Section 5-9-4 (SAME--NOTICE TO OWNER TO CUT), Section 5-9-5 (SAME--CUTTING BY CITY; BILLING AND COLLECTION OF CHARGES; UNPAID BILL A LIEN) and Section 5-9-6 (SAME--FAILURE TO CUT WEEDS WITHIN 12 FEET OF AN OWNER'S FRONT PROPERTY LINE), of Chapter 9 (WEED CONTROL), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES); (3) to amend Article A (GENERAL PROVISIONS) by adding a new Section 8-1-6 (VIOLATIONS AND PENALTIES), to amend Article B (MISCELLANEOUS CONDITIONS OF PERMITS) by adding a new Section 8-1-30 (VIOLATIONS AND PENALTIES), to amend Article C (CERTIFICATION REQUIRED TO DO CERTAIN BUSINESS OR WORK; BOARD OF EXAMINERS; FEES; SUSPENSION OR REVOCATION OF CERTIFICATES; AND BONDS) by adding a new Section 8-1-56 (VIOLATIONS AND PENALTIES), to amend Article D (REMEDIES, PENALTIES AND APPEALS) by revising the title thereof, by amending and reordaining Section 8-1-71 (FAILURE OF OWNER TO ACT; ACTION BY CITY; COSTS TO BE LIEN ON PROPERTY), by repealing Section 8-1-73 (VIOLATIONS AND PENALTIES) and by amending and reordaining Section 8-1-74 (BOARD OF BUILDING CODE APPEALS) and Section 8-1-75 (APPEAL AND JUDICIAL REVIEW), to amend Article E (SMOKE DETECTORS) by adding a new Section 8-1-86 (VIOLATIONS AND PENALTIES), and to amend Article F by amending and reordaining Section 8-1-98 (ENFORCEMENT BY INJUNCTION) of Article F; all of Chapter 1 (BUILDING CODE), Title 8 (BUILDING CODE REGULATIONS) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 8 of Title 5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding a new Section 5-8-65, to read as follows:

Sec. 5-8-65 Civil violation and penalty.

A person receiving a notice under section 5-8-64(a) which describes the conditions of a motor vehicle that render the vehicle inoperable shall remove or otherwise remedy the conditions within the time period set out in the notice, and failure to do so shall constitute a violation of this section. Said violation shall be a class four civil violation which shall be enforced through the levying of a civil penalty pursuant to section 1-1-11 of this code; provided, that the penalty for a person's first violation of this section occurring in any six-month period shall be \$100, for a person's second violation occurring in any six-month period shall be \$250, and for each additional violation by a person occurring in any six-month period shall be \$500.

Section 2. That Sections 5-9-4, 5-9-5 and 5-9-6 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby are, amended and reordained to read as follows:

Sec. 5-9-4 Same--notice to owner to cut.

The director of the bureau of code enforcement or his duly authorized agent may give notice in writing to the owner of land in the city upon which there are weeds in excess of 12 inches in height that such weeds must be cut within 10 days from the receipt of the notice or the city will cut the weeds, bill the owner for the costs and collect the costs like taxes in the event of nonpayment by the owner. Mailing to the last known post office address shall constitute sufficient service upon owners who cannot be found after a reasonably diligent search or who are nonresidents.

Sec. 5-9-5 Same--cutting by city; billing and collection of charges; unpaid bill a lien.

Whenever the owner of real property refuses, neglects or fails to cut weeds after being notified in the manner prescribed by section 5-9-4, the weeds may be cut by the city. The expense thereof shall be forthwith computed, and a bill for such expense shall be prepared by the department of finance and mailed to the owner at his last known post office address within a reasonable time after the cutting. In the event the city does not receive payment of the bill within 30 days after mailing, the director of finance shall proceed to collect the expense and may do so in the same manner as city taxes are collected. Every expense with which the owner of any real property shall have been assessed and which remains unpaid shall constitute a lien against the owner's property.

Sec. 5-9-6 Same--failure to cut weeds after receipt of notice.

An owner of real property who has received written notice in the manner prescribed by section 5-9-4 that weeds on the owner's property, or along public sidewalks or curblines and within 12 feet of the owner's front property line, are in excess of 12 inches shall cut all such weeds within the time period set out in the notice, and the failure to do so shall constitute a violation of this section. Said violation shall be a class four civil violation which shall be enforced through the levying of a civil penalty pursuant to section 1-1-11 of this code; provided, that the penalty for the first violation occurring in any six-month period shall be \$100, for a second violation occurring in any six-month period the penalty shall be \$250, and for each additional violation occurring in any six-month period the penalty shall be \$500.

Section 3. That Chapter 1 of Title 8 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 8-1-6, to read as follows:

Sec. 8-1-6        Violations and penalties.

(a) Criminal violations. A violation (i) of any section of, or provision in, Volume I of the Virginia Uniform Statewide Building Code ("USBC"), incorporated into this chapter by section 8-1-2, or (ii) of section 105.1 (general), 105.6 (authority to vacate building), 108.2.1 (fire sprinkler system), 108.2.2 (single and multiple station smoke detector), 108.3.1 (automatic sprinkler system), 108.3.2 (fire protective signaling system), 108.3.3 (fire detection system), 108.4.1 (fire protective signaling system and fire detection system), 108.4.2 (single and multiple station smoke detectors) or 604.3 (electrical systems) of Volume II of the USBC, also incorporated into this chapter by section 8-1-2, or (iii) of section 8-1-5, all of which are violations of this chapter, shall be a misdemeanor, and any person found guilty of any such violation shall, upon conviction, be punished by a fine of not more than \$2,500; provided, that a person convicted of a second violation committed within five years following a conviction for a violation of this chapter shall be punished by a fine of not less than \$1,000 nor more than \$2,500, that a person convicted of a second violation committed more than five but less than 10 years following a conviction for a violation of this chapter shall be punished by a fine of not less than \$500 nor more than \$2,500, and that a person convicted of a third or additional violation committed within 10 years following a conviction for a violation of this chapter shall be punished by a fine of not less than \$1,500 nor more \$2,500; and provided further, that the provisions in the foregoing proviso requiring a minimum fine shall apply only to convictions for violations which cause a building or structure to be unsafe or unfit for human habitation.

(b) Civil violations. A violation of any section or provision of Volume II of the USBC not specifically set out in subsection (a), shall be a civil violation that shall be enforced through the levying of a civil penalty, pursuant to section 1-1-11 of this code, of \$100 for a person's first violation and of \$150 for each subsequent violation of the same section or provision. Each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any 10-day period, and shall not result in civil penalties exceeding a total of \$3,000. Any Volume II section or provision whose violation is hereby designated a civil violation shall not be penalized by a criminal sanction and, except for any violation resulting in injury to persons, may not give rise to criminal prosecution.

(c) Injunctive relief. A violation of any section or provision of the USBC, incorporated into this chapter by section 8-1-2, or of section 8-1-5 may, in addition to and notwithstanding the penalty provided for in subsection (a) or (b), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

Section 4. That Chapter 1 of Title 8 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 8-1-30, to read as follows:

Sec. 8-1-30      Violations and penalties.

(a) A violation of any section or provision of this article shall be a misdemeanor, and any person found guilty of any such violation shall, upon conviction, be punished by a fine of not more than \$500. Each day a violation of any section or provision of this article continues shall be deemed a separate violation. Notwithstanding the foregoing, if the violation of a section or provision of this article is also a violation of a section or provision of article A of this chapter, then section 8-1-6 shall apply to the violation in lieu of this section.

(b) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (a), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

(c) Notwithstanding the provisions of subsection (a) and (b), any action or omission constituting a violation of a section or provision of this article which also constitutes a violation of a section or provision of article A shall only be subject to the penalties in section 8-1-6.

Section 5. That Chapter 1 of Title 8 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Section 8-1-56, to read as follows:

Sec. 8-1-56      Violations and penalties.

(a) A violation of any section or provision of this article shall be a misdemeanor, and any person found guilty of any such violation shall, upon conviction, be punished by a fine of not more than \$500. Each day a violation of any section or provision of this article continues shall be deemed a separate violation. Notwithstanding the foregoing, if the violation of a section or provision of this article is also a violation of a section or provision of article A of this chapter, then section 8-1-6 shall apply to the violation in lieu of this section.

(b) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (a), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

Section 6. That Chapter 1 of Title 8 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by amending the title of Article D to read as follows:

#### Remedies and Appeals

Section 7. That Sections 8-1-71, 8-1-74 and 8-1-75 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby are, amended and reordained as follows:

Sec. 8-1-71 Failure of owner to act; action by city; costs to be lien on property.

(a) If any owner, agent of the owner or person in control of a building which is found by the code official or the building official to be unsafe under the Uniform Statewide Building Code fails or refuses timely to comply with any notice delivered, mailed or posted as provided by law, or if either official deems it necessary, without providing notice, to take such emergency measures as are set forth in the Uniform Statewide Building Code, including the demolition of a building, the appropriate official is authorized in his discretion to utilize city employees and agents to take all actions necessary to carry out the requirements set forth in the notice which have not been complied with or, in the case of an emergency, to undertake the emergency measures deemed necessary to protect the public's health and safety.

(b) The department of finance shall cause all costs incurred by the city in undertaking actions pursuant to subsection (a) to be paid upon the certification of the code or building official. Such city costs shall be charged to and paid by the owner of the affected property and may be collected by the city as taxes and levies are collected. In no case shall the charges be less than \$100. All city costs hereby authorized with which the property owner has been charged and which, after a reasonable time, remain unpaid shall constitute a lien against such property. The lien shall continue until actual payment of the charges, plus legal interest and a penalty of 10 percent, has been made to the city.

Sec. 8-1-74 Board of building code appeals.

There is hereby created within the bureau of code enforcement a board of appeals to be known as the Alexandria Board of Building Code Appeals. The membership of the board shall be appointed by the city council in accordance with the

Uniform Statewide Building Code for the purposes therein set forth and for such other purposes as are set forth in this chapter.

Sec. 8-1-75 Appeal and judicial review.

The owner of any building or structure, the owner's agent and any other person involved in the design or construction of a building or structure may appeal any decision made or action taken by the building official under Volume I of the Uniform Statewide Building Code, and the owner of any building or structure and the owner's agent may appeal any decision made or action taken by the code official under Volume II of the Uniform Statewide Building Code, to the Alexandria Board of Building Code Appeals. The time in which such appeals shall be filed and the proceedings thereafter shall be in accordance with the provisions of the Uniform Statewide Building Code.

Section 8. That Section 8-1-73 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed.

Section 9. That Chapter 1 of Title 8 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by adding a new Section 8-1-86, to read as follows:

Sec. 8-1-86 Violations and penalties.

(a) A violation of any section or provision of this article shall be a civil violation that shall be enforced through the levying of a civil penalty, pursuant to section 1-1-11 of this code, of \$100 for a person's first violation and of \$150 for each subsequent violation of the same section or provision. Each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any 10-day period, and shall not result in civil penalties exceeding a total of \$3,000.

(b) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (a), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

Section 10. That Section 8-1-98 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:

Sec. 8-1-98 Violations and penalties.

(a) A violation of any section or provision of this article shall be a civil violation, which shall be enforced through the

levying of a civil penalty pursuant to section 1-1-11 of this code, of \$100 for a person's first violation and of \$150 for each subsequent violation of the same section or provision. Each day during which a violation exists shall constitute a separate violation. However, a series of violations arising from the same operative set of facts shall not give rise to the levying of a civil penalty more frequently than once in any 10-day period, and shall not result in civil penalties exceeding a total of \$3,000. Notwithstanding the foregoing, if the violation of a section or provision of this article is also a violation of a section or provision of article A of this chapter, then section 8-1-6 shall apply to the violation in lieu of this section.

(b) A violation of any section or provision of this article may, in addition to and notwithstanding the penalty provided for in subsection (a), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

Section 11. That Chapters 8 and 9 of Title 5 and Chapter 1 of Title 8 of The Code of the City of Alexandria, Virginia, 1981, as amended, as amended by this ordinance, including specifically section 8-1-2 and its incorporation of the current Uniform Statewide Building Code, be, and the same hereby are, reordained as part of The Code of the City of Alexandria.

Section 12. That this ordinance shall become effective on May 1, 1996, and shall not apply to any actions, conduct, events, transactions or occurrences taking place, or to any notices issued or proceedings initiated by officials or employees of the City of Alexandria under the Uniform Statewide Building Code or The Code of the City of Alexandria, prior to May 1, 1996.

KERRY J. DONLEY  
Mayor

Final Passage: March 23, 1996