

ORDINANCE NO. 4409

AN ORDINANCE to amend and reordain Chapter 12 (GRAFFITI ABATEMENT) of Title 11 (HEALTH, ENVIRONMENTAL AND SANITARY REGULATIONS) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 12 of Title 11 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:

CHAPTER 12 Graffiti Abatement

Sec. 11-12-1 Definitions.

The following terms, as used in this chapter, shall have the meanings set forth below:

- (a) City manager shall mean the Alexandria city manager, or his designee.
- (b) Graffiti shall mean writings, drawings, inscriptions, figures or marks of paint, ink, chisel, chalk, dye and other similar substance, or flyers, bills and similar materials, which have been placed on public or private property without the permission of the owner, manager or occupant of the property.
- (c) Placement of graffiti shall include any form or act of drawing, painting, scrawling, writing, marking, inscribing, scratching, gluing, posting or otherwise affixing graffiti to public or private property.
- (d) Public or private property shall mean the exterior surface of any building, or any street, alley, sidewalk, or other vehicular or pedestrian right-of-way, or any article of street furniture, utility or public service equipment, or other personal property located outdoors, whether owned by a public entity or by a private person or entity, and visible from any public right-of-way.

Sec. 11-12-2 Graffiti nuisance prohibited.

- (a) The placement of graffiti on any public or private property is declared to be a public nuisance and is prohibited.
- (b) The failure of any property owner, manager or occupant of public or private property to remove or effectively obscure graffiti which has been placed upon property under such person's ownership or control, within 10 days after the service of notice as provided in this chapter, is declared to be a public nuisance and is prohibited.

Sec. 11-12-3 Abatement of graffiti nuisance.

- (a) Notice and opportunity to abate. Whenever the city manager becomes aware of the existence of graffiti on any public or private property, the city manager shall give, or cause to be given, written notice to remove or effectively obscure such graffiti to the owner, manager, and lessee or occupant of the property. Such notice may be served by personal service or certified mail, and shall be complete upon delivery or mailing. Such notice shall direct the recipient to remove or effectively obscure such graffiti within 15 days of the date of the notice, or to grant the city written permission to enter upon the property and remove or effectively obscure such graffiti, and shall inform the recipient that, in the event of failure to comply, the city may enter upon the property and remove or effectively obscure such graffiti, in the manner provided in this chapter. Prior to the issuance of a notice under this section, the city manager shall contact the owner, manager, and lessee or occupant of the affected property and attempt to obtain the commitment of such person to remove the graffiti within a reasonable period of time. Only in the event no such commitment is made or, if made, the commitment is not honored may the city manager proceed to issue a notice under this subsection.
- (b) Abatement by city. If the owner, manager, or lessee or occupant of the property upon which graffiti has been placed fails to remove or effectively obscure the graffiti, or to grant the city written permission to enter upon the property and remove or effectively obscure such graffiti, within 15 days from service of the notice described in subsection (a), the city manager may enter upon the property and remove or effectively obscure the graffiti.
- (c) Waiver of liability. The failure of the recipient of a notice given pursuant to subsection (a) to comply with the notice by removing or effectively obscuring such graffiti within 15 days shall be deemed a waiver of any claim by or on behalf of the notice recipient or, if different, the owner of the property, against the City of Alexandria for damage to the property arising out of the work of removing or obscuring the graffiti.

Sec. 11-12-4 Materials.

In no case shall the city be required to clean, paint or repair any more extensive area than where the graffiti is located. Nor shall the city be required to restore the area to its original condition (e.g., color, texture).

Sec. 11-12-5 Penalties.

- (a) Any person who commits a violation of section 11-12-2(a) shall be punished as provided in section 13-1-19.1 of this code; provided, however, that the punishment for any violation in which the defacement is more than 20 feet off the ground, on a railroad or highway overpass, or committed for the benefit of, or at the direction of,

or in association with any criminal street gang as defined in section 18.2-46.1 of the Code of Virginia, shall include a mandatory minimum fine of \$500.

- (b) Abatement of the nuisance by the city as provided in section 11-12-3 shall be the sole remedy for the violation of section 11-12-2(b).

Sec. 11-12-6 Restitution or community service.

Restitution or community service, or both, by a person who has been found guilty of a violation of section 11-12-2(a) shall be ordered as provided in section 13-1-19.1 of this code or section 19.2-305.1 of the Code of Virginia, 1950, as amended. In the event the City has abated the nuisance pursuant to section 11-12-3(b), restitution shall be made to the City.

Sec. 11-12-7 Exemptions.

This chapter shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on streets, sidewalks or other paved surfaces which are used in connection with traditional children's activities, such as drawings or bases for kickball, handball, hopscotch and the like, or to prohibit markings placed on public or private property by the authorized representative of the city or a public utility to indicate the location of service lines and facilities.

Section 2. That this ordinance shall become effective July 1, 2005.

WILLIAM D. EUILLE
Mayor

Final Passage: June 21, 2005