

ORDINANCE NO. 4569

AN ORDINANCE to repeal Section 13-1-21 (THROWING, LEAVING, ETC., GARBAGE, MIXED REFUSE, DEAD ANIMALS, ETC., ON PRIVATE PREMISES) and Section 13-1-22 (THROWING, LEAVING, ETC., GARBAGE, MIXED REFUSE, DEAD ANIMALS, ETC., ON STREETS, ETC., PERMIT FOR DEPOSIT OF BUILDING MATERIALS), of Chapter 1 (GENERAL OFFENSES), Title 13 (MISCELLANEOUS OFFENSES), and to amend the said Chapter 1, Title 13 by adding thereto a new Section 13-1-22.1 (PROHIBITION AGAINST LITTERING AND OTHER IMPROPER DISCARD OR DISPOSAL), all of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 13-1-21 and Section 13-1-22 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby are, repealed, and such section numbers are hereafter reserved.

Section 2. That Chapter 1, Title 1 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 13-1-21.1, to read as follows:

Sec. 13-1-21 – Prohibition against Littering and Other Improper Discard or Disposal

(a) DEFINITIONS

The following words and terms, when used in this section, shall for the purpose of this section have the following meanings ascribed to them in this section:

- (1) "Abatement cost" means the City's cost for labor, equipment, and supplies for, or the contract price of, and any charges to, the City, with respect to the removal and disposal of litter, garbage, rubbish, or refuse from a property.
- (2) "Construction site" means any residential, commercial, industrial or other area, lot or site at which construction or demolition of any type is conducted, including roads, at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.
- (3) "Construction waste" means solid waste that is produced or generated during construction, demolition, remodeling, or repair of pavements, houses, commercial buildings, and other structures. Construction wastes include, but are not limited to lumber, sawdust, shavings, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, paving materials, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids and garbage are not construction wastes and are subject to other sections of this Code, including, without limitation City Code Section 11-13-2.
- (4) "Discard" means to abandon, dispose of, burn, incinerate, accumulate, store or treat before or instead of being abandoned, disposed of, burned or incinerated.
- (5) "Discarded material" means a material that is abandoned, disposed of, burned, incinerated, accumulated, stored or treated before or instead of being abandoned, disposed of, burned or incinerated.
- (6) "Dispose" means to discharge, deposit, inject, dump, spill, leak or placement of any

solid waste into or on any land or water so that such solid waste or any constituent of it may enter the environment or be emitted into the air or discharged into any waters.

- (7) "Garbage" means readily putrescible discarded materials composed of animal, vegetable, or other organic matter, including, without limitation, food waste, offal or dead animals.
- (8) "Litter" means any man-made material that, if thrown, discarded, or disposed as prohibited by this section, may create a danger to public health, safety, or welfare or degrades the environment of the City. "Litter" shall include, but is not limited to, any garbage, trash, refuse, rubbish, newspaper, magazine, glass, metal, plastic or paper container, construction waste, or any discarded object likely to injure any person, create a traffic hazard, or degrade the environment.
- (9) "Person" means any individual, corporation, association, firm, receiver, guardian, trustee, executor, administrator, fiduciary, representative, or group of individuals or entities of any kind.
- (10) "Receptacle" means a container that is specifically designed, constructed, and placed for use as a depository for litter or solid waste.
- (11) "Refuse" means all solid waste products having the character of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, ashes, coal, dirt, mud, gravel, sand, residues from clean up of spills or contamination, or other discarded materials.
- (12) "Rubbish" means combustible or slowly putrescible discarded materials, which include but are not limited to trees, wood, leaves, straw, hay, trimmings from shrubs or trees, printed matter, plastic and paper products, grass, rags, and other combustible or slowly putrescible materials not included under the term "garbage."
- (13) "Solid waste" or "waste" means any garbage, refuse, rubbish, trash, or other discarded material, but does not include solid or dissolved materials in domestic sewage, solid or dissolved materials in irrigation return flows, industrial discharges, or special nuclear or by-product materials.
- (14) "Trash" means combustible and noncombustible discarded materials and is used interchangeably with the term "rubbish".

(b) Administration and enforcement.

The Director of Transportation and Environmental Services, or his designee, shall be responsible for the administration of this section and shall have the authority to enforce compliance through the use of civil remedies as authorized by this section. Further, any law enforcement officer or sworn special police officer is authorized to enforce the provisions of subsections (c)(2) and (d) hereof through the issuance of traffic citations.

(c) Unlawful disposal of litter.

- (1) No person shall drop, cast, sweep, deposit, discard, or otherwise dispose of any litter in or upon any exterior public or exterior private property within the City including but not restricted to any street, sidewalk, park, body of water, or vacant or occupied lot, except by placement in a proper receptacle or in an area designated and approved by the City as a permitted disposal site. This subsection shall not apply to leaves deposited in the streets from October 1 to December 31 of any calendar year for collection by the City.

- (2) When a violation of the provisions of this subsection has been observed by any person, and the litter has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such litter, provided however, that such presumption shall be rebuttable by competent evidence. Violation of this subsection (c)(2) shall constitute a traffic infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00). In lieu of imposition of a fine, the court may order the defendant to perform community service in litter abatement activities.

(d) Securing and covering loads

- (1) All motor vehicles used to transport any material along streets, roads, or highways of the City, shall be constructed, maintained, and loaded in such a manner as to prevent such vehicle's contents from dropping, sifting, leaking, or otherwise escaping. This subsection shall not apply to any:
 - (A) Motor vehicle that is used exclusively for agricultural purposes as provided in § 46.2- 698 of the Code of Virginia and is not licensed in any other state;
 - (B) Agricultural vehicle, tractor, or other vehicle exempted from registration and licensing requirements under State law;
 - (C) Motor vehicle transporting forest products, poultry, or livestock; or
 - (D) Public service company vehicle, pickup truck, or emergency snow removal equipment while engaged in snow removal operations.
 - (E) Public service vehicle engaged in the removal of solid waste, leaves, recycling or other materials within the City.
- (2) No person shall transport any litter, rubbish or solid waste in an open or uncovered vehicle along the streets, roads, or highways of the City, unless the load is covered by a tarpaulin or other suitable cover in such manner as to contain the entire load. If any of the contents of the load shall be blown, spilled, fall, or become scattered in or upon any public way or place, such person shall immediately cause such contents to be gathered up and removed.
- (3) When a violation of the provisions of this subsection has been observed by any person, the owner or operator of the motor vehicle shall be presumed to be the person responsible for the contents dropping, sifting, leaking, or otherwise escaping from the motor vehicle, provided however, that such presumption shall be rebuttable by competent evidence.
- (4) Violation of this subsection shall constitute a traffic infraction punishable by a fine not to exceed two hundred fifty dollars (\$250.00). In lieu of imposition of a fine, the court may order the defendant to perform community service in litter abatement activities.

(e) Duty of owners and occupants

- (1) It shall be the responsibility of each owner, agent, occupant, or lessee of real property to keep his or her property free of litter. The owner, agent, occupant, or lessee of any

property shall be responsible for removing litter accumulating on said property.

- (2) No owner, agent, occupant, or lessee of any property shall allow the storage or accumulation of litter on the exterior of said property outside of a receptacle that is covered, secured, and maintained so as to prevent blowing, spilling, scattering, or leaking of the litter and waste contained therein, except that this requirement shall not apply to an area designated and approved by the City as a permitted disposal site.
- (3) It shall be the responsibility of each proprietor and each operator of any business, industry, or institution to keep the adjacent and surrounding areas free of litter. These areas include, but are not limited to public and private sidewalks, roads, and alleys; grounds; parking lots; loading and unloading areas; and all vacant lots that are owned or leased by such establishment or institution. Removal of any litter shall be performed in accordance with this subsection.
- (4) Each owner, agent, occupant, or lessee whose property faces on the sidewalks in the City or the strips between the streets and sidewalks shall be responsible for keeping such sidewalks and strips free of litter. Removal of any litter shall be performed in accordance with this subsection.

(f) Construction sites

- (1) It shall be unlawful for any owner or agent of a construction site, or any contractor on a construction site, to cause, permit, or allow the presence of litter on such site outside of a proper receptacle or to cause, permit, or allow litter or waste to be spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. It shall be the responsibility of the owner or agent of the property and each contractor performing work on the site to keep the property free of litter.
- (2) The owner, agent, or contractor in charge of a construction site shall furnish on such site receptacles sufficient to contain worker's litter and receptacles sufficient to contain all construction waste. All receptacles shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water, except for the wind and water from hurricanes, tornadoes, and floods. The number and capacity of receptacles should be determined by the primary contractor, but no less than one (1) receptacle for worker's litter and no less than one (1) receptacle for construction waste shall be placed at each construction site. Receptacles required under this subsection shall be not less than ten (10) gallons capacity. All receptacles shall be emptied as necessary, but not less frequently than weekly, except that receptacles used exclusively to contain construction waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All receptacles required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.
- (3) The requirement for receptacles in this subsection shall not apply to any construction

site on which only repair or minor renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper receptacle and any such receptacle is maintained in accordance with this section.

(g) Litter receptacles at places frequented by the public

- (1) Every owner, occupant, tenant, or lessee in control of any property that is held out to the public as a place for assemblage, for the transaction of business or recreation, or as a public way shall provide adequate receptacles of sufficient number and size to contain all litter generated by those persons frequenting that public place. The number and size of the receptacles shall be determined by the owner, occupant, tenant, or lessee in control of any property, except that no less than one (1) receptacle shall be placed at each site. Receptacles shall be no less than ten (10) gallons in capacity and clearly marked and designed to prevent the escape of litter and waste. Any person owning or in control of any property at which receptacles are required by this chapter shall at his or her own expense be responsible for the procurement, placement, and maintenance of such receptacles as required by this section.
- (2) All litter and solid waste shall be removed from receptacles as necessary, but not less frequently than weekly, and all receptacles shall be maintained in a sanitary and serviceable condition.
- (3) No person shall cause the unauthorized removal, upsetting, mutilation or defacing of, or tamper with any receptacle, or cause the contents thereof to be spilled or to be strewn in or upon any public or private property.
- (4) Any person who fails to place and maintain receptacles in the number and manner required under this subsection shall be subject to a civil fine of twenty-five dollars (\$25.00) for each day of violation, not to exceed a total of \$2,500 for any calendar year.

(h) Enforcement

- (1) The City may commence enforcement of subsections (c)(1), (e), (f) or (g) of this section by notifying in writing the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises, of the existence of an unlawful condition on such property or premises. Such written notice shall be sent to the owner, lessee, occupant, or person in responsible charge or in possession of a property by registered or certified mail, or may be served by the sheriff, to the last known address of the owner as indicated in the City's current real estate tax assessment records. Such notice shall contain a description of the nature of the violation; any corrective action needed to be taken by such person to come into compliance with this section; and the time frame within which such corrective action shall be completed. The amount of time allowed to abate, correct, or eliminate the unlawful condition shall not exceed ten (10) days.
- (2) Every owner, lessee, occupant, or person in responsible charge or in possession of a

property or premises shall, upon written notice of an unlawful condition, abate, correct, and eliminate such condition within the timeframe required by such notice. After receipt of a written notice of violation pursuant to subsection (a) hereof, it shall be unlawful for the owner, lessee, occupant, or person in responsible charge or in possession of a property or premises on which the unlawful condition exists to fail to abate, correct, or eliminate such condition within the timeframe as such written notice requires. Ten (10) days after due notice is given to any owner, agent, occupant, operator, contractor in charge, or lessee of any property, business, industry, institution, or construction site to remove litter from the premises, the City is authorized to clean up such property, by use of City employees or by employing an agent of the City, and bill such owner or agent for the abatement costs thereof. If the bill has not been paid within thirty (30) days, execution may be issued by the City against the property for the abatement cost, and such execution shall constitute a lien on the property, on a parity with liens for unpaid taxes, until the claim has been satisfied. Execution of the notice to remove litter shall be in writing and shall be in the form of a registered or certified letter. Nothing in this section shall be deemed to prevent the City from imposing the other remedies set forth herein for violation of this section.

- (3) In addition to the penalty provided in sub-Section (4) below, the Director may initiate injunctive, abatement, or any other appropriate action to prevent, enjoin, abate, or remove a violation of any of the provisions of this section.
- (4) Except where otherwise noted, a violation of any provision of this section shall constitute a civil violation that shall be enforced through the levying of a civil penalty, pursuant to Section 1-1-11 of this code of two hundred fifty dollars (\$250.00) for a first violation and four hundred dollars (\$400.00) for each subsequent violation of the same section or provision.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage; except that the repeal provided for in Section 1 of this ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any prosecution, suit or proceeding pending, or any judgment or conviction rendered, prior to December 13, 2008.

WILLIAM D. EUILLE
Mayor

Final Passage: December 13, 2008