

ORDINANCE NO. 4608

AN ORDINANCE to amend and reordain Sections 5-2-29 (STREET ENCROACHMENTS), Section 5-2-19 (SALE OF ARTICLES OF COMMERCE FROM VEHICLES PROHIBITED OR LIMITED WHILE PARKING ON CITY STREETS), and Section 5-2-16 (PLACING MERCHANDISE ON OR OTHERWISE OBSTRUCTING SIDEWALKS AND OTHER PUBLIC RIGHTS-OF-WAY) all of Article A (GENERAL PROVISIONS) Chapter 2 (STREETS AND SIDEWALKS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 5-2-29 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 5-2-29 Street encroachments.

Any encroachment into a public street, alley, sidewalk or other right-of-way may be authorized only by a special ordinance adopted by city council, unless the encroachment is authorized pursuant to one of the following exceptions or is otherwise authorized by this code or the City of Alexandria Zoning Ordinance:

(a) **Steps.** Steps not more than 12 feet in length, including the required landings, may project beyond the street lot line up to five feet on streets with a right-of-way width of 100 feet or more, up to four feet on streets with a right-of-way width between 66 and 100 feet, up to three feet on streets with a right-of-way width between 50 and 66 feet and, notwithstanding the above, up to 20 inches on Union Street and on King Street between the Potomac River and the R.F.&P. railroad right-of-way. The term "steps" in this subsection includes ramps and similar structures necessary to provide access to the handicapped.

(b) **Architectural decorations.** Belt courses, lintels, sills, architraves, pediments and similar architectural decorations may project up to four inches beyond the street lot line when less than 10 feet above the curb level, and up to 10 inches beyond the street lot line when 10 feet or more above the curb level.

(c) **Sign** A sign may be erected or displayed flat against a building wall or at an angle thereto, so long as the sign does not project more than four feet from the building wall or within one foot of an established curb line and the bottom of the sign is at least eight feet above a sidewalk or parking area and at least 14.5 feet above an alley.

(d) **Canopies, awnings and marquees.** Canopies, awnings and marquees suspended from a building or structure with no ground supports, having a clearance of at least eight feet above a sidewalk, extending no more than four feet beyond the front property line, and extending to no more than one foot from the established curb line, may be erected.

(e) **Nonpermanent planters.** Planters which are nonpermanent may be located in a right-of-way subject to the following:

(1) A permanent planter is one which is attached in any permanent manner to a public right-of-way or to a building, building appurtenance or any other structure, or which rests on a foundation or substructure other than a sidewalk. A permanent planter requires a building permit and an encroachment ordinance. Above-grade permanent planters located in an historic district also require approval by the board of architectural review.

(2) A nonpermanent planter is a portable container that is light enough to be transported by two people when empty of soil and plants.

(3) A nonpermanent planter may not project into a public right-of-way more than steps would be allowed to project under subsection (a) above and may not exceed 30 inches in height. There is no limit to the number of planters permitted as long as the conditions of this subsection (e) are complied with and the planters are maintained in good condition.

(4) A nonpermanent planter must be located so as to maintain a path for public travel at least five feet in width at all points, along any adjacent sidewalk.

(5) A permit for a nonpermanent planter must be obtained from the department of transportation and environmental services. The permit application shall include the address of the planter, adequate location drawings, and a sketch, photo or dimensions of the planter. Visual inspection by the director of transportation and environmental services or his designee may be substituted for drawings if the location and description of the planter are recorded on the permit application. After a permit has been granted, it may be revoked and the planter removed from the right-of-way by the director or his designee whenever the applicant fails to comply with any permit conditions. A permit application will be reviewed to determine compliance with the following:

a. The location of the planter shall not unduly obstruct the public right-of-way.

b. The planter shall be of such design and construction, and the contents shall be of such nature, so as not to constitute a nuisance or public hazard.

c. The planter shall be of a design, material and color which are generally recognized as intended for and suitable for the display of plant materials on the public right-of-way in an urban environment and, if located in an historic district, are compatible with the streetscape in the district and are consistent with the applicable design guidelines adopted by the board of architectural review.

d. The owner of the planter shall agree to move the planter whenever the city requires access to the planter location.

(f) **Benches.** Benches and similar street furniture may be placed in a public right-of-way, subject to the following:

(1) The bench or street furniture shall be located immediately adjacent to the closest building wall, shall touch the wall along the length of the bench or street furniture, and shall not project from the wall more than 30 inches.

(2) The bench or street furniture shall not be used as part of a business for advertising, or for making sales or providing services to customers, and shall be available for use by the general public.

(3) The director of transportation and environmental services or his designee shall review any bench or street furniture proposed for a right-of-way and its location, and approve it if he finds that it will not interfere with pedestrian access and safety, will not be an attractive nuisance and will promote the health, safety and welfare of the city.

(4) The director of planning and zoning or his designee shall review any bench or street furniture proposed for a right-of-way and shall approve it if he finds that its design is compatible with the character of the surrounding area.

(g) **Rental Bicycles.** Bicycles offered for rent may be displayed and rented from areas of right of way pursuant to Section 7-2400 of the Zoning Ordinance and this section 5-2-29.

(h) **Encroachment requirements.** In addition to any other restrictions or requirements imposed by this code or the City of Alexandria Zoning Ordinance, the owner of any sign, canopy, awning or marquee, nonpermanent planter, bench, bicycle display or similar street furniture that encroaches into a public right-of-way pursuant to this section shall also comply with the following:

(1) **Liability insurance.** The owner shall obtain and maintain a policy of general liability insurance in the amount of \$1,000,000 which will indemnify the owner (and all successors in interest), and the city as an additional named insured, against all claims, demands, suits and related costs, including attorneys' fees, arising from any bodily injury or property damage which may occur as a result of the encroachment.

(2) **Removal of encroachment.** The owner or any successor in interest shall remove the encroachment if the city determines that the encroachment interferes with public access or is otherwise inconsistent with the public welfare. In such case, the city shall provide the owner or successor in interest with written notice of the need to remove the encroachment at least 10 days prior to the date on which the removal must be completed. If the owner or successor in interest cannot be found, or fails to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of the owner or successor, and shall not be liable for any loss or damage to the encroaching structure that may occur as a result of the removal.

Section 2. That Section 5-2-19 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 5-2-19 Sale of articles of commerce from vehicles prohibited or limited while parking on city streets.

It shall be unlawful for any person to offer for sale or sell any goods, wares, merchandise, foodstuffs or similar items from a vehicle or trailer that is parked, placed or stopped on a city street alongside of or next to a parking meter. It shall also be unlawful for any person to offer for sale or sell any goods, wares, merchandise, foodstuffs or similar items from a vehicle or trailer that has been parked, placed or stopped for longer than 20 minutes in any one place on a city street that does not contain parking meters. Notwithstanding this prohibition, a display of bicycles offered for rent from the public right of way pursuant to section 7-2400 of the Zoning Ordinance and section 5-2-29(g) is permitted.

Section 3. That Section 5-2-16 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows

Sec. 5-2-16 Placing merchandise on or otherwise obstructing sidewalks and other public rights-of-way.

(a) No person shall place any goods, wares, merchandise, foodstuffs or similar items on, or in any way obstruct, any street, sidewalk, walkway of the city or occupy or use any of such sidewalks or walkways or other public right-of-way or use any such public right-of-way for the display or sale of any goods, wares, merchandise, foodstuffs or similar items, except either pursuant to a permit issued in accordance with section 7-2400 of the zoning ordinance and section 5-2-29(g) of this code or when receiving or delivering such items, in which case the items may remain on the public right-of-way only so long as is reasonably necessary for the delivery of same.

Section 4. That this ordinance shall become effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

Final Passage: June 23, 2009