

ORDINANCE NO. 5125

AN ORDINANCE to amend and reordain Section 5-3-4 (VARIANCE OR WAIVER OF PROVISIONS OF ARTICLE) of Chapter 3 (UNDERGROUND UTILITIES) of 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 5-3-4 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough as follows:

Sec. 5-3-4 - Variance or waiver of provisions of article.

- (a) The director of transportation and environmental services may waive one or more of the requirements of this article pertaining to new or expanded overhead customer utility services, provided that the director makes the following findings with respect to the customer utility service to which the waiver pertains:
- (i) that the person seeking the waiver has submitted a written application on a form provided by the director;
 - (ii) that the person seeking the waiver has paid an application fee of \$100;
 - (iii) that one or more of the following criteria are met:
 - a. the city arborist has determined that the new or expanded customer utility service, if placed underground, would endanger an existing mature tree by damaging its root system;
 - b. the new or expanded customer utility service, if placed overhead, would not be visible from a public street or any other public right-of-way;
 - c. the new or expanded overhead customer utility service, if placed underground, would significantly interfere with one or more existing city or private underground utilities;
 - d. if the waiver ~~is were~~ granted, there would be a reduction in the total number of overhead customer utility service lines serving the applicant's property; and
 - e. if the waiver ~~is were~~ granted, the length of the overhead customer utility service to the applicant's property would be less than the length of the service in existence at the time the application is made.
- (b) The director may waive one or more of the requirements of this article pertaining to new or relocated overhead transmission and distribution facilities, provided that the person seeking the waiver submits a written application on a form provided by the director, that said person pays an application fee of \$100, and that the director finds that, under the circumstances presented by the application, the general welfare of the city would not be furthered by compliance with the requirements as to which the waiver is sought.
- (c) Notwithstanding any provision of subsections (a) and (b) to the contrary, the director may waive one or more requirements of this article pertaining to new or expanded overhead customer utility services and to new or relocated overhead transmission and distribution facilities, provided that the director finds that the new, extended or relocated service or facility is required

to provide additional street lighting to suppress criminal activity and that the waiver is requested or supported by ~~the director of the office of citizens' assistance or the chief of police.~~

(d) Any person whose application for a waiver under subsection (a) or (b) has been denied by the director may appeal the director's denial to the city council. Any such appeal must be filed with the city clerk, on a form provided by the clerk, within 30 days of the director's denial. City council shall conduct a public hearing on any such appeal. In deciding the appeal, council shall determine whether good cause exists to grant the requested waiver; provided, that, in making this determination, council shall, in conjunction with an appeal involving a customer utility service, consider the decision factors set out in subsections (a)(iii), and shall, in conjunction with an appeal involving a transmission or distribution facility, consider the decision factor set out in subsection (b). (Code 1963, Sec. 39A-4; Ord. No. 3575, 5/16/92, Sec. 1; Ord. No. 3587, 6/13/92, Sec. 1)

Section 2. That Section 5-3-4 as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

ALLISON SILBERBERG
Mayor

Final Passage: April 14, 2018