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Proposed City Code Changes

TITLE 5 - Transportation and Environmental Services

CHAPTER 2 - Streets and Sidewalks

ARTICLE A - General Provisions

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) Signs. 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 (1) A permanent planter is one which is attached in any permanent manner to a public
2 right-of-way or to a building, building appurtenance or any other structure, or which
3 rests on a foundation or substructure other than a sidewalk. A permanent planter
4 requires a building permit and an encroachment ordinance. Above-grade permanent
5 planters located in an historic district also require approval by the board of
6 architectural review.
7
- 8 (2) A nonpermanent planter is a portable container that is light enough to be transported
9 by two people when empty of soil and plants.
10
- 11 (3) A nonpermanent planter may not project into a public right-of-way more than steps
12 would be allowed to project under subsection (a) above and may not exceed 30 inches
13 in height. There is no limit to the number of planters permitted as long as the
14 conditions of this subsection (e) are complied with and the planters are maintained in
15 good condition.
16
- 17 (4) A nonpermanent planter must be located so as to maintain a path for public travel at
18 least five feet in width at all points, along any adjacent sidewalk.
19
- 20 (5) A permit for a nonpermanent planter must be obtained from the department of
21 transportation and environmental services. The permit application shall include the
22 address of the planter, adequate location drawings, and a sketch, photo or dimensions
23 of the planter. Visual inspection by the director of transportation and environmental
24 services or his designee may be substituted for drawings if the location and
25 description of the planter are recorded on the permit application. After a permit has
26 been granted, it may be revoked and the planter removed from the right-of-way by the
27 director or his designee whenever the applicant fails to comply with any permit
28 conditions. A permit application will be reviewed to determine compliance with the
29 following:
30
- 31 a. The location of the planter shall not unduly obstruct the public right-of-way.
32
- 33 b. The planter shall be of such design and construction, and the contents shall be of
34 such nature, so as not to constitute a nuisance or public hazard.
35
- 36 c. The planter shall be of a design, material and color which are generally
37 recognized as intended for and suitable for the display of plant materials on the
38 public right-of-way in an urban environment and, if located in an historic district,
39 are compatible with the streetscape in the district and are consistent with the
40 applicable design guidelines adopted by the board of architectural review.
41
- 42 d. The owner of the planter shall agree to move the planter whenever the city
43 requires access to the planter location.
44
- 45 (f) Benches. Benches and similar street furniture may be placed in a public right-of-way,
46 subject to the following:

- 1
- 2 (1) The bench or street furniture shall be located immediately adjacent to the closest
- 3 building wall, shall touch the wall along the length of the bench or street furniture,
- 4 and shall not project from the wall more than 30 inches.
- 5
- 6 (2) The bench or street furniture shall not be used as part of a business for advertising, or
- 7 for making sales or providing services to customers, and shall be available for use by
- 8 the general public.
- 9
- 10 (3) The director of transportation and environmental services or his designee shall review
- 11 any bench or street furniture proposed for a right-of-way and its location, and approve
- 12 it if he finds that it will not interfere with pedestrian access and safety, will not be an
- 13 attractive nuisance and will promote the health, safety and welfare of the city.
- 14
- 15 (4) The director of planning and zoning or his designee shall review any bench or street
- 16 furniture proposed for a right-of-way and shall approve it if he finds that its design is
- 17 compatible with the character of the surrounding area.
- 18
- 19 (g) Rental bicycles. Bicycles offered for rent may be displayed and rented from areas of right
- 20 of way pursuant to section 7-2400 of the zoning ordinance and this section 5-2-29.
- 21
- 22 (h) Parker-Gray Historic District front fences. Within the Parker-Gray Historic District,
- 23 retaining walls less than two feet in height above the lower adjacent grade or fences at the
- 24 height and location otherwise permitted in a front yard may be constructed in the public
- 25 right-of-way.
- 26
- 27 **(i) Street or Alley Crossing Banner. A sign may be placed across a public street or**
- 28 **alley for up to ten (10) days upon a determination made by the City Manager that**
- 29 **the sign does not pose a danger to the safety of the public.**
- 30
- 31 (i-j) Encroachment requirements. In addition to any other restrictions or requirements
- 32 imposed by this code or the City of Alexandria Zoning Ordinance, the owner of any sign,
- 33 canopy, awning or marquee, nonpermanent planter, bench, bicycle display or similar
- 34 street furniture that encroaches into a public right-of-way pursuant to this section shall
- 35 also comply with the following:
- 36
- 37 (1) Liability insurance. The owner shall obtain and maintain a policy of general liability
- 38 insurance in the amount of \$1,000,000 which will indemnify the owner (and all
- 39 successors in interest), and the city as an additional named insured, against all claims,
- 40 demands, suits and related costs, including attorneys' fees, arising from any bodily
- 41 injury or property damage which may occur as a result of the encroachment.
- 42
- 43 (2) Removal of encroachment. The owner or any successor in interest shall remove the
- 44 encroachment if the city determines that the encroachment interferes with public
- 45 access or is otherwise inconsistent with the public welfare. In such case, the city shall
- 46 provide the owner or successor in interest with written notice of the need to remove

1 the encroachment at least 10 days prior to the date on which the removal must be
2 completed. If the owner or successor in interest cannot be found, or fails to remove
3 the encroachment within the time specified, the city shall have the right to remove the
4 encroachment, at the expense of the owner or successor, and shall not be liable for
5 any loss or damage to the encroaching structure that may occur as a result of the
6 removal.

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8
9 **ARTICLE G: Posting of Signs in the Right of Way**

10
11 **Sec. 5-2-170. - Definitions.**

12
13 **The following words, terms and phrases, when used in this division, shall have the**
14 **meanings ascribed to them in this section, except where the context clearly indicates a**
15 **different meaning:**

16
17 **Fixture means a pole; streetlight; tree; tree box; tree stake; fire hydrant; fire alarm box;**
18 **trash receptacle; stand; wire; rope; public bridge; railroad trestle; drinking fountain; life**
19 **buoy or any other lifesaving equipment; standard serving as a base or support for a**
20 **directional sign, traffic regulation or control signal, sign or device; and any other fixture or**
21 **structure, whether publicly or privately owned or whether permanently or temporarily**
22 **placed in, on or over a public way. But the term shall not include a fixture permanently**
23 **attached to a building, structure, pole or standard on private property serving as a base or**
24 **support for a sign and projecting over a part of a public way installed and maintained in**
25 **accordance with law.**

26
27 **Public way means a street, sidewalk, alley, road, highway, bridge, viaduct, subway,**
28 **underpass, park, parkway, playfield, playground and any other similar place in the City**
29 **opened to and used by the public.**

30
31 **Sign means a sign, placard, banner, flag, bulletin and any other device of any kind posted**
32 **for the purpose of communication.**

33
34 **Sec. 5-2-171 - Unlawful conduct.**

35
36 **It shall be unlawful for any person to paint, mark or write on or post or otherwise affix to**
37 **or upon a public way or fixture thereon any sign. It shall furthermore be unlawful for any**
38 **person to cause or, with knowledge, permit such actions to be taken on such person's**
39 **behalf.**

40
41 **Willful interference with a person who is engaged in abatement under Section 5-2-173 shall**
42 **also constitute a violation of this article.**

43
44 **Sec. 5-2-172. - Exceptions.**

45
46 (a) **This article shall not apply to the following signs:**

1
2 (1) Regulatory, traffic, or informational signs established or posted by or at the
3 direction of an authorized City department.

4
5 (2) Signs required to be posted pursuant to State, local, or Federal laws.

6
7 (b) Nothing in this division shall apply to the installation of a plaque, plate, statue, or
8 other commemorative monument or marker in accordance with permission from an
9 authorized City Department with the approval of the City Council.

10
11 Sec. 5-2-173. - Removal and collection of costs.

12
13 Any violation of this article is hereby declared to be a nuisance. No person shall have any
14 legal right to the continued presence of a sign in a public way in violation of this article, nor
15 shall there be any legal remedy against any person solely for the removal from a public way
16 of a sign which is in violation of this article. Any person may abate the nuisance created by
17 a violation of this article without liability for doing so. If abatement is made by the City, the
18 reasonable costs incurred in removal may be assessed against any person responsible for or
19 benefited by the violation, and such costs shall be collected in the same manner as City
20 taxes. For a willful violation, the City shall be entitled to recover costs, the reasonable value
21 of attorney's fees, and punitive damages in any proceeding which it may bring to enjoin
22 future violations.

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24
25 Sec. 5-2-174. - Penalty for violation.

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27 Violation of this article shall be a class four civil violation which shall be enforced through
28 the levying of a civil penalty pursuant to section 1-1-11 of this code, provided, that the
29 penalty for the first violation shall be \$100, for a second violation of the same regulation or
30 requirement the penalty shall be \$250, and for each additional violation of the same
31 regulation or requirement the penalty shall be \$500. Each individual sign shall be deemed
32 a separate offense. Each day during which any such violation is continued may be treated
33 for all purposes as a separate offense.