EXHIBIT NO. 1

18
6-14-05

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 8, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: TECHNICAL AMENDMENT TO THE CITY'S GRAFFITI ORDINANCE

ISSUE: Technical amendment to the City's graffiti ordinance to conform with recent changes in the Code of Virginia made by the 2005 General Assembly.

RECOMMENDATION: That City Council pass the ordinance on first reading and set it for public hearing, second reading, and final passage on Tuesday, June 21.

DISCUSSION: Graffiti is a problem that Alexandria is actively combating. In 2004, there were 76 graffiti incidents; in most cases the graffiti was removed voluntarily by the property owners. To date, in 2005, there have been 12 incidents, excluding citizen complaints in target areas.

While the current City Code gives property owners 10 days to remove the graffiti, the time for removing graffiti can extend to 25 or 30 days taking into account various enforcement checks once a notice is sent. Specific penalties are not mandated for the defacing of public and private property. The 2005 General Assembly amended the Commonwealth's graffiti statute to provide for the following:

- The penalty for the defacement of public or private property, including the graffiti, will include a mandatory minimum fine of $500 if the defacement is : (1) more than 20 feet off the ground; (2) on a railroad or highway overpass; or (3) committed for th benefit of, at the direction of, or in association with a criminal street gang[1]

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[1] Criminal street gang is defined in the State Code as any ongoing organization, association, or group of three or more persons, whether formal or informal, which (i) has as one of its primary objectives or activities the commission of one or more criminal activities, (ii) has an identifiable name or identifying sign or symbol, and (iii) whose members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence, provided such acts were not part of a common act or transaction.

- A locality may, at its own expense, clean the graffiti or other defacement 15 days after giving the property owner or lessee notice of the defacing and requesting its removal or effective obscuring.

I recommend that Council amend the City Code to include these new provisions. Graffiti is a major concern to the City, especially when it is gang-related. Both the City Manager's Quality of Life Committee and the City's Community Anti-Gang Task Force recently discussed concerns about gang-related graffiti and the need to remove it as soon as possible. Both groups will be looking at other more stringent graffiti programs for consideration for the City's 2006 General Assembly package.

STAFF:
Rose Williams Boyd, Director of Citizen Assistance
Blaine Corle, Deputy Chief of Police

EXHIBIT NO. 2

Introduction and first reading:	6/14/05
Public hearing:	6/21/05
Second reading and enactment:	6/21/05

INFORMATION ON PROPOSED ORDINANCE

Title

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.

Summary

The proposed ordinance increases the minimum penalty for acts of vandalism involving the placement of graffiti on bridges and overpasses, at other locations more than 20 feet above ground, or gang-related graffiti, to a $500 fine , and increases, from 10 to 15 days, the period allowed a property owner to remove or cover graffiti before the City enter the property and do so itself.

Sponsor

Staff

Charles E. Samarra, Chief of Police
Rose Boyd, Director, Citizens Assistance
Bernie Caton, Legislative Director
Ignacio Pessoa, City Attorney

Authority

§ 15.2-1812.2, Code of Virginia, 1950, as amended

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

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EXHIBIT NO. 3

ORDINANCE NO. _____

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 her 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 ~~10~~ 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 ~~10~~ 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 ~~10~~ 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 ~~or in sections 18.2-137 or 18.2-138 of the Code of Virginia, 1950, as amended~~.

(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

Introduction: 6/14/05
First Reading: 6/14/05
Publication:
Public Hearing:
Second Reading:
Final Passage:

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EXHIBIT NO. 4

18
6-14-05

City of Alexandria, Virginia

MEMORANDUM

REVISED MEMO AS OF JUNE 10, 2005

DATE: JUNE 8, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

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DISCUSSION: Graffiti is a problem that Alexandria is actively combating. In 2004, there were 76 graffiti incidents, in most cases the graffiti was removed voluntarily by the property owners. To date, in 2005, there have been ~~12~~ **40** incidents, excluding citizen complaints in target areas.

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