

EXHIBIT NO. 1 27 23.1
6-14-08 ~~6-10-08~~

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 6, 2008
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: JAMES K. HARTMANN, CITY MANAGER
SUBJECT: ORDINANCE CLARIFYING THE REGULATIONS PERTAINING TO TRUCK HAUL ROUTE PERMITS

ISSUE: Consideration of an ordinance to clarify the regulations under which a truck haul route permit is required.

RECOMMENDATION: That City Council approve the proposed ordinance on first reading on Tuesday, June 10, and set it for public hearing, second reading, and final passage on Saturday, June 14.

BACKGROUND: The General Assembly of Virginia, in Section 2.04(j) of the City Charter, has given the City authority to "regulate or prohibit . . . the transportation of any offensive or dangerous substance," and in Section 2.04(o) to regulate the transportation of "inflammable substances." With respect to solid waste haulers, City Code Section 5-1-51, and other haulers, Code Section 5-2-27, City Council has established a uniform regulatory scheme which requires concentrated, high-volume, high-frequency bulk haulers to obtain a permit which specifies, *inter alia*, reasonable haul routes designed to minimize harmful impacts and promote safety.

DISCUSSION: Notwithstanding this comprehensive and long-standing regulatory scheme, the operators of the newly instituted high-frequency, high-volume ethanol hauling business have asserted that the haul route permit requirement does not apply to their operation.

In order to obviate any lack of clarity in the applicability of the haul route permit requirements, the proposed ordinance amends City Code Section 5-2-27 to specifically include bulk commodity and material haulers, including haulers not associated with construction activities. That ethanol hauling at the present scale and intensity is a new operation in the City, whereas construction is not, is no grounds for excluding that new operation from the established regulatory scheme.

In addition, the proposed ordinance further clarifies existing law to make explicit that a permit is not required for bulk deliveries to widely dispersed retail merchant businesses, such as gasoline

stations or retail lumber yards, or from such merchants to dispersed sites, such as small renovation projects, which do not at the destination site exceed the five delivery per month threshold for obtaining a permit.

New and additional truck traffic in the City necessitates these clarifications, in order better to promote traffic safety, and to reduce the likelihood of disruption to established residential and commercial areas in the City.

FISCAL IMPACT: None

ATTACHMENTS: Proposed Ordinance

STAFF:
Richard Baier, Director of T&ES

Introduction and first reading:	6/10/08
Public hearing:	6/14/08
Second reading and enactment:	6/14/08

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Section 5-2-27 (HAULING OF WASTE MATERIALS, CONSTRUCTION MATERIALS, ETC., PROHIBITED) of Chapter 2 (STREETS AND SIDEWALKS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance clarifies existing law by amending Section 5-2-27 of the City Code to make explicit that a hauling permit is required for all types of bulk materials and commodities, not just such materials and commodities utilized in connection with construction activities. The ordinance further clarifies existing law to make explicit that a permit is not required for bulk deliveries to retail merchants, such as gasoline stations or retail lumber yards, or from such merchants to sites, such as small renovation projects, which do not themselves trigger a permit requirement. New and additional truck traffic in the City necessitates these clarifications, in order better to promote traffic safety, and to reduce the likelihood of disruption to established residential and commercial areas in the City.

Sponsor

Staff

Rich Baier, Director of Transportation and Environmental Services
Ignacio B. Pessoa, City Attorney

Authority

§ 2.04(m), Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance

None

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3 AN ORDINANCE to amend and reordain Section 5-2-27 (HAULING OF WASTE
4 MATERIALS, CONSTRUCTION MATERIALS, ETC., PROHIBITED) of Chapter 2
5 (STREETS AND SIDEWALKS), Title 5 (TRANSPORTATION AND
6 ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as
7 amended.

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9 THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

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11 Section 1. That Section 5-2-27 of The Code of the City of Alexandria, Virginia,
12 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

13
14 Sec. 5-2-27 Hauling of waste materials, construction materials, etc., prohibited.

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16 (a) Hauling waste materials of any type, building or construction supplies of any
17 type, bulk materials or commodities of any type, heavy vehicles or equipment of any type not
18 licensed for street use, or dirt, debris or fill of any type is prohibited on all streets within the City,
19 except pursuant to a permit issued under subsection (b) of this section, or pursuant to an
20 exemption under subsection (e) of this section.

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22 (b) The director of transportation and environmental services is hereby authorized to
23 issue permits to haul such materials, supplies or equipment over the streets within the City,
24 subject to such conditions and restrictions specifying the time and route for such hauling, and
25 such additional conditions and restrictions, as the director may deem appropriate to promote
26 traffic safety and to minimize disruption to established residential, commercial, institutional and
27 other areas in the City.

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29 (c) Any person who, as the owner, lessee, operator or driver of a motor vehicle or
30 trailer, commits, permits, directs, assists in or attempts any violation of this section shall be
31 guilty of a class two misdemeanor.

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33 (d) Any person who, as the owner of any land, building or structure to or from
34 which such materials, supplies or equipment are hauled, or the agent thereof having possession
35 or control of such property as employee, lessee, tenant, architect, builder, contractor or
36 otherwise, commits, permits, directs, assists in or attempts any violation of this section shall be
37 guilty of a class two misdemeanor.

38
39 (e) The prohibition set forth in subsection (a) of this section shall not apply to the
40 hauling of such materials, supplies or equipment (1) to or from any specific location or site at the
41 rate of five or fewer trips for pickup or delivery of such materials or equipment in any
42 consecutive thirty day period, (2) to the business location of a retail merchant for use by such
43 merchant in the ordinary course of such merchant's business or from the business location of
44 such a merchant in the ordinary course of such merchant's business to specific locations or sites,
45 but subject to the limitation in clause (1) for each such location or site, nor (3) to the non-

1 commercial hauling of such materials or equipment to or from a dwelling unit, by a resident
2 therein.

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4 Section 2. That this ordinance is declaratory of existing law.
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6 Section 3. That this ordinance shall become effective upon the date and at the time
7 of its final passage.
8

9
10 WILLIAM D. EUILLE
11 Mayor

12 Introduction: 6/10/08
13 First Reading: 6/10/08
14 Publication:
15 Public Hearing:
16 Second Reading:
17 Final Passage:
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6-14-08

PUBLIC HEARING TESTIMONY ON ORDINANCE CHANGE
CLARIFYING TRUCK HALL ROUTE PERMITS REGULATIONS

June 14, 2008

Mr. Mayor and City Council, my name is Ingrid Sanden. I live at 5238 Bessky Pl.. I am the President of the Cameron Station Civic Association and I speak on behalf of its Board and the Board of the Cameron Station Community Association, our homeowners association.

We support staff's recommendation for this ordinance change. It shouldn't have been necessary had staff been working with a reasonable and responsible business entity that wanted to be a good corporate citizen. But that wasn't the case. It was Norfolk Southern.

Now with this change, even Norfolk Southern can't claim that hauling associated with their ethanol transloading operation isn't covered by our ordinance. Instead, they will argue that they don't have to comply with anything, or even negotiate in good faith, because they are answerable only to the Federal government.

I think we all know what's driving their recalcitrance to cooperate. They want no restrictions on their ability to generate truck traffic any time of the day, every day of the week, every day of the year.

Please pass this ordinance change. It's prudent to do so. But more importantly, to resolve the issue with finality, continue to fight as hard as you can, with every means you can muster, to remove this awful operation from our beloved City. We stand behind you. We stand with you.

ORDINANCE NO. 4555

AN ORDINANCE to amend and reordain Section 5-2-27 (HAULING OF WASTE MATERIALS, CONSTRUCTION MATERIALS, ETC., PROHIBITED) of 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 5-2-27 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:

Sec. 5-2-27 Hauling of waste materials, construction materials, etc., prohibited.

(a) Hauling waste materials of any type, building or construction supplies of any type, bulk materials or commodities of any type, heavy vehicles or equipment of any type not licensed for street use, or dirt, debris or fill of any type is prohibited on all streets within the City, except pursuant to a permit issued under subsection (b) of this section, or pursuant to an exemption under subsection (e) of this section.

(b) The director of transportation and environmental services is hereby authorized to issue permits to haul such materials, supplies or equipment over the streets within the City, subject to such conditions and restrictions specifying the time and route for such hauling, and such additional conditions and restrictions, as the director may deem appropriate to promote traffic safety and to minimize disruption to established residential, commercial, institutional and other areas in the City.

(c) Any person who, as the owner, lessee, operator or driver of a motor vehicle or trailer, commits, permits, directs, assists in or attempts any violation of this section shall be guilty of a class two misdemeanor.

(d) Any person who, as the owner of any land, building or structure to or from which such materials, supplies or equipment are hauled, or the agent thereof having possession or control of such property as employee, lessee, tenant, architect, builder, contractor or otherwise, commits, permits, directs, assists in or attempts any violation of this section shall be guilty of a class two misdemeanor.

(e) The prohibition set forth in subsection (a) of this section shall not apply to the hauling of such materials, supplies or equipment (1) to or from any specific location or site at the rate of five or fewer trips for pickup or delivery of such materials or equipment in any consecutive thirty day period, (2) to the business location of a retail merchant for use by such merchant in the ordinary course of such merchant's business or from the business location of such a merchant in the ordinary course of such merchant's business to specific locations or sites, but subject to the limitation in clause (1) for each such location or site, nor (3) to the non-

commercial hauling of such materials or equipment to or from a dwelling unit, by a resident therein.

Section 2. That this ordinance is declaratory of existing law.

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

WILLIAM D. EUILLE
Mayor

Final Passage: June 14, 2008