

EXHIBIT NO. 1

18
6-12-10

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~~6-8-10~~

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 1, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

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SUBJECT: AN ORDINANCE to amend and reordain Section 8-1-6 (CIVIL PENALTIES) of Chapter 1 (BUILDING CODE), Title 8 (BUILDING CODE REGULATIONS) of the Code of the City of Alexandria, Virginia, 1981, as amended.

ISSUE: An ordinance to revise Title 8, Section 8-1-6 of the Building Code Regulations of the Alexandria City Code to amend civil penalties for building code violations

RECOMMENDATION: That City Council pass the ordinance on first reading and schedule it for public hearing, second reading and final passage on Saturday, June 12.

BACKGROUND: The Code of Virginia and the Virginia Uniform Statewide Building Code (USBC) establish criminal misdemeanors for violations of the various USBC Codes. State law authorizes an alternative use of civil penalties as penalties for code violations. Alexandria has chosen misdemeanor penalties for uncorrected violations of the Virginia Construction Code, while utilizing civil penalties for uncorrected violations of the Virginia Maintenance Code.

During the 2010 Virginia General Assembly, the law allowing for civil penalties was amended to increase the violation for second and subsequent summons for the same set of facts from \$150 to \$350. In addition, the maximum civil penalty for the same set of facts has been increased from \$3,000 to \$4,000

DISCUSSION: Civil penalty summons are not issued until a field correction notice has been issued for the violation and the recipient has the opportunity to correct the problem. Typically, a line of communication is established between the person in violation and Code Administration staff. Civil summons are not generally issued unless corrective action does not begin in the established time frame, or progress stops wants it begins.

The only deterrent for common violations that do not meet the definition of blighted or derelict are the civil penalties that can be issued. The Virginia legislative action has allowed us to adopt higher civil penalties for second and subsequent summons for the same set of facts, which will help deter violations and encourage correction of building maintenance concerns.

This is being brought to City Council after the repeal and recodification of Title 8 in May. The civil penalty provisions could not be included in the May ordinance as the State law does not become effective until July 1, 2010.

FISCAL IMPACT: The fiscal impact of the proposed ordinance for increased civil penalties is an approximate \$4,000 generated annually.

ATTACHMENT: Proposed Ordinance

STAFF:

Mark Jinks, Deputy City Manager,

Mary O'Donnell, Assistant City Attorney

John Catlett, Director, Office of Building and Fire Code Administration

1	Introduction and first reading:	06/08/2010
2	Public hearing:	06/12/2010
3	Second reading and enactment:	06/12/2010

INFORMATION ON PROPOSED ORDINANCE

8 Title

10 AN ORDINANCE to amend and reordain Section 8-1-6 (CIVIL PENALTIES) of Chapter 1
11 (BUILDING CODE), Title 8 (BUILDING CODE REGULATIONS) of the Code of the City of
12 Alexandria, Virginia, 1981, as amended.

14 Summary

16 The proposed ordinance amends the City Code to increase the amount of civil penalties for
17 violations of the Building Code, as allowed by a change in state law.

19 Sponsor

22 Staff

24 Adam Thiel, Fire Chief
25 John Catlett, Director, Office of Building and Fire Code Administration
26 Mary O'Donnell, Assistant City Attorney

28 Authority

30 §2.04(b), §2.06 Alexandria City Charter
31 Code of Virginia § 36-106

33 Estimated Costs of Implementation

35 None

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

39 None

ORDINANCE _____

AN ORDINANCE to amend and reordain Section 8-1-6 (CIVIL PENALTIES) of Chapter 1 (BUILDING CODE), Title 8 (BUILDING CODE REGULATIONS) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Subsection 8-1-6 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. 8-1-6 Violations and penalties.

(a) Criminal penalties: Violations of the Virginia Uniform Statewide Building Code, Virginia Construction Code, Virginia Rehabilitation Code, Virginia Amusement Device Regulations, Virginia Manufactured Home Safety Regulations and Virginia Industrialized Building Safety Regulations, as they may be amended from time to time, shall be subject to the criminal penalties as provided in Section 36-106 of the Virginia Code and any amendment or re-codification thereof.

(b) Civil Penalties:

(1) In lieu of criminal penalties otherwise chargeable under the VUSBC for any violation resulting in injury to any person or persons, a civil penalty shall be levied for violations of the Virginia Maintenance Code, as provided in Section 36-106 of the Virginia Code and any amendment or re-codification thereof.

(2) Civil penalties may be levied as stated in this section for any violation of this Chapter not specifically identified as subject to criminal penalties or not specifically addressed elsewhere in this Chapter. The penalty for any one violation shall be a civil penalty of not more than \$100 for the initial summons and not more than ~~\$150~~ \$350 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any ten-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of ~~\$3,000~~ \$4,000.

(3) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control, the violation within six months of the date of the assessment of the civil penalty.

1 | (c) *Injunctive relief.* A violation of any section or provision of the VUSBC,
2 incorporated into this chapter by section 8-1-2 may, in addition to and notwithstanding
3 the penalty provided for in subsection (a) or (b), be restrained, prohibited or enjoined by
4 appropriate proceedings in a court of competent jurisdiction.
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6 Section 9. That this ordinance shall become effective on July 1, 2010.
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9 WILLIAM D. EUILLE
10 Mayor
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12 Introduction: 06/08/2010
13 First Reading: 06/08/2010
14 Publication:
15 Public Hearing: 06/12/2010
16 Second Reading: 06/12/2010
17 Final Passage:
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ORDINANCE 4669

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- (1) In lieu of criminal penalties otherwise chargeable under the VUSBC for any violation resulting in injury to any person or persons, a civil penalty shall be levied for violations of the Virginia Maintenance Code, as provided in Section 36-106 of the Virginia Code and any amendment or re-codification thereof.
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- (3) If the violation concerns a residential unit, and if the violation remains uncorrected at the time of assessment of the civil penalty, the court shall order the violator to abate, or otherwise remedy through hazard control, the violation in order to comply with the Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate, or otherwise remedy through hazard control, the violation within six months of the date of the assessment of the civil penalty.

(c) *Injunctive relief.* A violation of any section or provision of the VUSBC, incorporated into this chapter by section 8-1-2 may, in addition to and notwithstanding the penalty provided for in subsection (a) or (b), be restrained, prohibited or enjoined by appropriate proceedings in a court of competent jurisdiction.

Section 9. That this ordinance shall become effective on July 1, 2010.

WILLIAM D. EUILLE
Mayor

Final Passage: June 12, 2010