



MEMORANDUM

TO: Timothy J. Baroody, City Manager
FROM: Brian Layton, Chief of Police
DATE: February 17, 2021 (for the February 23 Council Meeting)
SUBJECT: Profane Swearing in Public City Code Revision (54-17)

ISSUE

Should the City Council make an amendment to 54-17 of the City Code to remove the profane swearing in public section from the code?

RECOMMENDATION

Council should amend the City Code to remove this specific section of the text. This topic was discussed at the January 26, 2021 Council Work Session. It was first read at the February 9, 2021 meeting.

DISCUSSION

The 2020 Virginia General Assembly adopted legislation to remove profane swearing as a criminal offense from Code of Virginia Section 18.2-388, otherwise known as the public intoxication statute. This law has remained on the books in Virginia over the years despite a 1971 ruling by the United States Supreme Court, which held that banning offensive language was contrary to the First Amendment. The law was changed this year as part of a broader effort to modernize the Virginia Code.

Virginia Code Section 18.2-388 has been incorporated into the Fredericksburg City Code at Section 54-17. Therefore, an update to the City Code is needed to conform to the newly-revised analogous state code provision.

FISCAL IMPACT

None.

Attachments: Ordinance



February 23, 2021
Regular Meeting
Ordinance No. 21-03

MOTION:

SECOND:

RE: Amending § 54-17 of the City Code to Remove the Crime of Profane Swearing in Public.

ACTION: APPROVED: Ayes: 0; Nays: 0

FIRST READ: February 9, 2021

SECOND READ: _____

Sec. I. Introduction.

The 2020 Virginia General Assembly adopted legislation to remove profane swearing as a criminal offense from Code of Virginia Section 18.2-388, otherwise known as the public intoxication statute. This law has remained on the books in Virginia over the years despite a 1971 ruling by the United States Supreme Court, which held that banning offensive language was contrary to the First Amendment. The law was changed this year as part of a broader effort to modernize the Virginia Code.

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Sec. II. City Code amendment.

It is hereby ordained by the Fredericksburg City Council that City Code Section 54-17, Profane Swearing; Public Drunkenness, be amended to delete the language shown in strikethrough and add the underlined language as follows:

§ 54-17 ~~Profane swearing; p~~Public drunkenness.

If any person ~~profanely curses or swears or~~ is intoxicated in public, whether such intoxication results from alcohol, narcotic drug, or other intoxicant or drug of whatever nature, ~~he shall be deemed~~ is guilty of a Class 4 misdemeanor.

Sec. III. Effective date.

This ordinance shall be effective immediately.

Votes:

Ayes:

Nays:

Absent from Vote:

Absent from Meeting:

Approved as to form:

Kathleen Dooley, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 21-03 duly adopted at a meeting of the City Council meeting held February 23, 2021 at which a quorum was present and voted.

***Tonya B. Lacey, MMC
Clerk of Council***