

ORDINANCE NO. 2040

AN ORDINANCE to amend and reordain Chapter 10A of The Code of the City of Alexandria, Virginia, 1963, as amended; which Chapter 10A relates to EROSION AND SEDIMENT CONTROL.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 10A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and reordained to read as follows:

CHAPTER 10A.

EROSION AND SEDIMENTATION CONTROL.

Sec. 10A-1. Approved erosion and sedimentation control plan required--
Construction of buildings.

Except as provided in section 10A-5 of this Code, it shall be unlawful for any person to construct or erect any building or structure on any land within the city unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Sec. 10A-2. Same--Enlargement of buildings.

Except as provided in section 10A-5 of this Code, it shall be unlawful for any person to alter any building or structure on any land within the city in such manner as to change the land area covered by the building or structure unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Sec. 10A-3. Same--Change or disturb terrain.

Except as provided in section 10A-5 of this Code, it shall be unlawful for any person to clear, grade, excavate, fill, remove topsoil from or change the contour of any land in the city unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Except as provided in section 10A-5 of this Code, it shall be unlawful for any person to remove or destroy trees, shrubs, grass, weeds, vegetation, ground cover or other plant life on any land in the city unless there is in force an approved erosion and sedimentation control plan issued under the provisions of this chapter.

Sec. 10A-4. Compliance with approved plan.

It shall be unlawful for any person to construct, erect or alter any building or structure for which an approved erosion and sedimentation control plan is required by this chapter, except in accordance with the approved plan.

It shall be unlawful for any person to clear, grade, excavate, fill, remove topsoil from or change the contour of any land in the city for which an approved erosion and sedimentation control plan is required by this chapter except in accordance with the approved plan.

It shall be unlawful for any person to remove or destroy trees, shrubs, grass, weeds, vegetation, ground cover or other plant life on any land in the city for which an approved erosion and sedimentation control plan is required by this chapter except in accordance with the approved plan.

Sec. 10A-5. Exceptions.

The provisions of this chapter shall not apply to any construction, reconstructions, repair or alteration of any building or structure when no land is disturbed and no trees, shrubs, grass or vegetation is destroyed or removed, nor to:

(a) The construction or erection of any building or structure when the disturbed land area of the site is less than 10,000 square feet in size, provided there is no natural or man-made drainage ditch, swale draining in excess of 10,000 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds ten percent.

(b) The alteration of any building or structure when the disturbed land area of the site will be less than 10,000 square feet, provided there is no natural or man-made drainage ditch, swale draining in excess of 10,000 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds ten percent.

(c) The clearing, grading, excavating, filling, removing topsoil from or changing the contour of less than 10,000 square feet of land, provided there is no natural or man-made drainage ditch, swale draining in excess of 10,000 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds ten percent.

(d) The clearing, grading excavating, filling, removing topsoil from or changing the contour of less than 500 square feet of land, provided there is no natural or man-made drainage ditch, swale draining in excess of 10,000 square feet or storm sewer on the disturbed land and further provided the disturbance to such land does not cause sedimentation on land outside the exterior boundaries of the land disturbed.

(e) The removal or destruction of trees, shrubs, grass, weeds, vegetation, ground cover, or other plant life which cover less than 10,000 square feet of land, provided there is no natural or man-made drainage ditch, swale draining in excess of 10,000 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds ten percent.

(f) The planting, trimming, pruning or removal of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life pursuant to chapter 39 of this Code.

(g) The removal or destruction of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life that are dead, poisonous or infected with disease or injurious insects or pests.

(h) Gardening and care of lawns.

(i) The removal or destruction of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life from lots of less than 20,000 square feet on which there now exists a dwelling.

Sec. 10A-6. Permits not to be issued without approved erosion and sedimentation control plan when plan required by chapter.

No permit shall be issued to construct, erect, or alter any building or structure on any land within the city until a plan has been submitted and approved in accordance with the provisions of this chapter.

No permit shall be issued to clear, grade, excavate, fill, remove topsoil from or change the contour of any land within the city until a plan has been submitted and approved in accordance with the provisions of this chapter.

Sec. 10A-7. Erosion and sediment control program; adoption by reference of certain chapters of the State handbook.

(a) The city council hereby adopts by reference, as a portion of this chapter, the following chapters of the Virginia Erosion and Control Handbook, dated April 1974, and as may be amended from time to time:

- Chapter I. Introduction
- Chapter II. Guidelines for Erosion and Sediment Control Planning and Plans
- Chapter III. Erosion and Sediment Control Practices

This chapter and the above chapters shall be an integral part of the city's erosion and control program and shall comprise the City's Erosion and Sediment Control Handbook.

(b) These Guidelines and Practices shall be used by the applicant making a submittal under this chapter and by the director of transportation and environmental services in his review and consideration of the adequacy of any plan submitted.

Sec. 10A-8. Erosion and sediment control plans.

Applications for approved erosion and sediment control plans shall be submitted to and filed with the director of transportation and environmental services, on forms prepared by the city, prior to the time any work subject to this chapter is begun on land. Four copies of an erosion and sediment control plan must accompany any such application, parts of which shall also be on forms prepared by the city. Upon receipt of an application and plan, the director of transportation and environmental services shall consider the plan in light of the provisions of this chapter and promptly approve the plan, disapprove the plan or approve the plan with modifications, noting thereon any changes that will be required. The director of transportation and environmental services shall promptly notify the applicant of his decision on a plan. Any approved plan shall be issued, dated, and bear the manual signature of the director of transportation and environmental services or his deputy.

I. An application shall show the following:

- (a) The name, address and phone number of the applicant.
- (b) The name, address and phone number of the owner of record.
- (c) The name, address, and phone number of the person preparing the plan.

(d) The location of the site, including lot number and tax map page number.

(e) The total land area, area being disturbed and proposed amount of pervious and impervious area.

(f) Soil types by AASHO classification (or other classifications used by soil engineers), if available.

(g) Method for collecting and depositing storm water.

(h) Test boring and soil test results when (1) the site is in an area of the city known or suspected by the department of transportation and environmental services to have soil problems or unstable soil, or (2) any proposed slope on the site exceeds a grade of twenty percent, or (3) the presence of ground water in substantial amounts is known or suspected by the department of transportation and environmental services to be on the site, or (4) unstable soil is known or suspected by the department of transportation and environmental services to be on the site.

(i) A general description of existing trees, shrubs, grass, weeds, vegetation, ground cover and other plant life.

(j) Any other pertinent information the director of transportation and environmental services may require.

II. A control plan shall follow the format detailed on pages 7 through 11, inclusive, of chapter II of the city's Erosion and Sediment Control Handbook.

Sec. 10A-9. Regulations and restrictions generally.

All erosion and sediment control practices shall be in accordance with chapter III of the city's Erosion and Control Handbook.

Sec. 10A-10. Failure of director of transportation and environmental services to act.

Failure of the director of transportation and environmental services or his deputy to act on any erosion and sedimentation control plan within forty-five (45) days after it has been properly filed should be deemed to constitute approval of the plan.

Sec. 10A-11. Inspections and amendments of plans.

It shall be the responsibility of the director of transportation and environmental services and his designated agents to ensure the satisfactory construction and maintenance of all approved Erosion and Sediment Control Plans in accordance with the city's handbook.

The director of transportation and environmental services may authorize amendments to an approved plan when he has determined that an inadequacy exists or that the plan cannot be carried out effectively because of changed circumstances.

Sec. 10A-12. Guarantee of performance of plans.

A corporate surety bond, conditioned upon carrying out all and every part of an approved erosion and sedimentation control plan for at least the sum estimated to be the full costs of carrying out such plan or a cash escrow, upon the same condition and in the same amount shall be furnished the city whenever such costs exceed five hundred dollars. The bond or escrow shall be released upon proper completion of all of the requirements of such an approved plan.

Sec. 10A-13. Noncompliance and corrective action.

In the course of making on-site inspections, should the director of transportation and environmental services or his agent determine that active erosion and sediment control measures are not in compliance with the approved plan, he shall verbally notify the responsible contractor to take appropriate corrective measures.

Written confirmation of this Notice to Comply will be sent to the applicant for the Erosion and Sediment Control Permit citing a detailed description of the conservation measures necessary for compliance.

When no action is taken within forty-eight (48) hours of delivery of Notice to Comply, the director of transportation and environmental services shall send the applicant, by certified mail, a letter of intent to utilize the performance bond or cash escrow to apply the conservation measures to correct the deficiency if it has not otherwise been corrected by a specified time.

If no action has been taken by the time specified, the director of transportation and environmental services shall proceed forthwith to have the deficiency corrected and he shall keep a close account of all related expenses which shall be charged to and paid from the applicant's performance bond or escrow account.

Sec. 10A-14. Time of validity of erosion and sediment control plans.

Any approved erosion and sedimentation control plan shall become null and void one hundred and eighty days after the date of approval and no further work subject to this chapter shall be allowed unless and until an additional or updated erosion and sediment control plan has been submitted and approved in accordance with the provisions of this chapter or unless all requirements of the approved control plan have been completed in less than one hundred and eighty days in accord with said plan and verified by an on-site inspection by the director of transportation and environmental services or his deputy.

When no change in conditions has occurred since the date of approval, an updated plan shall be approved in accordance with the provisions of this chapter with no additional requirements.

Sec. 10A-15. Waiver.

The city manager, may, for good cause shown, waive the provisions of chapter 10A that require an approved erosion and sediment control plan, provided: (1) Written application is made and (2) the director of transportation and environmental services states in writing that such a waiver will not result in increased erosion or sedimentation or violate the general principles of good erosion and sediment control management.

Sec. 10A-16. Relation of chapter to other laws.

The provisions contained in this chapter shall be considered separate from, supplemental to and additional to the provisions contained in chapter 7, chapter 30, chapter 34 and elsewhere in this Code or other city ordinances. Nothing contained in this chapter shall excuse any person from compliance with all other applicable provisions of this Code.

Sec. 10A-17. Penalty.

Any person violating the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed one hundred dollars or by imprisonment in the city jail for a period not to exceed thirty days, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense. Violations of the provisions of this chapter may also be restrained, prohibited or enjoined by appropriate proceedings.

Sec. 10A-18. Administrative appeal.

Final decisions to disapprove an erosion and sedimentation control plan by the director of transportation and environmental services shall be in writing and subject to review by the city manager, provided the applicant or his duly authorized agent files a written notice of appeal with the city manager within thirty (30) days from the date of such written final decision of disapproval.

Sec. 10A-19. Transition.

All buildings and structures for which a building permit shall have been duly and regularly issued by the director of building and mechanical inspections on or before December 31, 1975, which permit has not expired, may be completed without the necessity of complying with this chapter.

All buildings, structures, alterations to buildings or structures and changes of land characteristics for which a final site plan shall have been duly and regularly issued on or before December 31, 1975, and which site plan has not expired, may be completed without the necessity of complying with this chapter.

All subdivisions of land for which an approved final plat of subdivision has been duly and regularly issued and released on or before December 31, 1975, which approved plat has not expired and for which the guarantee for the required public improvement is in full force and effect may be completed without the necessity of complying with this chapter.

Any project for which a silt dams and erosion control bond is in full force and effect on December 31, 1975, may be completed without the necessity of complying with this chapter, provided that the unfinished portions of any such project must comply with the provisions of this chapter any time that such control bond ceases to be in full force and effect.

Notwithstanding the foregoing provisions of this section, the provisions of this chapter shall apply to buildings, structures, characteristics, subdivision of land or projects after completion of such buildings, structures, alterations of buildings and structures, changes of land characteristics or subdivision of land or projects.

Section 2. Copies of any matter incorporated in this ordinance by reference may be examined in the City Hall of the City of Alexandria, Virginia, at the Director of Transportation and Environmental Services' office, Room 407, the office of the City Clerk in Room 302, and the entrance hall on Market Square.

Section 3. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective December 31, 1975.

CHARLES E. BEATLEY, JR.
Mayor

FINAL PASSAGE: June 24, 1975