

ORDINANCE NO. 2135

AN ORDINANCE to prohibit construction or any disturbance to the terrain on land in the City of Alexandria, Virginia, determined to be contaminated with toxic substances constituting a hazard to the public health, safety and welfare until such time as the City Council of the City of Alexandria has adopted an ordinance regulating the use of land on any such contaminated property in the city.

WHEREAS, the City Council of the City of Alexandria, Virginia, finds that certain land in the city is contaminated with toxic substances hazardous to the public health, safety and welfare; and

WHEREAS, the City Council has determined that it must take legislative action to regulate the use of any such contaminated land; and

WHEREAS, it is necessary to take emergency measures to prevent construction on such land or the disturbance of the terrain until reasonable regulations can be developed and adopted by ordinance; and

WHEREAS, City Council determines that on an emergency and temporary basis an ordinance should be adopted preventing construction or disturbance of the terrain on any such contaminated property; now therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That it is in the public interest and in furtherance of the health, safety and welfare of all citizens of the City of Alexandria, Virginia, to prevent construction or disturbance of the terrain, on land found to be contaminated with hazardous substances until reasonable regulations are adopted by city council to regulate the use of any such contaminated land.

Section 2. That it shall be unlawful for any person to construct or erect any building or structure on any land within the city determined by the city manager, in consultation with the city's health department, department of transportation and environmental services, department of building and mechanical inspections, fire department and department of planning and community development, to be contaminated by toxic substances hazardous to the public health, safety and welfare. It shall also be unlawful for any person to clear, grade, excavate, fill, remove topsoil from, or change the contour of any land in the city determined by the city manager, in consultation with the aforesaid city departments, to be contaminated by toxic substances hazardous to the public health, safety and welfare unless any such activity is done pursuant to a court order or an order of any federal, state or city agency.

Section 3. The city manager is directed to list all parcels of land found to be so contaminated and to submit such listing, together with supporting documentary evidence compiled by city, state or federal agencies, to the City Council for approval. City Council shall hold a public hearing on said listing and after such hearing may approve, disapprove or modify the listing or any portion thereof. The approved list of such contaminated land shall be posted in the central office of the city departments specified in section 2 above.

Section 4. This ordinance shall not apply to any owner or developer of any such contaminated land in the city for which a special use permit, site plan approval or building permit has been approved and is in effect as of the date of enactment of this ordinance or for which a special use permit is granted by the city council after the date of enactment of this ordinance and such permit contains conditions with respect to the treatment of toxic hazardous substances found on any such contaminated land found necessary by the city manager to preserve the public health, safety and welfare, and approved by city council.

Section 5. That this ordinance shall be in full force and effect for 180 days after the date of its enactment or until the date of the adoption by City Council of an ordinance governing use of land deemed to be contaminated by hazardous substances, whichever comes first.

Section 6. In making the determination required by Section 2 of this ordinance, the City Manager may apply or adapt any guidelines, rules, or regulations established by the Occupational Safety and Health Administration, the United States Public Health Service, the Environmental Protection Agency, and the National Institute for Occupational Safety and Health, or any other Federal agency which relate to maximum safe levels of toxic substances in air or soil, whether or not the guidelines carry the force of law. If toxicity levels exceed those Federal guidelines for any use, the City Manager may find the land contaminated.

Section 7. 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 the date of its final passage.

FRANK E. MANN  
Mayor

FINAL PASSAGE: OCTOBER 26, 1976.