

ORDINANCE NO. 2290

AN ORDINANCE to amend and reordain Chapter 39 of The Code of the City of Alexandria, Virginia, 1963, as amended, by reordering the existing sections of that chapter and dividing them into three articles numbered I, II and IV, to add thereto a new Article III, and to amend and reordain Sections 39-1 and 39-15 of that chapter; which Chapter 39 relates to TREES, SHRUBS, PLANTS AND VEGETATION, which newly-designated Article I is entitled REGULATION OF TREES, SHRUBS, ETC., ON PUBLIC PROPERTY, which newly-designated Article II is entitled REGULATION OF TREES, SHRUBS, ETC., ON PRIVATE PROPERTY INTERFERING WITH OR ENDANGERING PUBLIC OR PUBLIC PROPERTY, which newly-designated Article IV is entitled APPEALS; PENALTY FOR VIOLATION OF CHAPTER, which new Article III adopts REGULATIONS FOR THE REMOVAL OR DESTRUCTION OF TREES ON PRIVATE PROPERTY, which Section 39-1 of that chapter relates to MANAGEMENT AND SUPERVISION and which Section 39-15 relates to and provides PENALTIES FOR VIOLATION OF CHAPTER.

WHEREAS, the city council deems it to be in the interest of the health, safety and welfare of the citizens of the city to provide for the protection of trees within the city, regulate their removal and promote their replacement, in order better to control problems of flooding, soil erosion, air pollution and noise, preserve and enhance their aesthetic value, and dissuade unnecessary clearing, disturbing and deforestation of land so as to preserve, insofar as is practicable, the natural and existing growth of vegetation; and

WHEREAS, trees give shade and cool the land; absorb carbon dioxide and return vital oxygen; use leaf surface to reduce particulate pollutants and trap and filter out ash, dust and pollen from the air; hold the soil with their roots, thereby preventing erosion; help air get beneath the surface; slow down forceful winds; alleviate noise pollution; modify extreme temperatures and humidity, thus reducing energy consumed in heating and cooling; and

WHEREAS, trees increase the value of property and are assets that affect an area economically, and trees beautify the city by breaking the monotony of paved sidewalks, streets and parking areas; and

WHEREAS, removal of trees diminishes benefits to existing and future property owners in the surrounding area, impairs economic stability and causes increased costs to the city in controlling surface drainage and soil erosion; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 39 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended by dividing the existing sections of that chapter into three articles as follows:

Article I. Regulation of Trees, Shrubs, Etc., on Public Property, consisting of sections 39-1 through 39-8.1.

Article II. Regulation of Trees, Shrubs, Etc., on Private Property Interfering with or Endangering Public or Public Property, consisting of sections 39-9 through 39-12.

Article IV. Appeals; Penalty for Violation of Chapter, consisting of sections 39-13 and 39-14.

Section 2. That Chapter 39 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is further amended by renumbering the below-listed sections as follows:

Sec. 39-13. Appeals.

Sec. 39-12. Dangerous trees, shrubs, etc., declared nuisance; trimming or removal.

Sec. 39-8.1. Abuse or mutilation of trees, etc.

Sec. 39-14. Penalty.

Section 3. That chapter 39 of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is further amended by adding thereto a new Article III to read as follows:

Article III. Removal or Destruction of Trees
on Private Property.

Sec. 39-12.1. Definitions.

Arborist. The person designated by the city manager to administer the provisions of this ordinance.

Buildable area. That portion of a parcel of land on which a structure or improvements are planned to be erected as shown on the site plan.

Covered area. The area within the outermost portion of the canopy of a tree.

Parcel. A piece of land, regardless of size, in one ownership.

Tree. Any self-supporting woody perennial plant which has a trunk diameter of five (5) inches or more when measured at a point six (6) inches above ground level and which normally attains an overall height of at least ten (10) feet at maturity.

Sec. 39-12.2. Applicability of article provisions.

The provisions of this article shall apply to any area within the city which is subject to the requirement for approval of a site plan pursuant to Chapter 30 of this Code.

Sec. 39-12.3. Permit to remove or destroy trees on private property required.

Except as may otherwise be provided by this chapter, it shall be unlawful for any person to destroy or remove trees on any property covered by this article without first applying for or obtaining a permit from the arborist or, as a part of the securing of a site plan, obtaining permission of the planning commission.

Sec. 39-12.4. Same--Issuance; regulations and procedures.

(a) In the case of an application to the arborist, permits shall be obtained by making application on such forms as he shall prescribe and provide. No such permit shall be issued to cover more than one parcel of land. A separate permit shall be obtained for each parcel of land on which trees are to be removed or destroyed. No application for a permit shall be considered until the applicant shall first have paid to the city a fee of ten dollars (\$10.00) to cover processing and the costs of the investigation prescribed by this section, and such sums shall not be returned to the applicant in the event the arborist shall revoke or refuse to issue the permit.

(b) In the case of application to the arborist, no permit shall be issued until the tree or trees sought to be removed have been inspected by the arborist or his authorized agent. The arborist shall refuse to issue a permit if upon such inspection he finds that the removal or destruction of the tree or trees for which the permit is sought would violate any provision of this article; or materially

(1) cause or contribute to soil erosion or flooding; or

(2) cause or contribute to a violation of any provision of Chapter 22A of this Code; or

(3) cause or contribute to the violation of any emission standard promulgated pursuant to the provisions of Chapter 3B of this Code; or

(4) have a detrimental effect on the aesthetics of the surrounding area.

(c) In the case of an application for site plan approval pursuant to Chapter 30 as aforesaid, the planning commission shall grant the permission if the trees sought to be destroyed or removed lie within a buildable area; and further, as to the trees sought to be removed outside the buildable area, if the planning commission determines that such destruction or removal is reasonably required to develop the parcel in compliance with this Code.

Sec. 39-12.5. Same--Replacement of trees as a condition.

The arborist, or the planning commission, may require an applicant, as a condition of the issuance of a permit as provided by section 39-12.4 of this Code, to implement a suitable plan for the replacement of the trees to be removed pursuant to the permit, which plan shall be provided by the applicant and approved by the arborist, or the planning commission, indicating the location, size, quantity and species of replacement trees to be provided. Any such plans shall be limited to the parcel to which the permit would pertain. In determining whether such a plan shall be required as a condition of the issuance of the permit, the arborist, or the planning commission, shall consider the intended use of the property and evaluate the effect of the removal or destruction of the trees for which the permit is sought, giving consideration to the following factors:

- (a) existing tree coverage, size and type;
- (b) number of trees to be removed on the entire property;
- (c) the area to be covered with structures, parking and driveways;
- (d) the grading plan and drainage requirements; and
- (e) the character of the site and its environs.

Sec. 39-12.6. Same--Exemptions.

The city manager may authorize the removal of any tree for which a permit is required by this article without the issuance of such permit if he determines that such tree constitutes a hazard to the public health or safety and requires immediate removal, or in the event of a natural disaster, man-made disaster or local emergency as defined in section 10B-2 of this Code.

Sec. 39-12.7. Designation of historic trees.

The city council may by resolution designate as an historic tree any tree which it deems to be of notable historic interest because of its age, size or historic association. Except as provided by section 39-12.6 of this Code, or as may be approved by the planning commission and city council, no historic tree shall be removed or destroyed. No such resolution shall be adopted with respect to trees on property other than public property except following notice to all owners of record of the parcel on which the tree or trees to be designated is located and said owners have been given an opportunity for a public hearing.

Sec. 39-12.8. Designation of specimen trees.

The city council may by resolution designate as a specimen tree any tree which it deems to be of extraordinary value because of its age, size or type or quality of uniqueness. Except as provide by section 39-12.6 of this Code, or as may be approved by the planning commission, no specimen tree shall be removed or destroyed. No such resolution shall be adopted with respect to trees on property other than public property except following notice to all owners of record of the parcel on which the tree or trees to be designated is located and said owners have been given an opportunity for a public hearing.

Section 4. That Section 39-1, Chapter 39 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:

Sec. 39-1. Management and supervision.

The director of recreation and cultural activities or his duly authorized representative, under the city manager, shall have general management and supervision of all trees, shrubs, plants and vegetation embraced by this article.

Section 5. That Section 39-15, Chapter 39 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:

Sec. 39-14. Penalty.

Any person violating any of the provisions of this chapter or failing to comply with any duty herein or any action of the city council hereunder shall, upon conviction thereof, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the Alexandria Correctional Center not to exceed six (6) months or both such fine and imprisonment.

Section 6. 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 24, 1978