

ORDINANCE NO. 3298

AN ORDINANCE to amend and reordain subsection (b) of Section 6-2-31, Section 6-2-32, Section 6-2-33, Section 6-2-34, Section 6-2-37, Section 6-2-38 and Section 6-2-39, all of Article C, Chapter 2, Title 6 of The Code of the City of Alexandria, Virginia, 1981, as amended; which Title 6 relates to PARKS, RECREATION AND CULTURAL ACTIVITIES, which Chapter 2 relates to TREES, SHRUBS, PLANTS AND VEGETATION, which Article C relates to REMOVAL OR DESTRUCTION OF TREES ON PRIVATE PROPERTY, which Section 6-2-31 relates to DEFINITIONS, which subsection (b) relates to BUILDABLE AREA, which Section 6-2-32 relates to APPLICABILITY OF ARTICLE PROVISIONS, which Section 6-2-33 relates to PERMIT TO REMOVE OR DESTROY TREES ON PRIVATE PROPERTY--REQUIRED, which Section 6-2-34 relates to SAME--ISSUANCE; REGULATIONS AND PROCEDURES, which Section 6-2-37 relates to DESIGNATION OF HISTORIC TREES, which Section 6-2-38 relates to DESIGNATION OF SPECIMENT TREES and which Section 6-2-39 relates to INTERIM DESIGNATION OF HISTORIC OR SPECIMEN TREES.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That subsection (b) of Section 6-2-31 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:

(b) Buildable area. That portion of a parcel of land on which a structure or improvements are planned to be erected as shown on a site plan or a plat submitted (whether simultaneously or subsequently) in conjunction with an application for approval of the subdivision of land.

Section 2. That Section 6-2-32 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. 6-2-32 Applicability of article provisions.

The provisions of this article shall apply to any property within the city which is subject to the requirement for approval of a site plan pursuant to chapter 5, title 5 of this code, and to any property within the city which is subject to the requirement for approval of a plat of subdivision, pursuant to chapter 5, title 7 of this code, in order to subdivide a parcel as defined in section 7-5-1(9) into two or more lots in conjunction with the construction of two or more single-family, two-family or row dwellings; provided, however, that the provisions of sections 6-2-37, 6-2-38 and 6-2-39 shall apply to any property within the city.

Section 3. That Section 6-2-33 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. 6-2-33 Permission 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 and either obtaining a permit from the arborist or, as a part of the securing of a site plan or subdivision approval, obtaining permission of the planning commission.

Section 4. That Section 6-2-34 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. 6-2-34 Same--issuance; regulations and procedures.

(a) An application to the arborist under section 6-2-33 shall be made on such forms as the arborist shall prescribe and provide. No 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 \$10 and this sum shall not be returned to the applicant in the event the arborist revokes or refuses to issue the permit.

(b) In the case of an 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 the authorized agent thereof. The arborist shall refuse to issue a permit if upon inspection it is found that the removal or destruction of the tree or trees for which the permit is sought would violate any provision of this article or would materially:

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

(2) cause or contribute to a violation of any provision of chapter 5, title 11 of this code;

(3) cause or contribute to the violation of any emission standard promulgated pursuant to the provisions of chapter 1, title 11 of this code; or

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

(c) In the case of an application for site plan approval pursuant to chapter 5, title 5 of this code, the planning

commission shall grant permission to destroy or remove any tree which lies within the buildable area, and shall grant such permission as to any tree which lies outside the buildable area if the planning commission determines that the destruction or removal of the tree is reasonably required to develop the parcel in compliance with this code.

(d) In the case of an application for subdivision approval pursuant to chapter 5, title 7 of this code, the planning commission or its subdivision committee, as the case may be, shall grant permission to remove or destroy any tree which lies within such buildable area as may be shown on a preliminary plat filed under section 7-5-23 and shall grant such permission as to any trees which lie outside the buildable area if it is determined that the destruction or removal of the tree is reasonably required to develop the parcel in compliance with this code. In the event no such buildable area is shown on such preliminary plat, permission to remove or destroy trees shall be obtained from the arborist, who may grant permission, pursuant to subsection (b) of this section, to remove or destroy any tree which lies within such buildable area as may be shown on the plat required by section 7-6-212 to be filed subsequent to the application for subdivision approval and who may grant such permission, pursuant to subsection (b) of this section, as to any tree which lies outside the buildable area.

(e) In considering and approving site plans and subdivisions subject to the provisions of this article, the planning commission or subdivision committee, as the case may be, or the city council on appeal, shall give due consideration to the preservation and replacement of trees.

Section 5. That Section 6-2-37 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended to read as follows:

Sec. 6-2-37 Designation of historic trees.

(a) That city manager may designate as an historic tree any tree which she deems to be of notable historic interest because of its age, size, species, condition or historic association. Except as provided by section 6-2-36 of this code, or as may be approved by the city council after a public hearing, no historic tree shall be removed or destroyed.

(b) No historic designation shall be made with respect to any tree or trees on property other than public property except following 21 days written notice by mail to all owners of record of the parcel on which the tree or trees to be designated are located and the owners have been given an opportunity to submit written comments to the city manager.

(c) The city manager shall establish, and thereafter may amend, regulations for the administration of this section. The manager shall transmit such regulations, and any amendments thereto, to city council for its review and approval; provided, that any regulations established by the manager and any amendments thereto shall be effective upon their issuance by the manager and shall remain in affect unless and until disapproved by city council. The regulations established under this section shall at minimum include:

(1) reasonable criteria for rating the factors of age, size, species, condition and historic association;

(2) reasonable procedures for indentifying the injury to the public health, safety and general welfare which would result from removal or destruction of the tree or trees to be designated and for determining whether such designation would substantially advance the purpose of protecting against the injury indentified;

(3) reasonable procedures for determining the diminution, if any, in the use or value of private property which would be caused by the designation and for determining whether any such diminution would be disproportionate to the injury to the public health, safety and general welfare which would be caused by the removal or destruction of the tree and would result in an unconstitutional deprivation of all or substantial use or value of private property; and

(4) reasonable procedures for appealing to city council, in the manner provided in section 6-2-51, the manager's decision to designate or not to designate any tree or trees.

Section 6. That Section 6-2-38 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. 6-2-38 Designation of specimen trees.

(a) The city manager may designate as a specimen tree any tree which she deems to be of extraordinary value because of its age, size, species, condition or quality of uniqueness. Except as may be provided by section 6-2-36 of this code, or as may be approved by the city council after a public hearing, no specimen tree shall be removed or destroyed.

(b) No specimen designation shall be made with respect to any tree or trees on property other than public property except following 21 days written notice by mail to all owners of record of the parcel on which the tree or trees to be designated are located and the owners have been given an opportunity to submit written comments to the city manager.

(c) The city manager shall establish, and thereafter may amend, regulations for the administration of this section. The manager shall transmit such regulations, and any amendments thereto, to city council for its review and approval; provided, that any regulations established by the manager and any amendments thereto shall be effective upon their issuance by the manager and shall remain in affect unless and until disapproved by city council. The regulations established under this section shall at minimum include:

(1) reasonable criteria for rating the factors of age, size, species, condition and quality of uniqueness;

(2) reasonable procedures for indentifying the injury to the public health, safety and general welfare which would result from removal or destruction of the tree or trees to be designated and for determining whether such designation would substantially advance the purpose of protecting against the injury indentified;

(3) reasonable procedures for determining the diminution, if any, in the use or value of private property which would be caused by the designation and for determining whether any such dimunition would be disproportionate to the injury to the public health, safety and general welfare which would be caused by the removal or destruction of the tree and would result in an unconstitutional deprivation of all or substantial use or value of private property; and

(4) reasonable procedures for appealing to city council, in the manner provided in section 6-2-51, the manager's decision to designate or not to designate any tree or trees.

Section 7. That Section 6-2-39 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and hereby is amended and reordained to read as follows:

Sec. 6-2-39 Interim designation of historic or specimen trees.

Whenever the arborist has determined that any tree should be protected by designation as an historic or specimen tree under the provisions of section 6-2-37 or 6-2-38, and the city manager has determined to proceed with designation, the city manager shall forthwith issue an interim designation of such tree as an historic tree or a specimen tree, as the case may be. No tree so designated shall be removed or destroyed except as provided in section 6-2-36. Such interim designation shall remain in force and effect for 30 days; provided, however, that no such interim designation shall continue in force and effect beyond the time at which the manager determines to approve or disapprove the designation under the provisions of section 6-2-37 or 6-2-38. Notice of such interim designation shall be posted in a prominent and secure fashion on or about any tree or group of trees so

designated. No such notice shall be removed or destroyed other than pursuant to the directive of the city manager, and the unauthorized removal of such notice shall constitute a separate offense under the provisions of this chapter. Such notice shall clearly state that removal or destruction of such tree or trees, and/or removal or destruction of such notice, constitutes a violation of this chapter and shall set forth the penalty provided by law upon conviction of such offense.

Section 8. 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 requests. 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 on the date of its final passage, except that the provisions of subsection (e) of section 6-2-34 which pertain to subdivisions shall become effective when recorded in the office of the clerk of the Circuit Court of the City of Alexandria.

JAMES P. MORAN, JR.
Mayor

Final Passage: June 18, 1988