

CHAPTER 4

SUBMISSION REQUIREMENTS



City of Alexandria, Virginia

Transportation & Environmental Services

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Site Plans
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DATE: MARCH 31, 1995

TO: DEVELOPERS, ENGINEERS, ARCHITECTS

FROM: WARREN BELL, CITY ENGINEER, T&ES *Warren Bell*

SUBJECT: PRELIMINARY SITE PLAN DETAIL FOR STORMWATER BEST
MANAGEMENT PRACTICES POLICY FOR RESIDENTIAL
DEVELOPMENTS

BACKGROUND

On January 15, 1995, the City issued a policy on Stormwater Best Management Practices for Residential Practices (BMPs) which requires the use of surface BMPs (wet ponds, dry ponds, bioretention or bioretention filters) on projects with greater than two acres of proposed impervious cover. Initial projects submitted under this policy have revealed that landscaping and land planning aspects of the project cannot be adequately assessed by the City staff and the public unless the details of the BMP are addressed in the initial project layout and shown on the Preliminary Site Plan and Landscaping Plan.

As stated in the January 15 policy statement, "...the stormwater management aspects of the project must ...be addressed in the initial planning and layout of the project to assure that sufficient accessible BMP space is provided to meet these requirements..." Experience to date confirms that it is virtually impossible to successfully graft a surface BMP system onto a residential development plan that has been previously laid out to maximize density without regard to stormwater management considerations.

POLICY

Effective immediately, surface BMPs must be shown on Preliminary Site Plans and detailed on the accompanying Landscape Plan to the same level of detail as the rest of the Landscape Plan. Worksheet A or Worksheet B from the Alexandria Supplement to the Northern Virginia BMP Handbook must be shown on the Landscape Plan, along with appropriate calculations establishing that the volume of the proposed BMP is sufficient to comply with Article 13 of the Alexandria Zoning Ordinance. As stated in the January 15 policy statement, surface BMP

Chapter 4
Submission Requirements

I. BACKGROUND

The Environmental Management regulations of Article XIII of the Zoning Ordinance apply as an overlay district (applying across the board to all zoning classifications), and supersede all zoning, land use and land development regulations of the City Code which are inconsistent with its provisions [Section 13-105(A)]. For convenience, a complete copy of the Article XIII is included as Appendix 4-1 at the end of this chapter.

Article XIII divides the City into two classes of Chesapeake Bay Preservation Areas. Resource Protection Areas (RPAs) are those lands (including connected wetlands) at or near the shorelines of streams in the Chesapeake Bay watershed that have intrinsic water quality value because of the ecological and biological processes they perform. The RPAs also include a 100-foot buffer landward of such sensitive lands. A map delineating Alexandria's RPAs is included with Article XIII in Appendix 4-1. A large-scale map is available for viewing at the Transportation and Environmental Services window on the fourth floor of City Hall (copies may be purchased for the cost of reproduction). The remainder of the City is designated a Resource Management Area.

Section 13-114 requires that development or redevelopment exceeding 2,500 square feet of land disturbance be subject to a plan of development review process prior to any clearing of the site or issuance of any building, land use or land development permit.

II. PROJECTS NOT AFFECTED BY THE ARTICLE XIII REGULATIONS

The following projects are not affected by the Article XIII regulations:

- o Work entirely interior to existing buildings as well as reroofing, re-siding, painting and window replacement are exempt from requirements of the Ordinance. However, a certification that no land disturbance is involved must appear on the first sheet of the building plans. ["Land disturbance" is defined in Section 13-103 as "any land change that may result in soil erosion from water or wind and the movement of sediments into State waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transportation and filling of

land," -- see page 4-A1-3. Such disturbed areas also include all access and material storage areas];

- o Projects which do not contain any part of an RPA on the site and will not result in more than 2,500 square feet of land disturbance do not have to comply with the restrictions in the Ordinance. However, a Plot Plan for the project must be submitted in conformance with the requirements set forth in Appendix 4-3 at the end of this chapter. The Plot Plan must further show the limits of land disturbance and contain statements certifying: (1) that the site contains no part of an RPA, and (2) that less than 2,500 square feet of land disturbance is involved.

While projects resulting in less than 2,500 square feet of land disturbance are exempt from the Article XIII requirements, they may fall under Section 8-1-17 of the City Code, which cover projects that will result in the erection of a building or an alteration to an existing building which will increase its fair market value by more than 50 percent. Such projects must include, at the owners expense, the installation of curbs, gutters and sidewalks, where they do not exist, in streets abutting the property.

III. CONTENTS OF THE ARTICLE XIII PLAN OF DEVELOPMENT

Section 13-115 (see page 4-A1-17) specifies that the Plan of Development shall consist of the following:

- o a Site Plan,
- o an Environmental Site Assessment or certification that no Resource Protection Area components exist on the site,
- o for any work within a Resource Protection Area, a Water Quality Impact Assessment (WQIA).
- o a Landscape Plan,
- o a Stormwater Management Plan, and
- o an Erosion and Sediment Control Plan.

See pages 4-A1-17 through 4-A1-24 for detailed requirements for the various plans. Note especially the stormwater quantity management requirements of Section 13-117(A) on page 4-A1-18 and limits on discharges of stormwater on down-hill neighbors contained in Sections 13-117(C) and 13-117(D) on page 4-A1-19. Also note that most of the plans must be prepared by a Professional Engineer or Class IIIB Surveyor licensed to practice in Virginia.

Sections 13-111, 13-115 and 13-118 further require that a Water Quality Impact Assessment be submitted and approved by the Director before performance of any development or redevelopment within a Resource Protection Area (there is no lower threshold limit for this requirement). See pages 4-A1-20 through 4-A1-24 for detailed requirements for WQIAs.

IV. SUBMISSION REQUIREMENTS FOR PROJECTS NOT REQUIRING PLANNING COMMISSION OR CITY COUNCIL APPROVAL

The Article XIII Plan of Development for construction projects which do not require either Planning Commission or City Council approval under the Alexandria Zoning Ordinance may be approved by the Director of Transportation and Environmental Services. The entire Plan of Development must be prepared and submitted to the Director as a package for approval prior to release of the building plans for construction or the issuance of any permits to begin site preparation work.

For small or simple projects, the Director may allow combination or consolidation of the various plans which comprise the Article XIII Plan of Development. For a small addition to a single-family dwelling, a consolidated plan similar to current plot plans (see Appendix 4-3), but with the addition of erosion and sediment control measures, will usually suffice. However, the plan and the certification that no RPA is involved must be signed by at least a licensed land surveyor. If stormwater management calculations and design are involved, the plan and calculations must be sealed by a Professional Engineer or Class IIIB Surveyor licensed to practice in Virginia.

V. APPLICATION OF ARTICLE XIII TO THE DEVELOPMENT PROCESSES

The Alexandria Zoning Code provides five processes by which approval for development projects may be obtained from the Planning Commission or City Council. The Environmental Management Regulations of Article XIII apply to all these processes as well as to projects which meet the Article XIII thresholds but may otherwise be approved by City Staff. For convenience, applicable portions of the Zoning Ordinance are included as Appendix 4-4. The requirements for each development process are set forth as follows:

- o Small (Stand-Alone) Site Plans -- Section 11-400.
- o Large Site Plans -- Section 11-407A
- o Special Use Permits With Construction -- Section 11-500
- o Cluster Developments -- Section 11-600
- o Coordinated Development District (No SUP) -- Section 5-600

FIGURE 4-1
 ALTERNATIVE DEVELOPMENT PROCESS IN ALEXANDRIA ZONING ORDINANCE

SMALL SITE PLAN (11-400)	LARGE SITE PLAN (11-407A)	SPECIAL USE PERMIT (INCLUDE SITE PLAN) (11-500)	CLUSTERS (11-600)	COORDINATED DEVELOPMENT DISTRICT (w/o S.U.P.) (5-600)
PREAPPLICATION CONFERENCE 45 DAYS BEFORE FILING APPLICATION	PREAPPLICATION CONFERENCE IF LARGE SITE PLAN 45 DAYS BEFORE FILE	PREAPPLICATION CONFERENCE OPTIONAL BUT ENCOURAGED CONCEPT PLAN	PREAPPLICATION CONFERENCE 90 DAYS BEFORE FILING CONCEPT PLAN	PREAPPLICATION CONFERENCE 90 DAYS BEFORE FILING CONCEPT PLAN
FILE APPLICATION WITH T&S	FILE APPLICATION WITH T&S	FILE APPLICATION WITH P&CD	FILE APPLICATION WITH P&CD	FILE CONCEPT PLAN WITH P&CD (may also file preliminary development plan)
15 DAYS TO DETERMINE IF COMPLETE	15 DAYS TO DETERMINE IF COMPLETE	15 DAYS TO DETERMINE IF COMPLETE	15 DAYS TO DETERMINE IF COMPLETE	15 DAYS TO DETERMINE IF COMPLETE
REFILE COMPLETE APPLICATION WITH T&S (25 DAY NOTICE OF SPCC)	REFILE COMPLETE APPLICATION WITH T&S (25 DAY NOTICE OF SPCC)	REFILE COMPLETE APPLICATION WITH P&CD	REFILE COMPLETE APPLICATION WITH P&CD	REFILE COMPLETE APPLICATION WITH P&CD
PLANS SENT TO DEPARTMENTS FOR COMMENTS	PLANS SENT TO DEPARTMENTS FOR COMMENTS	PLANS SENT TO DEPARTMENTS FOR COMMENTS	PLANS SENT TO DEPARTMENTS FOR COMMENTS	PLANS SENT TO DEPARTMENTS FOR COMMENTS
SITE PLAN COORDINATING COMMITTEE (T&S NOTICE)	SITE PLAN COORDINATING COMMITTEE (T&S NOTICE) OF OPTIONAL STAFF MEETING	OPTIONAL STAFF MEETING	OPTIONAL STAFF MEETING	OPTIONAL STAFF MEETING
STAFF REPORT T&S	STAFF REPORT P&CD	STAFF REPORT P&CD	STAFF REPORT P&CD	STAFF REPORT P&CD
PLANNING COMMISSION* APPROVAL	PLANNING COMMISSION* APPROVAL	PLANNING COMMISSION RECOMMENDATION	PLANNING COMMISSION RECOMMENDATION	PLANNING COMMISSION RECOMMENDATION
FINAL SITE PLAN	FINAL SITE PLAN	CITY COUNCIL APPROVAL	CITY COUNCIL APPROVAL	CITY COUNCIL APPROVAL
				FINAL PRELIMINARY PLAN APPROVAL OR FINAL DEVELOPMENT PLAN APPROVAL

*Planning Commission must act within 90 days after complete plan unless extension

Figure 4-1 summarizes the applicable development approval procedures. All of the development processes require the submission of a Preliminary Site Plan meeting the requirements of Section 11-406 (see page 4-A4-4) and a Final Site Plan meeting the requirements of Section 11-409(D)(2) (see page 4-A4-14).

VI. ARTICLE XIII REQUIREMENTS WITH PRELIMINARY SITE PLANS

Section 11-406 of the Alexandria Zoning Code sets forth the detailed requirements for the contents of a Preliminary Site Plan (see page 4-A4-4). Section 11-406(E)(12) requires that the Preliminary Site Plan must include plans for collecting and disposing of stormwater and the method of treating natural and artificial watercourses, including a delineation of proposed limits of floodplains, if any. The general location, dimensions, size, and height (or depth) of stormwater pipes, collection structures, stormwater quantity detention facilities and stormwater quality best management practices must be included for plan to be judged acceptable for review under Section 11-407(B)(2). Section 11-406(E)(13) further requires that the Preliminary Site Plan must contain a general indication of proposed grading, surface drainage, terraces, retaining wall heights, grades on paved areas, and the proposed elevations of buildings and structures, shown by two foot or five foot contours, as required by the Director, and approximate elevations.

As long as the Preliminary Site Plan meets the above requirements, submission the remainder of the **Stormwater Management Plan** may be delayed until after preliminary approval of the development by the Planning Commission and/or City Council.

The **Landscape Plan** must be submitted with the Preliminary Site Plan in accordance with Section 11-406(E)(14).

In addition to the basic requirements of Section 11-406, all Preliminary Site Plans shall include an **Environmental Site Assessment** in accordance with Section 13-115. In most cases, this will be a certification on the Preliminary Site Plan that no Resource Protection Area components are included in or immediately adjacent to the site. In cases where RPA components are involved, they shall be delineated on the Preliminary Site Plan drawings.

When RPA components are present or immediately adjacent to a proposed development site, the Director may require that a **Water Quality Impact Assessment** be submitted with the Preliminary Site Plan. For those processes which require a preapplication conference before preliminary submissions (all except Small Site Plans), this point should be discussed and resolved at the preapplication conference. For Small Site Plans, if the subject has not been previously discussed with the City staff, the Director will decide whether the WQIA must be submitted with the Prelimi-

nary Site Plan during the review for completeness before acceptance. In all cases where the WQIA was not required to be included with the Preliminary Site Plan, it shall be included with the Final Site Plan submission.

The **Erosion and Sediment Control Plan** need not be submitted with the preliminary site plan unless the applicant so wishes.

Appendix 4-2 contains a flow chart with minimum timeframes for processing stand-alone Site Plans to the Planning Commission and a Site Plan Process and Schedule Deadlines checklist. Similar documents for the other development processes may be obtained from the office of the Director of Planning and Community Development.

VII. ARTICLE XIII SUBMISSION REQUIREMENTS SUBSEQUENT TO PRELIMINARY DEVELOPMENT APPROVALS

All of the submission requirements of Article XIII must be complied with before approval and release of the Final Site Plan. Also note that Section 13-119 (see page 4-A1-24) requires that copies showing issuance of all wetlands permits required by law be submitted with the Final Site Plan. Since review of the detailed technical documents (Stormwater Management Plan, Erosion and Sediment Control Plan, Water Quality Major Impact Assessments) which have not previously been seen by the City staff may take up to several weeks, **early submission of these documents is encouraged.**

Together, the Erosion and Sediment Control Plan and Stormwater Management Plan comprise the minimum project stormwater pollution prevention plan (SWPPP). The Erosion and Sediment Control Plan addresses stormwater pollution prevention during construction; the Stormwater Management Plan addresses stormwater pollution prevention subsequent to construction. Projects with over five acres of land disturbance are required to submit a comprehensive construction pollution prevention plan (including waste disposal, spill prevention, non-stormwater discharges, etc.) to the Virginia Department of Environmental Quality (formerly the State Water Control Board staff) as part of their application for a Virginia Pollution Discharge Elimination System permit for construction discharges. A copy of this plan shall be provided to the City.

A) Erosion and Sediment Control Plan

Chapter 5-4 of the City Code sets forth the requirements for the Erosion and Sediment Control Plan. For convenience, a copy is included as Appendix 4-4 at the end of this chapter.

The Erosion and Sediment Control Plan must be comprehensive and contain a detailed narrative description. **Sequencing** of major activities of the site must be addressed along with

specific protection measures to be employed during each stage. This may require a series of erosion and sediment control drawings for the progressive phases of construction since continuous, effective erosion and sediment protection will be required at all times. The plan shall comply in all respects with the Virginia Erosion and Sediment Control Handbook, Third Edition, 1992 (VE&SCHB). When a Resource Protection Area is on or adjacent to the site, the boundary of the RPA shall be marked with a four foot orange construction fence before any other work is allowed in the site.

The Erosion and Sediment Control Plan, including the narrative, shall be submitted on reproducible permanent base material and shall be on sheets which are the same size as the Final Site Plan (not exceeding 24 X 36 inches in size). The detailed drawings of the measures to be employed shall be reproduced on the plans as they appear in the VE&SCHB.

B) Stormwater Management Plan

Section 13-117 (see page 4-A1-18) sets forth the requirements for the Stormwater Management Plan. Section 11-409(D)(2) also requires that the Final Site Plan contain all of the information required for the Preliminary Site Plan, but that the information shown shall be specific, precise and accurate to usual and recognized professional standards and not general in nature. Section 11-409(D)(2) also requires that calculations of stormwater runoff be submitted. Sections 6-301-6-405 set forth the additional requirements in the Floodplain District. Appendix 4-5 contains the Floodplain regulations. Floodplain information and calculations shall be packaged with the Stormwater Management Plan.

The graphical portrayals of the stormwater management structures (including structural best management practices) and conduits must appear on the Final Site Plan Drawings. All stormwater calculations, including system and BMP design calculations, shall be presented on reproducible permanent base material on sheets which are the same size as the Final Site Plan (not exceeding 24 x 36 inches in size). For calculations for which standard worksheets are provided in Chapter 1 and Chapter 2 are involved, the calculations on the Stormwater Management Plan shall be in the format of the applicable standard worksheets. A narrative describing both structural and non-structural best management practices which are part of the plan shall be included. All Stormwater Management Plan Sheets must be sealed and signed by a Professional Engineer or a Class IIIB Surveyor licensed to practice in Virginia.

Administrative procedures for approval and disapproval of Stormwater Management Plans shall be in accordance with

Section 3.5 of the Virginia Stormwater Management Regulations (VR 215-02-00 of December 5, 1990) issued by the Department of Conservation and Recreation, which apply to Alexandria:

- 1) A maximum of 30 calendar days from the receipt of a Stormwater Management Plan will be allowed for preliminary review of the plan for completeness. During this period, the Director will either accept the plan for review, which will begin the 60-day review period, or reject the plan for incompleteness and inform the applicant in writing of the information necessary to complete the plan.
- 2) The 60-day review period begins the day the complete Stormwater Management Plan is accepted for review. At this time, an acknowledgement letter will be sent to the applicant. During the 60-day review period, the Director shall either approve or disapprove the plan and communicate his decision to the applicant in writing. Approval or denial shall be based on the applicable portions of the City Code.
- 3) A disapproval of a plan shall contain the reasons for disapproval.
- 4) The applicant or any aggrieved party authorized by law may appeal the Director's approval or disapproval of a Stormwater Management Plan within 30 days after the rendering of the decision as set forth in Section 13-121(E).

C) Water Quality Impact Assessment

Section 13-118 (see page 4-A1-20) details the requirements for a WQIA. The analysis may be in the form of a professional report and shall be certified as complete and accurate by a professional engineer registered to practice in Virginia.

VIII. ADDITIONAL INFORMATION REQUIRED ON FINAL SITE PLANS

In addition to the above requirements and those specifically listed in Section 11-409(D)(2), the first page of each Final Site Plan and Final Development Plan shall contain a listing of all specific conditions imposed upon the development by the various City approval authorities (City Council, Planning Commission, Board of Architectural Review, Board of Zoning Appeals, etc.). The conditions shall be grouped by the approval action case number, e.g. Special Use Permit number, BZA case number, etc. (listing these conditions on the first page of the plans submitted to obtain building permits may also be required).

IX. EXCEPTIONS

The Director of T&ES may grant exceptions to the requirements of the Ordinance with such conditions and safeguards as necessary to further the purpose and intent of the Ordinance if the applicant demonstrates, by a preponderance of the evidence that:

- o the exception will be consistent with the intent and purpose of the Ordinance;
- o will not be injurious to water quality, the neighborhood or otherwise detrimental to the public welfare;
- o would not confer on the applicant any special privileges denied to other property owners in the CBPA overlay district;
- o is not based on conditions that are self-imposed or created or from circumstances either permitted or nonconforming that are related to adjoining parcels;
- o is the minimum necessary to afford relief; and
- o due to the characteristics or extraordinary situation of the specific property involved, strict application of the Ordinance would effectively prohibit or unreasonably restrict the utilization of the property or would clearly demonstrate hardship approaching confiscation.

Such decisions may be appealed to the Planning Commission.

See page 4-A1-25 for details of the exceptions process.

APPENDIX 4-1 -- ARTICLE XIII. ENVIRONMENTAL MANAGEMENT

Sec. 13-100 General findings.

The Chesapeake Bay is one of the most productive estuaries in the world, providing substantial economic and social benefits to the people of the Commonwealth of Virginia. Healthy state and local economies are integrally related to and dependent upon the health of the Chesapeake Bay. The general welfare of the people of the Commonwealth depends upon the health of the Bay.

The waters of the Chesapeake Bay and its tributaries have been degraded significantly by point source and nonpoint source pollution, which threatens public health and safety and the general welfare.

Appropriate land use regulations and construction and maintenance practices have proven ability to reduce pollution that damages water quality of the Chesapeake Bay and its tributaries.

13-101 Purpose.

(A) It is the policy of the City of Alexandria, Virginia to protect the quality of water in the Chesapeake Bay and its tributaries and, to that end, to require all land uses and land development in the city to:

- (1) Safeguard the clean waters of the Commonwealth from pollution;
- (2) Prevent any increase in pollution of state waters;
- (3) Reduce existing pollution of state waters;
- (4) Promote water resource conservation.

(B) To fulfill this policy, these regulations are adopted to minimize potential pollution from stormwater runoff, minimize potential erosion and sedimentation, reduce the introduction of harmful nutrients and toxins into state waters, maximize rainwater infiltration while protecting groundwater, and ensure the long-term performance of the measures employed to accomplish the statutory purpose.

13-102 Authority. These regulations are issued under the authority of Sec. 10.1-2108 of Chapter 21, Title 10.1 of the Code of Virginia (the Chesapeake Bay Preservation Act, hereinafter "the Act"), the regulations promulgated thereunder by the Chesapeake Bay Local Assistance Board, and section 10.1-603.3 of the Code of Virginia, which authorizes the city to adopt a local

storm water management program. Authority to protect water quality is also provided by section 15.1-489 of the Code of Virginia.

13-103

Definitions. The following words and terms used in this Article XIII have the following meanings, unless the context clearly indicates otherwise.

- (A) *Best management practice (BMP).* A practice, or combination of practices, that is determined by the director of transportation and environmental services to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with the water quality goals of these regulations; examples include stormwater retention ponds, infiltration trenches and filtration systems.
- (B) *Buffer area.* An area of natural or established vegetation managed to protect other components of a resource protection area and state waters from significant degradation due to land disturbances.
- (C) *Development.* The construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation or utility facilities or structures.
- (D) *Floodway.* All lands as defined in section 6-303(K) of this ordinance.
- (E) *Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula $RKLS/T$, as defined by the "Food Security Act (F.S.A.) Manual" of August 1988, in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service; where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.
- (F) *Highly permeable soils.* Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid"), as found in the "National Soils Handbook" of July 1983 in the "Field Office Technical Guide" of the U.S. Dept. of Agriculture Soil Conversation Service.
- (G) *Impervious cover.* A surface composed of any material that significantly impedes or prevents natural infiltration of water into

the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

- (H) *Infill*. Utilization of vacant land in previously developed areas.
- (I) *Land disturbance*. Any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.
- (J) *Nonpoint source pollution*. Contamination from diffuse sources that is not regulated as point source pollution under Section 402 of the Clean Water Act.
- (K) *Nontidal wetlands*. Those wetlands, other than tidal wetlands, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section 404 of the Federal Clean Water Act, in 33 CFR 328.3b, dated November 13, 1986.
- (L) *Pre-development*. The land use that exists at the time that plans for the development are submitted to the city. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing land use at the time the first item is submitted shall establish pre-development conditions.
- (M) *Post-development*. Conditions that reasonably may be expected or anticipated to exist after completion of the development activity on a specific site or tract of land.
- (N) *Redevelopment*. The process of developing land that is or has been previously developed.
- (O) *Runoff or stormwater runoff*. That portion of precipitation that is discharged across the land surfaces or through conveyances to one or more waterways.
- (P) *State waters*. All waters on the surface or in the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.
- (Q) *Stormwater management facility*. A device that controls stormwater runoff and changes the characteristics of that runoff in-

cluding, but not limited to, the quantity and quality, the period of release or the velocity of flow.

- (R) *Tidal shore or shore.* Land contiguous to a tidal body of water between the mean low water level and the mean high water level.
- (S) *Tidal wetlands.* Vegetated and nonvegetated wetlands as defined in section 62.1-13.2 of the Code of Virginia.
- (T) *Tributary stream.* Any perennial stream that is so depicted on the most recent U.S. Geological Survey 7-1/2 minute topographic quadrangle map (scale 1:24,000).
- (U) *Use.* Any activity on the land other than development, including, but not limited to agriculture, horticulture and silviculture.
- (V) *Water-dependent facility.* A development of land that cannot exist outside of the resource protection area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to: (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers and in-stream or regional stormwater management facilities; (iii) marinas and other boat docking facilities; (iv) beaches and other public water-oriented recreation areas, and (v) fisheries or other marine resources facilities.
- (W) *Water quality volume.* The volume equal to the first 0.5 inch of runoff multiplied by the total impervious area of the development site.
- (X) *Watershed.* The total drainage area contributing runoff to a single point.
- (Y) *Wetlands.* Tidal and nontidal wetlands.

13-104 *Administration of article.*

- (A) *Responsibility.* The director of transportation and environmental services is charged with the responsibility for the administration of this Article XIII.
- (B) *Duties and authority.* In the administration of this Article XIII the duties and authority of the director of transportation and environmental services shall include, without limitation:
 - (1) Receiving applications for plan of development approval;
 - (2) Reviewing applications to determine if they contain all information required and necessary for a determination of their merit;

- (3) Reviewing applications to determine their compliance with the provisions and intent of this Article XIII and their merit;
 - (4) Docketing items for hearing before the planning commission and conferring with the city manager to schedule public hearings before the city council as necessary on applications;
 - (5) Preparing a staff report for each application;
 - (6) Interpreting the provisions of this Article XIII to ensure that its intent is carried out.
- (C) *Rules, regulations and procedures.* The director of transportation and environmental services shall promulgate rules, regulations and procedures for the administration and enforcement of this Article XIII and shall promulgate rules, regulations and procedures for the processing of applications that ensure full review, comment and recommendations on each application by the department of transportation and environmental services. The city manager shall promulgate rules and procedures for review by other departments of applications, where such review is determined to be necessary or desirable and such procedures may include the establishment of a development review committee composed of departments of the city whose expertise is necessary or desirable in the review of applications. All such rules, regulations and procedures shall be transmitted to the city council at the time of issuance.
- (D) *Establishment of fees.* The director of transportation and environmental services shall by general rule approved by city council establish a schedule of fees required for each application under this Article XIII to be paid at the time an application is submitted.
- (E) *Responsibility for enforcement.* The director of transportation and environmental services shall have the authority and the responsibility of section 11-200 of this ordinance to ensure that all buildings and structures and the use of all land complies with the provisions of this Article XIII.

ALEXANDRIA ZONING ORDINANCE

- (F) The director of transportation and environmental services shall review, approve, disapprove, or approve with modifications or conditions or both the following elements of the plan of development:
 - (1) The environmental site assessment, required pursuant to section 13-116.
 - (2) The stormwater management plan, required pursuant to section 13-117.
 - (3) The water quality impact assessment, if required pursuant to section 13-118.
 - (4) Compliance of the plan of development with sections 13-109 through 13-113.
- (G) Review and decision on the remaining elements of the plan of development shall be as provided in the regulations of this ordinance and the city code applicable to each such element.
- (H) Review and decision on applications for exceptions shall be as provided in section 13-120.
- (I) Review and decision on applications for exemptions shall be as provided in section 13-123.

13-105

Designation of Chesapeake Bay Preservation Area Overlay District.

- (A) All land within the corporate limits of the city is designated as a Chesapeake Bay Preservation Area (CBPA). The CBPA is divided into resource protection areas and resource management areas. The regulations set forth in this Article XIII shall apply as an overlay district, and shall supersede any zoning, land use or land development regulation of the city code which is inconsistent with the provisions of this Article XIII.
- (B) Resource Protection Areas (RPAs) consist of sensitive land adjacent to or near the shoreline that has either an intrinsic water quality value due to the ecological and biological processes such land performs or that is sensitive to uses or activities such that the use results in significant degradation to the quality of state waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of nonpoint source pollution entering the bay and its tributaries. An area of land that includes any one of the following land types shall be considered to be within a RPA:
 - (1) Tidal wetlands;
 - (2) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;

- (3) Tidal shores;
 - (4) Tributary streambeds; and
 - (5) Buffer areas 100 feet in width located adjacent to and landward of the components listed in paragraphs (1) through (4) above, and along both sides of any tributary stream. Specific exceptions and standards for buffer requirements are set forth in sections 13-109 and 13-111.
- (C) Resource Management Areas (RMAs) include land that, if improperly used or developed, has a potential for causing significant water quality degradation or for diminishing the functional value of a RPA. Therefore, all lands in the city, not included in a RPA, shall constitute a RMA since all such land drains through natural (e.g., streams) or manmade (e.g., stormwater sewers) channels to the Potomac River.

13-106 *Incorporation of CBPA map.*

- (A) The CBPA map, dated January 28, 1992, and signed by the Mayor and director of transportation and environmental services, prepared in accordance with the above designation criteria which define the boundaries of RPAs and RMAs is hereby incorporated by reference into this ordinance.
- (B) The boundaries of RPAs and RMAs are drawn on the map based on the rebuttable presumption that the lands within those boundaries meet the respective RPA and RMA designation criteria. In the event of conflict between the CBPA map and the designation criteria in section 13-105, the designation criteria shall be controlling. The director of transportation and environmental services may exercise judgment in determining site-specific boundaries based on more reliable field data provided by the applicant or staff and examined during the plan of development review process.

13-107 *Development and uses permitted in RPAs.*

- (A) Development is permitted in RPAs only if it is water dependent and is permitted in the underlying zone. Redevelopment is permitted in RPAs if it is permitted in the underlying zone. Development and redevelopment shall comply with all requirements in sections 13-109, 13-110 and 13-111.
- (B) In addition to the development or redevelopment permitted in section 13-107(A) above, the following uses only shall be permitted within a RPA to the extent that they are not prohibited by

any other provision of the city code or applicable law and provided they do not require development, redevelopment, structures, grading, fill, draining, or dredging:

- (1) Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife;
 - (2) Passive recreational activities, including but not limited to fishing, birdwatching, hiking, boating, horseback riding, swimming, and canoeing;
 - (3) Educational activities, scientific research, and nature trails; and
 - (4) Historic preservation and archeological activities.
- (C) The following uses, which may involve structures, fill, flooding, draining, dredging, or excavating, shall be permitted within a RPA, to the extent specifically enumerated in these regulations and not prohibited by any other provision of the city code or applicable law and subject to the director of transportation and environmental services review and approval of design and construction plans for compliance with this Article XIII:
- (1) Construction, installation, operation and maintenance of electric, gas, telephone and cable television transmission lines, railroads and public roads constructed by VDOT or by or for the City of Alexandria in accordance with VDOT standards, and their appurtenant structures, in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (sections 10.1-560 *et seq.* of the Code of Virginia and the Stormwater Management Act (sections 10.1-603.1 *et seq.* of the Code of Virginia); an erosion and sediment control plan and a stormwater management plan approved by the Department of Conservation and Recreation or by the City of Alexandria under local water quality protection criteria at least as stringent as the above state requirements shall be deemed to constitute compliance with these regulations;
 - (2) Construction, installation, and maintenance of water, storm or sanitary sewer, and local gas or other utility lines provided that:
 - (a) To the degree possible, the location of such utilities and facilities should be outside RPAs;
 - (b) No more land shall be disturbed than is necessary to provide for the desired utility installation;

- (c) All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal permits, and designed and conducted in a manner that protects water quality;
 - (d) Any land disturbance exceeding an area of 2500 square feet shall comply with the Erosion and Sediment Control regulations in the city code.
- (3) Limited excavating and filling in an area of 2500 or less square feet necessary for the repair and maintenance of piers, walkways, observation decks, duck blinds, wildlife management shelters, boathouses, and other similar water-related structures, provided that they are built on pilings to allow unobstructed flow of water and preserve the natural contour of a RPA.
 - (4) Paved or unpaved bike or other recreational trails.
 - (5) Required construction, installation, minor modification and maintenance of in-stream or regional best management practices.

13-108 *Development and uses permitted in RMAs.* Development, redevelopment and uses authorized by the underlying zone are permitted in the RMA provided such activity is carried out in accordance with the performance requirements set forth in sections 13-112 and 13-113.

13-109 *General performance requirements for development and redevelopment in RPAs.*

(A) The director of transportation and environmental services shall approve development or redevelopment in a RPA only if it is found that the regulated activity is in compliance with these regulations and that the applicant has demonstrated, by a preponderance of the evidence, that the proposed development or redevelopment meets or exceeds the following standards and the buffer requirements of section 13-109(B):

- (1) No more land shall be disturbed than is necessary to provide for the proposed use, development or redevelopment.
- (2) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the use, development or redevelopment proposed.
- (3) Development or redevelopment shall minimize impervious cover consistent with the use and development allowed.
- (4) The proposed development or redevelopment shall comply with the Erosion and Sedimentation Control regulations in the city code.

- (5) Stormwater management requirements:
- (a) Any maintenance, alteration, use or improvement to an existing structure which does not degrade the quality of surface water runoff is exempt from stormwater management requirements.
 - (b) Estimated post-development nonpoint source pollution load shall not exceed the estimated predevelopment nonpoint source pollution load of runoff based upon average land cover conditions within the city as calculated using standards, consistent with good engineering practice, established by the director of transportation and environmental services pursuant to section 13-104(C). (Redevelopment shall comply with additional criteria in section 13-110.)
 - (c) The following options will be considered to comply with the stormwater management requirements of these regulations for development and redevelopment:
 - (1) Incorporation of on-site BMPs that achieve the required control for development and redevelopment as determined by calculation procedures and BMP efficiencies in standards, consistent with good engineering practice, established by the director of transportation and environmental services pursuant to section 13-104(C). A maintenance agreement for any BMPs existing or installed is required, and redevelopment shall comply with additional criteria in section 13-110; or
 - (2) Compliance with a locally adopted regional stormwater management program incorporating pro-rata share payments pursuant to the authority provided in section 15.1-466(j) of the Code of Virginia or a locally adopted regional stormwater management program adopted pursuant to the authority provided in section 15.1-292.4 of the Code of Virginia that results in achievement of equivalent water quality protection; or
 - (3) Compliance with a state or locally implemented program of stormwater discharge permits pur-

suant to section 402(p) of the Federal Clean Water Act, as set forth in 40 CFR 122, 123, 124 and 504, dated November 16, 1990.

- (6) The non-water dependent portion of a development encompassing both a RPA and RMA is located outside of a RPA; and
 - (7) Access for development or redevelopment is provided with the minimum disturbance necessary; where possible, only a single point of access shall be provided.
- (B) *Buffer requirements for RPAs:*
- (1) The buffer shall achieve 75 percent reduction of sediments and 40 percent reduction of nutrients. A 100 foot wide buffer shall be considered adequate to meet this standard.
 - (2) In order to maintain the functional value of the buffer area, indigenous vegetation may be removed only to provide for reasonable sight lines, access paths, general woodlot management, and BMPs as follows:
 - (a) Trees may be pruned or removed as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff; such shall require the approval of the city arborist.
 - (b) Any path shall be constructed and surfaced so as to effectively control erosion.
 - (c) Dead, diseased, or dying trees or shrubbery may be removed and silvicultural thinning may be conducted as approved by the City Arborist. The City Arborist may approve a long term management plan for a specific RPA which complies with professionally recognized management practices.
 - (d) For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established, all as approved by the City Arborist, to protect or stabilize the shoreline in accordance with the best available technical advice and applicable permit conditions or requirements.

- (3) Exceptions to buffer requirements.
 - (a) The buffer may be reduced to 50 feet if the director of transportation and environmental services determines that a combination of a smaller buffer and appropriate BMPs located landward of the buffer achieves a 75 percent reduction of sediment and 40 percent reduction in nutrients.
 - (b) If buffer requirements reduce buildable area on lots recorded before October 1, 1989, the director of transportation and environmental services may allow modifications as follows:
 - (1) The reduction shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities;
 - (2) If possible, equal area shall be established elsewhere on the site in a way to maximize water quality protection; and
 - (3) The buffer shall in no case be less than 50 feet.

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Additional performance requirements for redevelopment in RPAs.

- (A) The director of transportation and environmental services shall approve redevelopment in a RPA only if it is found that the regulated activity is in compliance with these regulations and that the applicant has demonstrated by a preponderance of the evidence that the proposed redevelopment meets or exceeds the following standards:
 - (1) If currently served by properly functioning BMPs, the regulated activity shall not increase nonpoint source pollution load in runoff;
 - (2) If not served by such BMPs, regulated activity shall reduce estimated nonpoint source pollution load in runoff by ten percent based on actual predevelopment and post development site conditions; or
 - (3) In addition to available stormwater management options delineated in section 13-109, a redevelopment site that is completely impervious as currently developed shall be considered to comply with the stormwater management requirements of these regulations if the applicant restores a minimum 20 percent of the site to vegetated open space.

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- (B) Redevelopment shall not result in any net-increase in impervious cover.
- (C) These requirements apply in addition to, and in case of conflict shall control over, the requirements of section 13-109.

13-111 *Standards for water quality impact assessment.*

(A) *Evaluation procedure.*

- (1) The director of transportation and environmental services shall approve a water quality minor impact assessment only if it is found that the proposed regulated activity is in compliance with these regulations and that the applicant has demonstrated by a preponderance of the evidence that the development or redevelopment, including any proposed modification or reduction to the buffer area, is consistent with these regulations and shall make a finding based upon the following criteria:
 - (a) The necessity of the proposed encroachment and the ability to place improvements elsewhere on the site to avoid disturbance of the buffer area;
 - (b) Impervious surface is minimized;
 - (c) Proposed BMPs, where required achieve the requisite reductions in pollutant loadings;
 - (d) The development, as proposed, meets the purpose and intent of these regulations;
 - (e) The cumulative impact of the proposed development when considered in relation to other development within the RPA in the vicinity, both existing and proposed, will not result in a significant degradation of water quality.
- (2) The director of transportation and environmental services shall approve a water quality major impact assessment only if it is found that the proposed regulated activity is in compliance with these regulations and that the applicant has demonstrated by a preponderance of the evidence that the development or redevelopment, including any proposed modification to the buffer area, is consistent with these regulations and shall make a finding based upon the following criteria:
 - (a) Within any RPA, the proposed development is water-dependent or constitutes redevelopment;

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- (b) The disturbance of wetlands shall comply with state and federal regulations;
 - (c) The development will not result in significant disruption of the hydrology of the site;
 - (d) The development will not result in significant degradation of water quality that could adversely affect aquatic vegetation or life;
 - (e) The development will not result in unnecessary destruction of plant material on site;
 - (f) Proposed erosion and sediment control measures are adequate to achieve the required reductions in runoff, and prevent off-site transport of sediment during and after construction;
 - (g) Proposed stormwater management measures are adequate to control the stormwater runoff to achieve the required standard for pollutant control;
 - (h) Proposed revegetation of disturbed areas will provide adequate erosion and sediment control benefits as determined by the director of transportation and environmental services;
 - (i) The design and location of any proposed drainfield will be in accordance with the requirements of section 13-109 and 13-116.
- (3) Upon receipt of any water quality major impact assessment application, the director of transportation and environmental services may determine if review by the Chesapeake Bay Local Assistance Department (CBLAD) is warranted and may request CBLAD to review the assessment and respond with written comments. Any comments by CBLAD will be incorporated into the final review by the director of transportation and environmental services provided that such comments are provided by CBLAD within 90 days of the request.

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General performance requirements for development and redevelopment in RMAs.

- (A) The director of transportation and environmental services shall approve a development or redevelopment in a RMA only if it is found that the regulated activity is in compliance with these regulations and that the applicant has demonstrated, by a prepon-

derance of the evidence, that the proposed development or redevelopment meets or exceeds the following standards:

- (1) No more land shall be disturbed than is necessary to provide for the use and development proposed.
- (2) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the use and development proposed.
- (3) Land development shall minimize impervious cover consistent with the use or development proposed.
- (4) Development exceeding 2,500 square feet of disturbance shall comply with the Erosion and Sedimentation Control regulations in the city code.
- (5) Stormwater management requirements:
 - (a) Any maintenance, alteration, use or improvement to an existing structure which does not degrade the quality of surface water runoff is exempt from stormwater management requirements.
 - (b) Estimated post-development nonpoint source pollution load shall not exceed the estimated predevelopment nonpoint source pollution load of runoff based upon average land cover conditions within the city, as calculated using standards consistent with good engineering practice established by the director of transportation and environmental services pursuant to section 13-104(C).
 - (c) The following options will be considered to comply with the stormwater management requirements of these regulations for development and redevelopment:
 - (1) Incorporation of on-site BMPs that achieve the required control for development and redevelopment as determined by calculation procedures and BMP efficiencies in standards established by the director of transportation and environmental services pursuant to section 13-104(C) consistent with good engineering practice. A maintenance agreement for any BMPs existing or installed is required, and redevelopment shall comply with additional criteria in section 13-113; or
 - (2) Compliance with a locally adopted regional stormwater management program incorporating pro-rata share payments pursuant to the authority

provided in section 15.1-466(j) of the Code of Virginia or a locally adopted regional stormwater management program adopted pursuant to the authority provided in section 15.1292-4 of the Code of Virginia that results in achievement of equivalent water quality protection; or

- (3) Compliance with a state or locally implemented program of stormwater discharge permits pursuant to section 402(p) of the federal Clean Water Act, as set forth in 40 C.F.R. 122, 123, 124 and 504, dated December 7, 1988.

- (B) Redevelopment shall comply with the additional criteria in section 13-113.

13-113 *Additional performance requirements for redevelopment in RMAs.*

- (A) The director of transportation and environmental services shall approve redevelopment in a RMA only if it is found that the regulated activity is in compliance with these regulations and that the applicant has demonstrated by a preponderance of the evidence that the proposed redevelopment meets or exceeds the following standards:

- (1) If currently served by properly functioning BMPs, regulated activity shall not increase nonpoint source pollution load in runoff;
- (2) If not served by such BMPs, regulated activity shall reduce estimated nonpoint source pollution load in runoff by ten percent based on actual predevelopment and post-development site conditions; or
- (3) In addition to available stormwater management options delineated in section 13-118, a redevelopment site that is completely impervious as currently developed shall be considered to comply with the stormwater management requirements of these regulations if the applicant restores a minimum 20 percent of the site to vegetated open spaces.

- (B) These requirements apply in addition to, and in case of conflict shall control over, the requirements of section 13-112.

13-114 *Development review process.* Any development or redevelopment exceeding 2,500 square feet of land disturbance within the CBPA overlay district shall

be subject to the following development review process prior to any clearing of the site or the issuance of any building, land use or land development permit. Any development or redevelopment in a RPA of 2,500 square feet or less of land disturbance shall be subject to approval of a water quality impact assessment as detailed in section 13-118, prior to any clearing of the site or the issuance of any building, land use or land development permit.

13-115 *Required information.*

(A) The development review process application shall consist of the plans and studies identified below, such application forms as the director of transportation and environmental services shall require and the appropriate fees, which together shall constitute the plan of development. The plans and studies identified in this section may be coordinated or combined with other required submission materials, as deemed appropriate by the director of transportation and environmental services. The plan of development shall contain the following elements:

- (1) A site plan in accordance with the provisions of section 11-400 of this ordinance or other applicable law and, if applicable, a subdivision plat in accordance with the provisions of chapter 5, title 7 of the city code.
- (2) An environmental site assessment as detailed in section 13-116;
- (3) A landscape plan in accordance with the provisions of section 11-410(CC) of this ordinance certified by qualified design professionals practicing within their areas of competence;
- (4) A stormwater management plan as detailed in section 13-117;
- (5) An erosion and sediment control plan in accordance with the provisions of chapter 4, title 5 of the city code;
- (6) For all development or redevelopment within an RPA or for an exception under section 13-120, a Water Quality Impact Assessment as detailed in section 13-118.

13-116 *Environmental site assessment.*

(A) The environmental site assessment shall clearly delineate the following environmental features:

- (1) Tidal wetlands;
- (2) Tidal shores;

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- (3) Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or tributary streams;
 - (4) Highly erodible and highly permeable soils if available from existing public documents or documents available to the applicant;
 - (5) A 100-foot buffer area located adjacent to and landward of the components listed in sections 13-116(A)(1) through (3) above, and along both sides of any tributary stream;
 - (6) A listing of all wetlands permits required by law (evidence that such permits have been obtained shall be presented to the director of transportation and environmental services before permits will be issued to allow commencement of grading or other on-site activity.)
- (B) Wetlands delineations shall be performed consistent with current procedures promulgated by the U.S. Army Corps of Engineers and the Environmental Protection Agency.
 - (C) The environmental site assessment shall delineate the site-specific geographic extent of the RPA.
 - (D) The environmental site assessment shall be drawn at the same scale as the preliminary site plan or subdivision plat, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. This requirement may be waived by the director of transportation and environmental services when the proposed use or development would result in less than 5,000 square feet of disturbed area.
 - (E) In the event no part of the site plan area contains any RPA elements as enumerated in section 13-105(B), the applicant and a professional engineer or a certified land surveyor, may, in lieu of providing an environmental site assessment plat, so certify, in writing and under oath, to the director of transportation and environmental services. Any permit issued in reliance upon such a certification which certification is factually inaccurate or incorrect shall be void *ab initio*, and such invalidity shall be in addition to any other penalties which may be imposed upon the makers of such certification.

13-117 *Stormwater management plan.*

- (A) A stormwater management plan shall be developed so that from the site, the post-development peak runoff rate from a two-year storm and a ten-year storm, considered individually, shall not

exceed their respective predevelopment rates. This peak flow rate requirement shall not apply to single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures. When the requirements of the city's Erosion and Sediment Control Ordinance are otherwise complied with, the director of transportation and environmental services may waive this peak flow rate requirement for other development not exceeding one-half acre of land disturbance. The director of transportation and environmental services may also waive this requirement in cases where stormwater detention would conflict with the city's flood management programs.

- (B) The water quality volume from the site must be treated in a best management practice (BMP) approved by the director of transportation and environmental services. If the water quality requirements of sections 13-109 through 13-113 require a smaller BMP or do not require a BMP, the water quality volume treatment requirement may be waived or modified by the director of transportation and environmental services for single-family residences separately built and not part of a subdivision, including additions to existing single-family detached residential structures, and for sites not exceeding one-half acre of disturbance. The director of transportation and environmental services may waive this requirement if stormwater detention would conflict with the city's flood management programs.
- (C) Post-development concentrated surface waters shall not be discharged on adjoining property, unless an easement expressly authorizing such discharge has been granted by the owner of the affected land.
- (D) The owner or developer may continue to discharge storm water which has not been concentrated (sheet flow) into lower lying property if:
 - (1) The peak flow rate for a 10-year storm after development does not exceed the predevelopment peak flow rate;
 - (2) The increase in total volume of runoff caused by the development will not have an adverse impact on the lower-lying property; and
 - (3) There will be no exacerbation of existing drainage problems on the lower-lying property, or other downstream property.
- (E) The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, calculations, and citations to supporting references as appro-

appropriate to communicate the information required by this Article XIII. At a minimum, the stormwater management plan must contain the following:

- (1) Location and design of all planned stormwater control devices;
 - (2) Procedures for implementing non-structural stormwater control practices and techniques;
 - (3) Pre- and post-development nonpoint source pollutant loadings with supporting documentation of all utilized coefficients and calculations;
 - (4) Pre- and post-development peak runoff rates from the site for both a two-year storm and ten year storm, considered individually, with supporting documentation of all utilized coefficients and calculations;
 - (5) For facilities, verification of structural soundness, including a professional engineer certification as applicable;
- (F) Site specific facilities for phased projects shall be designed for the ultimate development of the contributing project watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.
- (G) All engineering calculations must be certified by a professional engineer and performed in accordance with procedures, consistent with good engineering practice, established by the director of transportation and environmental services pursuant to section 13-104(C).
- (H) The plan shall establish a long-term schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the City of Alexandria, then a maintenance agreement shall be executed between the responsible party and the city.

13-118 Water quality impact assessment.

- (A) The purpose of the water quality impact assessment is to:
 - (1) Identify the impacts of proposed development on water quality and lands within the RPAs;

- (2) Ensure that, where development does take place within RPAs, it will be located on those portions of the site and in a manner that will be least disruptive to the natural functions of the RPAs; and
 - (3) Specify mitigation which will address water quality protection under the foregoing circumstances or under an exception under section 13-120.
- (B) A Water Quality Impact Assessment is required for any proposed development or redevelopment in the RPA. There are two types of water quality impact assessments: water quality minor impact assessments and water quality major impact assessments.
- (C) A Water Quality Minor Impact Assessment is required for development or redevelopment within RPAs or under an exception which involves 5,000 or less square feet of land disturbance. A minor impact assessment shall demonstrate, through acceptable calculations, that the remaining buffer area and necessary BMPs will result in removal of 75 percent of sediments and 40 percent of nutrients from post-development/redevelopment stormwater runoff. Such an assessment shall include a site plan which shows the following:
- (1) Location and description of the existing characteristics and conditions of the components of the RPA as identified in section 13-105 and delineated in the environmental site assessment required by section 13-115, *i.e.* tidal wetlands, tidal shores, etc.;
 - (2) Location and nature of the proposed encroachment into the buffer area, including: type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
 - (3) Type and location of proposed BMPs to mitigate the proposed encroachment.
- (D) A Water Quality Major Impact Assessment is required for development or redevelopment within RPAs or under an exception which involves more than 5,000 square feet of land disturbance. The following elements shall be included in a water quality major impact assessment:
- (1) All of the information required in a water quality minor impact assessment as specified above;

(2) A hydrogeological element that:

- (a) Describes the existing topography, soils, hydrology and geology of the site;
- (b) Describes the impacts of the proposed development or redevelopment on topography, soils, hydrology and geology on the site;
- (c) Indicates the following:
 - (1) Disturbance or reduction of wetlands and justification for such action;
 - (2) Disruption or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
 - (3) Disruptions to existing hydrology, including wetland and stream circulation patterns;
 - (4) Source location and description of proposed fill material (may, at applicant's risk, be provided when U.S. Army Corps of Engineers permit application is submitted);
 - (5) Location of dredge material and location of dumping area for such material (may, at applicant's risk, be provided when U.S. Army Corps of Engineers permit application is submitted);
 - (6) Locations of and impacts on adjacent shellfish beds, submerged aquatic vegetation, and fish spawning areas (may, at applicant's risk, be provided when U.S. Army Corps of Engineers permit application is submitted);
 - (7) The estimated pre- and post-development pollutant loads in runoff as delineated in the stormwater management plan required by section 13-115;
 - (8) Estimation of percent increase of impervious surface on site and identification of the type(s) of surfacing materials to be used;
 - (9) Percent of the site to be cleared for the project.
 - (10) Anticipated duration and phasing schedule of the construction period;
 - (11) Listing of all requisite permits from all applicable agencies necessary to develop the project.

- (d) Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures include:
 - (1) Proposed erosion and sediment control measures, which may include minimizing the extent of the cleared area, perimeter controls, reduction of runoff velocities, measures to stabilize disturbed areas, schedule and personnel for site inspection;
 - (2) Proposed stormwater management system;
 - (3) Creation of wetlands to replace those lost;
 - (4) Minimizing cut and fill.
- (3) A supplement to the landscape plan that:
 - (a) Identifies and delineates the location of all significant plant material, including all trees on site six inches or greater diameter breast height. Where there are groups of trees, stands shall be outlined.
 - (b) Describes the impacts the development or use will have on the existing vegetation. Information should include:
 - (1) General limits of clearing based on all anticipated improvements, including buildings, drives and utilities;
 - (2) Clear delineation of all trees which will be removed.
 - (3) Description of plant species to be disturbed or removed.
 - (c) Describes the potential measures for mitigation. Possible mitigation measures include:
 - (1) Replanting schedule for trees and other significant vegetation removed for construction, including a list of possible plants and trees to be used;
 - (2) Demonstration that the proposed plan will preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation;

- (3) Demonstration that indigenous plants are to be used to the greatest extent possible.
 - (4) Identification of the natural processes and ecological relationships inherent at the site, and an assessment of the impact of the proposed use and development of the land, including mitigating measures proposed in the water quality impact assessment, on these processes and relationships.
- (E)
- (1) A water quality minor impact assessment shall be certified as complete and accurate by a professional engineer or a certified land surveyor.
 - (2) The additional elements required in a water quality major impact assessment shall be certified as complete and accurate by a professional engineer and by a qualified environmental scientist.

13-119 *Final plans.*

- (A) Final site plans and subdivision plats subject to this Article XIII for all lands within the CBPA shall include the following additional information:
- (1) A copy showing issuance of all wetlands permits required by law;
 - (2) A maintenance agreement between the city and applicant as deemed necessary and appropriate by the director of transportation and environmental services to ensure proper maintenance of best management practices in order to assure their continued performance.
- (B) Installation and Bonding Requirements.
- (1) Where buffer areas, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant materials or facilities is completed, in accordance with the approved site plan.
 - (2) When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the city a surety bond or equivalent satisfactory to the director of transportation and environmental services in amount equal to the remaining plant

materials, related materials, and installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities during the construction period.

- (3) Unless otherwise approved by the director of transportation and environmental services for a phased project, all required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety bond may be forfeited to the city.
- (4) Unless otherwise approved by the director of transportation and environmental services for a phased project, all required stormwater management facilities or other specifications shall be installed and approved within 18 months of project commencement. Should the applicant fail, after proper notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety bond may be forfeited to the city. The city may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of surety held.
- (5) After all required actions of the approved site plan have been completed, the applicant must submit a written request for a final inspection. If the requirements of the approved plan have been completed to the satisfaction of the director of transportation and environmental services, such unexpended or unobligated portion of the surety bond held shall be refunded to the applicant or terminated within 60 days following the receipt of the applicant's request for final inspection. The director of transportation and environmental services may require a certificate of substantial completion from a professional engineer or licensed surveyor before making a final inspection.

13-120 *Exceptions.*

- (A) Unless otherwise provided in this Article XIII, a request for an exception to the requirements of this Article XIII shall be made pursuant to this section in writing to the director of transportation and environmental services. The request shall identify the impacts of the proposed exception on water quality and on lands within the RMA and RPA through the performance of a water quality impact assessment which complies with the provisions of section 13-118 to the extent applicable.

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- (B) The director of transportation and environmental services shall review the request for an exception and the water quality impact assessment and may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of this Article XIII if the director of transportation and environmental services finds that the applicant has demonstrated by a preponderance of the evidence that:
- (1) Granting the exception will not confer upon the applicant any special privileges that are denied to other property owners in the CBPA overlay district;
 - (2) The exception is not based upon conditions or circumstances that are self-created or self-imposed, nor does the exception arise from conditions or circumstances either permitted or nonconforming that are related to adjacent parcels;
 - (3) The exception is the minimum necessary to afford relief;
 - (4) The exception will be consistent with the purpose and intent of the overlay district, and not injurious to water quality, the neighborhood or otherwise detrimental to the public welfare; and
 - (5) Due to the particular physical surroundings, shape, topographical condition, geotechnical characteristics of the site's soils and rock materials or other extraordinary situation or condition of the specific property involved, the strict application of the requirements of this Article XIII would effectively prohibit or unreasonably restrict the utilization of the property or would constitute a clearly demonstrable hardship approaching confiscation.
- (C) Any person aggrieved by a decision of the director of transportation and environmental services under this section 13-120 may appeal to the planning commission as provided in section 13-121.

13-121 *Appeals.*

- (A) Any person aggrieved by a final case decision of the director of transportation and environmental services in the administration, interpretation or enforcement of this Article XIII or on any application hereunder may appeal such decision to the planning commission, by filing a notice of appeal, in writing, stating the grounds of appeal, with the secretary of the planning commission within 14 days of the issuance of such decision; provided, that any person aggrieved, who had no actual knowledge of the issuance of

such decision, may file an appeal within 14 days of the last day on which notice provided in section 11-300 or section 11-408 of this ordinance is given for any element of the plan of development. A notice of appeal shall be accompanied by a filing fee of \$100.00.

- (B) The planning commission shall conduct a public hearing on any appeal filed pursuant to section 13-121(A), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the commission may affirm, reverse or modify the decision of the director, or vacate the decision and remand the matter to the director for further consideration.
- (C) Any person aggrieved by a decision of the planning commission issued pursuant to section 13-121(B) may appeal the decision to the city council, by filing a notice of appeal, in writing, stating the grounds of appeal, with the city clerk within 14 days of the issuance of the decision.
- (D) The city council shall conduct a public hearing on any appeal filed pursuant to subsection (C), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the council may affirm, reverse or modify the decision of the commission, or vacate the decision and remand the matter to the commission or the director for further consideration.

13-122 *Noncomplying use status and related matters.*

- (A) Any land use or land development lawfully existing on January 28, 1992, and any land use or land development for which a final site plan, approved on or before January 28, 1992, continues in force and effect, which does not comply with the provisions of this Article XIII, shall be deemed a noncomplying land use or land development. A noncomplying land use or land development, if not lawfully existing on January 28, 1992, may retain its noncomplying status and be constructed without compliance with this Article XIII and in accordance with its approved final site plan, any minor amendments thereto approved by the director of transportation and environmental services, and any non-minor amendments thereto approved by the planning commission or city council, as applicable, so long as such non-minor amendments do not, individually or in the aggregate, cause either a net increase in impervious surface or any additional encroachment into RPA over the level of imperviousness or encroachment associated with the land use or land development as previously ap-

proved; provided, that any such non-minor amendments shall comply with the provisions of this Article XIII to the maximum extent feasible. If existing or when constructed, a noncomplying land use or land development shall be permitted to continue indefinitely and shall be considered a legal land use or land development, but shall be subject to the following restrictions:

- (1) *Expansion.* No noncomplying land use or land development may be physically enlarged or expanded unless such enlargement or expansion complies with the provisions of this Article XIII, and any other applicable provisions of law.
 - (2) *Reconstruction.* If a noncomplying land development is destroyed, demolished or otherwise removed, it may be reconstructed; provided, that such reconstruction shall be categorized as development or redevelopment, as the case may be, and shall comply with the provisions of this Article XIII and any other applicable provisions of law.
 - (3) *Repairs and maintenance.* A noncomplying land development may be remodeled, renovated, maintained, repaired and altered so long as such work complies with the provisions of this Article XIII, and any other applicable provisions of law.
- (B) Unless deemed a noncomplying land use or land development under section 13-122(A), or unless granted an exemption pursuant to section 13-123, any land use or land development subject to this Article XIII which is the object of any land use, land development or construction permit application, including a renewal or extension application, pending before any department, board or commission of the city, before the city council, or on judicial review on January 28, 1992, or thereafter filed with any such department, board or commission, shall comply with the provisions of this Article XIII.
- (C) Unless deemed a noncomplying land use or land development under section 13-122(A), or unless granted an exemption pursuant to section 13-123, any land use or land development subject to this Article XIII which is the object of a land use, land development or construction permit approval in force and effect on January 28, 1992, shall comply with the provisions of this Article XIII. Any renewal or extension of any such approval shall comply with the provisions of this Article XIII.
- (D) For purposes of this section 13-122, a land development for which a special use permit had been issued under section 7-6-28(i), -30(k), -31(k), -35(m) or -44(h) of the former zoning code and recorded among

the land records of the city prior to January 28, 1992, and for which no final site plan is required to be filed subsequent to the recordation of the permit, shall be considered as being the object of a final site plan approved prior to January 28, 1992.

13-123 *Determination of undue hardship exemption.*

- (A) Upon application, the director of transportation and environmental services may exempt from the provisions of this Article XIII a specific development which, on January 28, 1992, was the object of an approved preliminary site plan, including a preliminary site plan which had been approved along with a special use permit granted under section 7-6-355 of the former zoning code, whenever the director of transportation and environmental services finds that the applicant has demonstrated that full application of the provisions of this Article XIII would result in undue hardship under the standards set out in section 13-123(B); provided, that the provisions of section 13-123(G) shall apply to any development for which an exemption is granted under this section.
- (B) In considering whether an applicant has demonstrated undue hardship, the director of transportation and environmental services shall consider the following standards where applicable:
- (1) Whether the applicant has in good faith relied to his detriment on the preliminary site plan approval prior to January 28, 1992, in a manner that makes it inequitable to enforce the terms of this Article XIII with respect to the applicant's property.
 - (2) The extent to which the applicant has, prior to January 28, 1992, and in reliance on the preliminary site plan approval, made a substantial commitment of money or resources directly associated with physical improvements on the land, such as grading, excavation, installation of utility infrastructure or other public improvement, or for the design of specific buildings and improvements to be constructed on the site.
 - (3) The extent to which the applicant has, prior to January 28, 1992, and in reliance on the preliminary site plan approval, secured permits for, and commenced or completed, the construction of site improvements and buildings in part but not

- all of a development that was contemplated to extend over a period of months or years.
- (4) Whether the applicant has, prior to January 28, 1992, and in reliance on the preliminary site plan approval, made contractual commitments to complete buildings and deliver title thereto or occupancy thereof.
 - (5) Whether the applicant has, prior to January 28, 1992, and in reliance on the preliminary site plan approval, incurred financial obligations to a lending institution which the applicant will be unable to meet unless he is permitted to proceed with the proposed development.
 - (6) Whether enforcement of the terms of this Article XIII will expose the applicant to substantial monetary liability to third persons.
 - (7) Whether undue hardship has been demonstrated only with respect to an identifiable and discrete portion of the proposed development.
- (C) The fact that the property has been or is in a particular zoning classification under this ordinance, or any prior zoning ordinance of the city, or that a specific development plan has or has not been approved, shall not, in itself, establish undue hardship.
 - (D) Any person, firm, or corporation having an ownership interest in property may file an application for a determination of undue hardship. Such application shall be filed with the director of transportation and environmental services, shall contain a recital of the facts which are claimed to support the application, and shall contain such other information as the director of transportation and environmental services may specify.
 - (E) A reasonable opportunity for written public comment on an application shall be afforded by the director of transportation and environmental services.
 - (F) Within 30 days after the close of the comment period, the director of transportation and environmental services shall issue a decision on the application and shall serve the same by certified mail on the applicant and any commentors who have so requested. Such decision shall contain written findings of fact and, if applicable, conclusions of law.
 - (G) In granting an exemption pursuant to this section 13-123, the director of transportation and environmental services shall re-

quire that the previously approved development comply with the provisions of this Article XIII to the maximum extent feasible.

- (H) Nothing in this section 13-123 shall be construed as excusing a land development granted an exemption pursuant to section 13-123(A) from any of the conditions imposed in conjunction with the development's preliminary site plan approval, or any other approval, including where applicable those imposed by the city code, and any exemption shall itself be conditioned upon the satisfaction of all such conditions not waived or modified by the director of transportation and environmental services.
- (I) A land development granted an exemption pursuant to section 13-123(A) may retain its exemption and be constructed in accordance with its approved preliminary site plan and the provisions of this Article XIII imposed by the director of transportation and environmental services pursuant to section 13-123(G), with any minor amendments to that site plan approved by the director of transportation and environmental services, and with any non-minor amendments thereto approved by the planning commission or city council, as applicable, so long as such non-minor amendments do not, individually or in the aggregate, cause either a net increase in impervious surface or any additional encroachment into RPA over the level of imperviousness or encroachment associated with the land development as previously approved; provided, that any such non-minor amendments shall comply with the provisions of this Article XIII to the maximum extent feasible.
- (J) For purposes of this section 13-123, a land development for which a special use permit had been issued under section 7-6-28(i), -30(k), -31(k), -35(m) or -44(h) of the former zoning code and recorded among the land records of the city prior to January 28, 1992, and for which one or more final site plans are required to be filed subsequent to the recordation of the permit, shall be considered as being the object of an approved preliminary site plan approved prior to January 28, 1992; provided, that any such land development or portion thereof for which a required final site plan has been approved prior to January 28, 1992, shall be considered, for purposes of section 13-122, as being the object of a final site plan approved prior to January 28, 1992.

ORDINANCE NO. 3610

AN ORDINANCE to amend and reordain Sections 13-103 (DEFINITIONS), 13-105 (DESIGNATION OF CHESAPEAKE BAY PRESERVATION AREA OVERLAY DISTRICT), 13-106 (INCORPORATION OF CBPA MAP), 13-107 (DEVELOPMENT AND USES PERMITTED IN RPAs), 13-109 (GENERAL PERFORMANCE REQUIREMENTS FOR DEVELOPMENT AND REDEVELOPMENT IN RPAs), 13-111 (STANDARDS FOR WATER QUALITY IMPACT ASSESSMENT), 13-115 (REQUIRED INFORMATION), 13-117 (STORMWATER MANAGEMENT PLAN), 13-118 (WATER QUALITY IMPACT ASSESSMENT), 13-121 (APPEALS) and 13-123 (DETERMINATION OF UNDUE HARDSHIP EXEMPTION), of Article XIII (ENVIRONMENTAL MANAGEMENT) of the City of Alexandria Zoning Ordinance.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That subsection (H) of Section 13-103 of the City of Alexandria Zoning Ordinance be, and the same hereby is, repealed, and the subsection heading lettered (H) is reserved.

Section 2. That subsection (V) of Section 13-103 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(V) Water-Dependent Facility. A development of land that cannot exist outside of the Resource Protection Area and must be located on the shoreline by reason of the intrinsic nature of its operation. These facilities include, but are not limited to: (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking facilities; (iv) beaches and other public water-oriented recreation areas, and (v) fisheries or other marine resources facilities.

Section 3. That paragraph (4) of Section 13-105(B) of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(4) Tributary streambeds, not owned by the Commonwealth of Virginia; and

Section 4. That the CBPA Map, adopted by Section 13-106(A) of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by:

1. Deleting in its entirety the RPA located north of Seminary Road and west of Quaker Lane in map quadrants F-6, F-7, G-6 and G-7.

2. Deleting in its entirety the RPA located along the railroad right-of-way south of Wheeler Avenue and west of South Quaker Lane, in map quadrants J-6, J-7, K-6 and K-7.

Section 5. That paragraph (1) of Section 13-107(C) of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(1) construction, installation, operation and maintenance of electric, gas, and telephone lines, railroads and public roads constructed by VDOT or by or for the City of Alexandria in accordance with VDOT standards, and their appurtenant structures, in accordance with regulations promulgated pursuant to the Erosion and Sediment Control Law (sections 10.1-560 et seq. of the Code of Virginia and the Stormwater Management Act (sections 10.1-603.1 et seq. of the Code of Virginia); an erosion and sediment control plan and a stormwater management plan approved by the Department of Conservation and Recreation or by the City of Alexandria under local water quality protection criteria at least as stringent as the above state requirements shall be deemed to constitute compliance with these regulations;

Section 6. That paragraphs (6) and (7) of Section 13-109(A) of the City of Alexandria Zoning Ordinance be, and the same hereby are, amended, and further that said Section 13-109(A) be, and the same hereby is, amended by adding thereto a new paragraph (8), all to read as follows:

(6) the non-water dependent portion of a development encompassing both a RPA and RMA is located outside of a RPA;

(7) access for development or redevelopment is provided with the minimum disturbance necessary; where possible, only a single point of access shall be provided; and

(8) the regulated activity is consistent with the 1992 Master Plan for the City of Alexandria, Virginia.

Section 7. That subparagraph (a) of Section 13-109(B)(3) of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(a) The buffer may be reduced to 50 feet if the director of transportation and environmental services determines that a combination of a smaller buffer and appropriate BMPs located landward of the buffer achieves a 75% reduction of sediment and 40% reduction in nutrients and achieves water quality protection, pollutant removal and water resource conservation.

Section 8. That subparagraph (i) of Section 13-111(A)(2) of the City of Alexandria Zoning Ordinance be, and the same hereby is, repealed, and further that subparagraph (h) of said Section 13-111(A)(2) be, and the same hereby is, amended to read as follows:

(h) proposed revegetation of disturbed areas will provide adequate erosion and sediment control benefits, as determined by the director of transportation and environmental services.

Section 9. That paragraph (6) of Section 13-115(A) of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(6) For all development or redevelopment within an RPA, or within an environmentally sensitive area as determined by the director of transportation and environmental services pursuant to section 13-118(C) or 13-118(D), or for an exception under section 13-120, a Water Quality Impact Assessment as detailed in section 13-118.

Section 10. That subsection (G) of Section 13-117 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(G) All engineering calculations must be certified by a professional engineer or a licensed class IIIB surveyor and performed in accordance with procedures, consistent with good engineering practice, established by the director of transportation and environmental services pursuant to section 13-104(C).

Section 11. That the flush language of subsection (C) of Section 13-118 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(C) A Water Quality Minor Impact Assessment is required for development or redevelopment within RPAs or under an exception which involves 5,000 or less square feet of land disturbance; or for any development or redevelopment within the RMA which involves 5,000 or less square feet of land disturbance adjacent to an RPA, if required by the director of transportation and environmental services due to the presence or proximity of wetlands, potential for harmful discharge of contaminants from the property, or slopes greater than 15 percent which are proposed to be disturbed. A minor impact assessment shall demonstrate, through acceptable calculations, that the remaining buffer area and necessary BMPs will result in removal of 75% of sediments and 40% of nutrients from post-development/redevelopment stormwater runoff. Such an assessment shall include a site plan which shows the following:

Section 12. That the flush language of subsection (D) of Section 13-118 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(D) A Water Quality Major Impact Assessment is required for development or redevelopment within RPAs or under an exception which involves more than 5,000 square feet of land disturbance; or for any development or redevelopment within the RMA which involves more than 5,000 square feet of land disturbance adjacent to an RPA, if required by the director of transportation and environmental services due to the presence or proximity of wetlands, potential for harmful discharge of contaminants from the property, or slopes greater than 15 percent which are proposed to be disturbed. The following elements shall be included in a water quality major impact assessment:

Section 13. That Section 13-121 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended by adding thereto a new subsection (E) to read as follows:

(E) Notwithstanding the provisions of subsections (A) through (D) above, an applicant or any aggrieved party who elects to appeal shall appeal the director's decision of approval or disapproval of a stormwater management plan application by filing a notice of appeal with the director within 30 days after service of such decision. The filing of such notice, and proceedings thereafter, shall be governed by Part 2A of the Rules of the Supreme Court of Virginia, and judicial review shall be had in the Circuit Court of the City of Alexandria on the record previously established, and shall otherwise be in accordance with the Administrative Process Act, Virginia Code sections 9-6.14:1 et seq.

Section 14. That subsection (G) of Section 13-123 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

(G) In granting an exemption pursuant to this section 13-123, the director of transportation and environmental services shall require that the previously approved development comply with the provisions of this article XIII to the maximum extent feasible, and the director may specify any conditions and safeguards deemed necessary to further the purpose and intent of this article.

Section 15. That Sections 13-103, 13-105, 13-106, 13-107, 13-109, 13-111, 13-115, 13-117, 13-118, 13-121 and 13-123 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

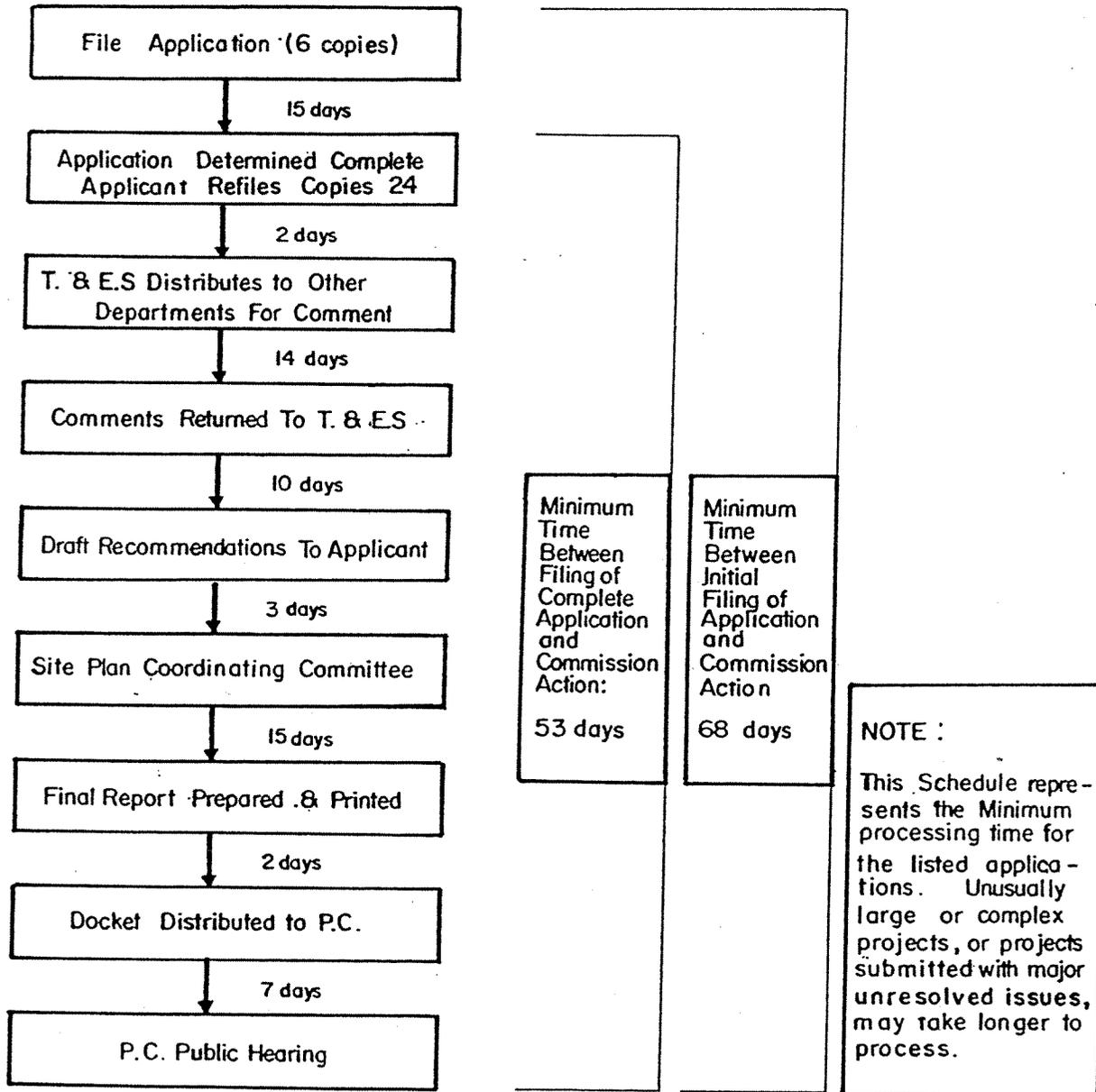
Section 16. That this ordinance shall become effective upon the date and at the time of its final passage, and shall apply to all applications for development review provided for under Article XIII of the City of Alexandria Zoning Ordinance, which on such date are pending before any city department, agency or board, or before city council, or are on judicial review, and to all applications which may be filed after such date.

PATRICIA S. TICER
Mayor

Final Passage: December 12, 1992

APPENDIX 4-2 -- SITE PLAN PROCESS FLOWCHART AND CHECKLIST

REVIEW PROCESS FOR SITE PLANS WITHOUT A SPECIAL USE PERMIT

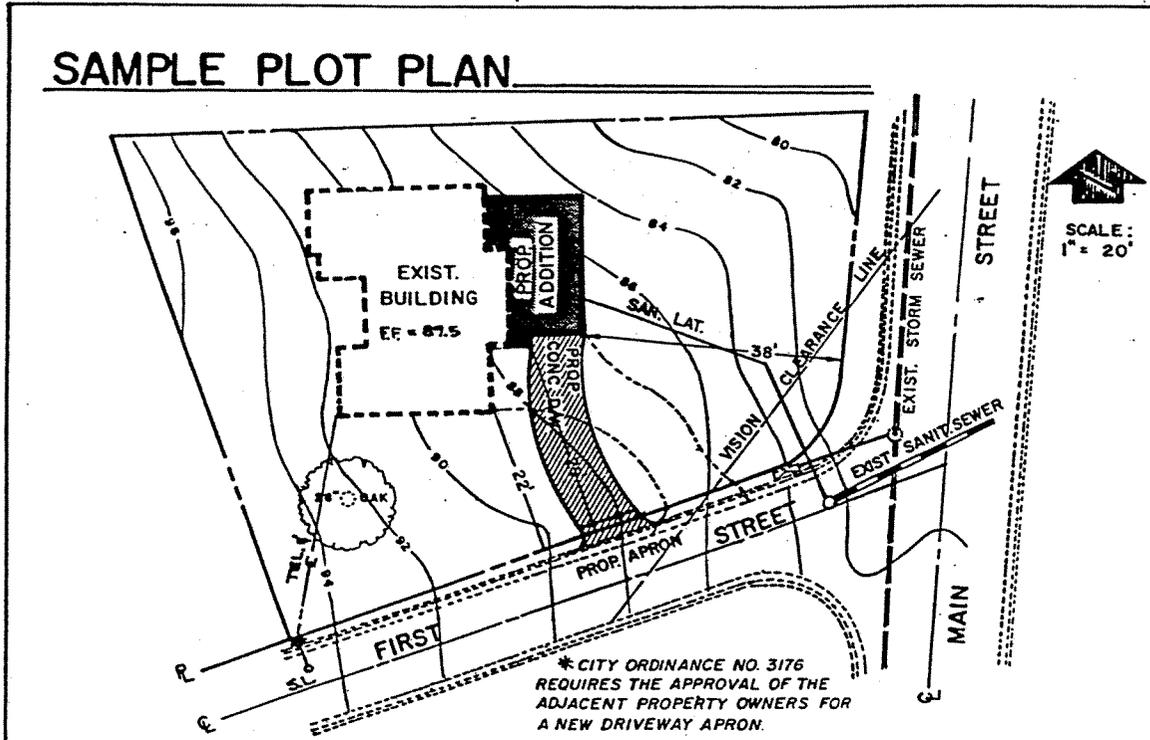


**SITE PLANS
PROCESS AND SCHEDULE DEADLINES**

DATE

- ___ File application
- ___ 15 day period to determine completeness
- ___ Distribute copies to departments for review
- ___ Receipt of comments on completeness
- ___ Notification to applicant of completeness
- ___ Receipt of 24 sets of completed plans for distribution to departments
- ___ Department comments due
- ___ Docket item/ad prepared and submitted to Zoning
- ___ Draft of all departmental comments prepared for review by Director, T&ES
- ___ Certification of notice for Site Plan Coordinating Committee meeting (at least 5 days prior to meeting)
- ___ Site Plan Coordinating Committee meeting
- ___ Advertising prepared and submitted to newspaper
- ___ Ad appears in paper (copy and file)
- ___ Post placards (at least 10 WORKING DAYS, not more than 30 WORKING DAYS, before meeting)
- ___ Final report prepared incorporating all departmental comments for review by Director
- ___ Certification of Notice (at least 5 days prior to meeting)
- ___ Date received
- ___ Print report
- ___ Docket packets prepared and delivered to Planning Commission
- ___ Docket packets prepared and delivered to city departments
- ___ Planning Commission meeting

APPENDIX 4-3 -- SAMPLE PLOT PLAN



A PLOT PLAN IS REQUIRED TO BE SUBMITTED TO T. & E.S. FOR APPROVAL BEFORE A PERMIT CAN BE ISSUED FOR ADDITION, ALTERATION, OR NEW BUILDING. THE APPLICANT SHOULD SHOW TOPOGRAPHIC LAYOUT, EXISTING AND PROPOSED UTILITIES, PUBLIC IMPROVEMENTS, EASEMENTS, SURFACE DRAINS, AND EXISTING TREES ABOVE 5" CALIPER, BUILDING DIMENSIONS.

TABULATION	JOB TITLE & LOCATION
TAX MAP REFERENCE: _____	WILL ANY CONSTRUCTION ACTIVITY TAKE PLACE WITHIN A RESOURCE PROTECTION AREA ? [AS DEFINED BY THE CHESAPEAKE BAY PRESERVATION ORD. (CBPO)] YES _____ NO _____
ZONE: _____	I CERTIFY THAT THE INFORMATION SUPPLIED IS CORRECT:
USE: _____	APPLICANT _____
EXIST. SQ. FT.: _____	DATE _____
ADDIT. SQ. FT.: _____	
SITE AREA: _____	
DISTURBED AREA- SQ. FT.: _____	
<p>THE INFORMATION ABOVE MAY BE REQUIRED IN ORDER TO DETERMINE IF: PUBLIC IMPROVEMENTS (SEC. 8-1-17), CONNECTION TO STORM SEWER (SEC. 8-1-22), SOIL EROSION CONTROL (SEC. 5-4-5), OR ALTERATIONS TO GRADE (CHESAPEAKE BAY PRESERVATION ORDINANCE, # 3558) MAY REQUIRE A FULL PLAN OF DEVELOPMENT.</p>	

APPENDIX 4-4 -- ARTICLE XI OF THE ALEXANDRIA ZONING CODE
(DEVELOPMENT PROCEDURES)

DEVELOPMENT APPROVALS AND PROCEDURES

§ 11-402

DIVISION B. DEVELOPMENT APPROVALS

Sec. 11-400 Site plan.

11-401

Purpose. The purpose of this section 11-400 is to ensure that the use and development of land as authorized in the zoning ordinance is undertaken in an orderly and proper manner that furthers the public health, safety and welfare and makes adequate provision for assuring the availability of appropriate public and private services and amenities and for minimizing the adverse effects of such development.

11-402

Administration. Unless otherwise specifically provided herein, the director of transportation and environmental services has the duty and responsibility to administer and enforce the provisions of this section 11-400 and the authority to establish rules and regulations to do so. To the extent delegated herein, other department directors shall have the duties and responsibilities

11-11

provided and the authority to establish rules and regulations to administer such responsibilities. The director of transportation and environmental services or the head of any other department referred to in this section 11-400 may delegate in writing to an employee under his supervision any of the functions hereunder for which the director or such department head is responsible. These provisions of section 11-400 are included here for administrative convenience; they derive from section 9.33 of the charter and are technically not part of the zoning ordinance for purposes of section 9.12 of the charter.

11-403 *Approved site plan required.* No permit shall be issued to erect or alter any building or structure or alter the grade of any land that is subject to this section 11-400 until a site plan has been submitted and approved.

- (A) *Construction of buildings.* Unless exempted pursuant to section 11-404, it shall be unlawful for any person to construct or erect any building or structure on any land within the city until a site plan has been submitted and approved.
- (B) *Enlargement of buildings.* Unless exempted pursuant to section 11-404, it shall be unlawful for any person to alter any building or structure on any land within the city in such manner as to increase the floor area or change the land area covered by the building or structure until a site plan has been submitted and approved.
- (C) *Alteration of grade, etc.* Unless exempted pursuant to section 11-404, it shall be unlawful for any person to alter the grade of any land in such a manner as to change existing contours in excess of two feet within ten feet of adjacent land, or in excess of three feet elsewhere, construct any streets, alleys, sidewalks, curbs or gutters, build any retaining walls, construct any off-street parking facility, construct any drain or sewer or change or divert the flow of storm water or natural watercourses until a site plan has been submitted and approved.
- (D) *Land within archeological resource areas.* It shall be unlawful for any person to conduct or permit any ground disturbing activity on land subject to the provisions of section 11-411 until a site plan has been submitted and approved.
- (E) *Compliance with site plans.* It shall be unlawful for any person to construct, erect or alter any building or structure or develop, change or improve land for which an approved site plan is required, except in accordance with the approved final site plan.

11-404 *Development exempt from site plan requirement.* The prohibitions of section 11-403(A), (B) and (C) shall not apply to:

- (A) The contemporaneous development of fewer than three dwelling units. It is the intent of this section 11-404(A) that these site plan regulations not apply to individual single-family, two-family or townhouse units developed or improved independently notwithstanding the terms of the other exemptions or the fact that such units were originally subject to a site plan. It is the further intent of this section 11-404(A) that this exemption not be undermined by purposeful piecemeal development; the term "contemporaneous development" includes development under common ownership or control or the subject of a common, concerted or coordinated plan or schedule of development irrespective of ownership or control.
- (B) Additions to buildings where the total gross floor area of the proposed addition does not exceed one-third of the total gross floor area of the existing building or 3,000 square feet, whichever is smaller, or, where additions are proposed to two or more buildings located on the same lot, the aggregate proposed additions do not exceed one-third of the total gross floor areas of the existing buildings or 3,000 square feet, whichever is smaller. In calculating the size of any addition, replacement floor area shall be included.
- (C) New buildings where the total gross floor area does not exceed 3,000 square feet; provided no part of any building is closer than 66 feet to other land that is used or zoned residential, there is no excess alteration of the grade as set forth in section 11-403(C), the site is not in a floodplain, and the site is not in excess of 10,000 square feet. In calculating the size of any new building, replacement floor area shall be included.
- (D) Improvements for off-street parking purposes when appurtenant only to existing buildings, where access will be provided by existing driveways, and where the improvements do not provide more than five parking spaces. The total number of additional parking spaces provided under this exemption shall not exceed five, all of which shall comply with applicable provisions of Article VIII.
- (E) Grading of open areas, either by excavation or fill, for the sole purpose of bringing the land to a grade compatible with the surrounding area, provided that the director of transportation and environmental services finds, on an inspection of the site, that the

grading will have no adverse affect on the land of adjoining owners, will not encroach on or impair existing drainage channels or flood-plains and will not cause problems of erosion, ponding or silting on adjoining properties.

- (F) Improvements of the city including but not limited to streets, bridges, alleys, sidewalks, curbs, gutters, retaining walls or sewer improvements, but not including buildings, structures or parking lots.

11-405

Site plan classification. Site plans shall be classified as preliminary site plans and final site plans. Preliminary site plans and final site plans may be combined and treated as a final site plan in either of the following instances, provided all the information required by this section 11-400 for both classes of plans is included and the procedure for processing preliminary site plans is followed:

- (A) When a preliminary site plan has been approved and a change in part of the project is desired; or
- (B) When a project embraces no more than three separate buildings or structures, no dedication or reservation of public streets through or within the project is required, the project does not embrace more than two acres of land, and the project does not include land in more than one zone classification.

11-406

Contents of preliminary site plan application.

- (A) An application for preliminary site plan approval shall be submitted by the owner, contract purchaser, lessee or other party having a legal interest in the subject property on such forms as the director of transportation and environmental services may prescribe. It shall include a clear and concise statement identifying the applicant and, if different, the owner of the property, including the name and address of each person or entity owning an interest in the applicant or owner and the extent of such ownership interest unless any of such entities is a corporation or a partnership, in which case only those persons owning an interest in excess of ten percent in such corporation or partnership need be identified by name, address and extent of interest. For purposes of this section 11-406(A), the term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.
- (B) The preliminary site plan shall be prepared under the responsible charge of a professional engineer or land surveyor duly authorized by the Commonwealth of Virginia, or, if required by the

director, by both. No fewer than 20 prints of the preliminary site plan at a scale of not less than 100 feet to the inch shall be submitted with the application. Print size shall not generally exceed 24 by 36 inches.

- (C) An application for preliminary site plan approval shall include the following information and material:
- (1) The name and address of the developers.
 - (2) The name, address, signature and registration number of the professionals responsible for preparing the plan.
 - (3) The present zoning of the site and abutting property.
 - (4) General alignment and lengths of all streets and all property lines.
 - (5) Date, scale and north point with reference to source of meridian.
 - (6) All building restriction lines, highway setback lines, easements, covenants, reservations and rights-of-way.
 - (7) The total land area.
 - (8) The topography of existing ground and paved areas, and elevations of streets, alleys, utilities, sanitary and storm sewers, buildings and structures. Topography is to be shown by dashed lines illustrating two foot standard contour intervals except where in the opinion of the director of transportation and environmental services five foot intervals would be satisfactory, and by spot elevations where necessary to indicate flat areas, all based on U.S. Coast and Geodetic Survey datum, or city datum where the former are not available.
 - (9) A five by seven inch space for the signed approval of the planning commission and the director of transportation and environmental services.
 - (10) A location map locating the site in relation to the nearest intersection of two or more streets at a scale that can be easily traced.
 - (11) A complete narrative description of the proposed development.
 - (12) Archaeological evaluation reports and resource management plans as may be required by section 11-411.

ALEXANDRIA ZONING ORDINANCE

- (13) In the case of any land or use for which a special use permit or conditional zoning has been granted, any information reasonably necessary to demonstrate compliance with the conditions imposed as part of such approval.
- (14) Building massing studies sufficient to show the mass and orientation of any proposed buildings and their relationship to nearby buildings and, if required by the director of planning and community development in the following cases, a model:
 - (a) Site plans subject to the preapplication requirements of section 11-407(A); or
 - (b) Site plans which include nonresidential land which is adjacent to land zoned or used for residential use.
- (15) In the case of any proposed building over 50 feet in height, a profile (section) drawing showing the location and height of each building in the development, as well as each building on adjacent sites.
- (16) A list of all modifications of the applicable zone regulations which are sought as part of the application pursuant to section 11-416, the rationale for each and the features of the development which compensate for the impacts otherwise protected by said regulations.
- (17) Any other information that may reasonably be required by the director of transportation and environmental services or the director of planning and community development to determine that the application is in compliance with all codes and ordinances of the city.
- (D) The preliminary site plan shall show the general location, dimensions, size and height of the following when existing:
 - (1) Sidewalks, streets, alleys, easements and utilities, including street lighting and underground conduits for street lighting.
 - (2) Buildings and structures.
 - (3) Public sewer systems.
 - (4) Slopes, terraces and retaining walls.
 - (5) Driveways, entrances, exits, parking areas and sidewalks.
 - (6) Water mains and fire hydrants.
 - (7) Major trees and shrubs.

- (8) Recreation areas and swimming pools.
 - (9) Natural and artificial watercourses and bodies of water and wetlands.
 - (10) Limits of floodplains.
 - (11) Fire hydrants, street lighting, underground conduits for street lighting and street trees on public rights-of-way immediately adjacent to site.
 - (12) Significant geological features.
 - (13) When known, areas that can reasonably be expected to or which do contain soils or materials contaminated with but not limited to heavy metals, petroleum products, PCB's, pesticides, flyash, or other toxic or hazardous materials.
 - (14) When known, underground storage tanks.
 - (15) When known, areas located within 1000 feet of a former sanitary landfill, dump or disposal area.
 - (16) When known, areas with the potential of generating combustible gases (i.e. methane).
- (E) The preliminary site plan shall show the general location, dimensions, size and height of the following regarding the proposed development:
- (1) Sidewalks, streets, alleys, easements and utilities, including street lighting and underground conduits for street lighting.
 - (2) Buildings and structures with entrances and exits identified.
 - (3) Public sewer systems.
 - (4) Slopes, terraces and retaining walls.
 - (5) Driveways, entrances, exits, parking areas and sidewalks.
 - (6) Water mains and fire hydrants.
 - (7) Methods to control erosion on slopes of 25 percent or more.
 - (8) Recreation areas and swimming pools.
 - (9) Natural and artificial watercourses and bodies of water.
 - (10) Distances between buildings.
 - (11) Calculations of the following:
 - (a) Number of dwelling units;

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- (b) Number of parking spaces;
 - (c) Number of loading spaces; and
 - (d) Square feet of floor space.
- (12) Plans for collecting and depositing storm water and the method of treatment of natural and artificial watercourses, including a delineation of proposed limits of floodplains, if any.
- (13) A general indication of proposed grading, surface drainage, terraces, retaining wall heights, grades on paved areas and ground floor elevations of proposed buildings and structures, shown by two foot or five foot contours, as required by the director, and approximate elevations.
- (14) A landscape plan showing all natural or landscaped areas, including the general location, names and area coverage of trees, shrubs and ground cover to be planted, the areas to be retained in natural vegetation, noting total existing crown area of trees being retained, and means of compliance with each of the landscaping requirements of section 11-410(CC).
- (15) Fire hydrants, street lighting, underground conduits for street lighting and street trees on public rights-of-way immediately adjacent to site.
- (16) Any locations intended for the outdoor display or storage of goods and merchandise.
- (17) Underground plans showing location of existing and proposed poles, transformers and switches.
- (18) Types of materials to be used for proposed improvements within the public right-of-way.
- (19) Plans to remediate, remove, or control on site any contaminated soils, materials, underground storage tanks, combustible gases, or old landfills, dumps or disposal areas.
- (20) Plans for minimizing the impact on existing or developing wetlands or for the creation of new wetlands.
- (F) All documents and information submitted as part of an application for preliminary site plan approval constitute a statement by the applicant that he intends and agrees to be bound to develop in accord with such information upon approval.
- (G) The preliminary site plan shall be accompanied by the fee prescribed pursuant to section 11-104.

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Procedures for processing site plan application. The following procedures shall govern the processing and review of applications for site plan approval.

(A) *Preapplication conference.* No fewer than 45 days prior to filing an application for preliminary site plan approval, an applicant may, and an applicant who proposes to develop one of the following uses shall, meet with the director of transportation and environmental services and the director of planning and community development to discuss the applicant's intentions with regard to the proposed development and the requirements of this section 11-400. It is the intention of this section 11-407(A) that this meeting shall be held at the conceptual phase of project planning and prior to the time when the site plan and application for site plan approval are prepared. No matters discussed at this meeting shall be binding on either the applicant or the city.

(1) Any individual building or structure which contains:

- (a) 50,000 or more usable square feet of commercial and/or professional office space;
- (b) 40,000 or more usable square feet of retail sales space;
- (c) 150,000 or more usable square feet of industrial space;
- (d) 250 or more residential units; or
- (e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.

(2) Any project, complex or development which is or becomes the subject of common ownership or control, which is or becomes the subject of a common, concerted, coordinated or phased plan of development irrespective of ownership or control, or which is or becomes the subject of a common, concerted, coordinated or phased plan of lease, sale, marketing or operation irrespective of ownership or control, and which when completed or assembled involves two or more buildings or structures containing in the aggregate:

- (a) 50,000 or more usable square feet of commercial and/or professional office space;
- (b) 40,000 or more usable square feet of retail sales space;
- (c) 150,000 or more usable square feet of industrial space;
- (d) 250 or more residential units; or

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- (e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.

(B) Filing application.

- (1) An application for site plan approval shall be filed with the director of transportation and environmental services and shall contain the information specified in section 11-406.
- (2) No application shall be accepted and reviewed unless determined to be complete by the director of transportation and environmental services and the director of planning and community development. A complete application is one which includes the minimum submission requirements expressly listed in section 11-406. Within 15 calendar days of the date it is filed, each application shall be reviewed to determine if it includes the minimum submission requirements and notice regarding the completeness of the application shall be mailed to the applicant. If no notice is sent, the time limits of this section shall begin to run on the 16th calendar day after the filing of the application.

(C) Site plan coordinating committee.

- (1) A site plan coordinating committee is established which shall meet in order to examine the preliminary site plan, to discuss it in light of the provisions of this section 11-400 and to make recommendations concerning the plan. The coordinating committee shall consist of a representative from each of the following: the department of transportation and environmental services, the fire department, the department of planning and community development, the sanitation authority, the department of parks, recreation and cultural activities, the office of historic Alexandria, and any other department or staff that the director deems necessary or desirable on a specific application.
- (2) Prior to the time that the planning commission first considers any preliminary site plan, the director of transportation and environmental services shall call a coordinating committee meeting at which such site plan shall be reviewed.

- (D) **Staff report and recommendation.** The director of transportation and environmental services shall prepare a staff report for the

planning commission on each application which report shall include all staff comments and analysis, including any report and recommendation prepared by another department, and a recommendation for approval, for approval with conditions or for disapproval. If the director of transportation and environmental services disagrees with the recommendations of another department or of the site plan coordinating committee, the report to the planning commission shall so indicate and the reasons for disagreeing shall be given. In the case of a site plan subject to the preapplication requirements of section 11-407(A), the director of planning and community development shall be responsible for preparing the staff report in accordance with this section 11-407(D).

- (E) *Review by planning commission.* The director of transportation and environmental services shall see that all required staff and committee reviews are completed and that the application is docketed in sufficient time for the planning commission to act within 90 days from the day the applicant was notified that the application was complete, unless the applicant agrees to a longer period of time.
- (F) *Changes to application.* If an applicant submits materials to supplement its application prior to final action by the planning commission, the director of transportation and environmental services and the director of planning and community development shall review the additional material to determine whether additional staff time is necessary to assess the application. If additional time is necessary, the director of transportation and environmental services or director of planning and community development may extend the review period accordingly, not to exceed an additional 90 days, or, in the event of a major revision, may require that a new application be filed.

11-408 *Notice of site plan coordinating committee.*

- (A) The director of transportation and environmental services shall give notice of the coordinating committee meeting to each individual who and each group that has registered with his office and indicated a desire to receive notice of site plan coordinating committee meetings. The annual cost of receiving such notices shall be as provided by general rule and shall be paid at the time of registration. The notice to such registered individuals and groups shall be sent by regular mail by the city site plan coordinator at least 15 days prior to each committee meeting. The notice shall state the date, time and place of the site plan coordinating com-

mittee meeting, shall provide a brief identification of the site plans to be considered at the meeting and, if applicable, shall state the date, time and place of the planning commission meeting at which the site plans are tentatively scheduled to be considered. The notice shall further provide that any person may offer oral comments regarding any of the plans at the meeting of the site plan coordinating committee and/or may file with the director of transportation and environmental services written comments relating to such plans, provided that any written comments must be received in the office of the director of transportation and environmental services at least three working days prior to the meeting.

- (B) The applicant shall be advised of the date, time, and place of the site plan coordinating committee meeting at which the applicant's site plan is to be considered at least 25 days before such meeting. The applicant shall give notice of the site plan coordinating committee meeting to the owners of all abutting properties, as that term is defined in this ordinance; provided, however, if there are fewer than ten abutting properties, the applicant shall notify additionally the owners of adjacent properties in the immediate vicinity of the site plan property. In no case shall the notice be sent to the owners of fewer than ten abutting or adjacent properties. In the case of a condominium, such written notice may be mailed to the unit owners' association in lieu of each individual unit owner. The notice shall be sent by regular mail at least ten days prior to the committee meeting at which the site plan will be reviewed. The notice shall state the date, time and place of the committee meeting and shall provide a brief identification of the applicant's site plan, including the tax map number and the complete street address of the property in question. The notice shall also indicate that any person may offer oral comments regarding the site plan at the meeting of the site plan coordinating committee and/or file with the director of transportation and environmental services, provided that written comments relating to the site plan and that any such comments must be received in the office of the director of transportation and environmental services at least three working days prior to the site plan coordinating committee meeting. Notwithstanding the foregoing notice requirements, the applicant may be required to mail a notice of the planning commission meeting at which the site plan is to be considered separate from the notice of the meeting of the site plan coordinating committee as required above, in which

case the notice of the commission meeting shall conform strictly with the provisions of section 11-300.

- (C) Any individual or group entitled to notice of a site plan coordinating committee meeting pursuant to this section 11-408 shall be considered to have waived such entitlement only if a written waiver has been filed with the city site plan coordinator prior to the meeting.
- (D) Failure of any individual or group to receive any notice required by this section 11-408, shall not, in and of itself, invalidate any action taken at the meeting for which notice was given.

11-409 *Action on site plans.*

(A) *Action on preliminary site plan.*

- (1) Within 90 days of the time an applicant is sent notice regarding the completeness of his application, the planning commission shall hold a public hearing and act on the application for preliminary site plan approval by approving or disapproving the plan or approving it with conditions, required revisions, additions or changes. In the case of disapproval, the commission shall give its reasons therefor. Two copies of the site plan shall be returned to the applicant with the date of approval or disapproval noted thereon over the signature of the director of transportation and environmental services. Any action by the planning commission shall be entered in the minutes of the commission.
 - (2) Failure of the commission to act within 90 days shall be deemed to constitute approval of the plan unless, prior to the expiration of such period, the planning commission, for good cause shown and by vote of a majority of all of its members, shall have extended the period not to exceed an additional 45 days.
- (B) *Standard for approval by planning commission.* An applicant for preliminary site plan approval shall demonstrate to the satisfaction of the commission that:
- (1) The applicable factors of section 11-410 have been appropriately considered in the site plan;
 - (2) The development will not adversely affect the public health safety and welfare; and
 - (3) The application complies with all provisions of this ordinance and all applicable laws.

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(C) *Appeal of action on preliminary site plan.*

- (1) The planning commission's approval or disapproval of a preliminary site plan or combined site plan may be appealed to the city council by the applicant, by the city manager, by an owner of property located within 1,000 feet of the boundaries of the site plan property, by an owner of property notified pursuant to section 11-408(B) or by a person or group notified pursuant to section 11-408(A) who submits a petition signed by at least 25 property owners or residents of the city. The appeal shall be made in writing, shall state clearly the grounds of the appeal and shall be filed with the city clerk within 15 days after the decision is announced. Following the filing of such an appeal, the director of transportation and environmental services shall verify that each person filing the appeal has the right of appeal as set forth in this subsection. The filing of an appeal shall stay the effect of site plan approval by the planning commission.
- (2) Whenever an appeal is filed, the commission shall forward the record and its reasons for approval or disapproval to the city council, which may be in the form of the transcription of the public hearing, and shall designate at least one member of the commission to appear before the city council at the public hearing.
- (3) In the event an appeal is filed, the city council shall schedule at least one public hearing on the matter. The council shall review the record, documents and actions taken by the planning commission and may take additional evidence if necessary for complete and competent review of the issues before it. The council may affirm, reverse or modify the decision of the commission or vacate and remand the matter to the commission for further consideration.
- (4) The issues on appeal shall be limited to the grounds identified in the appeal papers filed with the city clerk. The proposed use shall not be grounds for appeal.
- (5) The council's action on appeal may be reviewed by appeal to the circuit court to determine whether substantial evidence exists to support the decision of council provided the appeal to court is filed within 60 days of the council action.

(D) *Action on final site plan.*

- (1) If a preliminary site plan is approved, or approved with modifications, and no appeal as provided in section 11-409(C) is taken, the applicant shall cause a final site plan to be

prepared by a professional engineer or land surveyor duly authorized by the Commonwealth of Virginia, or, if required by the director of transportation and environmental services, by both, and to be submitted to the director of transportation and environmental services for consideration. Final site plans shall be on reproducible permanent base material and shall be on sheets which shall not exceed 24 x 36 inches in size. The plan may show only part of the land designated on the preliminary site plan if desired. The original tracing and 20 prints of the final site plan shall be at a scale no smaller than one inch to 40 feet unless, in the opinion of the director of transportation and environmental services, a one inch to 50-foot scale would be satisfactory where detail is not necessary.

- (2) The final site plan shall show all of the information required by sections 11-406(C) through (E) for preliminary site plans, but the information shown shall be specific, precise and accurate to usual and recognized professional standards and not general in nature. Calculations of storm water runoff shall be submitted. The final site plan submission shall include test borings and soil tests, when the subject property contains marine clay or fill or when otherwise found necessary by the director of transportation and environmental services, including proposals for sheeting, shoring, dewatering, excavating, foundation design and backfilling. Final site plans shall be checked for compliance with preliminary site plans previously approved and the requirements of this section 11-409(D). If the director of transportation and environmental services finds that a final site plan complies in all respects, he shall indicate his approval thereon and submit it to the chairman or vice-chairman of the commission for approval. The date of the final approval signature shall be noted on the plan.
- (3) If the director of transportation and environmental services finds that a final plan does not comply with a previously approved preliminary site plan or the provisions of this section 11-409(D), the applicant shall be so advised, and shall be allowed to either bring the final plan into compliance in all respects, submit a new preliminary site plan for processing as if no plan had been previously considered, or withdraw his application without refund of fees.

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- (4) The director of transportation and environmental services shall release the approved final site plan to any applicant who has complied with all applicable requirements.

11-410 *Site plan requirements.* In reviewing an application, the planning commission shall consider those factors listed below which it determines to be applicable in a given case.

- (A) The application shall comply with the provisions of this ordinance and all other ordinances of the city and of any other applicable laws.
- (B) The site plan shall be in reasonable conformity with the master plan of the city.
- (C) Adequate provision shall be made to ensure that the massing, location and orientation of buildings and uses, and the engineering design and location of roadways, parking, pedestrian amenities, open space and other site features are adequately related to each other and are compatible with and do not adversely affect the surrounding property and the character of the neighborhood.
- (D) Reasonable provision shall be made to ensure that development will be served by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, schools, and public transportation.
- (E) Each building or structure shall be reasonably accessible to fire, police, emergency and service vehicles. When deemed necessary for access by the fire chief or the director of transportation and environmental services, emergency vehicle easements shall be provided. The access for fire, police and emergency vehicles shall be unobstructed at all times.
- (F) Adequate provision shall be made to ensure the compatibility of the proposed development, including mass, scale, site layout and site design with the character of the surrounding property and the neighborhood.
- (G) Adequate provision shall be made for at least the required amount of open space in a configuration that makes that open space usable, functional, and appropriate to the development proposed.
- (H) The width, grade, location, alignment and arrangement of streets, sidewalks and alleys shall conform to the master plan of the city as near as reasonably practicable.

- (I) Off-street parking facilities shall have a reasonable slope and be accessible, safe and properly drained.
- (J) Streets, sidewalks and alleys shall, insofar as reasonably practicable, provide access and good traffic circulation to and from adjacent lands, existing streets, alleys and sidewalks.
- (K) Provision shall be made to ensure that adequate access roads or alleys or entrance or exit drives will be provided and will be designed and improved so as to prevent traffic hazards or problems and to minimize traffic congestion in public streets and alleys.
- (L) Adequate provision shall be made to ensure that the vehicular circulation elements of the proposed development will not create hazards to the safety of vehicular or pedestrian traffic on or off the site, disjointed vehicular or pedestrian circulation paths on or off the site, or undue interference and inconvenience to vehicular and pedestrian travel.
- (M) Adequate water mains and fire hydrants shall be provided in accessible places in accordance with good fire fighting and fire prevention practice acceptable to the chief of the fire department.
- (N) Adequate provision shall be made for the collection and disposition of all on- and off-site storm water and natural water, including but not limited to on-site drainage retention facilities. Natural drainage ways shall be used when it is reasonably practicable to do so and improvements shall be made to the ways in accordance with good engineering practice when in the opinion of the director of transportation and environmental services good engineering practice indicates improvements.
- (O) Adequate provision shall be made for the collection and disposition of all on- and off-site sanitary sewage, which disposition is to be by connection to existing separated sanitary sewer lines.
- (P) Adequate provision shall be made to avoid an increase in hazard to adjacent property from flood, increased runoff or water damage, including hazards to sidewalks from roofwater.
- (Q) The obstruction of natural watercourses shall be avoided.
- (R) No building for any residential use shall be allowed within a 100 year floodplain, unless there is first a change in elevation placing the lowest habitable floor of any building above the floodplain and unless the waterway involved has been improved in accordance with good engineering practice acceptable to the director of

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transportation and environmental services. This requirement shall not be construed to allow buildings in flood plains where the city council by ordinance or resolution has declared otherwise.

- (S) Adequate provision shall be made to control the slippage, shifting, erosion, accretion and subsidence of soil.
- (T) Adequate provision shall be made to control the slipping and shifting of buildings and structures.
- (U) Adequate provision shall be made to protect other lands, structures, persons and property.
- (V) Adequate provision shall be made to clean, control and otherwise alleviate contamination or environmental hazards on land when the site is in an area found by the director of transportation and environmental services to be contaminated by a toxic substance or otherwise to contain environmental hazards which are detrimental to the public health, safety and welfare.
- (W) Adequate provision shall be made to ensure that development as shown by the site plan, will not destroy, damage, detrimentally modify or interfere with the enjoyment and function of any significant natural, topographic, scenic or physical features of the site.
- (X) Adequate provision shall be made for lighting as shall be determined by standards established by the city council of all parking areas, roadways and walkways between public streets and parking lots and any buildings open after dark.
- (Y) Adequate provision shall be made to avoid glare of vehicular and stationary lights that would affect the established character of the neighborhood, and to the extent such lights will be visible from any residential zone, measures to shield or direct such lights so as to eliminate or mitigate such glare shall be taken.
- (Z) Adequate provision shall be made to ensure that the location, lighting and type of signs and the relationship of signs to traffic control is appropriate for the site and will not have an adverse affect on any adjacent properties.
- (AA) Adequate provision shall be made in the designs for buildings or structures to afford appropriate protection against the accumulation of hazardous quantities of combustible gases.
- (BB) Adequate provision shall be made to minimize the impact on existing or developing wetlands.

(CC) Adequate minimum landscaping shall be provided as follows:

- (1) Area coverage of trees and shrubs to be planted, which together with the existing crown area of those retained, shall occupy at least 25 percent of the total land area of the proposed project. With the approval of the planning commission, up to 50 percent of the required landscaping may consist of new trees planted on adjacent public right-of-way or other public land or of on-site, roof-top, deck or plaza plantings; provided that, in the case of uses in certain zones which are permitted to cover 100 percent of the total land area of the proposed project, up to 100 percent of the required landscaping may consist of new trees planted on adjacent public right-of-way or other public land or of on-site, roof-top, deck or plaza plantings, with the approval of the planning commission. Flowering trees to be planted shall be a minimum of one inch caliper. Major shade trees to be planted shall be a minimum of two inch caliper, and upright shrubs to be planted shall be a minimum of 24 inches in height and spreading shrubs shall be a minimum of 12 inches in diameter. Caliper as used herein is the diameter in inches of the tree as measured six inches above ground level. Total land area for purposes of this paragraph shall be the area shown on the site plan as the area of the site plan under consideration. For the purpose of this paragraph, the term "area coverage" as applied to a new tree, means 50 percent of the crown area over 1,200 square feet of each new tree plus all of the crown area under 1,200 square feet in area as seen from above at its average maturity in an urban environment. In the case of shrubs, the term refers to the size at which the shrub will be maintained when it reaches maturity. The director of recreation, parks and cultural activities shall maintain an official list of crown area coverage for each species of tree and shrub, which may be used by applicants to plan landscaping in compliance with these requirements.
- (2) The planning commission or city council on appeal may require screening on site plans where a commercial or industrial use abuts a residential use or is directly across the street or other public right-of-way from a residential use. The screening may be composed of either plant or man-made materials. Where plant material is required, it may be included as part of the 25 percent area coverage of trees and shrubs required in section 11-410(CC)(1) above.

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- (3) Devices shall be provided to protect existing trees from damage during construction and to protect trees in the public right-of-way generally. The protection shall be approved by the director of recreation, parks and cultural activities in accordance with the Alexandria master street tree plan.
- (4) Any parcel proposed to be used for the outdoor display or storage of motor vehicles shall be required at a minimum to contain a landscaped buffer at a depth of six feet and a minimum height of three feet located along those streets upon which such parcel has frontage.
- (5)
 - (a) Where nonstructured surface parking areas are provided, they shall be designed with planting areas in the surface area at intervals to be determined by the director of recreation, parks and cultural activities and the director of transportation and environmental services. The planting areas shall be in the form of curbed space of sufficient size to permit the planting of trees and shrubs which may overhang the curbed space without damage from cars. Reasonable guidelines for spacing, size and general construction of the breaks shall be published by the city and made available by the director of transportation and environmental services.
 - (b) Where a required surface parking lot abuts a public road or sidewalk, there shall be provided a landscaping strip at least six feet in width between the abutting right-of-way and the parking lot.
 - (c) Area coverage of trees or shrubs planted in the breaks and strips may be calculated as part of the landscaping required by section 4-110(CC)(1) above.
- (6) The location and type of all ground cover proposed to be planted on all disturbed areas of the site shall be indicated but this paragraph shall not operate as a limitation upon any landscaping that city council may require as a condition attached to a special use permit.
- (7) In addition to the provisions of this section 11-410(CC), further requirements relating to street trees within the site and on public rights-of-way adjacent to the site are set forth in section 11-412(D)(6).

- (8) Where trees are to be planted within the public right-of-way, they shall be planted in appropriate tree wells and provided protection as determined to be necessary and appropriate by the director of recreation, parks and cultural activities.

11-411 *Archaeological protection.*

- (A) *Archaeological resource areas.* A preliminary site plan which includes land designated as a potential resource area on the City of Alexandria Archaeological Resource Map, shall include reasonable archaeological evaluation reports and resource management plans when required under this section 11-411. The archaeological resource map, which is on file in the office of the director of historic Alexandria and the office of the city archaeologist is hereby made a part of this ordinance.
- (B) *Application.* This section 11-411 shall apply to all applications for preliminary or combined site plan or other development approval, otherwise subject to its provisions, which are filed subsequent to September 16, 1989.
- (C) *Administration.* This section 11-411 shall be administered by the director of the office of historic Alexandria who may adopt reasonable procedures for its administration, consistent with applicable law.
- (D) *Preliminary archeological assessment.* Prior to filing an application for approval of a preliminary site plan to which this section 11-411 applies, the applicant shall confer with the director of the office of historic Alexandria in order for the director to conduct a preliminary assessment of the potential archaeological significance of any site plan area designated on the map, and of the impact of any proposed ground disturbing activities on such area. The applicant shall provide full and accurate information as to all ground disturbing activities proposed to be conducted on the site.
- (E) *Criteria for preliminary assessment.* Such preliminary archaeological assessment shall be based upon the following criteria, and shall be conducted consistent with professionally recognized standards for archaeological site evaluation:
- (1) *Research value.* The extent to which the archaeological data that might be contained on the property would contribute to the expansion of knowledge.
 - (2) *Rarity.* The degree of uniqueness the property's resources possess and their potential for providing archaeological in-

formation about a person, structure, event or historical process, for which there are very few examples in Alexandria.

- (3) *Public value.* The level of importance the property has to the community as a location associated with a significant person, structure, event or historical process.
- (4) *Site integrity.* The extent to which soil stratigraphy and original placement and condition of archaeological resources on the property have not been disturbed or altered in a manner which appreciably reduces their research or public value.
- (5) *Presence of materials.* The extent to which archaeological resources or evidence of historic structures are present on the property.
- (6) *Impact on resources.* The extent to which any proposed ground disturbing activities will alter or destroy resources which the director has determined to have substantial archaeological significance under sections 11-411(E)(1) through (5) above.

(F) *Finding of archeological significance.*

- (1) If, at the conclusion of the preliminary archaeological assessment, the director of the office of historic Alexandria determines either that the site plan area has no substantial archaeological significance, or that the proposed construction or development will not have a substantial adverse impact on any known or potential archaeological resources, the director of the office of historic Alexandria shall so certify to the planning commission, and no further review under this section 11-411 shall be required.
- (2) If, at the conclusion of the preliminary archaeological assessment, the director of the office of the historic Alexandria determines that the site plan area has potential archaeological significance, and that the proposed development will have a substantial adverse impact on any known or potential archaeological resources, the applicant shall submit an archaeological evaluation report and a resource management plan as part of the preliminary site plan application.
- (3) The director of the office of historic Alexandria shall render a determination in writing, within seven working days after

receiving the information, unless written consent to extend such period is given by the applicant.

(G) *Archeological evaluation report and resource management plan.*

- (1) When required under the provisions of this section 11-411, the applicant shall submit as part of the preliminary site plan application an archaeological evaluation report and a resource management plan, prepared by a qualified archaeologist or historian in conformity with professionally recognized standards for cultural resource management. The applicant or the authorized agent thereof shall confer with the director of the office of historic Alexandria prior to preparing any submission to define and agree upon guidelines for such report and plan.
- (2) Such archaeological evaluation report shall include detailed evaluation of the archaeological significance of the site plan area, including but not limited to reasonable measures for historic research, archaeological surveys and test excavations.
- (3) Such resource management plan shall include reasonable measures for the study and preservation of archaeological resources found within the site plan area, including but not limited to test and full-scale excavations, site construction monitoring, field recording, photography, laboratory analysis, conservation of organic and metal artifacts, curation of the collection (e.g., artifacts, notes, photographs) and preparation of reports.
- (4) Such resource management plan may, and if required by the planning commission or city council shall, also provide reasonable measures for further archaeological study, restoration, reconstruction, disposition of recovered artifacts to an appropriate public or private collection or museum, and *in situ* preservation of archaeological resources found within the site plan area.

(H) *Review of archeological evaluation report and resource management plan.*

- (1) The archaeological evaluation report and resource management plan shall be reviewed and approved, disapproved or approved with modifications or conditions or both as part of the site plan review process.

- (2) In the event a site plan application and review is required exclusively on account of ground disturbing activities not otherwise subject to such application and review, then and in such an event, notwithstanding any other provisions of this ordinance, the required site plan application and review shall be limited to the purposes and requirements of this section 11-411, and the application fee shall be as prescribed pursuant to section 11-104.

11-412 *Required improvements.*

- (A) *Private improvements required.* As part of site plan approval, a development may be required to include improvements such as pedestrian walkways, vehicular travel lanes or driveways, parking areas, fences, walls, curbs and gutters, signs, lighting, screening, landscaping or such other improvements, facilities and services as the planning commission finds are reasonable and appropriate to service the site or for the accommodation of persons visiting, living or working thereon.
- (B) *Maintenance of private improvements.* The owner of any building, structure or land for which a site plan is approved shall maintain those improvements in such condition as to assure public safety and the general welfare. It is the purpose of this section 11-412(B) to assure that those improvements, facilities and services which are intended for public or quasi-public use or for the protection of neighboring properties, and which are not dedicated or otherwise transferred to and accepted by the city, are maintained in a condition as will permit their intended purposes to continue to be fully served.
- (1) Whenever any of those site improvements, facilities or services set out in the site plan fall into disrepair, the director of transportation and environmental services shall give the owner or his agent written notice thereof; the notice shall require remedial action within 30 days from the receipt of the notice and shall state that if no such action is taken, the city will take action itself, bill the owner for the costs and collect the costs like taxes in the event of nonpayment by the owner. Mailing to the last known post office address shall constitute sufficient notice to owners who cannot be found after a reasonably diligent search or who are nonresidents of the city.
- (2) Whenever the owner refuses, neglects or fails to take the required remedial action after being notified in the manner

prescribed in section 11-412(B)(1) above, the director of transportation and environmental services may cause the remedial action to be taken. The expense thereof shall be computed, and a bill for the expense shall be prepared by the department of finance and mailed to the owner at the owner's last known post office address within a reasonable time after the repair.

- (3) In the event the city does not receive payment of the bill within 30 days after mailing, a duplicate statement of the bill shall be forwarded by the director of finance, who shall see that the expense is charged to the owner and collected in the same manner as city taxes. Every charge for which the owner of any property shall have been assessed and which remains unpaid shall be recorded with the clerk of the circuit court and thereafter constitute a lien against the property.
 - (4) Failure by the owner or his agent to take remedial action under this section 11-412(B) constitutes grounds for revocation of all city approvals regarding the land involved.
- (C) *Bonding of private improvements.* The planning commission may specify improvements for which a guarantee by the applicant is necessary in order to cover the cost of construction and installation in those cases where the public health, safety and welfare would be jeopardized without the improvements or the city otherwise placed at risk of completing them. Where a guarantee is required, the provisions of section 11-414(B) shall apply.
- (D) *Public improvements required.* The planning commission may require that such public improvements and dedications be made as are necessary for the public health, safety and welfare to include, without limitation, the following:
- (1) The planning commission shall require the dedication of an area of land 60 feet wide within the site from property located in the R-20 through the R-2-5 zones inclusive, and 66 feet wide within the site from property located in all other zones, for the installation of public streets, sidewalks, curbs and gutters when the commission finds that any such improvement is necessary to properly service the site.
 - (2) The planning commission shall require the dedication of new streets within the site or the extension of existing streets within the site to the width called for by section 7-5-28 of the

city code when the dedication would constitute a part of the major thoroughfare plan of the city and the commission finds that any such improvement is necessary to properly service the site.

- (3) The planning commission shall require from the site the dedication of one-half of the land necessary for the installation of public streets, sidewalks, curbs and gutters to the 60 or 66 foot width required above when an existing street abutting a site is of less width than that so required and the commission finds that such improvement is necessary to properly service the site.
- (4) The planning commission shall require from the site the dedication of one-half of the land necessary for the installation of public streets, sidewalks, curbs and gutters to the width called for by section 7-5-28 of the city code when an existing street abutting a site is of less width than that required by such section, when any dedication would constitute a part of the major thoroughfare plan of the city and when the commission finds that any such improvement is necessary to properly service the site.
- (5) The planning commission may require such other transportation improvements as may be provided for in Virginia Code § 15.1-498.1.
- (6) The planning commission, in the case of any site having 50 feet or more of frontage along a public street within or adjacent to such site, shall require the provision of fire hydrants, underground utilities and street trees in appropriate planters with adequate protection as determined by the department of parks, recreation and cultural activities, all to be placed along dedicated public rights-of-way within the site and immediately adjacent to the site when the commission finds that any such improvement is necessary to properly service the site.

11-413 *Cost of public improvements.*

- (A) The planning commission shall require payment in full or guarantee of payment in full of all costs or a proportionate share of costs for the construction and installation of landscaping, public streets, alley, sidewalks, curbs, gutters, sewers, drains and other public improvements, facilities or services within an approved site plan, subject however to the following minimum schedule:

- (1) *Local streets or alleys within site:* All costs.

- (2) *Collector or arterial street within site:* All cost of sidewalk, curb, gutter, driveway and grading and 36 foot wide pavement in single- and two-family zones or 44-foot-wide pavement in multifamily, mixed-use, commercial and industrial zones. Pavement in excess of these requirements will be installed at city cost.
- (3) (a) *Streets abutting site:* All cost of curb, gutter, sidewalks, driveways and grading on abutting side. Paving of the traveled way will be installed at city cost.
- (b) *Exception:* All costs when an additional lane or service road is required to service the site.
- (c) Width of streets shall be governed by the requirements of section 7-5-28 of the city code.
- (4) *Storm and sanitary sewers:* All costs, including sewers required to serve upper areas of drainage shed and including the cost of connecting to an existing separated sanitary sewer line, unless a hardship as described in section 5-6-25 of the city code is found in which case the planning commission may waive this requirement and approve the site plan with conditions otherwise appropriate, including the payment of a pro rata share of the cost of connection.
- (5) *Natural streams and channels:* Where a natural stream or channel abuts or crosses the site and a portion of the site to be used is within the floodplain of the stream or channel, the owner or developer shall be required at his expense to improve the stream or channel to the extent necessary to provide sufficient waterway to carry the projected 100-year flood for the stream or channel.
- (6) (a) *Natural or landscaped open space:* All costs of landscaping, including new trees and shrubs, surface or ground treatment, and protection and preservation of existing ground cover, trees and plants as shown on the landscape plan as part of the approved preliminary site plan. When both site plans and erosion and sedimentation control plans are required to be submitted for a development tract of land, at least the minimum cost of replacement trees, as specified in the city erosion and sedimentation control handbook tree replacement guidelines for any trees designated to be retained in compli-

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ance with the preliminary site plan crown area coverage requirements of section 11-410(CC).

- (b) A 100 percent bond or escrow for all landscaping shall be required and retained by the city until such time as a minimum of 90 percent of the planting, including any replanting, shall have survived for a period of three years. Replacement landscaping shall be installed during every intervening fall and spring planting season until the three year/90 percent survival requirement is met. Nothing in this section 11-413(A)(6)(b) shall relieve an applicant, owner or successor in interest of its requirement to provide and maintain required landscaping in perpetuity.

(7) *Fire hydrants, underground conduits for street lighting and street trees, both on site and on public rights-of-way adjacent to site: All costs.*

- (B) A corporate surety bond, letter of credit, certificate of deposit or similar financial guarantee for at least the sum estimated to be the full cost of the improvements, of a company authorized to do business in the state, or a cash escrow for the estimated full amount of improvements, shall be deemed to be a satisfactory guarantee.

11-414 *As built site plan required.*

- (A) It shall be unlawful for any person to occupy, or cause to allow to be occupied, any building, structure or portion thereof or use, or cause or allow to be used any land for which a site plan is required by this ordinance until an as built site plan has been approved by the director of transportation and environmental services.
- (B) Upon satisfactory completion of the installation of the improvements shown on the approved site plan or a section thereof, the owner, developer or his authorized agent shall submit to the director of transportation and environmental services ten copies of an as built site plan certified by a person duly certified by the state and licensed to practice under the provisions of sections 54-17.1 to 54-41 of the Code of Virginia, as amended, for review and approval for conformity with the approved site plan by the appropriate city departments. The director of transportation and environmental services shall approve an as built site plan within ten days of the receipt of the plan or advise the applicant of deficiencies. No as built site plan shall be approved until the

building, structure and site involved shall comply in all respects with the approved site plan or section thereof. Two inspections for compliance may be made of an entire site plan or a section thereof without cost to the applicant. The applicant shall pay a fee of \$50.00 for any additional inspection. No performance bond, certified check or other guarantee shall be released until the as built site plan has been approved by the director of transportation and environmental services. Every approved as built site plan shall be dated, state that the building, structure and the land involved complies with all provisions of this ordinance and be signed by the director of transportation and environmental services. A record of all as built site plans issued shall be kept on file in the office of the director of transportation and environmental services. One copy of the approved as built site plan shall be sent to the applicant.

11-415 *Amendment to approved site plan.* Any change to the terms of an approved final site plan requires that an amended site plan application be filed and that the amended site plan be reviewed and approved, pursuant to the provisions of this section 11-400. Minor modifications may be approved by the city manager, upon the recommendation of the director of transportation and environmental services and the director of planning and community development.

11-416 *Modifications.*

(A) *Modification of zoning regulations.*

- (1) In approving a site plan under the provisions of this section 11-400, the planning commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements imposed by this ordinance for the zone or zones applicable to the land depicted in the site plan if the planning commission determines that such modification is necessary or desirable to good site development, that specific and identified features of the site design make up for those impacts otherwise protected by the regulations for which modification is sought and that such modification will not be detrimental to neighboring property or to the public health, safety and welfare.
- (2) Nothing in this section 11-416 shall be deemed to authorize the planning commission to approve a site plan under the provisions of this section 11-400 when the building or structure would exceed the maximum floor area ratio, maximum density or maximum height regulations of the zone or zones

in which such development is located, or the maximum floor area ratio, density or height regulations otherwise provided in this ordinance. Rather, it is the intent of this section 11-416 to allow regulations expressed as minimums such as yard dimensions to be relaxed in the proper case but not to allow regulations expressed as maximums such as density to be increased. Where the distinction between minimum and maximum is unclear, such as in the case of density expressed in terms of both minimum lot area and maximum floor area ratio or units per acre, then no modification shall be allowed.

- (B) *Modification of minimum landscaping provisions.* Upon application filed simultaneously with a site plan, modifications from the requirements of section 11-410(CC) may be granted by the planning commission if it finds that strict application of the requirements will effectively prohibit or unreasonably restrict the use of the property, that a modification of those requirements will not be of substantial detriment to adjacent property, and that the modification will not violate the intention of section 11-410(CC) to require a reasonable amount of landscaping.
- (C) *Exclusive remedy.* Relief from the zoning ordinance available from the planning commission under this section 11-416 may not be the subject of an application for a variance from the board of zoning appeals with regard to development or construction that is, or is required to be, the subject of an approved site plan or that is a condition of a site plan approval.

11-417 *Effect of site plan approval.*

- (A) The approval of a site plan under this section 11-400 shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the city, including, without limitation, a building permit or a certificate of occupancy.
- (B) Once a site plan has been approved, such approval acts to supersede all prior site plan approvals for the same land area.

11-418 *Time of validity.*

- (A) A site plan approved pursuant to the provisions of this section 11-400 shall expire and become null and void as to any uncom-

menced construction and any uncompleted construction, unless substantial construction of the project approved in such plan is commenced within 18 months after initial planning commission approval of the plan, or council approval in case of appeal, and such construction is thereafter pursued with due diligence; provided, that upon petition by the site plan applicant, property owner or any successor in interest, filed with the director of transportation and environmental services prior to the expiration of the period herein limited, including expiration occasioned by any interruption in substantial construction activity on a building of more than 12 consecutive months and, in case of a multi-building project, any interruption in substantial construction activity of more than 24 consecutive months between the substantial completion of one building and the commencement of substantial construction of another building, and after notice and public hearing, the planning commission may, for good cause shown, enlarge the period in which construction must be commenced or amend the requirement for due diligence in the pursuit of construction. As used in this ordinance, due diligence means action characterized by the steady, earnest, attentive, energetic and successful or productive marshalling and application of all necessary resources and efforts in order to construct and complete an approved project.

- (B) Evidence that substantial construction activity is proceeding on a building without any interruption of 12 or more consecutive months and, in the case of a multi-building project, is proceeding without interruption of 24 or more consecutive months between the substantial completion of one building and the commencement of substantial construction of another building shall constitute prima facie evidence of due diligence. Such evidence of due diligence may be rebutted by evidence that the work is not in fact steady, earnest, attentive, energetic and successful or productive. Evidence that substantial construction activity on a building has been interrupted for more than 12 consecutive months or, in the case of a multi-building project, has been interrupted for more than 24 consecutive months between the substantial completion of one building and the commencement of substantial construction of another building shall constitute prima facie evidence of a failure to maintain due diligence. Evidence of such failure may be rebutted by evidence that the interruption in substantial construction activity is proximately caused by a change in circumstances or mistake. Such change in circumstances shall be limited to a change which substantially affects the ability of the applicant, owner or any successor in interest to maintain due diligence and which could not reasonably have been anticipated

at the time of site plan approval, and shall without limitation encompass change in the economic factors which affect the development of land (e.g., availability of financing, interest rates, market absorption). Such mistake shall be limited to an error or omission in the material facts or assumptions regarding the land or its physical conditions relied upon by the applicant at the time of site plan approval, which mistake substantially affects the ability of the applicant, owner or any successor in interest to maintain due diligence. Mistake shall not encompass errors in judgment, and the applicant and any successor in interest are charged with all knowledge reasonably attainable at the time of site plan approval.

- (C) When the director of transportation and environmental services makes a finding that a site plan has become null and void by operation of the provisions of sections 11-418 (A) and (B), he shall notify the applicant by mail at his last known address, and likewise notify any known successor in interest and the owner of the property as determined from the real estate assessment records of the city. The applicant, owner or any successor in interest who is aggrieved by, and desires to contest, such finding shall file a petition with the director of transportation and environmental services specifying the grounds of such contest within 30 days after the mailing of such notice. Thereafter, the planning commission shall proceed to decide, after notice and public hearing, whether the site plan has become null and void under the provisions of sections 11-418(A) and (B). In any such proceeding, the petitioner shall have the burden of proving the continuing validity of the site plan approval. In the event no such petition is timely filed, the director of transportation and environmental services' finding shall become final and shall not be subject to further review.
- (D) Any person aggrieved by a decision of the planning commission made under section 11-418 (A) or section 11-418 (C) may appeal the decision to the city council, provided that the appeal is filed in writing, stating the reasons therefor, with the city clerk, within 15 days after the planning commission decision is announced. The appeal shall be accompanied by the fee established pursuant to section 11-104. In the event an appeal is filed, the city council shall schedule at least one public hearing on the matter. The council may affirm, reverse or modify the decision of the commission, or return the matter to the commission for further consideration.

- (E) Fees and contributions paid by the applicant to the city in connection with a project, except application and on site inspection fees, shall be proportionately refunded if a site plan expires under the provisions of this section.

11-419

Application to site plans previously filed.

- (A) Notwithstanding any contrary provision of law, it shall be unlawful for any person after June 24, 1992 to commence or recommence the construction, enlargement or alteration of any building or structure, or to continue to construct, enlarge or alter any building or structure, or to develop, change or improve land, for which an approved site plan is required under the provisions of this section 11-400 pursuant to any site plan approved on or before February 23, 1985, unless either (1) a new site plan for such construction, enlargement or alteration, or development, change or improvement, which site plan complies with all provisions of law in effect at the time of approval, shall have been approved by the planning commission or city council on appeal, or (2) the person is able to proceed with such construction, enlargement or alteration, or development, change or improvement by virtue of a vested right established pursuant to section 1-600 to do so. No variance, special use permit, plot plan, certificate of appropriateness, erosion control permit, demolition permit, building or construction permit, certificate of use and occupancy, or other land use, land development or building permit shall be issued, reissued or renewed for such construction, enlargement or alteration or development, change or improvement, unless and until compliance with the provisions of this section shall have been had.
- (B) This section 11-400 shall apply to all site plans heretofore approved, to all site plan applications pending before the planning commission, city council, or a court of competent jurisdiction on June 24, 1992, and to all site plan applications filed after said date; provided, that any site plan approved after February 23, 1985, and before June 24, 1992, as to which substantial construction on a building has commenced, but has been suspended, interrupted or abandoned for at least one full month immediately prior to June 24, 1992, and remains suspended, interrupted or abandoned on June 24, 1992, shall continue in full force and effect in the event substantial construction is recommenced on or before June 24, 1993, and is thereafter pursued with due diligence; provided further, that any site plan for a multi-building project approved after February 23, 1985, and before June 24, 1992, as to which one or more buildings have been substantially

completed on June 24, 1992, shall continue in full force and effect in the event substantial construction on another building is commenced on or before June 24, 1993; and provided further, that no provision of this section 11-400 shall be deemed to revive or continue in force and effect any site plan which had, prior to June 24, 1992, expired by operation of law, or to allow the period of validity of any such expired site plan to be extended by the planning commission or city council.

11-420 *Relation of chapter to other laws.* The provisions contained in this section 11-400 shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in the city code or other city ordinances. Nothing contained in this section 11-400 shall excuse any person from compliance with all other applicable provisions of the city code. Nor shall compliance with any other provision of the city code excuse any person from compliance with the provisions of this section 11-400.

Sec. 11-500 **Special use permits.**

11-501 *Authority.* The city council may approve an application for a special use permit provided for in this ordinance if the proposed location is appropriate for the use and if the proposed use or structure will be designed and operated so as to avoid, minimize or mitigate any potentially adverse effects on the neighborhood as a whole or other properties in the vicinity.

11-502 *Application of section.* This section 11-500 provides those procedures and considerations which apply on review of an application for any special use permit and may be supplemented by other provisions of this ordinance depending upon the nature and scope of the use for which permission is sought.

11-503 *Procedure.*

(A) *Application.* An application for a special use permit shall be submitted to the director on such forms as the director may prescribe and shall include the following:

- (1) A statement identifying the applicant, who shall be the owner, contract purchaser, lessee or other party having a legal interest in the subject. It shall include a clear and concise statement identifying the applicant and, if different, the owner of the property, including the name and address of each person or entity owning an interest in the applicant or owner and the extent of such ownership interest unless any of such entities is a corporation or a partnership, in which case only those persons owning an interest in excess of ten percent in such corporation or partnership need be identified

- (C) *Commencement of use required.* A special use permit granted under this section 11-500 shall become void unless substantial construction or operation is commenced within a period of one year of the date that the permit was approved and thereafter diligently pursued unless an approved valid site plan exists for the land in question in which case the term may be extended until the date the site plan expires, provided that site plan expiration is scheduled to occur within eighteen months from the date the special use permit was approved. If an application to extend a special use permit is filed with the director prior to the expiration of its term, and after compliance with the notice and hearing requirements for an original special use permit application, the city council may grant a one year extension of the permit.
- 11-507 *Reconsideration.* If an application for a special use permit is denied by city council, neither the planning commission nor city council shall consider an application for the same special use on the same site again within one year of the date of denial unless the new application differs in a substantial and material way from the prior one, in which case it may be reconsidered after six months.
- 11-508 *Effect of approval of a special use permit.* The issuance of a special use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the city, including but not limited to an approved final site plan, a building permit, a certificate of occupancy and subdivision approval.
- 11-509 *Changes in nature or extent of permitted use.* For any use that now requires a special use permit, whether or not a special use permit has been granted previously, any change in the nature of the use or any enlargement, extension or increase in the intensity of that use shall require a separate special use permit issued by the city council.
- 11-510 *Display of certificate.*
- (A) The owner or occupant of any property for which a special use permit has been approved shall appropriately locate and display in a conspicuous and publicly accessible place a copy of the special use permit certificate provided by the city. Such certificate shall inform the public of its right to examine the list of conditions associated with the permit. A copy of the list of conditions associated with the permit shall be kept on the premises and made available for examination by the public upon request.

- (B) Unless otherwise provided in the special use permit, the provisions of this section 11-510 shall apply to special use permits issued under the provisions of sections 11-600 (residential cluster development) and 12-400 (use of substandard lots in certain residential zones) only during the period of construction of the use authorized by such permit. The period of construction shall extend from the first issuance of a grading or building permit until such time as the last final certificate of occupancy required in connection with the use is issued.

Sec. 11-600 Cluster residential developments.

11-601 Authority. The city council may grant, as a special use permit, approval for a cluster development proposal pursuant to the provisions of this section 11-600 and those of section 11-500 relating to special use permits generally.

11-602 Purpose. The purpose of cluster development is to permit a procedure for development which will result in improved living environments; which will promote more economic development layout; which will encourage a variety of types of residential dwellings; which will encourage ingenuity and originality in total subdivision and individual site design; and which can preserve open and usable space to serve recreational, open space, scenic, public service, and other purposes related thereto, while retaining the densities established under the applicable zoning district. To achieve these goals:

- (A) Variations in lot areas and lot widths may be permitted.
- (B) Procedures are established to ensure adequate maintenance and use of open space areas.
- (C) Procedures are established to ensure adequate protection of existing and potential developments adjoining the proposed cluster development.

11-603 Cluster development limitations.

- (A) *Where permitted.* Cluster developments shall be permitted for single-family, two-family and townhouse dwellings where such development is permitted.
- (B) *Development size.* Cluster developments are only permitted on land which could have accommodated five or more dwelling units if developed under the applicable zone regulations except that cluster developments that are found by the planning commission to be a logical extension of an existing or approved cluster development may contain fewer dwelling units.
- (C) *Permitted uses.* The permitted uses in a cluster development shall be those residential uses permitted in the applicable zone as well as private and public recreational facilities.

- (D) *Density.* The density of the cluster development shall not exceed the floor area and number of units which could have been developed under the applicable zone regulations without cluster approval and may, depending on the design and configuration achieved in the cluster development plan, be reduced.
- (E) *FAR.* The maximum floor area permitted in the cluster development shall be determined by calculating that floor area which could be developed on the total site area which is the subject of the cluster special use permit, pursuant to section 1-400(B)(3).
- (F) *Height.* No deviation from the height specified in the applicable zoning or height district is permitted.
- (G) *Area requirements.* Modification of yard and lot requirements including minimum lot area and widths may be permitted except that the yard regulations applicable to any property abutting a residential cluster development shall also be applicable to the exterior boundary of the cluster development where abutting. Such modifications and variations must be shown on the cluster development plan.
- (H) *Parking.* The parking requirements of Article VIII except for section 8-200(C)(1) thereof shall be applicable.

11-604 *Cluster open space requirements.*

- (A) *Lot size reduction.* In each zone in which cluster development is allowed, the lot size may be reduced provided that an equivalent amount of suitable land in open space or common area is preserved and maintained for its scenic or historic value, or for schools, community buildings, historic buildings or sites, or related uses. Such common areas may be used as open space, recreational or parking areas. At least 15 percent of the common area provided shall be open and usable space which is coterminous and undivided and to which direct access is provided from each dwelling unit. The cluster development plan shall be reviewed to determine whether the open and usable space is sufficient and adequate in location, size and function.
- (B) *Private ownership.* Cluster open space shall be protected by legal arrangements, satisfactory to the city council, sufficient to assure its maintenance and preservation for the purpose for which it is intended. Covenants or other legal arrangements shall specify

ownership of the cluster open space; method of maintenance, responsibility for maintenance, maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guarantees that any association formed to own and maintain cluster open space will not be dissolved without the consent of the city council; and any other specifications deemed necessary by the city council.

11-605 *Procedures for cluster development approval.*

- (A) *Special use permit provisions applicable.* An application for cluster development approval is an application for a special use permit and shall be treated and reviewed as such. The procedures and provisions of section 11-500 apply to cluster development as those procedures and provisions may be supplemented by this section 11-600.
- (B) *Additional application material.* An application for cluster development approval shall include those materials required for a special use permit application as specified in section 11-503, as well as the following:
- (1) A general site layout plan depicting the density, design and development potential of the subject property under all regulations of the applicable zone without a cluster design.
 - (2) A preliminary subdivision plat which complies with the provisions of section 7-5-23 of the city code.
 - (3) Such other detail, data and material as may be necessary to show conformance with the regulations and requirements of this section 11-600.

The application material shall collectively be referred to as a cluster development plan.

- (C) *Public hearing schedule.* At the time the director determines that the application is complete, he shall schedule the matter for public hearing before the planning commission and shall confer with the city manager who shall schedule the matter for public hearing before the city council.
- (D) *Action by planning commission.* The planning commission shall hold a public hearing and shall act on the matter by recommending approval, disapproval or approval with modifications or conditions. In the event the planning commission recommends approval, the applicant is not entitled to proceed with a final site plan or to record a subdivision plat unless he obtains council

approval of the special use permit application. If the planning commission determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.

- (E) *Action by city council.* The city council shall act on the matter by approving, disapproving or approving the application with conditions or modifications. Approval of the application for cluster development by the city council shall constitute preliminary site plan approval and, if a preliminary subdivision plat has been approved by the planning commission, authorizes the chairman or vice-chairman and the director to sign and the applicant to record a subdivision plat pursuant to section 7-5-24 of the city code.

11-606

Considerations on review. In reviewing an application for cluster development, the following issues and those for special use permits in section 11-504 shall be considered at a minimum:

- (A) That the proposed development will substantially conform to the master plan of the city.
- (B) That the proposed development complies with all applicable regulations of this ordinance except as modified pursuant to the authority of this section 11-600.
- (C) That the proposed development will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety, and general welfare.
- (D) That the proposed cluster development will be constructed, arranged, and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable zone regulations.
- (E) That the proposed cluster development will be served adequately by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools.
- (F) That the proposed cluster development will not result in the destruction, loss or damage of any natural, scenic, or historic feature.
- (G) That individual lots, buildings, streets, and parking areas are designed and situated to minimize alteration of natural site features worthy of preservation.

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- (H) That the cluster open space intended for recreation or public use is usable as determined by the size, shape, topographic, and location requirements of the particular purpose proposed for the site.
- (I) That the cluster open space shall include irreplaceable natural features if any are located in the tract (such as, but not limited to, stream beds, stands of trees and individual trees).
- (J) That the cluster open space intended for recreation or public use is easily accessible to pedestrians and that such accessibility meets the needs of the handicapped and elderly.
- (K) That the cluster development plan includes diversity and originality in lot layout and individual building design to achieve the best possible relationship between development and the land.
- (L) That individual lots, buildings, and units are arranged and situated to relate to surrounding properties, to improve the view from and the view of buildings, and to lessen the land area devoted to motor vehicle access.
- (M) That the cluster development plan includes due consideration for:
 - (1) The arrangement and location of buildings, structures and spaces as they relate to the intent and purposes of this section 11-600;
 - (2) The safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking spaces, lighting and facilities for waste disposal;
 - (3) The location and means of access to pedestrian areas and the separation of such areas from vehicular ways and parking areas;
 - (4) The design of grades, paving, gutters and drainage necessary to handle stormwaters and to prevent erosion;
 - (5) The provision of walls, fences, landscaping and increased setbacks when deemed necessary to minimize adverse effects on nearby properties and within the proposed development;
 - (6) The treatment and extent of plazas, courts, terraces, recreational facilities and other open areas necessary or appro-

priate to the use or enjoyment of the development and the protection of the environment;

- (7) The provision for dedication of land for public rights-of-way, parks, schools and recreational space when necessary and appropriate to the development and the environs.

11-607 *Post approval modifications.* No special use permit for a residential cluster development approved by the city council shall be modified or amended thereafter, except in accordance with the procedures, requirements and standards set forth in this section 11-600; provided, however, that such minor modifications or amendments as are made necessary because of conditions attached to the special use permit, code requirements or more detailed plans may be approved by the director when such modifications or amendments are in keeping with the purpose and intent of the special use permit.

11-608 *Recording requirement.* Within two years of approval, the permittee shall cause to be recorded in the deed book among the land records of the city, suitably indexed and in a form approved by the city attorney, a certificate of notice specifying the fact that the property is the subject of approval under this section 11-600 and that development of the property may occur only in compliance with the approved development plan, the terms of the special use permit, the regulations of this ordinance and all other applicable ordinances of the city. Construction may not commence until a certificate of notice is recorded under this section 11-608 unless city council has provided otherwise at the time of approval.

11-609 *Binding nature of permit.* Any special use permit granted pursuant to this section 11-600 shall run with the land and be binding upon the applicant, the owner, the occupants and their heirs, successors and assigns.

Sec. 11-700 **Transportation management special use permits.**

11-701 *Purpose and intent.*

- (A) There are certain uses of land which, by their location, nature or size and density, or by the accessory uses permitted or required in connection therewith, or by certain operational or design and engineering characteristics, tend to cause traffic and related impacts which are contrary to the public health, safety and general welfare in that they lead to, generate or exacerbate: danger and congestion in travel and transportation upon the public streets, parking problems, harmful air pollution, wasteful energy consumption, excess noise, and other adverse impacts upon public and private transportation facilities, environmental quality, historic areas and other qualities of the city which make it a desir-

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able, prosperous and attractive residential and commercial community. These uses present a disproportionate danger of such impacts relative to similar uses of a different size and density and to other uses permitted under this ordinance.

- (B) These uses may be allowed to locate within designated zones only under a special use permit, as provided in this section 11-700, which, through the imposition of pertinent conditions and requirements, shall ensure that the adverse and disproportionate traffic and related impacts of such uses are reduced to levels consonant with the public health, safety and general welfare, that surrounding land, structures, persons and property are adequately protected and that public and private transportation is facilitated.
- (C) The purpose of this section 11-700 is to mitigate the traffic and related impacts of such certain office, retail, industrial and residential uses through the requirement that a transportation management plan for such uses be prepared and that a special use permit be issued for such uses containing terms and conditions which require the implementation of an appropriate transportation management plan.

11-702 *Application.*

- (A) The following uses, when allowed as a permitted or special use by the use regulations applicable in the zone in which located, shall require a transportation management special use permit pursuant to the provisions of this section 11-700:
- (1) Any individual building or structure which contains:
 - (a) 50,000 or more usable square feet of commercial and/or professional office space;
 - (b) 40,000 or more usable square feet of retail sales space;
 - (c) 150,000 or more usable square feet of industrial space;
 - (d) 250 or more residential units; or
 - (e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 250 or more residential units.
 - (2) Any project, complex or development which is or becomes the subject of common ownership or control, which is or becomes the subject of a common, concerted, coordinated or phased plan of development irrespective of ownership or control, or which is or becomes the subject of a common, con-

Sec. 6-300 Floodplain district.

6-301 *Floodplain districts created.*

- (A) There are hereby established floodplain districts throughout the city as shown on a map entitled "Floodplain Map, The City of Alexandria, Alexandria, Virginia," dated May 15, 1991, signed by the mayor, the chairman of the planning commission and the director of transportation and environmental services, which map is on file in the offices of the director of transportation and environmental services. Said floodplain district map is hereby made a part of this ordinance, and such map and all notations, references and other data shown thereon are by this reference made a part hereof as if fully described herein. Any changes in said map are subject to approval by the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA) prior to becoming effective and such approval shall be evidenced by notice in writing from the federal insurance administrator or an authorized representative.
- (B) Any uncertainty on the floodplain district map with respect to the boundary of any floodplain district, either A or AE zone as hereinafter defined, shall be determined by the director of transportation and environmental services by scaling and computation from the map.

6-302 *Regulations required.*

- (A) The floodplain management regulations in this section 6-300 are adopted in compliance with floodplain management criteria set forth in regulations promulgated by the Federal Insurance Administration of FEMA.
- (B) Should any uncertainty occur with respect to the definition of any word, term or phrase used in this section 6-300, the applicable definitions set out in 44 C.F.R. 59.1, as amended, shall apply.
- (C) For purposes of this ordinance, the 100-year-flood level, as defined in section 6-303 shall be used as the basis for regulation.
- (1) When available, information from federal, state and other acceptable sources shall be used to determine the 100-year-flood level and, if possible, the floodway. When no other information is available, the 100-year-flood level shall be determined by using a point on the boundary of the floodplain which is nearest the construction site in question.
- (2) Notwithstanding the provisions of section 6-302(C)(1), the director of transportation and environmental services may require an applicant for a building permit to determine the

FLOODPLAIN DISTRICT

100-year-flood level with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations and other information relied on shall be submitted in sufficient detail to allow a thorough technical review by the director of transportation and environmental services.

6-303 *Definitions.* For the purposes of this section 6-300 the following terms and words are defined as follows:

- (A) *A Zone.* An area of 100-year-flood as shown on the floodplain district map.
- (B) *AE Zone.* An area shown on the floodplain district map for which base flood levels have been provided.
- (C) *Base flood/100-year-flood.* A flood that, on the average, is likely to occur once every 100 years (*i.e.*, that has a one percent chance of occurring each year, although the flood may occur in any year).
- (D) *Base flood level/100-year-flood level.* The elevation to which the water associated with a base, or 100-year, flood will rise.
- (E) *Basement.* Any area of a building having its floor subgrade, or below ground level, on all sides.
- (F) *Development.* Any man made change to improved or unimproved real estate, including, but not limited to, the construction of buildings or other structures, the placement of manufactured homes, the construction of streets, the installation of utilities and other activities or operations involving paving, filling, grading, excavating, mining, dredging or drilling.
- (G) *Flood.* A general and temporary inundation by water of normally dry land areas.
- (H) *Floodplain.* A relatively flat or low land area adjoining a river, stream or other watercourse which is subject to partial or complete inundation by water from such watercourse, or a land area which is subject to the unusual and rapid accumulation or runoff of surface waters from any source.
- (I) *Floodplain district map.* The map referenced in and adopted pursuant to section 6-301 of this ordinance.

- (J) *Flood-prone area.* Any land area susceptible to being inundated by water from any source more often than once in a 100-year period.
- (K) *Floodway.* The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For purposes of this section 6-300, a floodway must be capable of accommodating a flood of the 100-year magnitude.
- (L) *Lowest floor.* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable flood water non-elevation design requirements of this section 6-300.
- (M) *Manufactured home.* A structure, transportable in one or more sections, which is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or 320 or more square feet when erected on site, which is built on a permanent chassis and is designed to be used as a single-family dwelling, with or without permanent foundation, when connected to the required facilities, and which includes the plumbing, heating, air conditioning and electrical systems contained in the structure. A manufactured home shall include park trailers and other similar vehicles when placed on a site for greater than 180 days.
- (N) *Nonresidential building.* Any building or structure which is not a residential building.
- (O) *Residential building.* Any single-family dwelling, two-family dwelling, row or townhouse dwelling or multifamily dwelling and any accessory building or structure.
- (P) *Substantial damage.* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred.
- (Q) *Substantial improvement.* Any repair, reconstruction, rehabilitation, addition or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure immediately before construction of the improvement is commenced, or any restoration of a building or structure which has incurred substantial damage; provided,

that the term does not include (i) any improvement of a building or structure that is necessary to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by appropriate officials of the state or city and which are the minimum necessary to assure safe living conditions, or (ii) any improvement of a "historic structure," as defined in 44 C.F.R. 59.1, so long as the improvement does not preclude the structure's continued designation as a "historic structure."

- (R) *Start of construction.* The date a building permit is issued, provided that the actual start of construction begins within 180 days of the permit issuance date. For new construction, the actual start of construction means the initial placement of permanent construction of a structure on the site, such as the pouring of footings or a slab, the installation of piles, the construction of columns or any work beyond the state of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, or the installation of streets or walkways, or excavation for a basement or for footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings, such as garages or sheds not occupied as dwelling units and not part of the main structure. For substantial improvements, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not the alteration affects the external dimensions of the buildings.
- (S) *New construction.* Buildings and structures as to which the start of construction occurred on or after May 24, 1977, including any subsequent improvements to such buildings or structures.

6-304 *Floodproofing.* Wherever floodproofing is utilized within the scope of this section 6-300, such floodproofing shall be done by approved methods. A registered professional engineer or architect shall certify the adequacy of the floodproofing design to withstand the stresses of the base flood and such plan shall cite the elevation to which the structure is floodproofed. Designs meeting the requirements of the W-1 and W-2 without human intervention technique as outlined in floodproofing regulations of the Office of the Chief of Engineers, U.S. Army, June 1972, shall be deemed to comply with this requirement. The building or code official shall maintain a file of such certifications.

6-305 *Director's review.* The director of transportation and environmental services shall review all site plans submitted pursuant to section 11-400 of this

ordinance, all plats of subdivision submitted pursuant to chapter 5, title 7, of the city code and all applications for building permits which plans, plats or applications propose to construct or make substantial improvements within any floodplain district. No such site plan, subdivision plat or building permit application for property within any floodplain district shall be approved by any agency of the city without certification by the director of transportation and environmental services that the plan, plat or permit application meets the requirements of this section 6-300. The director shall insure that all other required permits from state or federal governmental agencies have been obtained.

6-306

Prohibitions for trailer camps, mobile homes and septic tank systems.

- (A) Trailer camps and mobile homes are not permitted in any floodplain district shown on the map adopted pursuant to section 6-301. For purposes of this section 6-306(A), "mobile home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.
- (B) Installations of septic tank systems in any floodplain district shown on the map adopted pursuant to section 6-301 are prohibited.

6-307

Special regulations. Within the boundaries of any A or AE zones in any floodplain district as shown on the floodplain district map, buildings or structures and their extensions and accessory buildings or structures may be constructed or substantially improved only in accordance with the following requirements and all other applicable provisions of law:

- (A) The elevation of the lowest floor, including the basement, for any new residential building or any extension to a residential building shall be at or above the 100-year-flood level as noted on said map.
- (B) The elevation of the lowest floor, including the basement, for any new nonresidential building or structure and any extension or accessory to a nonresidential building shall be at or above the 100-year-flood level as noted on said map, unless all floors below the 100-year-flood level, together with their attendant utility and sanitary facilities, are adequately floodproofed up to the 100-year-flood level, and the building or structure or the extension or accessory is designed to resist uplift and/or horizontal water pressure; provided, that in no event shall any floor below the 100-year-flood level be used for human or animal habitation, food storage or food preparation.
- (C) All new and replacement public utilities, water mains and sanitary sewers shall be designed to minimize or eliminate infiltra-

tion and exfiltration and to insure their structural integrity under flood conditions to the satisfaction of the director.

- (D) Water heaters, furnaces, electrical distribution panels and other critical mechanical or electrical installations shall not be installed below the 100-year-flood level. Separate electrical circuits shall serve areas below the 100-year-flood level and shall be dropped from above.
- (E) Any proposed use of land and any new construction or substantial improvement of a building or structure within an AE zone, in conjunction with all other uses, existing or possessing a valid permit for construction, shall not increase the water surface elevation of the 100-year-flood more than one-half foot. Any person proposing a land use or such construction or improvement within an AE zone shall furnish specific engineering data and information as to the effect of the proposed action on future flood heights and obtain approval from the director of transportation and environmental services prior to undertaking the action.
- (F) Any proposed use of land, new construction or substantial improvement within a floodway, in conjunction with all other uses, existing or possessing a valid permit for construction, shall not increase the water surface elevation of the 100-year-flood in the floodway. Any person proposing a land use or such construction or improvement within a floodway shall furnish specific engineering data and information as to the effect of the proposed action on future flood heights and obtain approval from the director of transportation and environmental services prior to undertaking the action.
- (G) No building permit shall be issued for the construction or substantial improvement of a building or structure unless the applicant submits to the code enforcement bureau a certification from a duly registered architect or engineer that the proposed construction (including prefabricated homes) or improvement meets the following requirements:
 - (1) The construction shall be protected against flood damage;
 - (2) The construction shall be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the building and structure;
 - (3) The construction shall be built using materials and utility equipment that are resistant to flood damage; and

- (4) The construction shall be built using methods and practices that will minimize flood damage.

The certification required by sections 6-307(G)(1) and (2) shall be based on the 100-year-flood level as noted on the floodplain district map.

- (H) No building permit for the substantial improvement of an existing nonresidential building shall be issued unless the building, together with attendant utility and sanitary facilities, has the lowest floor (including the basement) elevated to or above the 100-year-flood level. Should this not be feasible, no such permit shall be issued unless the existing structure is floodproofed in all areas below the 100-year-flood level to the classification designated by the director of transportation and environmental services.
- (I) No building permit for the substantial improvement of an existing residential building shall be issued unless the building has the lowest floor (including the basement) elevated to or above the 100-year-flood level.

6-308

Other conditions.

- (A) No filling of any kind shall be allowed within the boundaries of any floodplain district except where such filling, when considered in conjunction with all other uses, existing and proposed, will not increase the water surface elevation of the 100 year-flood more than one-half foot. Persons proposing such filling shall furnish specific engineering data and information as to the effect of their proposed action on future flood heights and shall obtain approval from the director of transportation and environmental services prior to any filling.
- (B) No wall, fence or other outdoor obstruction shall be constructed in any floodplain district unless such structure is approved by the director of transportation and environmental services; provided that open mesh wire fences of not less than No. 9 wire, with mesh openings of not less than six inches times six inches, whose supports shall be securely anchored in concrete and whose wire shall be securely fastened to the supports, may be erected without any review by or approval of the director of transportation and environmental services under this section 6-300.
- (C) The provisions of this section 6-300 shall not be construed to prevent the remodeling (not amounting to substantial improvement), maintenance or floodproofing of buildings and structures

now existing, or prevent the surfacing or resurfacing of existing streets or parking lots within two inches of the existing grade.

6-309 *Flood prevention projects; conditions.* Nothing in section 6-304 through section 6-308 inclusive shall be construed to prohibit the city or any person from undertaking lawful filling, draining, construction, realignment or relocation of stream channels or any other improvement that is intended to eliminate or reduce the danger of flooding, provided:

- (A) The improvement is in accord with the city flood improvement plan for the district involved, and the director of transportation and environmental services of the city has issued a certificate to that effect.
- (B) The improvement is under the general supervision of the director of transportation and environmental services.
- (C) The realignment or relocation of any stream channel is designed and constructed so that there will be no reduction in the natural valley storage capacity of the area with respect to the 100 year-flood, unless such relocation or realignment is designed to contain the 100 year-flood within the banks of the channel.

6-310 *Same; notification of other jurisdictions.* The director of transportation and environmental services shall for any flood prevention project undertaken or approved after June 1, 1977, involving the alteration or relocation of a watercourse, notify the Federal Insurance Administrator of FEMA and the counties of Arlington and Fairfax of such project at least 15 days prior to commencing work. A copy of such notification shall be provided to the Division of Soil and Water Conservation in the Virginia Department of Conservation and Historic Resources. Prior to any such alteration or relocation, any required approval shall be obtained from the Virginia Department of Conservation and Historic Resources, the U.S. Corps of Engineers, the Marine Resources Commission and the Virginia State Water Control Board. The director of transportation and environmental services shall assure that the flood-carrying capacity within any such altered or relocated watercourse is maintained.

6-311 *Variance or waiver.*

- (A) The city council may, for good and sufficient cause shown, permit less than full compliance with or waive the provisions of section 6-304 through section 6-308, provided:
 - (1) Written application is made stating the hardship which will occur if the variance or waiver is not granted;
 - (2) A public hearing is held;

- (3) The decision is made by a majority vote of the entire membership of city council upon a finding that the variance or waiver is the minimum necessary, considering the flood hazard, to afford relief;
 - (4) The director of transportation and environmental services states in writing that the variance or waiver will not result in increased danger to life, limb or property, will not violate the general principles of good floodplain management and control, and will not increase the water surface elevation of the 100-year flood more than one-half foot; and
 - (5) The director of transportation and environmental services notifies the applicant in writing that the issuance of a variance to construct a structure below the base flood level will result in increased insurance premium rates for flood insurance and that such construction will increase the risks to life and property;
- (B) Notwithstanding the provisions of section 6-311(A), no variance or waiver shall be granted for any construction, development, use or activity within any floodway that will cause any increase in the 100-year-flood level.
 - (C) The director of transportation and environmental services shall maintain a record of all variance or waiver actions taken by city council, including their justifications. Such information shall be reported to the Federal Insurance Administration of FEMA, the clearing house established by the United States Office of Management and Budget Circular No. A-95, and the Virginia State Water Control Board.

6-312 *Annual report.* It shall be the city manager's duty to submit any reports that may be required regarding the city's compliance with flood management regulations.

6-313 *Applicability As to transition period construction, etc., generally.* Notwithstanding the provisions of section 6-304 through section 6-308 inclusive:

- (A) All buildings for which a building permit shall have been duly and regularly issued by the director of building and mechanical inspections on or before May 24, 1977, which permit has not expired, may be completed without the necessity of complying with section 6-304 through section 6-308 inclusive, but after completion, any such building or structure and the land on which it is situated shall be subject to all the provisions of said sections.

- (B) All preliminary site plans which have been duly and regularly approved on or before May 24, 1977, and which have not expired, may be completed without the necessity of complying with section 6-304 through 6-308 inclusive, but after completion, any building or structure on said site plan together with the land included in said site plan shall be subject to all the provisions of said sections.
- (C) All final site plans which have been duly and regularly approved and released on or before May 24, 1977, and which have not expired may be completed without the necessity of complying with section 6-304 through section 6-308 inclusive, but after completion, any building or structure on said site plan together with the land included in said site plan shall be subject to all the provisions of said sections.
- (D) Any building or structure which is in existence on May 28, 1991, or for which a preliminary or combination site plan, building permit or subdivision approved on or before May 28, 1991, continues in force and effect shall not be deemed a nonconforming use by virtue of any amendment to article D, chapter 6, title 7 of the city code enacted on May 28, 1991, and may be completed in accordance with the provisions of sections 7-6-54 through 7-6-58 in effect prior to May 28, 1991; provided, that any such building or structure which, following May 28, 1991, is the subject of substantial improvement shall comply with the floodplain regulations in effect at the time of such improvement.

6-314 *Appeals.* Any person aggrieved by a decision of the director of transportation and environmental services under this section 6-300 may appeal that decision to city council; provided, that the appeal shall be filed in writing with the city clerk within 15 days of the decision being appealed and shall describe the decision being appealed and the reasons why the person believes the decision to be invalid.

Sec. 6-400 **Height districts.**

6-401 *Height districts established.* The city is hereby divided into six height districts, as follows: No. 1-Old and Historic Alexandria Height District, No. 2-Parker-Gray Height District, No. 3-Potomac River Vicinity Height District, No. 4-Old Town North Height District, No. 5-King Street Metro Station Height District and No. 6-that portion of the city not included within the boundaries of the foregoing named height districts. The boundaries of each height district shall be those shown on the Height District Maps adopted as part of the zoning map.

6-402 *Operation of height districts.* The maximum heights of buildings and structures shall be as specified for each zone, except that no building or structure shall be erected to a height in excess of the height shown on the applicable Height District Map. If the regulations of a particular zone allow an in-

APPENDIX 4-6 -- ALEXANDRIA EROSION AND SEDIMENT CONTROL REGULATIONS

Transportation and Environmental Services

5-4-1

CHAPTER 4

Erosion and Sediment Control

State Law Reference: Erosion and sediment control law, Code of Va., Secs. 21-89.1 to 21-89.15.

- § 5-4-1 Definitions.
- § 5-4-1.1 Approved erosion and sediment control plan required—construction of buildings.
- § 5-4-2 Same—enlargement of buildings.
- § 5-4-3 Same—change or disturb terrain.
- § 5-4-4 Compliance with approved plan.
- § 5-4-5 Exceptions.
- § 5-4-6 Permits not to be issued without approved erosion and sedimentation control plan when plan required by chapter.
- § 5-4-7 Minimum criteria; city handbook.
- § 5-4-8 Erosion and sediment control plans.
- § 5-4-9 Regulations and restrictions generally.
- § 5-4-10 Failure of director of transportation and environmental services to act.
- § 5-4-11 Inspections and amendments of plans.
- § 5-4-12 Guarantee of performance of plans.
- § 5-4-13 Acceptance of performance.
- § 5-4-14 Noncompliance and corrective actions.
- § 5-4-15 Time of validity of erosion and sediment control plans.
- § 5-4-16 Waiver.
- § 5-4-17 Relation of chapter to other laws.
- § 5-4-18 Penalty.
- § 5-4-19 Administrative appeal.
- § 5-4-20 Reserved.
- § 5-4-20.1 Reserved.

Sec. 5-4-1 Definitions.

As used in this chapter, the following terms shall have the meanings set forth below, unless the context requires a different meaning:

(a) "Applicant" shall mean any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

(b) "Erosion and sediment control plan," or "plan," shall mean a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatments. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.

(c) "Director" shall mean the director of transportation and environmental services, his designee or his duly authorized agent.

(d) "Land-disturbing activity" shall mean any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land.

(e) "Owner" shall mean the owner or owners of the freehold of the premises or of a lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee or another person, firm or corporation in control of a property.

(f) "Permittee" shall mean the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

(g) "Person" shall mean any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, interstate body, or other legal entity.

(h) "Plan-approving authority" shall mean the department of transportation and environmental services which shall be responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or group of units of lands and for approving plans.

(i) "State waters" shall mean all waters on the surface and or wholly or partially underground that is within or bordering the commonwealth or that is within the jurisdiction of the commonwealth.

(j) "Subdivision" shall mean the division of a lot, parcel, sites, tracts or other divisions of land into two or more lots, plots, sites, parcels or other divisions for the purpose, whether immediate or future, of sale or building development, including the resubdivision of existing lots, parcels, sites, tracts or other divisions of existing and duly recorded subdivisions. Any tract of land upon which a street, alley, or public right-of-way is dedicated shall be considered a subdivision. (Ord. No. 3518, 6/15/91, Sec. 2)

Sec. 5-4-1.1 Approved erosion and sediment control plan required—construction of buildings.

Except as provided in section 5-4-5 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. (Code 1963, Sec. 10A-1; Ord. No. 3518, 6/15/91, Sec.1)

Sec. 5-4-2 Same—enlargement of buildings.

Except as provided in section 5-4-5 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. (Code 1963, Sec. 10A-2)

Sec. 5-4-3 Same—change or disturb terrain.

(a) Except as provided in section 5-4-5 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.

(b) Except as provided in section 5-4-5 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. (Code 1963, Sec. 10A-3)

Sec. 5-4-4 Compliance with approved plan.

(a) 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.

(b) 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.

(c) 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. (Code 1963, Sec. 10A-4)

Sec. 5-4-5 Exceptions.

The provisions of this chapter shall not apply to any construction, reconstruction, 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 any of the following:

(a) The construction or erection of any building or structure when the disturbed land area of the site is less than 2,500 square feet in size, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(b) The alteration of any building or structure when the disturbed land area of the site will be less than 2,500 square feet, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(c) The clearing, grading, excavating, filling or changing the contour of, or removing topsoil from, less than 2,500 square feet of land, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land and no existing or proposed grade on the disturbed land exceeds 10 percent.

(d) The clearing, grading, excavating, filling or changing the contour of, or removing topsoil from, less than 500 square feet of land, provided there is no natural or man-made drainage ditch, swale, draining in excess of 2,500 square feet or storm sewer on the disturbed land, and further provided the disturbance of the 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 2,500 square feet of land, provided there is no natural or man-made drainage ditch, swale draining in excess of 2,500 square feet, or storm sewer on the disturbed land

and no existing or proposed grade on the disturbed land exceeds 10 percent.

(f) The planting, trimming, pruning or removal of trees, shrubs, grass, weeds, vegetation, ground cover or other plant life pursuant to chapter 2 of title 6 of this code.

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

(h) The 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 2,500 square feet on which there now exists a dwelling.

(j) The exploration or drilling for oil and gas including the well site, roads, feeder lines and off-site disposal areas.

(k) The repair or rebuilding of the tracts, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.

(l) Shore erosion control projects on tidal waters when the projects are approved by local wetlands boards, the Marine Resources Commission or the U.S. Army Corps of Engineers.

(n) Emergency work to protect life, limb or property, and emergency repairs; provided, that, if the land-disturbing activity would have required an approved erosion and sediment control plan if the activity were not an emergency, the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority. (Code 1963, Sec. 10A-5; Ord. No. 3518, 6/15/91, Sec. 3; Ord. No. 3581, 6/13/92, Sec. 1)

Sec. 5-4-6 Permits not to be issued without approved erosion and sedimentation control plan when plan required by chapter.

(a) 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.

(b) 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. (Code 1963, Sec. 10A-6)

Sec. 5-4-7 Minimum criteria; city handbook.

(a) The director of the department of transportation and environmental services and/or his or her duly authorized representative(s) shall administer and enforce the provisions of this chapter. Use of the title "director" in this chapter shall be construed to mean the aforesaid director and/or authorized representative(s).

(b) The city council hereby adopts the following general criteria as the minimum requirements for controlling erosion and sedimentation for land-disturbing activities:

(1) Stabilization of denuded areas and soil stockpiles.

a. 1. Permanent or temporary soil stabilization must be applied to denuded areas within seven days after final grade is reached on any portion of the site. Soil stabilization must also be applied within seven days to denuded areas which may not be at final grade but will remain dormant (undisturbed) for longer than 30 days.

2. Soil stabilization refers to measures which protect soil from the erosive forces of raindrop impact and flowing water. Applicable practices include vegetative establishment, mulching and the early application of gravel base on areas to be paved. Soil stabilization measures should be selected to be appropriate for the time of year, site conditions and estimated duration of use.

b. During construction of the project, stockpiles shall be stabilized or protected with sediment measures to prevent soil loss. The applicant is responsible for the temporary protection and permanent stabilization of all stockpiles on the site, as well as for soil intentionally transported from the site.

(2) Establishment of permanent vegetation. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved which, in the opinion of the director, is mature enough to control soil erosion satisfactorily and to survive severe weather conditions.

(3) Protection of adjacent properties.

a. Properties adjacent to the site of a land disturbance shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, fil-

ters, dikes, sediment basins or by a combination of such measures.

b. Vegetated buffer strips may be used alone only where runoff in sheet flow is expected. Buffer strips should be at least 20 feet in width. If at any time it is found that a vegetated buffer strip alone is ineffective in stopping sediment movement onto adjacent property, additional perimeter controls must be provided.

(4) Timing and stabilization of sediment-trapping measures. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment on-site must be constructed as a first step in grading and be made functional before upslope land disturbance takes place. Earthen structures such as dams, dikes and diversions must be seeded and mulched immediately after installation.

(5) Sediment basins. Stormwater runoff from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The sediment basin shall be designed and constructed to accommodate the anticipated sediment loading from the land-disturbing activity. The outfall device or system design shall take into account the total drainage area flowing through the disturbed area to be served by the basin. The director may require sediment basins or traps for smaller disturbed areas where deemed necessary. The sediment basin requirement may also be waived if the director agrees that site conditions do not warrant its construction.

(6) Cut and fill slopes. Cut and fill slopes must be designed and constructed in a manner which will minimize erosion. Consideration must be given to the length and steepness of the slope, the soil type, upslope drainage area, groundwater conditions and other applicable factors. Slopes which are found to be eroding excessively within one year of construction must be provided with additional slope-stabilizing measures until the problem is corrected. The following guidelines are provided to aid site planners and plan reviewers in developing an adequate design.

a. Roughened soil surfaces are generally preferred to smooth surfaces on slopes.

b. Diversions should be constructed at the top of long, steep slopes which have significant drainage areas above the slope. Diversions or terraces may also be used to reduce slope length.

c. Concentrated stormwater should not be allowed to flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure.

d. Wherever a slope face crosses a water seepage plane which endangers the stability of the slope, adequate drainage or other protection should be provided.

(7) Stormwater management criteria for controlling off-site erosion. Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in the volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration in accordance with the following standards and criteria:

a. A stormwater management plan shall be developed so that, from the site, the postdevelopment peak runoff rate from a two-year and a 10-year storm, considered individually, shall not exceed their respective predevelopment rates. The predevelopment and postdevelopment peak runoff rates must be verified by engineering calculations. Within the Four Mile Run Watershed, postdevelopment peak runoff during a 100-year frequency storm shall not increase the peak runoff of the Four Mile Run Flood Control Channel as required by the city's contract with the United States Army Corps of Engineers.

b. 1. Concentrated stormwater runoff leaving a development site must be discharged directly into a well-defined, natural or man-made, off-site receiving channel or pipe. If there is no well-defined, off-site receiving channel or pipe, one must be constructed to convey stormwater to the nearest adequate channel. Newly constructed channels and conduits carrying a flow of 1,000 or more cubic feet per second shall be designed for a 100-year storm frequency and newly constructed channels and conduits carrying a flow of less than 1,000 cubic feet per second shall be designed for a 10-year storm frequency.

2. An "adequate channel" shall be defined as a natural or man-made channel or pipe which is capable of conveying the runoff from a two-year storm or a 10-year storm, considered individually, without overtopping its banks or eroding after development of the site in question. A receiving channel may also be considered adequate at any point where the total contributing drainage area is at least 100 times greater than the drainage area of the development site in question or, where it can be shown that the peak rate of runoff from the site for a two-year and a 10-year storm, considered individually, will not be increased after development.

3. Runoff rate and channel adequacy must be verified with engineering calculations to the satisfaction of the director. Natural channels shall be analyzed by the use of a two-year frequency storm to verify that stormwater will not overtop channel banks or cause erosion of channel beds or banks. All previously constructed man-made channels shall be analyzed by the use of the 10-year frequency storm to verify that stormwater will not overtop its banks, and by the use of the two-year storm to demonstrate that stormwater will not cause erosion of channel beds or banks. Pipes and sewer systems shall be analyzed by the use of a 10-year frequency storm to verify that stormwater will be contained within the pipe or system.

c. If an existing off-site receiving channel is not an adequate channel, the applicant must choose one of the following options:

1. Obtain permission from downstream property owners to improve the receiving channel to an adequate condition. Such improvement shall extend downstream until an adequate channel section is reached.

2. Improve the channels to a condition where a 10-year frequency storm will not overtop the banks or cause erosion to the channel bed or banks; or

3. Improve the pipe or pipe system to a condition where the 10-year frequency storm is contained within the appurtenances; or

4. Provide a combination of channel improvement, stormwater detention or other measures which are satisfactory to the director to prevent downstream channel erosion.

d. All channel improvements or modifications must comply with all applicable laws and regulations. Modifications to flowing streams should be made in accordance with *Best Management Practices Handbook—Hydrologic Modifications*, Virginia State Water Control Board Planning Bulletin 319, 1979.

e. If the applicant chooses an option which includes stormwater detention, he must provide the city with a plan for maintenance of the detention facilities. The plan shall set forth the maintenance requirements of the facility and the party responsible for performing the maintenance. The responsible party may be an individual, organization or the city, whichever has consented to carry out the maintenance. If the designated maintenance responsibility is with an individual or organization other than the city, a maintenance agreement should be executed between the responsible party and the city.

f. The owner or developer may continue to discharge stormwater that has not been concentrated (sheet flow) onto lower-lying property if:

1. the peak flow rate for a 10-year storm after development does not exceed the predevelopment peak flow rate;

2. the increase in total volumes of runoff caused by the development will not have an adverse impact on the lower-lying property; and

3. there will be no exacerbation of existing drainage problems on the lower-lying or other downhill property.

g. In applying these stormwater management criteria, individual lots in subdivision developments shall not be considered separate development projects, but rather the subdivision development, as a whole, shall be considered a single development project.

(8) Stabilization of waterways and outlets. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 10-year frequency storm without erosion. Stabilization adequate to prevent erosion must also be provided at the outlets of all pipes and paved channels. Energy dissipators shall be installed as required by the director.

(9) Storm sewer inlet protection. All storm sewer inlets which are made operable during construction shall be protected so that sediment-laden waste will not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

(10) Working in or crossing watercourses.

a. Construction vehicles should be kept out of watercourses to the extent possible. Where in-channel work is necessary, precautions must be taken to stabilize the work area during construction to minimize erosion. The channel (including bed and banks) must always be restabilized immediately after in-channel work is completed.

b. Where a live (wet) watercourse must be crossed by construction vehicles regularly during construction, or more than twice in any six-month period, a temporary stream crossing must be provided.

(11) Underground utility construction.

a. Underground utility lines shall be installed in accordance with the following standards in addition to other applicable criteria:

1. No more than 100 feet of trench are to be opened at one time.

2. Excavated material is to be placed on the uphill side of trenches.

3. Trench dewatering devices shall discharge in a manner which will not adversely affect flowing streams, drainage systems or off-site property. Effluent from dewatering operations shall be filtered or passed through an approved sediment-trapping device, or both, and discharged in a manner that does not adversely affect flowing streams or off-site property.

4. Restabilization shall be accomplished in accordance with these regulations.

5. Applicable safety regulations shall be complied with.

(12) Construction access routes. Wherever construction vehicle access routes intersect paved public roads, provisions must be made to eliminate the transport of sediment (mud) by runoff or vehicle tracking onto the paved surface. Where sediment is transported onto a public road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a sediment controlled disposal area. Street washing shall be allowed only after sediment is removed in this manner. This provision shall apply to individual subdivision lots as well as to larger land-disturbing activity.

(13) Disposition of temporary measures. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved or after the temporary measures are no longer needed, unless otherwise authorized by the director. Trapped sediment and other disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.

(14) Maintenance. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure continued performance of their intended function.

(c) The "Virginia Erosion and Sediment Control Handbook, Second Edition, 1980" and the tree planting and preservation regulations hereinafter promulgated by the city manager which are concurrent with this ordinance [Ordinance No. 3019] shall be used by any applicant making a submittal under this chapter and by the director in his or her review and consideration of the adequacy of any erosion and sediment control plan submitted.

(d) This chapter and the "Virginia Erosion and Sediment Control Handbook, Second Edition,

1980" shall be an integral part of the city's erosion and sediment control program and shall comprise the city's "Erosion and Sediment Control handbook." The erosion and sediment control regulations of the Virginia Soil and Water Conservation Board, effective September 13, 1990, and as subsequently amended, are incorporated herein by reference. The text of these regulations is on file in the office of the director. (Ord. No. 2590, 6/13/81, Sec. 2; Ord. No. 3019, 2/23/85, Sec. 1; Ord. No. 3518, 6/15/91, Sec. 4; Ord. No. 3581, 6/13/92, Sec. 2)

Sec. 5-4-8 Erosion and sediment control plans.

(a) Applications for approved erosion and sediment control plans shall be submitted to and filed with the director, on forms prepared by the city, prior to the time any work subject to this chapter is begun on land. Four (4) copies of an erosion and sediment control plan must accompany any application, parts of which shall also be on forms prepared by the city. Upon receipt of an application and plans, the director 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 shall promptly notify the applicant of his or her decision on a plan. Any approved plan shall be issued, dated, and bear the manual signature of the director of the department of transportation and environmental services or his or her deputy.

(b) An application shall show the following:

(1) The name, address and telephone number of the applicant.

(2) The name, address and telephone number of the owner of record.

(3) The name, address and telephone number of the person preparing the plan.

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

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

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

(7) Method for collecting and depositing storm water.

- (8) Test boring and soil test results when:
- a. the site is in an area of the city known or suspected by the director to have soil problems or unstable soil;
 - b. any proposed slope on the site exceeds a grade of 20 percent;
 - c. the presence of ground water in substantial amounts is known or suspected by the director to be on the site; or
 - d. unstable soil is known or suspected by the director to be on the site.

(9) Methods for control of contamination of land when the site is in an area found by the director to be contaminated by a toxic substance and hazardous to the public health, safety and welfare. Said methods shall comply and be in accordance with the "Administrative Procedures for Control of Contaminated Land, Alexandria, Virginia," dated October 20, 1976, that were promulgated by the city manager and adopted by the city council on November 23, 1976, by ordinance number 2145. These administrative procedures may be amended or revised from time to time by the city manager with the approval of the city council by motion.

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

(11) Any other pertinent information the director may require.

(c) An erosion and sediment control plan shall follow the format of map number 4, plate 6-4 of chapter 6 of the city's erosion and sediment control handbook. The plan shall also include appropriate title blocks, scales and a vicinity map. (Code 1963, Sec. 10A-8; Ord. No. 2590, 6/13/81, Sec. 3)

Sec. 5-4-9 Regulations and restrictions generally.

All erosion and sediment control practices shall be in accordance with the city's erosion and sediment control handbook. (Code 1963, Sec. 10A-9; Ord. No. 2590, 6/13/81, Sec. 4)

Sec. 5-4-10 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 45 days after it has been properly filed should be deemed to constitute approval of the plan. (Code 1963, Sec. 10A-10)

Sec. 5-4-11 Inspections and amendments of plans.

(a) The plan-approving authority or, where a grading, building or other permit is issued in connection with land-disturbing activities, the permit-issuing authority shall provide for periodic inspections of the authorized land-disturbing activity or activities and may, in addition, require monitoring and reports from the person responsible for carrying out the approved plan to ensure compliance with the plan and to enable the authority to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, occupier or operator shall be given an opportunity to accompany an inspector during an inspection. If the plan-approving or permit-issuing authority determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Where the plan-approving authority serves such a notice, a copy of the notice shall be sent to the permit-issuing authority. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. In cases where the director determines that immediate compliance is required to preclude damage to state waters or lower-lying property or drainage systems, the director may issue a stop-work order. Upon failure to comply with such measures within the time specified, the permit may be revoked, and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this chapter and upon conviction shall be subject to the penalties provided in section 5-4-18.

(b) The director 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. (Code 1963, Sec. 10A-11; Ord. No. 3518, 6/15/91, Sec. 5; Ord. No. 3581, 6/13/92, Sec. 3)

Sec. 5-4-12 Guarantee of performance of plans.

A corporate surety bond, letter of credit, certificate of deposit or similar financial guarantee approved by the city attorney, conditioned upon carrying out all and every part of an approved ero-

sion and sedimentation control plan and upon satisfaction of the guarantee required by section 5-4-13 of this chapter for at least the sum estimated to be the full costs of carrying out the plan, or a cash escrow, upon the same conditions and in the same amount, shall be furnished the city whenever such costs exceed \$500. (Code 1963, Sec. 10A-12; Ord. No. 2384, 6/26/79, Sec. 1; Ord. No. 3019, 2/23/85, Sec. 2)

Sec. 5-4-13 Acceptance of performance.

Upon completion of adequate stabilization of an approved erosion and sedimentation control plan, the permittee shall notify the director of such completion. The director shall then inspect the work and planting and, upon his determination that they are in compliance with the approved plan, he shall issue a letter of preliminary acceptance. A condition of any such preliminary acceptance shall be that the permittee guarantee all erosion and sedimentation control work for a period of one year from the date of its preliminary acceptance, or for a period of one year from any repair or replanting ordered by the director, or until such time that all control structures and a minimum of 90 percent of all plantings shall have survived for a year without need of further replanting or repair. During the one year period of the guarantee, the director may order in writing such replanting or repair work as shall be deemed necessary to enforce compliance with the approved plan or the guarantee. Such an order shall serve to revoke the preliminary acceptance and shall cause the permittee to renew the guarantee for an additional one year from the date of replanting or repair. Final acceptance shall occur when preliminary acceptance has remained unrevoked for a period of one year, or when all control structures and a minimum of 90 percent of all plants have survived for a period of one year without need of further replanting or repair. For purposes of this section, normal cleaning of silt basins alone shall not be construed to be repair work. (Code 1963, Ch. 10A; Ord. No. 2384, 6/26/79, Sec. 2; Ord. No. 3518, 6/15/91, Sec. 6)

Amendment Note: Ordinance No. 2384 added a new section 10A-12.1 to the 1963 code codified above as section 5-4-13.

Sec. 5-4-14 Noncompliance and corrective actions.

(a) 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.

(b) Written confirmation of this notice to comply shall be sent, by certified mail, to the applicant for the erosion and sedimental control permit or hand-delivered at the site of the land-disturbing activities to the agent or employee supervising such activities, citing a detailed description of the conservation measures necessary for compliance.

(c) When no action is taken within 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.

(d) If no action has been taken by the time specified, the director of transportation and environmental services shall proceed 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. (Code 1963, Sec. 10A-13; Ord. No. 3518, 6/15/91, Sec. 7)

Sec. 5-4-15 Time of validity of erosion and sediment control plans.

(a) Any approved erosion and sedimentation control plan shall become null and void 180 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 180 days in accord with said plan and verified by an on-site inspection by the director of transportation and environmental services or his deputy.

(b) 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. (Code 1963, Sec. 10A-14)

Sec. 5-4-16 Waiver.

The city manager may, for good cause shown, waive the provisions of chapter 4 of this title 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. (Code 1963, Sec. 10A-15)

Sec. 5-4-17 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 1 of title 8, chapter 5 of this title, chapters 5 and 6 of title 7, 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. (Code 1963, Sec. 10A-16)

Sec. 5-4-18 Penalty.

Any person violating the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment in the city jail for a period not to exceed 30 days, or both. 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. (Code 1963, Sec. 10A-17; Ord. No. 3019, 2/23/85, Sec. 3)

Sec. 5-4-19 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 agents files a written notice of appeal with the city manager within 30 days from the date of the written final decision of disapproval. (Code 1963, Sec. 10A-18)

Sec. 5-4-20 Reserved.

Editorial Note: Section 8 of Ord. No. 3518, adopted June 15, 1991, repealed § 5-4-20 of the Code, which pertained to the transition and derived from the 1963 Code, § 10A-19; and Ord. No. 2590, § 5, adopted June 13, 1991.

Sec. 5-4-20.1 Reserved.

Editorial Note: Ord. No. 3581, § 1, adopted June 13, 1992, repealed § 5-4-20.1, which pertained to incorporation of regulations of the Virginia Soil and Water Conservation Board, which derived from Ord. No. 3518, § 9, adopted June 15, 1991.

CHAPTER 5

Reserved

Editorial Note: Ord. No. 3591, adopted June 24, 1992, repealed Ch. 5, which pertained to site plans in its entirety. See the Code Comparative Table. The user's attention is directed to the new site plan provisions adopted by Ord. No. 3591 which are contained in a separate volume, Titled City of Alexandria Zoning Ordinance.

CHAPTER 6

Water and Sewer

Cross Reference: Water supply in foodhandling establishments, Sec. 11-2-171 et seq.; drinking water in nursery schools, Sec. 12-3-44.

ARTICLE A

Water

- § 5-6-1 Use in emergencies.
- § 5-6-2 Stagnant water owner to fill in place of collection.
- § 5-6-3 Same—action by city when owner refuses to fill in.
- § 5-6-4 Same penalty for violation of two preceding sections.
- §§ 5-6-5 through 5-6-20 reserved.

ARTICLE B

Sewage Disposal and Drains

Division 1. General Provision.

- § 5-6-21 Control of council.
- § 5-6-22 Installed by contract with council.
- § 5-6-23 Constructed so as to require separate and direct service for each house, building or parcel of property.
- § 5-6-24 Duty of owner to connect; emptying into wells, tanks or open streams prohibited.
- § 5-6-25 Sewer connection permits and service fees, construction costs; constructing sewers by owners rather than city; additional connections.
- § 5-6-26 Sewer line maintenance charge imposed, provisions for collection; liens and cessation of water service for delinquent charges.
- § 5-6-27 Duty of director of transportation and environmental services to compute amounts due city.
- § 5-6-28 Unlawful to connect without permit and payment.
- § 5-6-29 Connection lines running from city sewer main, trunk or lateral to the premises.
- § 5-6-30 Property binding on certain old sewers.
- § 5-6-31 Obstructing, breaking or injuring sewers, catch basins or manholes; garbage, earth or trash.
- § 5-6-32 Draining rain water into public sanitary sewers—nuisance declared.
- § 5-6-33 Same—prohibited; compliance with notice to disconnect.
- § 5-6-34 Same—penalty for violation of section 5-6-33.
- § 5-6-35 Same—disconnection by city; costs to constitute lien.
- § 5-6-36 Same—same; exceptions for connections existing on November 28, 1972, upon findings of hardship.
- § 5-6-37 Air-conditioning and refrigeration equipment discharging water—definition of "air conditioning" and "refrigeration."
- § 5-6-38 Same—rate of water discharge.
- § 5-6-39 Same—permit required for installation.
- §§ 5-6-40 through 5-6-50 reserved.

by name, address and extent of interest. For purposes of this section 11-503(A)(1), the term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

- (2) A map showing the location of the property in question as well as all property within 300 feet of the boundaries of the property for which the special use permit is sought, including as to all property identified, the following information:
 - (a) Existing uses;
 - (b) Existing zoning;
 - (c) Land use designation contained in the master plan.
- (3) A detailed description of the operation of the proposed use.
- (4) Plans to control any potential impacts of the proposed use on the nearby community, including:
 - (a) *Noise.*
 - (1) Noise levels anticipated from all mechanical equipment.
 - (2) A statement as to whether the anticipated noise complies with the levels permitted by chapter 5 of title 11 of the city code.
 - (3) Plans to control these anticipated noise levels.
 - (4) Plans to control noise levels emanating from patrons.
 - (b) *Odors.* Methods to be used to control odors emanating from the use.
 - (c) *Trash and litter.*
 - (1) The type and volume of trash and garbage the proposed use will generate.
 - (2) The planned frequency of trash collection.
 - (3) Planned methods to prevent littering on the property, streets and nearby properties.
 - (d) *Loading/unloading.*
 - (1) Availability and adequacy of off-street loading facilities.

ALEXANDRIA ZONING ORDINANCE

- (2) Hours and frequency of off-street loading.
- (e) *Parking.*
 - (1) Location of parking either on the site or within 300 feet of the site.
 - (2) Number of spaces available to serve residents, employees and patrons during the hours of operation.
- (f) *Streets.* The design capacity of all streets providing access to the property.
- (g) *Use capacity.*
 - (1) The estimated number of patrons, clients, pupils and other such users.
 - (2) The proposed number of employees, staff and other personnel.
- (h) *Hours.* The proposed hours and days of operation of the use.
- (i) *Signs.* Existing and proposed signage to be erected or utilized on the property.
- (j) *Hazardous materials.* Name, monthly quantity and specific disposal method of any state or federally defined hazardous materials or waste to be handled, stored, or generated on the property.
- (k) *Organic compounds.* Name, monthly quantity and specific disposal method of any paint, ink or lacquer thinner, cleaning or degreasing solvent to be handled, stored, processed or generated on the property.
- (l) *Security.* Methods proposed to ensure the safety of residents, employees and patrons.
- (5) Where new construction is proposed, a site plan consistent with the requirements for same in section 11-400 shall be submitted and reviewed and approved as part of the special use permit application and pursuant to the procedures and standards of this section 11-500.
- (6) Plans and other documents exhibiting compliance with any other requirements contained in this ordinance for the special use proposed.
- (7) Such additional plans and information as the director determines are necessary and desirable for adequate review.

DEVELOPMENT APPROVALS AND PROCEDURES

§ 11-503

(8) The fee prescribed by section 11-104.

- (B) *Review by staff.* The director shall review the application to determine if the application's contents are complete and adequate for appropriate review and shall send the application to other relevant departments for their review and recommendation. Upon receipt of the departments' recommendations, the director shall prepare a staff report indicating the departments' judgment on the merits of the application. If the director does not agree with a recommendation prepared by another department, that recommendation shall be set down separately and the reasons for the director's disagreement shall be included in the report.
- (C) *Docketing.* At the time the director determines that an application is complete, he shall schedule the matter for public hearing before the planning commission and shall confer with the city manager who shall schedule the matter for public hearing before the city council.
- (D) *Recommendation by planning commission.* The planning commission shall hold a public hearing, shall review the application and shall recommend to the city council that the application be approved, disapproved, or approved with conditions. The planning commission shall submit its recommendation to the city council together with its reasons therefor not later than three days prior to the city council hearing on the application. If the planning commission determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.
- (E) *Action by city council.* The city council shall hold a public hearing, shall review the application and recommendation of the planning commission and shall act on the application by approving it, disapproving it, or approving it with conditions. If the city council determines that it requires additional information in order to render its decision, it may defer action on the application in order to receive such information.
- (F) *Change in ownership only.* Where an application under this section 11-503 is necessitated solely by a change in ownership of the use that is subject to the special use permit, and the circumstances set forth in (1) through (5) below apply, the director may administratively approve such application and transfer the special use permit to the new applicant only. The circumstances

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which are a condition to such an administrative approval are as follows.

- (1) The applicant is not requesting a change in the conditions of the special use permit.
- (2) There have been no substantiated violations of the special use permit conditions.
- (3) There are no changes proposed or anticipated in the operation of the use involved.
- (4) The director has concluded that no new conditions, including conditions generally required of such use at the time application is made, and no amendments to existing conditions are necessary.
- (5) Following notice of the application in a newspaper of general circulation in the city, no person has requested the director to forward the application to city council.

Where the director approves an application under this section 11-503(F), sections 11-503(A) through (E) shall not apply to the application. However, where such application is not approved by the director, it shall be subject to the same procedural requirements of any other application for a special use permit. The director is authorized to issue regulations governing administrative approvals issued under this section 11-503(F).

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Considerations on review.

- (A) The city council may approve the application, provided all regulations and provisions of law have been complied with, if it finds that the use for which the permit is sought:
 - (1) Will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use;
 - (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
 - (3) Will substantially conform to the master plan of the city.
- (B) In reviewing the application, the city council may take into consideration the following factors where it determines that such factors are relevant and such consideration appropriate:
 - (1) Whether the proposed use will adversely affect the safety of the motoring public and of pedestrians using the facility and the area immediately surrounding the site.

- (2) Whether the glare of vehicular and stationary lights will affect the established character of the neighborhood, and to the extent such lights will be visible from any residential zone, whether measures to shield or direct such lights so as to eliminate or mitigate such glare are proposed.
- (3) Whether the street size and pavement width in the vicinity is or will be adequate for traffic reasonably expected to be generated by the proposed use.
- (4) Whether the location and type of signs and the relationship of signs to traffic-control is appropriate for the site and whether such signs will have an adverse effect on any adjacent properties.
- (5) Whether adequate access roads or entrance or exit drives will be provided and will be designed so as to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- (6) Whether the proposed use will adequately provide for safety from fire hazards, and have effective measures of fire control.
- (7) Whether the proposed use will increase the hazard to adjacent property from flood, increased runoff or water damage.
- (8) Notwithstanding any other provisions of the city code, whether the proposed use will have noise characteristics that exceed the sound levels that are typical of permitted uses in the zone.
- (9) Whether the proposed use will interfere with any easements, roadways, rail lines, utilities and public or private right-of-way.
- (10) Whether the proposed use will have any substantial or undue adverse effect upon, or will lack amenity or will be incompatible with, the use or enjoyment of adjacent and surrounding property, the character of the neighborhood, traffic conditions, parking, utility facilities, and other matters affecting the public health, safety and general welfare.
- (11) Whether the proposed use will be constructed, arranged and operated so as not to dominate the immediate vicinity or to interfere with the development and use of neighboring property in accordance with the applicable zone regulations. In

determining whether the proposed use will so dominate the immediate neighborhood, consideration may be given to:

- (a) The location, nature, height, mass and scale of buildings, structures, walls, and fences on the site; and
 - (b) The nature and extent of landscaping and screening on the site.
- (12) Whether the proposed use will destroy, damage, detrimentally change or interfere with the enjoyment and function of any significant topographic or physical features of the site.
 - (13) Whether the proposed use will result in the destruction, loss or damage of any natural, scenic or historic feature of significance.
 - (14) Whether the proposed use otherwise complies with all applicable regulations of this ordinance, including lot size requirements, bulk regulations, use limitations, and performance standards.
 - (15) Whether off-street parking and loading areas will be provided in accordance with the standards set out in Article VIII of this ordinance, and whether such areas will be screened from any adjoining residential uses and located so as to protect such residential uses from any injurious effect.
 - (16) Such other land use and land development considerations the city determines are appropriate and relevant to the application under review.

11-505 *Conditions and restrictions.* In approving a special use permit, the city council may impose any conditions and restrictions that it determines are necessary and desirable to ensure that the use will further those considerations enumerated in section 11-504. If imposed, such conditions shall become part of the legal requirements of the special use permit and violations of or failure to conform to such conditions shall constitute violations of this ordinance and constitute cause to revoke the permit.

11-506 *Duration of valid permit.*

- (A) *Revocation and suspension.* After notice and a public hearing, the city council may revoke or suspend any special use permit approved by it upon proof that the holder of the permit has failed to comply with any law, including, without limitation, the conditions subject to which the special use permit was granted.
- (B) *Termination of use.* A special use permit shall cease to be valid if the use for which such permit is granted is not operated for a continuous period of two years or more.