

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

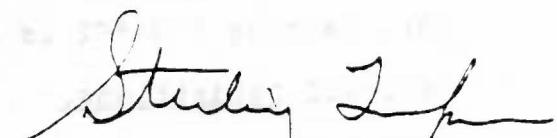
October 11, 1977

D.C. LAW 2-23

"Soil Erosion and Sedimentation  
Control Act of 1977"

Pursuant to Section 412 of the District of Columbia  
Self-Government and Governmental Reorganization Act (PL 93-198),  
the Act, the Council of the District of Columbia adopted Bill  
No. 2-81 on first and second readings May 31, 1977, and  
June 14, 1977, respectively. Following the signature of the  
Mayor on July 11, 1977, this legislation was assigned Act  
No. 2-54, published in the July 22, 1977, edition of the  
D.C. Register, and transmitted to both Houses of Congress for  
a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby  
gives notice that the 30-day Congressional Review Period has  
expired and, therefore, cites the following legislation as  
D. C. Law 2-23, effective September 28, 1977.



STERLING TUCKER  
Chairman of the Council

D.C. LAW

2-23

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 28, 1977

To regulate land disturbing activities to prevent accelerated soil erosion and sedimentation and to prevent sediment deposit in the Potomac River and its tributaries, including the sewer system of the District of Columbia, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,  
That this act may be cited as the "Soil Erosion and Sedimentation Control Act of 1977".

Sec. 2. Part 8, Chapter 2 or Title 8 of the District of Columbia Health Regulations, codified in July 1965 is amended as follows:

(a) Section 8-2:801 is amended by inserting ", to regulate land disturbing activities, to prevent accelerated soil erosion and sedimentation, and to prevent sediment deposit in the Potomac River and its tributaries, including the sewer system of the District of Columbia," after the words "and its tributaries";

(b) Section 8-2:802 is amended to read as follows:

"8:2:802 Definitions.

"(a) Erosion - the process by which the ground surface is worn away by the action of wind and/or water.

"(b) Erosion and Sedimentation Control Standards and Specifications - the written procedures, requirements or plans to control erosion and sedimentation as officially adopted by the Department of Environmental Services of the District of Columbia pursuant to this regulation.

"(c) Excavation or Cut - an act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and the conditions resulting therefrom.

"(d) Grading - any stripping, excavating, stockpiling, or any combination thereof, including the conditions resulting therefrom.

"(e) Land Disturbing Activity - any earth movement or land change which may result in soil erosion from water or wind and the movement of sediments in the District of Columbia, including, but not limited to stripping, grading, excavating, transporting and filling of land, construction or demolition of buildings or structures, except that the term does not include: (1) such minor land disturbing activities as home gardening and individual home landscaping, repairs, and maintenance work; (2) single family dwelling utility service connections and construction thereof or utility construction where the excavated material is removed from the job site; (3) tilling, planting, or harvesting of agricultural or horticultural crops; (4)

installation of fence and sign posts or poles; (5) 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 sedimentation control plan if the activity were not an emergency, then the land disturbed shall be shaped and stabilized in accordance with the requirements of the Department of Environmental Services; and (6) work engaged in by the Federal Government or on Federal property.

"(f) Landfilling - any act by which soil is deposited, placed, or pushed where it had not previously been located.

"(g) Permit Applicant - the lawful owner of any property where a soil disturbing activity is to take place, or the lawful owner's designated representative who applies to the Department of Economic Development for a building permit. When work is to be done under contract the lawful owner of the property is responsible for securing the building permit.

"(h) Permittee - the lawful owner of any property where a soil disturbing activity is to take place, or the lawful owner's designated representative who has been granted a building permit by the Department of Economic Development.

"(i) Person - any individual, partnership, firm, association, joint venture, public or private corporation,

trust, estate, commission, board, public or private institution, cooperative, or any other legal entity.

"(j) Sedimentation - the deposit of or transportation of soil from one place to another as a result of an erosion process.

"(k) Soil - all earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

"(l) Soil Erosion and Sedimentation Control Plan - a document to be prepared by a permit applicant and submitted to the Department of Environmental Services for approval before a building permit can be issued by the Department of Economic Development.

"(m) Stripping - any activity which removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and root mat, and top soil removal."

(c) Section 8-2:803 is amended to read as follows:

"8-2:803 Erosion and Sedimentation Control Standards and Specifications.

"(a) The Department of Environmental Services shall establish minimum standards and specifications for the effective control of soil erosion, sediment deposition, and

non-agricultural runoff in the District of Columbia. The adoption and publication of these standards and specifications shall be preceded by a public hearing held in accordance with the provisions of the Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Code, sec. 1-1509). These standards and specifications may be revised from time to time as may be necessary, using the same notice and hearing requirements as necessary for the original approval.

"(b) These standards and specifications shall:

"(1) be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the District of Columbia, including but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

"(2) include such survey of lands and waters as the Department of Environmental Services may deem appropriate or as may be required by an applicable law to identify areas with critical erosion and sediment problems; and

"(3) contain conservation standards for various types of soil and land use including criteria, techniques and methods for the control of erosion and sediment

resulting from land disturbing activities. These standards shall be intended to protect adjoining properties from damage from soil erosion.

"(c) The erosion and sedimentation control standards and specifications shall be made available for public inspection in the Office of the Flooding and Erosion Control Section of the Department of Environmental Services."

(d) Section 8-2-804 is amended to read as follows:

"8-2-804 Regulation of Land Disturbing Activities.

"(a) As specified by section 107.1(2) of the Second Amendment to the 1972 Building Code of the District of Columbia, no person may engage in any land disturbing activity on any property within the District of Columbia until he or she has secured a building permit from the Department of Economic Development. The approval of this permit shall be conditioned upon the submission by the permit applicant of an erosion and sedimentation control plan which has been reviewed and approved by the Department of Environmental Services.

"(b) The Department of Environmental Services shall establish and have published in the District of Columbia Register guidelines for the information and documents to be included in an erosion and sedimentation control plan. These guidelines should require that the plan contain

provisions for controlling erosion both while the land disturbing activity is under way and after its completion. The guidelines should also specify the general qualifications necessary for persons preparing the plans.

"(c) The Department of Environmental Services shall approve in writing any erosion and sedimentation control plan submitted by a permit applicant if the Department of Environmental Services determines that the plan meets the erosion and sedimentation control standards and specifications and the permit applicant has certified in writing that he or she will implement the control measures specified in the plan.

"(d) When a plan submitted for approval under this section is found, upon review by the Department of Environmental Services, to be inadequate to control soil erosion and sedimentation, the Department of Environmental Services shall disapprove the plan. In such a case, the Department of Environmental Services shall notify the permit applicant in writing, providing the specific reasons for its disapproval of the plan. The Department of Environmental Services may also suggest modifications, terms and conditions as will permit the approval of the plan if the permit applicant desires to resubmit the plan to the Department of Environmental Services. When a plan is

disapproved by the Department of Environmental Services, the permit applicant has the right to appeal this decision as provided for in section 8-2:807 of this regulation.

"(e) Changes to an approved plan may be granted by the Department of Environmental Services where:

"(1) an inspection during construction has revealed the inadequacy of the plan to accomplish the erosion and sedimentation control objectives of the plan and appropriate modifications to correct the deficiencies of the plan are agreed to by the Department of Environmental Services and the permittee; or

"(2) the permittee finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out and the proposed amendments to the plan are consistent with the requirements of this regulation and are agreed to by the Department of Environmental Services and the permittee.

"(f) All District of Columbia agencies engaged in land disturbing activities shall develop soil erosion and sedimentation control standards and specifications consistent with those approved by the Department of Environmental Services. These standards and specifications shall be submitted to and approved by the Department of Environmental Services if adequate to prevent accelerated

soil erosion and sedimentation from the agency's soil disturbing activities in the District. Once the standards and specifications are approved all land disturbing activities carried out by the agency shall conform to its standards and specifications. All contracts signed by an agency involving a land disturbing activity shall require that the work be done in conformance with the agency's standards and specifications. Each agency shall monitor all such work to insure compliance with its standards. In addition, the Department of Environmental Services is authorized to inspect the sites where such land disturbing work is being conducted to insure compliance with the applicable standards."

(e) Section 8-2:805 is amended to read as follows:

"8-2:805 Correction of Current Erosion Problems.

"In instances where erosion is occurring as the result of natural forces or past land disturbing activities, but in the absence of current land disturbing activities, the Department of Environmental Services shall have the authority to inspect the site and to issue orders to the property owner to correct the erosion problem. Such orders shall specify the general corrective measures to be applied. In the event that the problem requires land disturbance for its correction, the owner shall obtain a building permit as

required in section 8-2:804 of this regulation. The Department of Environmental Services shall maintain and provide to homeowners who are required to correct erosion problems information relating to possible sources of financial assistance for the project."

(f) Section 8-2:806 is amended to read as follows:

"8-2:806 Monitoring, Reports and Inspection.

"In accordance with section 104 of the Second Amendment to the 1972 Building Code of the District of Columbia, the Department of Environmental Services shall conduct periodic inspections of the land disturbing activity to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation resulting from the land disturbing activity. The permittee shall be given the opportunity to accompany the inspectors. The permittee shall be responsible for notifying the Department of Environmental Services within two (2) weeks after completion that the land disturbing activity has been completed. Not later than four (4) weeks after receiving this notice, the Department of Environmental Services shall make a final inspection. If on final inspection or during any interim inspection, the Department of Environmental Services determines that the permittee has failed to comply with the

plan, the Department of Environmental Services shall immediately serve upon the permittee, by registered or certified mail to the address specified by the permittee in his or her permit application, a notice to comply with the plan. The notice shall set forth specifically the measures needed to come into compliance with the plan and shall specify the time within which these measures must be completed. If the permittee fails to comply within the time specified, he or she shall be subject to the revocation of his or her permit or shall be denied an occupancy permit by the Department of Economic Development. Furthermore, the permittee shall be deemed to be in violation of this regulation and of the Second Amendment to the 1972 Building Code of the District of Columbia and upon conviction shall be subject to the penalties provided herein."

(g) Section 8-2:807 is amended to read as follows:

\*8-2:807 Appeals.

"Final decisions of the Department of Environmental Services shall be subject to review by the Board of Appeals and Review, provided an appeal is filed within thirty (30) days from the date of a written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land disturbing activities."

(h) Section 8-2:808 is amended to read as follows:

"Section 3-2:808 Penalties, Injunctions, and Other Legal Action.

"(a) A violation under this regulation shall be deemed a misdemeanor. Any person who violates or fails to comply with any provision or requirement of this regulation or the amendments or orders promulgated under the regulation shall upon conviction be punished by a fine not to exceed three hundred dollars (\$300) or imprisonment not to exceed ten (10) days or both, for each violation or failure to comply. In the event of a violation or failure to comply with these regulations after a notice of the violation has been served by the Department of Environmental Services, each and every day such violation exists beyond the time limit set for compliance shall constitute a separate offense and the penalties herein prescribed shall be applicable to each separate offense.

"(b) The Department of Environmental Services may apply to the Superior Court of the District of Columbia for injunctive relief to enjoin a violation or threatened violation under this regulation without the necessity of showing that there does not exist an adequate remedy at law.

"(c) Neither the issuance of a permit under the provisions of this regulation nor the compliance with its provisions or with any condition imposed by a government

official hereunder shall relieve any person of any responsibility for damage to persons or property resulting from the issuance of the permit, or as otherwise imposed by law, nor impose any liability upon the District of Columbia for damages to persons or property."

(i) Section 8-2:809 is deleted.

Sec. 3. Section 510 of an "Act to establish a code of law for the District of Columbia", approved March 3, 1901 (31 Stat. 1269; D.C. Code, sec. 45-308) is amended by designating the present paragraph as subsections (a) and by adding a new subsection (b) to read as follows:

"(b) All contracts drawn for the purpose of conveying real property in the District of Columbia shall contain the following information:

"(1) The characteristic of the soil on the property in question as described by the Soil Conservation Service of the United States Department of Agriculture in the Soil Survey of the District of Columbia published in 1976 and as shown on the Soil Maps of the District of Columbia at the back of that publication; and

"(2) A notation that for further information the buyer can contact a soil testing laboratory, the District of Columbia Department of Environmental Services or the Soil Conservation Service of the Department of Agriculture."

Sec. 4. The Second Amendment to the 1972 Building Code of the District of Columbia is amended by:

(a) inserting the words "for controlling soil erosion and sedimentation resulting from" in section 100.10 (3) after the word "Plans" and deleting the word "for";

(b) deleting "and land disturbing activities conditioned on measures taken for the protection of adjoining property" in section 107.1 (2); inserting the words "land disturbing activities;" after the words "article 13" and inserting a comma after the word "buildings"; and

(c) deleting ", such as stripping of top soil, excavation of rock, clay, sand or gravel, or other site preparation activities undertaken" in section 1306.1(3).

Sec. 5. Each separate provision of this act shall be deemed independent of any other provisions of this act and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this act or their application to other parts or circumstances. It is hereby declared to be the legislative intent that this act would have been enacted if such illegal, invalid, or unconstitutional provision,

sentence, clause, section, or part had not been included therein and if the person or circumstances to which this act or any part thereof is inapplicable had been specifically exempted therefrom.

Sec. 6. (a) The Department of Environmental Services shall prepare and publish the Erosion and Sedimentation Control Standards and Specifications and the guidelines for plan submission required under section 2(b) of this act within ninety (90) days of the effective date of this act.

(b) All District of Columbia agencies required to develop soil erosion and sedimentation control standards and specifications under section 2(b) of this act, shall do so within one hundred and eighty (180) days of the effective date of this act.

Sec. 7. This act shall take effect as provided in section 602(c) of the District of Columbia Self-Government and Governmental Reorganization Act.

RECORD OF OFFICIAL COUNCIL ACTION

Docket No: 2-81

First Reading Action: May 31, 1977

VOICE VOTE: Adopted Unanimously (3 abs.) Barry, Dixon, Hardy

*Julia Wilson*  
Secretary to the Council

ROLL CALL VOTE:

| COUNCIL MEMBER | VOTE |
|----------------|------|----------------|------|----------------|------|----------------|------|
| TUCKER         |      | MASON          |      | SPAUULDING     |      |                |      |
| HARDY          |      | MOORE, D.      |      | WILSON         |      |                |      |
| BARRY          |      | MOORE, J.      |      | WINTER         |      |                |      |
| CLARKE         |      | ROLAKS         |      |                |      |                |      |
| DEXON          |      | SACCLETON      |      |                |      |                |      |

Unanimous Vote A. B. Dixon N. V. Hardy

Secretary to the Council

Amended First Reading Action: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Secretary to the Council

ROLL CALL VOTE:

| COUNCIL MEMBER | VOTE |
|----------------|------|----------------|------|----------------|------|----------------|------|
| TUCKER         |      | MASON          |      | SPAUULDING     |      |                |      |
| HARDY          |      | MOORE, D.      |      | WILSON         |      |                |      |
| BARRY          |      | MOORE, J.      |      | WINTER         |      |                |      |
| CLARKE         |      | ROLAKS         |      |                |      |                |      |
| DEXON          |      | SACCLETON      |      |                |      |                |      |

Unanimous Vote A. B. Dixon N. V. Hardy

Secretary to the Council

Final Reading or Emergency Action: June 14, 1977

VOICE VOTE: Adopted Unanimously (2 abs.) Spaulding, D Moore

*Julia Wilson*  
Secretary to the Council

ROLL CALL VOTE:

| COUNCIL MEMBER | VOTE |
|----------------|------|----------------|------|----------------|------|----------------|------|
| TUCKER         |      | MASON          |      | SPAUULDING     |      |                |      |
| HARDY          |      | MOORE, D.      |      | WILSON         |      |                |      |
| BARRY          |      | MOORE, J.      |      | WINTER         |      |                |      |
| CLARKE         |      | ROLAKS         |      |                |      |                |      |
| DEXON          |      | SACCLETON      |      |                |      |                |      |

Unanimous Vote A. B. Dixon N. V. Hardy

Secretary to the Council

## RECORD OF OFFICIAL COUNCIL ACTION (Page 2)

Docket No: 2-81Presented to the Mayor: 6/24/77*R. L. Wilson*

Secretary to the Council

Action of the Mayor: 11 JUL 1977

Approved:  Disapproved;  
 Disapproved in part -- Reference  
 Document: \_\_\_\_\_  
 \*Budget Actions.

 Returned Without Action
  
 Mayor of the District of Columbia 11 JUL 1977

Executive Secretary, D. C.

Enacted without Mayor's Signature

Secretary to the Council

Council Reenactment:

 VOICE VOTE:

Secretary to the Council

 ROLL CALL VOTE:

| COUNCIL MEMBER                                       | STATE | WAT | NAME      | COUNCIL MEMBER | STATE | WAT | NAME     | COUNCIL MEMBER | STATE | WAT | NAME |
|--|-------|-----|-----------|----------------|-------|-----|----------|----------------|-------|-----|------|
| TUCKER   |       |     | MASON     |                |       |     | SPALDING |                |       |     |      |
| HARDY  |       |     | MOORE, D. |                |       |     | WILSON   |                |       |     |      |
| BARRY  |       |     | MOORE, L. |                |       |     | WINTER   |                |       |     |      |
| CLARKE   |       |     | ROLARK    |                |       |     |          |                |       |     |      |
| DIXON  |       |     | SACKETT   |                |       |     |          |                |       |     |      |
| Enacted Votes      A. Absences      N. Voted Against |       |     |           |                |       |     |          |                |       |     |      |

Secretary to the Council

Presented to the President:

Secretary to the Council

Action of the President:

- Reenactment Approved  
 Mayor's Veto Sustained

President of the U. S.

Submitted to the Congress:

Secretary to the Council

Senate Action:

House Action:

Resolution Number:

Resolution Number:

Secretary of the Senate

Clerk of the House

Enacted Without Congressional Action:

D. C. Law No.                    Effective Date                   

Secretary to the Council