

ORDINANCE NO. 2023-XX

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH AMENDING CHAPTER XXIV ZONING AND LAND DEVELOPMENT ARTICLE XII ENVIRONMENTAL REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, TO CREATE A NEW SECTION 24-140 ENTITLED “SEDIMENT AND EROSION CONTROL” TO ESTABLISH SOIL EROSION AND SEDIMENTATION CONTROL AS AN ONGOING PRIORITY AND SHALL ESTABLISH SOIL EROSION AND SEDIMENTATION CONTROL FEES FOR MAINTENANCE AND REPAIR OF DRAINAGE STRUCTURES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, sedimentation is the process by which eroded soil is deposited into water bodies or onto land surfaces; and

WHEREAS, sediment that erodes from exposed areas accumulates in lakes, natural watercourses, and on adjoining properties; and

WHEREAS, when sediment travels into water bodies, it can harm aquatic life, increase turbidity, and restrict the amount of sunlight reaching aquatic plants, endangering water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species; and

WHEREAS, sediment can also decrease the storage volume of water bodies and clog sewer storm drains which can increase the potential of flooding; and

WHEREAS, Best Management Practices (BMPs) can be used to control erosion and prevent off-site sedimentation, thus reducing water pollution due to sedimentation; and

WHEREAS, the City of North Miami Beach will establish soil erosion and sedimentation control as an ongoing priority and shall establish soil erosion and sedimentation control fees for maintenance and repair of drainage structures and other City properties to be levied; and

WHEREAS, the City Commission of the City of North Miami Beach finds that it is in the best interests of its residents to adopt this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Commission of the City of North Miami Beach, Florida:

Section 1. That the recitals and finding contained in the forgoing “whereas” clauses are adopted by reference and incorporated as if fully set forth in this section.

Section 2. That Chapter XXIV of the Code of Ordinances is amended to create a new section as follows (*deletions and additions are identified using a strike-through and underline format, respectively*):

Section 24-140 - Sediment and Erosion Control

- (A) Purpose. The purpose of this section is to establish soil erosion and sedimentation control as an ongoing priority and shall establish soil erosion and sedimentation control fees for maintenance and repair of drainage structures and other City properties to be levied against certain owners, occupants, developers, contractors and subcontractors of real property within the City of North Miami Beach from whose property eroded soil and sediment have escaped and caused maintenance or repairs to be performed by the City of North Miami Beach on drainage structures or other City-owned properties..

Section 24-140.1. Declaration of Public Nuisance

Sediment that erodes from exposed areas accumulates in lakes, natural watercourses, and on adjoining properties. When sediment travels into water bodies, it can harm aquatic life, increase turbidity, and restrict the amount of sunlight reaching aquatic plants, endangering water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species; and can also decrease the storage volume of water bodies and clog sewer storm drains which can increase the potential of flooding.

Sec. 24-140.2 Minimum Requirements

- a. General provisions: Soil erosion and sediment control measures taken shall conform to the requirements of this division. The application of such measures shall apply to all features of a landowner's property, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed by landowners, occupants, developers, contractors, and subcontractors to prevent soil erosion and sediment encroachments on City drainage structures, or into any lakes or watercourses.
- b. Requirements: All landowners, occupants, developers, contractors, and subcontractors shall follow sound conservation and engineering practices to prevent soil erosion and resulting sedimentation in any drainage structure, lake or watercourse consisting of the following requirements:
1. Stripping of vegetation, grading, regrading and other development activities shall be conducted in a manner so as to eliminate erosion.
 2. Cut-fill operations must be kept to a minimum.
 3. Development plans must conform to topography and soil type so as to eliminate erosion and sedimentation encroachment.
 4. Natural vegetation shall be retained, protected and supplemented whenever feasible.
 5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practical minimum.
 6. Disturbed soil shall be stabilized.
 7. Temporary vegetation or other stabilization means shall be employed to protect

- exposed critical areas during development.
8. Permanent vegetative erosion and sediment control measures as well as structural erosion and sedimentation control measures shall be installed prior to final inspection approval or issuance of a certificate of occupancy.
 9. To the extent necessary, sediment and runoff water from a drainage area must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the drainage area is stabilized.
 10. Adequate provision must be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills or to any grading.
 11. Cuts and fills may not endanger or result in soil erosion onto adjoining property, lakes or watercourses.
 12. Fills shall not encroach upon lakes, natural watercourses or constructed channels.
 13. All land development activities shall include provision for control or treatment of any source of sediments and adequate sedimentation control facilities to retain sediments onsite or preclude eroded soil and sedimentation encroachment on drainage structures.
- c. Conforms to Miami-Dade County construction permit requirements. Appropriate permits shall be obtained from Miami-Dade County for all projects within the City of North Miami Beach.

Sec. 24-140.3 Inspection and Enforcement

- a. The City of North Miami Beach shall periodically inspect the City's drainage structures and properties for evidence of eroded soil and sedimentation. If, through inspection, it is determined that any property has contributed eroded soil and sedimentation to drainage structures, lakes, watercourses or properties of the City or other properties, a written notice of this determination shall be served to the landowner, occupant, developer, contractor or subcontractor of such property. The notice shall require the measures which the landowner, occupant, developer, contractor or subcontractor must take to remove soil and sediment from streets and sidewalks and shall expressly prohibit such persons or entities from removing or attempting to remove soil and sediment from storm drains.
- b. The City of North Miami Beach manager or his designee shall have the power to conduct such investigations as may reasonably be deemed necessary in order to carry out the duties as prescribed in this division, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the site.
- c. No person shall refuse entry or access to any authorized representative or agent of the City of North Miami Beach who requests entry for the purposes of inspection, and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with any such representative while in process of carrying out his official duties.

Sec. 24-140.4 Authority for Soil Erosion and Sedimentation Clean-Up Fees

The City of North Miami Beach is empowered by this ordinance to establish charges for the cost of maintenance, repair and cleanup to the City's drainage structures or other City properties resulting from eroded soil and sedimentation encroachment. Such charges shall be based on the cost incurred by the City in cleaning up the drainage structures or other City properties within the City and may vary in amount, depending upon circumstances, including inspection and administrative fees, and overhead costs.

Sec. 24-140.5 Fees, Liens and Penalties

- a. Fees: Any landowner, occupant, developer, contractor or subcontractor of property from which eroded soil or sedimentation escapes and encroaches onto City of North Miami Beach owned drainage structures or other City properties shall pay a maintenance, repair or clean-up fee to be established by the City. The City shall have a lien against such property for costs of maintenance, repair, or clean-up, effective as of the date of the eroded soil or sedimentation encroachment onto any City drainage structure of other City properties. The landowner, occupant, developer, contractor, or subcontractor shall pay the established fee within 30 days after receipt of a bill from the City in such an amount. The lien for nonpayment of the fee shall be superior to all other liens, except a lien for nonpayment of ad valorem taxes. Enforcement and foreclosure of such lien shall be as provided by law. The City shall be entitled to collect reasonable attorney's fees from any fee payer for services rendered by the City's attorney in collection of such charges, or in the institution of prosecution of any foreclosure proceedings.
- b. Penalties: Any landowner, occupant, developer, contractor, or subcontractor of property violating shall be subject to the jurisdiction of the code enforcement board. Additionally, the City of North Miami Beach may withhold a certificate of occupancy or final inspection or may ask the building official to intercede and issue a "stop work" order under the provisions of the City building code until such violation ceases and the provisions of this division are complied with.

Section 3. All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict.

Section 4. If any clause, section, other part or application of this Ordinance is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Ordinance.

Section 5. It is the intention of the City Commission of the City of North Miami Beach, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section," "Article," or other word as the codified may deem appropriate.

Section 6. Effective Date. This Ordinance shall become effective ten (10) days after adoption on second reading.

APPROVED on the first reading this ____ **day of May 2023.**

APPROVED AND ADOPTED on second reading this ____ **day of _____ 2023.**

ATTEST:

ANDRISE BERNARD, MMC
CITY CLERK

(CITY SEAL)

ANTHONY F. DEFILLIPO
MAYOR

APPROVED AS TO FORM, LANGUAGE
AND FOR EXECUTION

JOHN HERIN
CITY ATTORNEY