

ARLINGTON COUNTY CODE

Chapter 47

DEFERRED COMPENSATION PLAN*

* **Editors Note:** Ordinance No. 97-17, adopted July 19, 1997, repealed chapter 47 and added a new chapter 47 as herein set out. Formerly, such chapter pertained to similar provisions and derived from 12-9-80; 6-20-81; Ord. No. 82-28, § 1, 7-1-82; Ord. No. 86-20, 6-28-86; Ord. No. 88-21, 1-1-89.

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ARTICLE I.

ESTABLISHMENT AND EXECUTION OF PLAN

§ 47-1.1. Establishment of pPlan.

Pursuant to the Government Employees Deferred Compensation Plan Act, ~~Section-§§~~ 51.1-600 et seq., of the Code of Virginia (1950), as amended, Arlington County hereby adopts and establishes a plan of deferred compensation for persons providing services, as defined in ~~Section-§~~ 47-1.2 below, to Arlington County. The purpose of the plan shall be to provide for the deferral of compensation of the participants. The plan shall exist in addition to all other retirement, pension or other benefit systems available to the participants, and shall not supersede, make inoperative or reduce any benefits provided by any other retirement, pension, or benefit program established by law.

(Ord. No. 97-17, 7-19-97)

§ 47-1.2. Persons pProviding sServices dDefined.

For purposes of this eChapter, persons providing services to Arlington County shall mean any person regularly employed in the competitive service of Arlington County and also includes eCounty bBoard mMembers, the eClerk to the eCounty bBoard and the eClerk's employees, the Virginia Constitutional Offices of the eCommissioner of the rRevenue, tTreasurer, sSheriff, eClerk of the eCircuit eCourt, and eCommonwealth's

~~a~~Attorney for Arlington County, and their employees, the Office of the County Attorney and its employees, the County Manager, the ~~e~~Office of the ~~r~~Registrar of ~~v~~Voters and its employees, the employees of the Arlington County Employees' Supplemental Retirement System, and persons employed in or by the Circuit Court of Arlington County, the General District Court of Arlington County, and the Juvenile and Domestic Relations Court of Arlington County, but shall not include seasonal or temporary employees, or state employees.
(Ord. No. 97-17, 7-19-97)

§ 47-~~1~~3. Execution and ~~d~~Delivery of ~~p~~Plan.

On behalf of the County Board, the County Manager is hereby authorized and directed to execute and deliver the plan to the Deferred Compensation Committee, as defined in ~~Sections 47-2.4 §§ 47-7 and 47-2.5 47-8~~ below, for administration in accordance with this ~~C~~chapter. The plan shall contain such terms and amendments as the County Manager may from time to time approve, such approval to be conclusively evidenced by his execution thereof. No plan shall be implemented which does not meet all of the requirements and standards set forth in the Government Employees Deferred Compensation Plan Act. The County Manager, on behalf of the County Board, may contract for services in connection with a plan of deferred compensation.
(Ord. No. 97-17, 7-19-97)

ARTICLE II.

OPERATION OF PLAN

§ 47-~~42~~1. Establishment of ~~t~~Trust.

The assets resulting from compensation deferred at the request of persons providing services to Arlington County for the implementation of such plan shall be held in trust (as defined in ~~Section §~~ 457(g) of the Internal Revenue Code) for the exclusive benefit of participants and beneficiaries. The County Manager or his designee(s) shall be the trustee(s) of any such trust.
(Ord. No. 97-17, 7-19-97)

§ 47-~~52~~2. Loan ~~p~~Provisions.

The County Manager may institute a program permitting loans to participants in the plan from the participants' own plan accounts, under terms and conditions established by the County Manager and consistent with the Internal Revenue Code.
(Ord. No. 97-17, 7-19-97)

§ 47-~~62~~3. No ~~a~~Affect on ~~p~~Prior ~~e~~Contract.

Any plan, participation agreement, or contract providing for deferred compensation for persons providing services to Arlington County in existence as of the date of this ordinance shall be effective unless amended or changed in accordance with this ~~C~~chapter.
(Ord. No. 97-17, 7-19-97)

§ 47-~~72~~4. Creation of Deferred Compensation Committee to ~~a~~Administer ~~p~~Plan.

There is hereby created a Deferred Compensation Committee of not fewer than five (5) members to hold office for an indefinite term, to be appointed by the County Manager and to serve at his pleasure. Any persons serving on such Committee as of the date of this ordinance shall continue to serve under the terms and conditions contained in this ~~C~~chapter.
(Ord. No. 97-17, 7-19-97)

§ 47-~~82~~5. Powers of Deferred Compensation Committee.

The Deferred Compensation Committee is hereby granted the power to do all things by way of supervision, administration and implementation of a plan of deferred compensation, provided however, that nothing contained in

this section shall be construed to authorize the Deferred Compensation Committee to act beyond the limits of the plan or act contrary to law.
(Ord. No. 97-17, 7-19-97)

ARTICLE III.

MISCELLANEOUS

| § 47-~~93~~.1. Retirement ~~s~~System ~~i~~Integration.

Benefits payable by, and deductions for employee contributions to, any retirement system of the employer shall be computed without reference to amounts deferred pursuant to this deferred compensation plan and shall instead be based upon the compensation the participant would receive if he or she had not elected to defer compensation under this plan or to make contributions under any Internal Revenue Service Code ~~Section §~~ 403(b) tax deferred annuity.
(Ord. No. 97-17, 7-19-97)

| § 47-~~103~~.2. Amendment.

This plan and any contracts or plans entered into pursuant to this ~~C~~chapter may be amended or terminated by the employer at any time. No amendment or termination of the plan shall reduce or impair the rights of any participant or beneficiary which have already vested.
(Ord. No. 97-17, 7-19-97)

| § 47-~~113~~.3. Assignment.

A participant may not assign, transfer, sell, hypothecate or otherwise dispose of any or all of his or her participation account or any right which he or she may have under the plan, and any attempt to do so shall be null and void, except as permitted by any plan entered into pursuant to this ~~A~~article.
(Ord. No. 97-17, 7-19-97)

| § 47-~~123~~.4. Employment.

Participation in the plan shall not be construed as giving any participant any right to continue his or her employment with the employer.
(Ord. No. 97-17, 7-19-97)

| § 47-~~133~~.5. Successors and ~~a~~Assigns.

The plan shall be binding upon and shall inure to the benefit of the employer, its successors and assigns, all participants and beneficiaries and their heirs and legal representatives.
(Ord. No. 97-17, 7-19-97)

| § 47-~~143~~.6. Controlling ~~H~~Law.

This plan is created and shall be interpreted under the laws of the Commonwealth of Virginia and any ordinance of Arlington County which shall exist at the time any dispute or issue is raised.
(Ord. No. 97-17, 7-19-97)

ARLINGTON COUNTY CODE

Chapter 48

FLOODPLAIN MANAGEMENT

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ARTICLE I.

IN GENERAL

§ 48-~~1.1~~. Title.

This chapter shall be known as the "Floodplain Ordinance of Arlington County, Virginia."
 (9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-~~1.2~~. Purpose.

The specific purpose of these provisions are:

~~(a)A.~~ ~~The To~~ regulate the subdivision and/or development of flood-prone areas in order to promote the general health, welfare, and safety of the community;

~~(b)B.~~ To encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future;

~~(c)C.~~ To minimize danger to public health and safety by protecting public utilities and the natural drainage; and,

~~(d)D.~~ To reduce financial burdens imposed on the community, its governmental units and its residents, by preventing the inadequate design and construction of development in areas subject to flooding.
 (9-24-77)

§ 48-~~1.3~~. Regulations ~~r~~Required.

The floodplain management regulations in this section are hereby adopted with the intention of meeting the requirements of ~~Section-§~~ 60.3D of the National Flood Insurance Program Regulations (44 Federal Register 31177, May 31, 1979).
 (9-24-77; Ord. No. 82-10, 4-24-82; Ord. No. 91-43, 12-7-91)

§ 48-1.4. Conflict of eChapter.

In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter which established a less stringent standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail; and such other provisions are hereby declared to be repealed to the extent that they may be found in conflict with this chapter. (9-24-77)

§ 48-1.5. Application of Chapter.

~~(a)~~A. Any development in the floodplain district shall adhere to the provisions of this eChapter.

~~(b)~~B. All structures for which a building permit has been issued and all site plans and subdivisions of land which have been approved before the effective date of this eChapter and which have not expired may be completed without the necessity of complying with this eChapter, but after completion, any building or structure and the land on which it is situated shall be subject to all the provisions of this eChapter. (9-24-77; Ord. No. 91-43, 12-7-91)

ARTICLE II.

DEFINITIONS*

* **Editors Note:** Ord. No. 91-43, adopted Dec. 7, 1991, amended former Art. II, §§ 48-2.1--48-2.15, in its entirety to read as herein set out. The provisions of former Art. II pertained to definitions and derived from an ordinance adopted Sept. 24, 1977 and Ord. No. 82-10, enacted April 24, 1982.

§ 48-~~62~~-1. Base fFlood.

"Base flood" means ~~T~~the flood which has been selected to serve as a basis upon which the floodplain management provisions of this eChapter and other ordinances shall apply/shall be the one hundred-year flood as defined below. (Ord. No. 91-43, 12-7-91)

§ 48-~~72~~-2. Base fFlood eElevation.

~~The "bBase flood elevation" is that means the~~ elevation associated with the one hundred-year flood as indicated in the Federal Emergency Management Agency (FEMA) Flood Insurance Study. For sites within the approximated floodplain, the base flood elevation shall be established as a point on the boundary of the approximated floodplain which is nearest to the site in question. (Ord. No. 91-43, 12-7-91)

§ 48-~~82~~-3. Development.

"Development" means ~~A~~any manmade change to improved or unimproved land, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of materials and equipment. (Ord. No. 91-43, 12-7-91)

§ 48-~~92~~-4. Director of eEnvironmental sServices.

"Director of Environmental Services" means ~~T~~the ~~d~~Director of the ~~d~~Department of eEnvironmental sServices, Arlington County, Virginia.

(Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~102~~.5. Elevation ~~e~~Certificate.

“Elevation certificate” means Aa certificate which shall be on a form prescribed by FEMA which includes elevation information necessary to document compliance with the Floodplain Ordinance. This certificate is required for each new or substantially improved residential structure. It may also be used for new or substantially improved nonresidential structures in situations where elevation rather than floodproofing is used to meet the requirements of the ~~f~~Floodplain ~~e~~Ordinance. The certificate is maintained as a public record by the ~~d~~Department of ~~e~~Environmental ~~s~~Services. Blank forms are available from the ~~d~~Department of ~~e~~Environmental ~~s~~Services.

(Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~112~~.6. Five ~~h~~Hundred-~~y~~Year ~~f~~Flood.

“Five hundred-year flood” means Aa flood that has one (1) chance in five hundred (500) or a ~~0.2~~ one-fifth percent (0.2%) chance of being equalled or exceeded in any year.

(Ord. No. 91-43, 12-7-91)

§ 48-~~122~~.7. Flood or ~~f~~Flooding.

“Flood” or “flooding” means Aa general and temporary condition of partial or complete inundation of normally dry land areas from:

~~(a)~~A. The overflow of inland or tidal waters; or

~~(b)~~B. The unusual and rapid accumulation of runoff of surface water from any source.

(Ord. No. 91-43, 12-7-91)

§ 48-~~132~~.8. Floodplain.

“Floodplain” means:

~~(+)~~A. A relatively flat or low-land area adjoining a river, stream, or watercourse which is subject to partial or complete inundation; or

~~(=)~~B. An area subject to the unusual and rapid accumulation of runoff of surface waters from any source.

(Ord. No. 91-43, 12-7-91)

§ 48-~~142~~.9. Floodproofing.

“Floodproofing” means Aany combination of structural and nonstructural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage to lands, public and private utilities, structures, and contents of buildings.

(Ord. No. 91-43, 12-7-91)

§ 48-~~152~~.10. Floodproofing ~~e~~Certificate.

“Floodproofing certificate” means Aa certification on a form provided by FEMA which includes information necessary to document compliance with the floodproofing provisions of the ~~f~~Floodplain ~~e~~Ordinance. The certification is required for each new or substantially improved nonresidential structure in the floodplain district, except in cases where elevation rather than floodproofing is used to meet the requirements of the ~~f~~Floodplain ~~e~~Ordinance. This certificate is maintained as a public record by the ~~d~~Department of ~~e~~Environmental ~~s~~Services.

(Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~162~~-11. Floodway.

"Floodway" means ~~T~~the designated area of the floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this ~~Ordinance~~ chapter, the floodway shall be capable of accommodating the magnitude of the one hundred-year flood.

(Ord. No. 91-43, 12-7-91)

§ 48-~~172~~-12. Historic ~~s~~Structure.

"Historic structure" means ~~A~~any structure that is:

~~(a)~~A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

~~(b)~~B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

~~(c)~~C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.

(Ord. No. 91-43, 12-7-91)

§ 48-~~182~~-13. Manufactured ~~h~~Home.

"Manufactured home" means ~~A~~a structure subject to ~~F~~federal regulations which is transportable in one (1) or more sections; has a body eight (8) feet or more in width and forty (40) feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on-site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation when connected to the required facilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(Ord. No. 91-43, 12-7-91)

§ 48-~~192~~-14. Mobile ~~h~~Home.

"Mobile home" means ~~A~~a transportable dwelling intended for permanent occupancy which is built on a permanent chassis and is constructed so it may be used without a permanent foundation, whether or not attached to a permanent foundation.

(Ord. No. 91-43, 12-7-91)

§ 48-~~20~~-15. New ~~e~~Construction.

"New construction" means ~~S~~structures for which "start of construction" as herein defined commenced on or after the effective date of this ~~C~~chapter. This term does not apply to any work on a structure existing before the effective date of this ~~C~~chapter.

(Ord. No. 91-43, 12-7-91)

§ 48-~~21~~-16. One ~~h~~Hundred-~~y~~Year ~~f~~Flood.

"One hundred-year flood" means ~~A~~a flood that has one (1) chance in one hundred (100) or a one percent (1%) ~~percent~~ chance of being equalled or exceeded in any year.

(Ord. No. 91-43, 12-7-91)

§ 48-~~22~~-17. Principally ~~a~~Above ~~g~~Ground.

"Principally above ground" means ~~Where~~ fifty percent (50%) ~~percent~~ or more of the actual cash value of a

structure, less land value, is above ground.
(Ord. No. 91-43, 12-7-91)

§ 48-23-18. **Recreational ~~v~~ehicle.**

“**Recreational vehicle**” means ~~A~~any self-propelled vehicle or vehicle without motive power designed for recreational camping, travel, or seasonal use and not for use as a mobile home which is built on a single chassis and contains four hundred (400) feet or less in surface area when measured at its largest horizontal projection.
(Ord. No. 91-43, 12-7-91)

§ 48-24-19. **Start of ~~e~~Construction.**

“**Start of construction**” means ~~T~~the first placement of any part of a permanent structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation.
(Ord. No. 91-43, 12-7-91)

§ 48-25-20. **Structure.**

“**Structure**” means, ~~F~~for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground and affixed to a permanent site.
(Ord. No. 91-43, 12-7-91)

§ 48-26-21. **Substantial ~~d~~amage.**

“**Substantial damage**” means ~~D~~damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) ~~percent~~ of the market value of the structure before the damage occurred.
(Ord. No. 91-43, 12-7-91)

§ 48-27-22. **Substantial ~~i~~mprovement.**

“**Substantial improvement**” means ~~A~~any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) ~~percent~~ of the market value of the structure before the start of construction of the improvement. The term substantial improvement shall refer to structures which have incurred substantial damage regardless of the value or actual cost of the actual repair work performed. The term does not, however, include either:

(~~1~~)**A.** ~~a~~Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(~~2~~)**B.** ~~a~~Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued status as a historic structure.
(Ord. No. 91-43, 12-7-91)

§ 48-28-23. **Zone ~~d~~esignations.**

A flood insurance map displays the zone designations for a community according to areas of designated flood hazards. The zone designations are:

Zone A--Areas of one hundred-year flood; base flood elevations and flood hazard factors not determined.

Zone A1-A30--Areas of one hundred-year flood; base flood elevations and flood hazard factors determined.

Zone B--Areas between limits of the one hundred-year flood and the five hundred-year flood or certain areas subject to one hundred-year flooding with average depths less than one (1) foot or where the contributing

drainage area is less than one (1) square mile, or areas protected by levees from the base flood.

Zone C--Areas of minimal flooding.

Zone D--Areas of undetermined, but possible, flood hazards.
(Ord. No. 91-43, 12-7-91)

ARTICLE III.

FLOODPLAIN DISTRICT

§ 48-~~293~~.1. Establishment of the ~~F~~floodplain ~~d~~District.

The floodplain district shall include all areas subject to inundation by the waters of the one hundred-year flood. The source of this delineation shall be the Flood Insurance Study for Arlington County, Virginia, as prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Administration (FIA), Flood Boundary and Floodway Map 515520 0001-0025, Flood Insurance Rate Map (FIRM) 515520 0001-002, May 3, 1982, or the latest revision.

The floodway area shall be those areas within the floodplain which are capable of carrying the waters of the one hundred-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The areas included in the floodway district are specifically defined in Table 2 of the above-referenced flood insurance study and shown on the accompanying ~~F~~flood ~~B~~oundary and ~~F~~floodway ~~M~~map. A copy of the map delineating the floodplain district shall be on file in the office of the Department of ~~e~~Environmental ~~s~~Services of Arlington County.
(9-24-77; Ord. No. 82-10, 4-24-82; Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~30~~.2. Subdistricts.

The floodplain district shall be comprised of two (2) subdistricts.

~~(+)~~~~A~~. *Mapped floodplain*: Those portions of land within the floodplain district subject to inundation by the one hundred-year flood, where study data and profiles are available.

~~(+)~~~~B~~. *Approximated floodplain*: Those portions of land within the floodplain district subject to inundation by the one hundred-year flood, where a detailed study has not been performed but where a one-hundred year floodplain boundary has been approximated by the Flood Insurance Study, as shown on the Flood Insurance Rate Map (FIRM); this area is designated as Zone A.
(9-24-77; Ord. No. 82-10, 4-24-82; Ord. No. 91-43, 12-7-91)

§ 48-~~31~~.3. Revisions, ~~a~~A~~m~~endments, and ~~m~~M~~o~~difications.

The delineation of the floodplain district may be revised, amended, and modified by the Arlington County Board in compliance with the National Flood Insurance Program (NFIP) when:

~~(+)~~~~A~~. There are changes in the boundary of the floodplain district through natural or other causes;

~~(+)~~~~B~~. Changes in the boundary of the floodplain district are indicated by future detailed hydrological and hydraulic studies; or

~~(+)~~~~C~~. When the health, safety, and welfare of the community would be promoted by a realignment of the boundary of the floodplain district.

All such changes shall be submitted to the Federal Insurance Administration (FIA) prior to amendments by the Arlington County Board in order that the Arlington County Board may have the benefit of any comments its officials may make.

(9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-32.4. Utilization.

(a)A. No mobile homes or manufactured homes shall be permitted in the floodplain.

(b)B. Recreational vehicles placed on sites within the floodplain shall be on the site for fewer than one hundred eighty (180) consecutive days, be fully licensed and ready for highway use, be on wheels or a jacking system, be attached to the site only by quick-disconnect type utilities and security devices, and have no permanently attached additions.

(c)C. Mapped floodplain and approximated floodplain: In the mapped floodplain and approximated floodplain, any development or use of land not prohibited above shall be permitted provided that all such uses, activities and development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein and in all other applicable codes, ordinances, and regulations. All such development shall be undertaken only upon the issuance of a building permit and a Floodplain Development Permit which is to be submitted to the Department of Environmental Services of Arlington County, Virginia.

(d)D. An elevation certificate for new construction or a floodproofing certificate for substantial improvement or commercial construction is to be completed by the applicant and submitted to the Department of Environmental Services of Arlington County, Virginia.

(e)E. In the floodway area of the floodplain no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in the one hundred-year flood elevation.

(f)F. Within the approximated floodplain district, the applicant shall also delineate a floodway area, which will include base flow elevation data based on the requirement that all existing and future development not increase the one hundred-year flood elevation more than one (1) foot at any one (1) point. The engineering principle -- equal reduction of conveyance -- shall be used to make the determination of increased flood heights. Within the floodway area delineated by the applicant, the provisions of § 48-32.E3.4(e) shall apply.

(g)G. Whenever a developer proposes to offset the effects of development in the floodplain district by construction of stream improvements, he shall submit an engineering study prepared by a duly registered professional engineer which fully evaluates the effects of such construction. All adjacent communities, the Virginia Division of Soil and Water Conservation, and the Federal Insurance Administration (FIA) shall be notified by the developer in writing of all such intended activities at least thirty (30) days prior to commencing work. In addition, the developer shall assure in writing to the Director of Environmental Services or his or her designee that the flood-carrying capacity within any such altered or relocated watercourse is maintained. All uses, activities, and development shall be undertaken in strict compliance with the floodproofing and related provisions contained herein, and in all other applicable codes, ordinances, and regulations.

(h)H. Stream channel improvements and stormwater detention facilities are permitted in the floodplain district.

(9-24-77; Ord. No. 82-10, 4-24-82; Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-33.5. Boundary Disputes, Appeals, and Waivers.

(a)A. *Boundary disputes.* Any uncertainty with respect to the boundary of any floodplain district shall be determined by the Director of Environmental Services or his or her designee by scaling and computation from the flood insurance study.

(b)B. *Appeals.* Whenever any person is aggrieved by a decision of the Director of Environmental Services or his or her designee with respect to the interpretation of the provisions of this chapter (except part A(a) of this section), that person shall be entitled to appeal for a waiver of that decision. Such appeal must be made in

writing to the ~~e~~County ~~m~~Manager of Arlington County or his ~~or her~~ designee within thirty (30) days after the decision as set forth below.

~~(c)~~C. *Waivers.* In reviewing applications for waivers, the County Manager of Arlington County or his ~~or her~~ designee shall examine all relevant factors and procedures specified in other ordinances and consider the following applicable factors:

- ~~(1.)~~ The danger to life and property due to increased flood heights or velocities caused by encroachments. No waiver shall be granted for any proposed use, development, or activity within any floodway district that will cause any increase in the one hundred-year flood elevation.
- ~~(2.)~~ The danger that materials may be swept on to other lands or downstream to the injury of others.
- ~~(3.)~~ The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- ~~(4.)~~ The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- ~~(5.)~~ The importance of the services provided by the proposed facility to the community.
- ~~(6.)~~ The requirements of the facility for a waterfront location.
- ~~(7.)~~ The availability of alternative locations not subject to flooding for the proposed use.
- ~~(8.)~~ The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- ~~(9.)~~ The relationship of the proposed use to the Arlington County Comprehensive Plan and Floodplain Management Program for the area.
- ~~(10.)~~ The safety of access by ordinary and emergency vehicles to the property in time of flood.
- ~~(11.)~~ The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- ~~(12.)~~ The repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- ~~(13.)~~ Such other factors which are relevant to the purposes of this ~~Ordinance~~ chapter.

The County Manager of Arlington County or his ~~or her~~ designee may refer any application and accompanying documentation pertaining to any request for a waiver to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.

Waivers may be issued only after the County Manager of Arlington County or his ~~or her~~ designee has determined that the granting of the waiver will not result in (a) unacceptable or prohibited increases in flood heights, (b) additional threats to public safety, or (c) extraordinary public expense; and will not (d) create nuisances, (e) cause fraud or victimization of the public, or (f) conflict with local laws or ordinances.

Waivers may be issued only after the County Manager of Arlington County or his ~~or her~~ designee has determined that the waiver will be the minimum deviation, as determined by the County Manager of Arlington County or his ~~or her~~ designee, from the requirements necessary to provide relief from any hardship to the applicant.

The County Manager of Arlington County or his ~~or her~~ designee shall notify the applicant in writing that the issuance of the waiver to construct a structure below the one hundred-year flood elevation (a) increases the risks to life and property and (b) will result in increased premium rates for flood insurance. A record shall be maintained by the Director of ~~Public Works~~ Environmental Services of the above notification as well as all waiver actions, including justification for the issuance of the waivers. Any waivers which are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.
(9-24-77; Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

ARTICLE IV.

FLOOD DAMAGE CONTROL REGULATIONS

In order to prevent excessive damage to buildings and structures due to conditions of flooding, the following restrictions shall apply to all new construction and substantial improvements to existing structures and other development occurring in the floodplain district.
(Ord. No. 91-43, 12-7-91)

§ 48-~~34~~.1. Basement and Howest Floors.

~~(a)~~A. All new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated at one (1) foot or more above the base flood elevation.

~~(b)~~B. All new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated at one (1) foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, be floodproofed at one (1) foot or more above the base flood elevation in accordance with § 48-4.3.
(9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-~~35~~4.2. Utility and system ¶Requirements.

~~(a)~~A. All new or replacement public and private utilities located in the floodplain district shall be elevated or floodproofed to a point at one (1) foot or more above the base flood elevation.

~~(b)~~B. All new or replacement water supply systems and sanitary sewer systems within the floodplain district shall be elevated or floodproofed to a point at or above the base flood elevation to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into the flood waters.

~~(c)~~C. All new or replacement on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from them during or subsequent to flooding.

~~(d)~~D. All storm drainage facilities shall be designed, as determined by the Director of ~~Public Works~~ Environmental Services, to convey the flow of surface waters without damage to persons or property. The systems shall ensure drainage away from buildings and on-site waste disposal sites. The Director of ~~Public Works~~ Environmental Services may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.

~~(e)~~E. Streets and sidewalks shall be designed to minimize their potential for increasing and aggravating the levels of flood flow. Drainage openings shall be required to sufficiently discharge flood flows without unduly increasing flood heights.
(9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-~~36~~4.3. Floodproofing.

Whenever floodproofing is utilized within the scope of the Floodplain Ordinance, such floodproofing shall

be done by approved methods. A duly registered professional engineer or architect shall certify that the floodproofing design is reasonably adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces, and other factors associated with the one hundred-year flood, and shall cite the elevation to which the structure is floodproofed. Designs meeting the requirements of the W1 and W2 techniques in the "Floodproofing Regulations" of the Office of the Chief of Engineers, U.S. Army, June, 1972, shall be deemed to comply with this requirement.

(9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-~~374~~.4. **Fill.**

If fill is used to raise the finished surface of the lowest floor at or above the base flood elevation:

~~(a)~~A. Fill shall consist of soil or rock materials only. Sanitary landfills shall not be permitted.

~~(b)~~B. Fill material shall be compacted to provide the necessary stability and resistance to erosion, scouring or settling.

~~(c)~~C. Fill slopes shall be no steeper than one (1) vertical on two (2) horizontal, unless substantiating data justifying steeper slopes are submitted to and approved by the ~~d~~Director of ~~e~~Environmental ~~s~~Services or his ~~or her~~ designee.

~~(d)~~D. Fill shall be used only to the extent to which it does not adversely affect adjacent properties.
(9-24-77; Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~384~~.5. **Placement of ~~b~~Buildings and ~~s~~Structures.**

All buildings and structures shall be constructed and placed on the lot so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood waters.

Setbacks shall be required as follows:

~~(a)~~A. All new construction of and substantial improvements to residential structures shall be set back fifteen (15) feet horizontally from the location of the base flood elevation.

~~(b)~~B. All new construction of and substantial improvements to nonresidential structures shall be set back fifteen (15) feet horizontally from the location of the base flood elevation, unless such structures are floodproofed.
(9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-~~394~~.6. **Storage.**

No new construction which stores materials that are buoyant, flammable, explosive, or in times of flooding could be injurious to human, animal, or plant life shall be stored below the base flood elevation.
(9-24-77; Ord. No. 91-43, 12-7-91)

Editors Note: Ord. No. 91-43, adopted Dec. 7, 1991, deleted former § 48-4.6, relative to streets, and renumbered § 48-4.7 as § 48-4.6. Former § 48-4.6 derived from an ordinance enacted Sept. 24, 1977.

ARTICLE V.

PLAN REQUIREMENTS

§ 48-~~405~~.1. **Building ~~p~~Permit ~~e~~Criteria.**

Applicants for a building permit within the floodplain district shall first submit a floodplain development permit application to the ~~d~~Department of ~~e~~Environmental ~~s~~Services. The application shall be prepared by a duly registered professional engineer or architect at the applicant's expense, shall include either an elevation certificate,

which may be prepared by a land surveyor, or a floodproofing certificate, and shall certify that the proposed construction:

~~(a)~~A. Is protected against flood damage;

~~(b)~~B. Is designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure;

~~(c)~~C. Uses construction materials and utility equipment that are resistant to flood damage;

~~(d)~~D. Uses construction methods and practices that will minimize flood damage;

~~(e)~~E. Has its lowest floor elevation at one (1) foot or more above the base flood elevation and has its lowest floor elevation so noted on the building plan;

~~(f)~~F. Is in full compliance with the provisions of this ~~C~~hapter; and,

~~(g)~~G. Conforms to the provisions of the Arlington County Ordinance enacted pursuant to the Chesapeake Bay Preservation Act.
(9-24-77; Ord. No. 82-0, 4-24-82; Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~415~~2. Additional ~~i~~nformation.

In addition to the information normally required for review and approval of preliminary plans, the following information, prepared by a duly registered professional engineer or surveyor, shall be required when any part of the proposed subdivision or other development is within the area of the floodplain district:

~~(a)~~A. Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.

~~(b)~~B. A map showing the location of the proposed subdivision or development with respect to the County floodplain district including, without limitation, the following information: the base flood elevations, boundaries of floodprone areas, proposed lots and sites, fills, flood or erosion-protective facilities, and areas subject to special deed restrictions.

~~(c)~~C. Where the subdivision or development lies partially or completely in the floodplain district, or where the subdivision or development borders on the floodplain district, the preliminary plan map shall include detailed information giving the location and elevation of proposed roads, public utilities, and building sites. All such maps shall also show contours at intervals of two (2) or five (5) feet depending upon the slope of the land and identify accurately the boundaries of the floodplain district.
(9-24-77; Ord. No. 91-43, 12-7-91)

ARTICLE VI.

ADMINISTRATION

§ 48-~~426~~1 Review.

The ~~d~~Director of ~~e~~Environmental ~~s~~Services or his ~~or her~~-designee shall review all applications for subdivisions or permits to construct or make substantial improvements in the floodplain district and shall determine whether the proposed building site is reasonably safe from flooding. The ~~d~~Director of ~~e~~Environmental ~~s~~Services or his ~~or her~~-designee shall review the application to verify that all other required permits from state or federal government agencies have been obtained.
(9-24-77; Ord. No. 91-43, 12-7-91; Ord. No. 04-25, 10-2-04)

§ 48-~~436~~2. Reserved.

Editors Note: Ord. No. 91-43, adopted Dec. 7, 1991, deleted former § 48-6.2, relative to an annual report, which derived from an ordinance of Sept. 24, 1977 and Ord. No. 82-10, enacted April 24, 1982.

ARTICLE VII.

PENALTIES

§ 48-~~447~~.1. Penalties.

Any person who fails to comply with any of the requirements or provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10.00) nor more than two thousand five hundred dollars (\$2,500.00) or thirty (30) days in jail or both, for each violation. Each day during which any violation of this Chapter continues shall constitute a separate offense.

The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and non-compliances within a reasonable time. Any structure constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this chapter may be declared a public nuisance and abated as such.

(9-24-77; Ord. No. 91-34, 9-18-91)

ARTICLE VIII.

SEVERABILITY AND COUNTY LIABILITY

§ 48-~~458~~.1. Severability.

If any section, paragraph, sentence, clause, or phrase of this chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter which shall remain in full force and effect, and for this purpose, the provisions of this chapter are hereby declared to be severable.

(9-24-77)

§ 48-~~468~~.2. County Liability.

The grant of permit or approval of a subdivision or development plan shall not constitute a representation, a guarantee, or warranty of any kind by the County or by any official or employee thereof of the practicability or safety of the proposed use and shall create no liability upon Arlington County, its officials, or employees.

(9-24-77; Ord. No. 91-43, 12-7-91)

§ 48-~~478~~.3. Warning.

The degree of flood protection sought by the provisions of this Chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside the floodplain districts or that land uses permitted within such districts will be free from flooding or flood damages. This Chapter shall not create liability on the part of Arlington County or any officer or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

(9-24-77; Ord. No. 91-43, 12-7-91)

ARLINGTON COUNTY CODE

Chapter 49

MESSAGE REGULATION

§ 49-1. General Policy.

§ 49-2. Definitions.

§ 49-3. Permit Required for Massage Technician or Massage Therapist.

§ 49-4. Issuance of Permit.

§ 49-5. Investigation of Applicant for Massage Technician Permit; Grounds for Denial of Application.

§ 49-6. Revocation of Massage Technician and Massage Therapist Permits.

§ 49-7. Unlawful Acts of Massage Technician or Massage Therapist.

§ 49-7.1. Requirements for Massage Establishments.

§ 49-8. Posting a Copy of this Chapter and a Summary of its Key Provisions prepared by the County Manager.

§ 49-9. Display of Permit.

§ 49-10. Inspections.

§ 49-11. Penalties.

§ 49-12. Severability.

§ 49-1. General Policy.

It is hereby declared to be the policy of the County of Arlington, in the exercise of its police power for the protection of the safety, health and welfare of its citizens to provide for the licensing and regulation of massage establishments, massage technicians, massage therapists, and outcall massage services.
(6-14-75; 5-31-80; Ord. No. 83-27, 9-24-83)

§ 49-2. Definitions.

~~For the purpose of this chapter, the following phrases and words, terms, when used in this chapter, shall have the following meanings assigned below, except in those instances when the context clearly indicates a different meaning. Unless the context clearly indicates otherwise:~~

Exemptions: This chapter shall not apply to the following individuals while engaged in the personal performance of the duties of their respective professions:

- ~~(a)~~A. Physicians, surgeons, chiropractors, osteopaths, or physical therapists who are duly licensed to practice their respective professions in the Commonwealth of Virginia;
- ~~(b)~~B. Any person who holds a license to practice professional nursing, issued by the Commonwealth of Virginia;
- ~~(c)~~C. Barbers and beauticians who are duly licensed under the laws of the commonwealth except that this exemption shall apply solely to the massaging of the neck, face, scalp, shoulders or hair;

~~"Massage" means Any method of treating the external parts of the human body for comfort or the general well-being of the body, consisting of rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument for pay.~~

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~~"Massage establishment" means Any establishment having a fixed place of business where massages are administered for pay.~~

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~~“Massage technician”~~; ~~means~~ ~~Any~~ person who administers a massage to another person for pay, and who holds a permit as a massage technician, and who has not made a study of the underlying principle of anatomy and physiology as generally included to a regular course of study by a recognized and approved school of massage.

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~~“Massage therapist”~~; ~~means~~ ~~Any~~ person who practices or administers a massage to another person for pay and applies the underlying principles of anatomy and physiology as generally included in a regular course of study by a recognized and approved school of massage to wit: the art of body massage, either by hands or with a mechanical or vibratory apparatus, for the purpose of body massaging, reducing or contouring; the use of oil rubs, heat lamps, salt glows, hot and cold packs, tub, shower or cabinet baths. Variations of the following procedures are employed: touch, stroking, friction, kneading, vibrations, percussioin and medical gymnastics. Massage therapists shall not diagnose or treat diseases, nor practice spinal or other joint manipulations, nor prescribed medicine or drugs.

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~~“Outcall massage service”~~; ~~means~~ ~~Any~~ business, a function of which is to engage in or carry on massages at a location designated by the customer, client, massage technician, or some other person rather than at a massage establishment as defined herein.

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~~“Sexual or genital part(s)”~~; ~~means~~ ~~The~~ penis, genitals, pubic area, anus, perineum or vulva of any person.

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Nor shall this ~~C~~chapter apply to persons employed at a hospital, nursing home or medical clinic while such persons are engaged in the personal performance of their employment.
(6-14-75; 5-31-80; Ord. No. 83-27, 9-24-83; Ord. No. 88-4, 2-20-88)

§ 49-3. Permit ~~r~~Required for ~~m~~Massage ~~t~~Technician or ~~m~~Massage ~~t~~Therapist.

~~(a)~~A. It shall be unlawful for any massage technician or massage therapist to administer or to offer to administer a massage without a valid nonsuspended permit as either a massage technician or as a massage therapist issued pursuant to this chapter.

~~(b)~~B. It shall be unlawful for any person to establish, maintain or operate a massage establishment or outcall massage service in which a massage technician or massage therapist, who does not have a valid nonsuspended permit issued pursuant to this chapter, administers massages.
(6-14-75; 5-31-80; Ord. No. 83-27, 9-24-83)

§ 49-4. Issuance of ~~p~~Permit.

Any person desiring a permit to perform the services of a massage technician or massage therapist shall make application to the ~~e~~County ~~m~~Manager or his designee. Each such application shall be accompanied by an investigation fee of fifty dollars (\$50.00), payable to the ~~t~~Treasurer of Arlington County. Each such application shall contain the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, current and last previous employment of the applicant. In addition, such application shall include a sworn statement as to whether or not the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture within the last five (5) years on a charge of violating any provision included in ~~Sections~~ ~~§§~~ 18.2-344 through 18.2-361, 18.2-365 through 18.2-387, 18.2-390, or 18.2-391, Code of Virginia (1950), as amended, which laws relate to sexual offenses or on a charge of violating a similar law of any jurisdiction. All applicants must present a certificate from a medical doctor stating that the applicant within thirty (30) days before the application has been examined and found free of any identifiable disease which would create a substantial medical risk for the massage subject.

Each applicant for a permit as a massage therapist must furnish a diploma or certificate of graduation from a recognized school or other recognized institution of learning wherein the method, occupation and work of massage therapists is taught. A school or institution is considered recognized if it has for its purpose in respect to massage therapy the teaching of the theory, method, profession, or work of massage therapists and requires a resident course of study of five hundred (500) or more hours before the student is granted a diploma or certificate of graduation from the school or institution showing the successful completion of the course of study. To be considered recognized, a school must impose standards for the granting of a diploma or certificate that are reasonably calculated to demonstrate that a student of its course meets the minimum standards of skill and knowledge required to perform

the work of a massage therapist. The County Manager or his designee shall maintain a list of massage schools in the United States which meet the minimum standards of this section. Upon the request of any person, the County Manager shall investigate schools not on the list to determine whether they should be added to it. The programs of schools and institutions not requiring actual class attendance shall not be considered "recognized." The County Manager shall have the right to confirm the fact that an applicant has actually attended required classes at and received a diploma or certificate from a school or institution which meets these standards.

The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of any application or revocation of a permit."

Each applicant shall be photographed and have his or her fingerprints taken, which fingerprints and photographs shall constitute part of the application.

The permits shall be valid for a period of two (2) years, and they may be renewed for additional two- (2) year periods upon the filing of a new application and payment of a twenty-dollar (\$20.00) investigation fee. All provisions of this chapter shall apply to renewals in the same manner as they apply to applications. (6-14-75; 5-31-80; Ord. No. 83-27, 9-24-83; Ord. No. 94-3, 3-12-94; Ord. No. 04-01, 1-10-04)

§ 49-5. Investigation of ~~a~~Applicant for ~~m~~Massage ~~t~~Technician ~~p~~Permit; ~~g~~Grounds for ~~d~~Denial of ~~a~~Application.

Upon receipt of the application fee as provided for in the preceding section, the ~~e~~Chief of ~~p~~Police shall make, or cause to be made, a thorough investigation of the criminal record of the applicant.

The Chief shall deny any application for a permit under this ~~C~~chapter after notice and hearing if the Chief finds that the applicant is less than eighteen (18) years of age; has been convicted, pleaded nolo contendere, or suffered a forfeiture within the last five (5) years on a charge of any provision included in ~~Sections-§§~~ 18.2-344 through 18.2-361, 18.2-365 through 18.2-387, 18.2-390 or 18.2-391, Code of Virginia (1950), as amended, which laws relate to sexual offenses or on a charge of violating a similar law of any other jurisdiction.

The making of a false statement on the application as provided for in ~~section-§~~ 49-3 of this Code shall also be grounds for denial of this permit.

Notice of the hearing before the ~~e~~Chief of ~~p~~Police for denial of this application shall be given in writing setting forth the grounds of the proposed denial of permit and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for the hearing.

The ~~e~~Chief of ~~p~~Police shall submit his decision to the applicant within five (5) days of his decision or within thirty (30) days of the hearing whichever is sooner. (6-14-75; 5-31-80)

§ 49-6. Revocation of ~~m~~Massage ~~t~~Technician and ~~m~~Massage ~~t~~Therapist ~~p~~Permits.

The ~~e~~County ~~m~~Manager or his designee shall revoke the permit of any person after notice and hearing if the ~~m~~Manager finds that such person is less than eighteen (18) years of age, has within the last five (5) years been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any provision included in ~~Sections-§§~~ 18.2-344 through 18.2-361, 18.2-365 through 18.2-387, 18.2-390 or 18.2-391, Code of Virginia (1950), as amended, which laws relate to sexual offenses, or on a charge of violating any provision of this chapter. The permit shall also be revoked by the ~~m~~Manager if he finds after notice and hearing that any permit holder has made a false statement on the application provided for in ~~section-§~~ 49-3 hereof.

Notice of the hearing before the ~~m~~Manager for revocation of the permit shall be given in writing to the permit holder at the last known address of the permit holder which shall be mailed by certified mail to the permit holder at least eight (8) days prior to the hearing and no more than thirty (30) days prior to the hearing. Said notice

shall set forth the grounds of the proposed revocation and the time and place of the meeting.

At the hearing, the permit holder may be represented by counsel, may cross-examine witnesses, and may present evidence in his or her favor.

The ~~m~~Manager shall submit his decision to the permit holder within thirty (30) days of the hearing. (6-14-75; 5-31-80; Ord. No. 83-27, 9-24-83)

§ 49-7. Unlawful ~~a~~Acts of ~~m~~Message ~~t~~Technician or ~~m~~Message ~~t~~Therapist.

~~(+)A.~~ It shall be unlawful for a message technician or message therapist to willfully perform any of the following acts:

~~(a)1.~~ Placing of hand or hands upon, touching with any part of the body, fondling in any manner, or massaging a sexual or genital part, or any portion thereof, of any other person.

~~(b)2.~~ Exposing of a sexual or genital part, or any portion thereof, to any other person.

~~(c)3.~~ Failing to conceal, with a fully opaque covering in the presence of any other person, the sexual or genital parts of such message technician.

~~(2)B.~~ It shall be unlawful for any message technician to massage a person of another sex or to offer to massage a person of another sex. It shall be lawful for a message therapist to massage a person of another sex or to offer to massage a person of another sex.

~~(3)C.~~ It shall be unlawful for any person owning, operating or managing a message establishment or outcall message service knowingly to cause, allow, or permit any agent, employee, or any other person under his or her control or supervision, to perform such acts prohibited in subsections ~~A.1, A.2, A.3 or B-(1)(a), (1)(b), or (1)(c)~~ ~~or (2)~~ of this section. (6-14-75; 5-22-76; 5-31-80; Ord. No. 83-27, 9-24-83; Ord. No. 88-4, 2-21-88)

§ 49-7.1. Requirements for ~~m~~Message ~~e~~Establishments.

~~(+)A.~~ Minimum lighting shall be provided in accordance with the ~~u~~Uniform ~~b~~Building ~~e~~Code, and, additionally, at least one (1) working artificial light of not less than seventy-five (75) watts shall be provided in each enclosed room or booth where message services are being rendered.

~~(2)B.~~ Minimum ventilation shall be provided in accordance with the ~~u~~Uniform ~~b~~Building ~~e~~Code.

~~(3)C.~~ Adequate equipment for disinfecting and sterilizing any instruments used for message shall be provided.

~~(4)D.~~ Hot and cold running water shall be provided.

~~(5)E.~~ Adequate dressing, bathing, and toilet facilities shall be provided for patrons of each gender.

~~(6)F.~~ All walls, ceilings, floors, steam rooms, and all other physical facilities for the establishment shall be kept in good repair and maintained in a sanitary condition.

~~(7)G.~~ Clean towels and linens shall be provided for patrons receiving message services. No common use of towels or linens shall be permitted. (Ord. No. 83-27, 9-24-83)

§ 49-8. Posting a ~~e~~Copy of this ~~e~~Chapter and a ~~s~~Summary of its ~~k~~Key ~~p~~Provisions ~~p~~Prepared by the ~~e~~County ~~m~~Manager.

Every person owning, operating or managing a massage establishment shall post a copy of this chapter and a summary of its key provisions, prepared by the eCounty Manager, in a conspicuous place in the massage establishment so that it may readily be seen by persons entering the premises.
(6-14-75; Ord. No. 83-27, 9-24-83)

§ 49-9. Display of Permit.

Every massage technician shall display the massage technician permit, on which the technician's photograph shall be attached, in a prominent place in the immediate area in which the technician operates so that it is clearly visible to the technician's customers or clients.
(6-14-75; 5-31-80)

§ 49-10. Inspections.

Inspections of massage establishments shall be made at periodic intervals by plainclothes police officers, who shall display their badges, to determine if all massage technicians have valid permits.
(6-14-75; Ord. No. 83-27, 9-24-83)

§ 49-11. Penalties.

Any person violating the provisions in this chapter shall, upon conviction, be punished as provided in section 1-6 of this Code.
(6-14-75)

§ 49-12. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this chapter or the application of such provisions to other persons or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.
(6-14-75)

ARLINGTON COUNTY CODE

Chapter 50

CONSUMER PROTECTION

§ 50-1. General **p**Policy.

§ 50-2. Powers of the **e**Office of **e**Consumer **p**Protection.

§ 50-3. Referral of **e**Complaints.

§ 50-1. General **p**Policy.

There is hereby created the **e**Office of **e**Consumer **a**Affairs of Arlington County. The staffing and organizational structure of such **e**Office shall be as determined by the **e**County **m**Manager.
(10-26-74)

§ 50-2. Powers of the **e**Office of **e**Consumer **p**Protection.

The **e**Office shall have such powers as may be necessary to perform the following duties.

(a)A. To serve as a central coordinating agency and clearing house for receiving and investigating complaints of illegal, fraudulent, deceptive or dangerous practices, and referring such complaints to the local departments or agencies charged with enforcement of consumer laws. The processing of complaints involving statutes or regulations administered by state agencies shall be coordinated, where applicable, with the **s**State **e**Office of **e**Consumer **a**Affairs;

(b)B. To attempt to resolve complaints received pursuant to subsection **A(a)** hereof by means of voluntary mediation or arbitration;

(c)C. To develop programs of community consumer education and information;

(d)D. To maintain records of consumer complaints and their eventual disposition provided that records disclosing the business interests of any person, trade secrets, or the names of customers shall be held confidential except to the extent that disclosures of such matters may be necessary for the enforcement of laws. A copy of all periodic reports compiled by the **e**Office shall be filed with the **s**State **e**Office of **e**Consumer **a**Affairs;

(e)E. To provide staff support for the Arlington County Consumer Protection Commission.
(10-26-74)

§ 50-3. Referral of **e**Complaints.

The **e**Office may refer complaints which appear to violate any provision of Article 8, Chapter 6 of Title 18.2 of the Code of Virginia of 1950, as amended, of Chapter 2.1 of Title 59.1 of the Code of Virginia of 1950, as amended, to the Commonwealth's Attorney or to the County Attorney for investigation. If the official to whom a complaint is referred determines that a violation is, in fact, occurring, he shall bring an action pursuant to § 59.1-68.4 of the Code of Virginia to enjoin such violation. The **e**Office will report any such action in summary form on a monthly basis to the Consumer Protection Commission.
(10-26-74; Ord. No. 91-24, 6-22-91)

ARLINGTON COUNTY CODE

Chapter 51

HOME IMPROVEMENT

- § 51-1. Short ~~f~~Title.
- § 51-2. Definitions.
- § 51-3. Licenses.
- § 51-4. Bond ~~r~~Requirement.
- § 51-5. Penalties.
- § 51-6. Salesmen.
- § 51-7. Contract ~~r~~Requirements.
- § 51-8. Miscellaneous ~~p~~Provisions.

§ 51-1. Short ~~f~~Title.

This chapter shall be known and may be cited as the "Home Improvement ~~e~~Chapter of Arlington County, Virginia."
(7-1-75)

§ 51-2. Definitions.

For the purpose of this chapter, words used in the present tense include the future; words in the singular number include the plural number and vice-versa; the word "shall" is mandatory and not directory; the following phrases and ~~words terms~~ shall have the following meanings assigned below, except in those instances where the context clearly indicates a different meaning unless the context clearly indicates otherwise.

(1) ~~_____~~ "County ~~m~~Manager" ~~shall mean and include means~~ the ~~e~~County ~~m~~Manager of Arlington County, ~~or any of his duly authorized deputies or agents designees.~~

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(2) ~~_____~~ "Contract" ~~shall means~~ any written agreement executed after May 1, 1975, to perform home improvement work in return for payment.

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(3) ~~_____~~ "Contract buyer" ~~shall means~~ any person who offers payment in return for a promise to perform home improvement work; provided that such person is not himself a home improvement contractor.

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(4) ~~_____~~ "Contractor" ~~shall means~~ any person who engages or offers to engage in the home improvement business in Arlington County, whether full-time or part-time.

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(5) ~~_____~~ "Home ~~i~~mprovement ~~B~~usiness" ~~shall means~~ the contracting for and/or providing material and labor for repairs, improvements and additions to and construction of residential buildings and structures accessory thereto, where any payment of money or other thing of value is required. This shall not include installation of any appliance, material or equipment not made a part of the real property and shall not include wallpaper or landscaping work or the application of paint; except that it shall include the application of paint or spray material when applied to roofing or asphalt paving; nor shall it include work done by contractors defined as electrical, plumbing, or HVAC contractors under the Virginia Board for Contractors Rules and Regulations (~~Section §~~ 18 VAC 50-22-20 Definition of license/certificate classification) as they may be amended from time to time who are duly licensed as such under Code of Virginia Title 54.1 Chapter 11.

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(6) ~~_____~~ "Licensing authority" ~~shall means~~ that ~~e~~County agency designated by the ~~e~~County ~~m~~Manager as the duly authorized administrative and enforcement officer of this chapter.

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(7) ~~_____~~ "Person" ~~shall mean and include means~~ any individual, firm, corporation, association or

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partnership.

(8) ~~_____~~ "Thing of value" ~~shall~~ means any valuable consideration and shall include, but not be limited to, cash, promissory notes, installment contracts, or other written promises to pay, chattel mortgages or deeds of trust; provided that the term "payment of money or other thing of value" shall not include the promise to pay embodied in the contract itself.
(7-1-75; 12-8-79; Ord. No. 99-3, 1-23-99; Ord. No. 99-4, 2-20-99)

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§ 51-3. Licenses.

~~(1)A.~~ *Requirement for a license.* No person shall engage in business as a home improvement contractor unless he has a license issued in accordance with this chapter.

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~~(2)B.~~ *Application for a license.*

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~~(2.1)1.~~ An application for a license to engage in business as a home improvement contractor shall be made in such form and detail as the licensing authority shall prescribe and which will enable the licensing authority to make a determination as to the qualifications of the applicant. Every application shall be affirmed as true by the applicant, and shall specify the individual and the address of the individual on whom notices may be served pursuant to this chapter.

~~(2.1.1)~~ An applicant, officer or employee of an applicant for a home improvement contractor's license shall submit to an examination designed to test his knowledge of the requirements of the home improvement ordinance and qualifications to engage in work as a home improvement contractor in the area of his specialty. Every licensee shall, at all times, have a person who has successfully passed the examination, in direct charge of supervising all of its home improvement contracting business. The licensing authority may recognize on a reciprocal basis jurisdictions whose competence examination requirements are equivalent. The building contractor's exam given as part of the licensing requirements for the state Class B license shall be deemed equivalent to the Arlington County structural exam.

~~(2.2)2.~~ Licenses shall be granted unless one (1) or more of the following facts are found to exist and, even if facts No. ~~a~~, ~~b~~ and ~~c~~ exist, the license shall be granted if the applicant produces satisfactory evidence that the applicant will perform its home improvement contracts notwithstanding the existence of such facts:

~~(2.2.1)a.~~ That the applicant has failed to pay financial obligations, that were outstanding during the two- (2) year period prior to filing of the application, or that the applicant is financially insolvent.

~~(2.2.2)b.~~ That the applicant has had a license similar to the license provided for by this ~~E~~chapter suspended or revoked by the State of Maryland, the State of Virginia, or any political subdivision of either, or the District of Columbia within the three (3) year period prior to the filing of the application.

~~(2.2.3)c.~~ That the applicant has in the three (3) year period prior to filing of the application been found guilty of fraudulent or dishonest dealing in the home improvement business in the State of Maryland, the State of Virginia, or any political subdivision of either, or in the District of Columbia.

~~(2.2.4)d.~~ That the applicant has made a material misstatement in the application for a license.

~~(2.2.5)e.~~ That the applicant has failed to make available to the licensing authority such information as is requested for the purpose of determining if the applicant is entitled to a license.

~~(2.2.6)f.~~ Neither the applicant nor an officer or employee has successfully passed an examination to determine the qualifications to engage in work as a home improvement contractor.

~~(3)C.~~ *Documents in support of application.* Application for a license shall be accompanied by:

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~~(3.1)1.~~ A copy of the contract forms to be used by the contractor, which shall be in accordance with the provisions of ~~section §~~ 51-7 below, and which shall be approved by the licensing authority. Such contract shall comply in all respects with this ~~C~~chapter and any other applicable law. The applicant may also submit for "approval" by the licensing authority a form to be used as an "emergency waiver" of the three-~~(3)~~ day waiting period established in ~~section §~~ 51-7.~~B(2)~~ of this Code.

~~(3.2)2.~~ If the applicant is a nonresident of the Commonwealth of Virginia, a designation by name and address of a person who is a resident of the Commonwealth of Virginia, and who, by a signed and notarized statement, agrees to be the statutory agent of the applicant, to accept service of process, notices, summons or other legal notices upon said statutory agent, which, when duly made, shall constitute sufficient foundation for a personal judgment against the applicant, when the other requisites therefore exist. Said statutory agent shall notify the licensing authority in writing of any change in his address or any change in the conditions of his agreement to act as agent for the applicant.

~~(3.3)3.~~ A nonrefundable twenty-five dollar (\$25.00) investigation and processing fee.

~~(3.4)4.~~ Evidence satisfactory to the licensing authority that the operations proposed to be conducted by such applicant under the authority of the license for which application is made will be covered by public liability and property damage insurance for the full period of the license. Such insurance shall be cancellable only after thirty (30) days notice to the licensing authority, and shall provide a minimum limit of liability of fifty thousand dollars (\$50,000.00) in the aggregate for death of any one ~~(1)~~ person in any one ~~(1)~~ occurrence, one hundred thousand dollars (\$100,000.00) in the aggregate for more than one (1) person in one (1) occurrence, and ten thousand dollars (\$10,000.00) property damage in any one (1) occurrence.

~~(4)D.~~ *Denial of application.* When a license is denied, the applicant shall be entitled to a written statement setting forth the reasons for denial, and shall be entitled to appeal the decision of the licensing authority under the procedure set out in ~~section §~~ 51-5(3) below.

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~~(5)E.~~ *License term and issuance; identification card.*

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~~(5.1)1.~~ Upon approval of the application for a license, or renewal of a license, the licensing authority shall issue a license in such form and size as he deems appropriate, and said license shall show on its face that it is valid for one (1) year from date of issuance.

~~(5.2)2.~~ The licensing authority shall prepare and issue to each licensee an identification card which shall certify that the person whose name appears thereon is a licensed home county of any work performed by a licensee under this improvement contractor. Each license shall carry on his person his identification card, and shall display such card upon the request of any contract buyer, prospective contract buyer, or other person with whom such licensee may deal in connection with carrying on his activities as a contractor.

~~(5.3)3.~~ The fee for issuance of a license, or a renewal, shall be fifty dollars (\$50.00).

~~(5.4)4.~~ The license and identification card shall bear a warning in the nature of a disclaimer of any implied warranty by the ~~e~~County of any work performed by a licensee under this chapter.

~~(5.5)5.~~ The licensing authority shall keep records of all licenses issued, suspended or revoked. These records shall be open to the public for inspection during regular business hours.

~~(5.6)6.~~ Upon request by a bona fide licensee and upon the receipt of a fee of one dollar (\$1.00) for each duplicate, the licensing authority shall issue to such licensee duplicate copies of the identification

card. It shall be unlawful and constitute a misdemeanor for anyone in possession of such a duplicate identification card to represent that he or she is a licensee or representative of a licensee if such permission to use the identification card has not been granted by the licensee.

(7-1-75; 12-8-79; Ord. No. 99-3, 1-23-99; Ord. No. 99-4, 2-20-99)

§ 51-4. Bond ~~R~~Requirement.

~~(A)~~A. Each applicant for a home improvement contractor's license shall file with the licensing authority a surety bond or other security as approved by the ~~e~~eCounty ~~a~~aAttorney in the sum of ten thousand dollars (\$10,000.00) payable to the County of Arlington. Each such bond shall be in a form approved by the ~~e~~eCounty ~~a~~aAttorney and shall be from a bonding company licensed to do business in the Commonwealth of Virginia, and shall be kept in force during the entire license period or the license shall be invalid.

~~(B)~~B. Bonds shall be conditioned upon the observance by the licensee of all statutes, ordinances or regulations in force in Arlington County which relate, directly or indirectly, to the conduct of the licensee's home improvement business.

~~(C)~~C. Bonds shall also be conditioned to indemnify and save harmless any contract buyer from any expense or damage that may result to him from:

~~(3.1)~~1. Licensee's violation of any statute, ordinance or regulation in force in Arlington County which relates, directly or indirectly, to the conduct of the licensee's home improvement business; or

~~(3.2)~~2. Licensee's performance of any home improvement work in a negligent or otherwise defective manner; or

~~(3.3)~~3. Licensee's default, or other material breach in the conduct of the home improvement work.

~~(D)~~D. Any person aggrieved by any act of the licensee in violation of the conditions of the bond shall have, in addition to his right of action against the licensee, a right to bring suit against the surety on the bond, and to recover, in an amount not exceeding the amount of the bond, any damages sustained by reason of any act of the licensee which is in violation of the conditions of the bond.

~~(E)~~E. Any security deposited pursuant to this section shall be retained by the licensing authority for one (1) year after the expiration of the license in connection with which such security was deposited and if the licensing authority is notified in writing that a suit has been filed against any such licensee as a result of which a judgment may be payable out of such security, until such time as such suit has been reduced to judgment and the period for filing an appeal from such judgment has expired until the suit is otherwise disposed of.

~~(F)~~F. Nothing in this section shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof, or the amount remaining unextinguished after any prior recovery or recoveries.

(7-1-75; Ord. No. 82-6, 2-27-82)

§ 51-5. Penalties.

~~(A)~~A. *License suspension or revocation; denial of application for renewal of a license.* No licensee, nor any agent of any licensee, shall engage in any of the following acts or practices, the commission or which shall be cause for suspension or revocation of a home improvement license, or for denial of an application for renewal thereof, in addition to any other penalties provided at law.

~~(1)~~1. Willful failure or refusal to comply with the provisions of any statute, ordinance or regulation in force in Arlington County which relates, directly or indirectly, to the conduct of the licensee's home improvement business.

~~(2)~~2. Use of any substantial willful misrepresentation in the procurement of a contract for home

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improvement work, or making any false promise likely to influence, persuade or induce any person to enter into such a contract.

~~(1.3)3.~~ Use of any fraud in the execution of, or in the material alteration of any contract, trust deed, mortgage, promissory note or other document incident to a home improvement contract.

~~(1.4)4.~~ Use of false, misleading or deceptive advertising as an inducement to enter into any home improvement contract.

~~(1.5)5.~~ Failure to pay judgments, or failure to pay just debts which may result in liens against the homeowner's property.

~~(1.6)6.~~ Failure to use, or to complete all relevant parts of the contract forms approved by the licensing authority in connection with the license application.

~~(1.7)7.~~ Failure to complete contract work as provided for in contract or contracts.

~~(1.8)8.~~ Failure to provide information or records requested by the licensing authority or person or body hearing any appeals pursuant to this chapter when such information or records are being requested for the purpose of determining if a license should be revoked.

~~(1.9)9.~~ Use or provision of goods or services which the contractor knows, or reasonably should know, will be ineffective to produce the benefits contracted for; or provision of goods or services the value of which, as measured by the price at which similar goods or services are readily obtainable elsewhere, is grossly inflated.

~~(1.10)10.~~ Failure to have all work directly supervised by a person who has successfully completed examination required by ~~section 8 51-3.B.1(2.1.1).~~

~~(2)B.~~ *Notice of suspension, revocation or denial of application for renewal of a license.*

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~~(2.1)1.~~ Whenever the licensing authority receives information that a licensee may be guilty of acts which constitute grounds for suspension or revocation of a license or for denial of an application for renewal of a license, he shall investigate such matter. If the licensing authority determines that probable grounds exist for suspension or revocation of a home improvement contractor's license or for denial of an application for renewal, he shall cause written notice of the impending action to be served on the licensee, which shall include the following:

~~(2.1.1)a.~~ *Statement of facts.* It shall state generally the facts which constitute the basis for the possible action.

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~~(2.1.2)b.~~ *Designation of violation.* It shall specify, where applicable, each of the sections of this chapter or other laws which are alleged to have been violated or not complied with.

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~~(2.1.3)c.~~ *Hearing procedure.* It shall recite the procedure which the licensee may follow in order to have a hearing prior to the action's taking effect, the time within which such request for a hearing may be filed, which in no event may be later than fifteen (15) days of the mailing of the notice, and the effective date of the denial, suspension or revocation in the event no hearing is requested.

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~~(2.1.4)d.~~ Such notice shall be deemed properly served when a copy is personally served on the licensee or when a copy is sent by certified mail, postage prepaid, to the address on the license application.

~~(3)C.~~ *Hearing procedure.* The licensee shall, if he requests a hearing, appear at the time and place specified in the notice for a hearing which shall in no event be later than thirty (30) days of the actual receipt by the

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licensing authority. The licensee shall be advised of the evidence which tends to establish the grounds for suspension, revocation or denial of a renewal, and the licensee shall be given the right to question any person giving information, and shall have the right to present such information or records as it desires. The hearing shall be conducted by the licensing authority, and the procedure shall be informal.

~~(4)D.~~ If the licensing authority determines from the information and records available that satisfactory evidence exists of one or more of the facts specified in subsections 51-5.A.1~~(4-4)~~ through 51-5.A.9~~(4-9)~~, it shall suspend, revoke or refuse to renew the license. The decision as between revocation and suspension shall be based upon the facts and circumstances surrounding the violation. The period of suspension shall be for such time from ten (10) to one hundred eighty (180) days, as the licensing authority, in its discretion, determines.

~~(5)E.~~ When a license is revoked or suspended or renewal of a license is not granted, the reasons for such action shall be stated in writing and a written notification of such action shall be personally served on the licensee or sent by certified mail, postage prepaid, to the address on the license application. The action of suspension or revocation shall be effective at 12:01 p.m. on the third business day following the day when the written statement provided for herein is signed by the licensing authority or at such time as the licensee is personally served with a copy of the statement provided for herein, whichever is earlier.

~~(5-1)1.~~ Personal service of notices pursuant to this section may be served by delivery to the individual named by the licensee in its application, and if the individual is not at the address specified in the application, the notice may be posted on the front door of the structure located at the address for the individual which is listed in the licensee's application.

~~(5-2)2.~~ Appeals. Appeal from denial, suspension or revocation of a license, after a hearing provided for in section ~~§ 51-5.C(3)~~, shall be to the ~~b~~Building ~~e~~Code ~~b~~Board of ~~a~~Appeals which may affirm, modify or reverse the decision of the licensing authority. A party making such appeal must file his appeal within ten (10) days of the denial, suspension or revocation.

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~~(6)F.~~ Penalties for violations. It shall be unlawful and constitute a misdemeanor for any person to conduct a home improvement business without first having a valid and nonsuspended license as required by this chapter. Each day any person shall continue to violate the provisions of this chapter shall constitute a separate offense.
(7-1-75)

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§ 51-6. Salesmen.

~~(4)~~ Act of salesman considered act of contractor. For the purposes of this chapter, the act or omission by any salesman or other agent of a home improvement contractor, while acting or purportedly acting on behalf of the contractor, which act or omission is in violation of this chapter or is cause for denial, suspension, or revocation of the contractor's license, shall be considered the act of the contractor by whom such salesman or agent is employed, or for whom he purported to act, if such contractor approves the act, or, after actual notice of the act or omission, retains the benefit, proceeds, profit or advantage accruing from the act or omission or otherwise ratifies it.
(7-1-75)

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§ 51-7. Contract Requirements.

~~(4)A.~~ Contract to be in writing. All agreements to perform home improvement work involving a payment greater than fifty dollars (\$50.00) shall be in writing, and executed in triplicate using the contract form submitted by the home improvement contractor in connection with his application for a license, which form shall set forth fully and completely the agreement between the parties, and shall be signed by the contractor or his agent. In lieu thereof, the contractor may use a contract form substantially in compliance with a form prescribed by the licensing authority.

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It shall be unlawful for a home improvement contractor to cause or permit any contract or other document relating to the performance of home improvement work to be signed by the contract buyer before all blank spaces are filled in with easily legible writing, and such contractor or agent has submitted to the contract buyer the

completed contract and other documentation and given him a reasonable opportunity to examine it. The contract buyer shall be given a copy of the contract when both parties have signed all copies of the complete contract, and a copy shall accompany the building permit application when such permit is required for the work involved.

~~(2)B.~~ *Cooling-off period for certain transactions.*

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~~(2-1)1.~~ When a contract is made which involves total cost to the contract buyer greater than fifty dollars (\$50.00), or involving an extension of credit to the contract buyer, the contract buyer shall have a right to cancel the contract without penalty until midnight of the third business day after the day on which the contract buyer signs the contract unless the contract buyer waives this right in accordance with ~~section § 51-7.B.3(2-3)~~. Cancellation shall be effected by the buyer giving or mailing written notice of cancellation to the seller at the seller's address which shall be stated in the contract.

~~(2-2)2.~~ No contract subject to cancellation by the contract buyer under the terms of ~~section § 51-7.B.1(2-1)~~ shall be assigned until after midnight of the third business day after the day on which the contract buyer signs the contract.

~~(2-3)3.~~ The contract buyer may waive his right to cancel under ~~section § 51-7.B.1(2-1)~~ if he desires immediate performance of the contracted-for home improvement work, and if the contract buyer makes a written request in a dated writing, personally signed by him, which expressly states that the buyer understands that he is waiving his right to cancel the contract under ~~section § 51-7.B.1(2-1)~~. Such a waiver may be on a form supplied by the contractor if that form has been approved by the licensing authority as provided in ~~section § 51-3.C(3)~~.

~~(3)C.~~ *Required contract terms. All home improvement contracts shall include the following:*

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~~(3-1)1.~~ Name, address and license number of the contractor, and the name of any agent who solicited or negotiated the contract.

~~(3-2)2.~~ The approximate dates when the work will begin and be substantially completed.

~~(3-3)3.~~ A description of the work to be done, and description of the materials to be used and the agreed consideration for the work.

~~(3-4)4.~~ The number and due date of all payments and amount of each payment stated as a sum in dollars which shall include all finance charges. In the alternative, the contract may include a statement of terms which meet the standards of the Federal Truth in Lending Act (Consumer Credit Protection Act).

~~(3-5)5.~~ A description of any collateral security taken or to be taken for the contract buyer's obligation under the contract.

~~(3-6)6.~~ The following statement, in boldface type, no smaller than ten (10) point:

“WARNING

The contract hereby expressly warrants that all home improvement work done pursuant to this contract shall be of workmanlike quality, and shall be in accordance with all applicable building codes.

The contractor further warrants that all materials and supplied equipment shall be of merchantable quality, and shall be fit for the particular use for which they are intended.”

~~(3-7)7.~~ Final payment shall not be required until final approval is obtained from the ~~Inspection~~ ~~Services~~ ~~Department~~ if the work involved required a building permit.

(7-1-75)

§ 51-8. Miscellaneous ~~p~~rovisions.

~~(4)A.~~ *Administration and enforcement.* The administration and enforcement of this chapter shall be the duty of the licensing authority who is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be reasonably necessary to enforce its provisions. Such persons may be appointed and authorized as assistants, or agents of the licensing authority as may be necessary to carry out the provisions of this chapter. The licensing authority is hereby authorized, whenever he may have reason to suspect that violations of this chapter have taken or are taking place, to require the production of books of accounts, contract agreements, financial statement or other records which relate to the home improvement business.

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~~(4)B.~~ *Compliance with County Code.* Nothing in this chapter shall be construed to exempt any licensee from compliance with all other applicable provisions of the County Code. Home improvement contractors shall be responsible that required permits are obtained, that the laws of the ~~e~~County and ~~s~~tate are complied with, and that all work is performed in accordance with the conditions and terms of such permits.

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The ~~i~~nspection ~~s~~ervices ~~d~~epartment shall not issue a building permit for home improvement work to a contractor who does not have a current home improvement contractor's license issued in accordance with the requirements of this chapter.

~~(3)C.~~ *Inapplicability of chapter to certain persons.* Nothing in this chapter shall apply to any person performing home improvement work on a building of which he is the bona fide owner to the extent such person is exempted from licensing requirements by ~~Section §~~ 54.1-1101 of the Code of Virginia or to contractors licensed by the Commonwealth of Virginia in accordance with Title 54.1 Chapter 11 of the Code of Virginia and exempted from local licensing by Title 54.1, Chapter 11, as it may be amended from time to time.

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~~(4)D.~~ *Severability.* Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter or the application of such provisions to other persons or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which said judgment shall have been rendered, and to the person or circumstance involved.

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~~(5)E.~~ *Conflict of chapter.* In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing in the effective date of this article, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail in any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail, and such other provisions are hereby declared to be repealed to the extent that they may be found in conflict with this ~~C~~chapter.

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(7-1-75; Ord. No. 99-3, 1-23-99; Ord. No. 99-4, 2-20-99)

ARLINGTON COUNTY CODE

Chapter 52

CHILD CARE CENTERS, PRESCHOOLS, NURSERY SCHOOLS, PARENT'S-DAY-OUT PROGRAMS,
AND COOPERATIVE PLAYGROUP PROGRAMS

- § 52-1. General Provisions - Policy.
- § 52-2. Definitions.
- § 52-3. License ~~r~~Required; ~~p~~Posting of ~~l~~License.
- § 52-4. Application for ~~l~~License.
- § 52-5. Investigation or ~~r~~Receipt of ~~a~~Application.
- § 52-6. Issuance of the ~~l~~License.
- § 52-7. Denial of ~~a~~Application.
- § 52-8. Renewal of ~~l~~License.
- § 52-9. Suspension of ~~l~~License.
- § 52-10. Revocation of ~~l~~License.
- § 52-11. Deferred ~~e~~Compliance.
- § 52-12. Inspection ~~p~~Period.
- § 52-13. Records and ~~r~~Reports.
- § 52-14. Emergency ~~p~~Provisions.
- § 52-15. Conflict of ~~e~~Chapter.
- § 52-16. Penalties.
- § 52-17. Severability.
- § 52-18. Building ~~s~~Structure and ~~f~~Facilities.
- § 52-19. Safety.
- § 52-20. Sanitation and ~~h~~Hygiene.
- § 52-21. Indoor ~~f~~Facilities.
- § 52-22. Outdoor ~~f~~Facilities.
- § 52-23. Fire ~~s~~Safety.
- § 52-24. Inspections.
- § 52-25. Director, ~~a~~Administrator or ~~a~~Administrative ~~b~~Body.
- § 52-26. Staff ~~m~~Medical ~~r~~Requirements.
- § 52-27. Children's ~~m~~Medical ~~r~~Requirements.
- § 52-28. Health ~~p~~Procedures.
- § 52-29. Child ~~e~~Care ~~e~~Centers.
- § 52-30. Preschools and ~~n~~Nursery ~~s~~Schools.
- § 52-31. Parent's-~~d~~Day-~~o~~ut ~~p~~Program.
- § 52-32. Cooperative Playgroups.

§ 52-1. General Provisions - Policy.

It is hereby declared to be the policy of the County of Arlington in the exercise of its police power for the protection of the public safety, public health and general welfare to provide for the licensing and regulation of child care centers, preschools, nursery schools, and parent's-day-out programs, and cooperative playgroup programs in order to adequately protect the children of Arlington County.
(4-25-81)

§ 52-2. Definitions.

The following ~~definitions shall apply to these~~ words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

- (a) “Child care center” means any facility operated for the purpose of providing care, protection and

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guidance to a group of children separated from their parents or guardian during a part of the day only except:

- (1) A facility licensed by the State of Virginia as a summer camp.
(2) A public school or private school comprised of first through twelfth grade or any portion thereof unless the eCounty mManager determines that such private school is operating a child care center outside the scope of regular classes.
(3) A school operated primarily for the educational instruction of children from three (3) to five (5) years of age at which children of three (3) or four (4) years of age do not attend in excess of four (4) hours per day and children five (5) years of age do not attend in excess of six and one-half (6 1/2) hours per day.
(4) A facility which provides child care on an hourly basis which is contracted for only occasionally by a parent.
(5) A Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
(6) A facility operated by a hospital on the hospital's premises, which provides care to the children of the hospital's employees while such employees are engaged in performing work at the hospital.
(7) Any private school regulated under Chapter 16 of this Code operated for the purpose of providing specialized training courses for more than four (4) children, such as beauty schools, dance schools and karate and self-defense schools.

This definition shall not include a private family home in which children are received for care, protection and guidance.

(b) "Preschool" or "nursery school" means any agency operating for the purpose of providing care, maintenance or training for more than four (4) children of less than school age on a regular basis during any part of the day where two (2), three (3), and four (4) year old children are in attendance for less than four (4) hours a day and five (5) year old children for less than six and one-half (6 1/2) hours a day.

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(e) "Parent's-day-out program" means any facility operating for the purpose of providing care, maintenance or training for more than four (4) children of less than school age during any part of the day where children from infancy to five (5) years old are in attendance not more than six and one-half (6 1/2) hours a day.

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(d) "County mManager" means the eCounty mManager of Arlington County in his role as the local board of public welfare or any of his duly authorized deputies or agents designees acting in his-their role as the local board of public welfare.

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(e) "Child" means any person less than eighteen (18) years old.

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(f) "Cooperative playgroup" means any facility for the purpose of providing care, maintenance and training activities for more than four (4) but not more than fifteen (15) children of less than school age for less than three (3) hours per day, where supervision of children is provided by a parent on a cooperative basis. (4-25-81)

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§ 52-3. License rRequired; pPosting of lLicense.

It shall be unlawful to operate a child care center, preschool or nursery school or parent's-day-out program as defined herein without a valid, nonsuspended license issued pursuant to this chapter. Such license shall be posted

in a conspicuous location within the licensed premises.

§ 52-4. Application for Hlicense.

Any person who operates or maintains a child care center, preschool, nursery school or parent's-day-out program shall make application to the eCounty mManager, or his ~~designated agent designee~~, for a license in the name of the person for the specified structure to which the application relates. No license issued pursuant to this chapter shall be transferable.

§ 52-5. Investigation or Rceipt of aApplication.

Upon receipt of the application, the eCounty mManager shall cause an investigation to be made of the activities, services and facilities of the applicant; of the applicant's financial responsibility and of his character and reputation or, if the applicant be an association, partnership or corporation, the character and reputation of its officers and agent as they relate to the applicant's ability to maintain the facility and work with children. The applicant shall afford the representative of the eCounty mManager required to make the investigation reasonable opportunity to inspect all of the applicant's facilities, books and records and to interview the applicant or his agent's and employees.

§ 52-6. Issuance of the Hlicense.

Upon completion of the investigation, the eCounty mManager shall grant a license in writing required by this chapter to any applicant thereof upon production of evidence satisfactory to him that the applicant, his facilities, services and activities are in compliance with the provisions of this chapter, the Arlington County Code, the Code of Virginia and the standards and policies prescribed hereunder.

§ 52-7. Denial of aApplication.

~~(a)~~A. The eCounty mManager shall deny a license to any applicant upon a finding by him that activities, services and facilities of the applicant are in violation of any provision of this chapter, the Arlington County Code, the Code of Virginia or the standards and policies prescribed hereunder.

~~(b)~~B. Upon the denial of the application for a license or renewal under this chapter, or upon revocation of a permit as described in ~~section §~~ 52-10, the eCounty mManager shall notify the applicant that the application is denied or revoked, stating:

~~(1)~~ The reason for the denial;

~~(2)~~ That the applicant has the right to request a hearing if written request is made within thirty (30) days after receipt of the notice of denial. Unless written request is made within the thirty-~~(30)~~ day period, the applicant's right to a hearing is waived.

§ 52-8. Renewal of Hlicense.

Every license shall be renewed annually on or before thirty (30) days prior to the expiration of the license. The facilities and records of each applicant for a renewal of a license may be inspected or examined by the eCounty mManager or his designee to determine whether the applicant is in compliance with the standards of this chapter.

§ 52-9. Suspension of Hlicense.

~~(a)~~A. Whenever the eCounty mManager finds by complaint, investigation or otherwise that any condition exists, within a facility required to be licensed by this chapter, which is a violation of the ordinance but does not endanger the life, health or safety of the children, he shall order that the necessary corrective action be taken within a specified period of time as determined by the eCounty mManager.

~~(b)~~B. Whenever the eCounty manager finds by complaint, investigation or otherwise that any condition exists that endangers the life, health or safety of the children, within a facility required to be licensed by this chapter, he shall order that the license to operate the facility be temporarily suspended. Whenever a license has been so temporarily suspended, a hearing shall be held before the eCounty manager to determine whether the license to operate the facility should be permanently suspended. If the temporary suspension occurs during normal business hours, the hearing shall be held prior to 5:00 p.m. of that day. Should the temporary suspension occur after business hours, the hearing shall be held on the next regular business day. At the hearing, a representative of the facility shall have the right to answer personally or in writing or both personally and in writing. The right to answer personally includes the right to answer orally in person to being given a reasonable opportunity to make any representations which the representative believes might affect the final decision of the eCounty manager.

The eCounty manager shall send a written statement of the findings of the hearing to the facility within twenty-four (24) hours after the hearing is terminated. In the event the eCounty manager finds that the conditions at the facility do not endanger the life, health or safety of the children, he shall order that the license of that facility be reinstated immediately. In the event that the eCounty manager finds that there exist conditions which endanger the life, health or safety of the children, he shall order that the license of that facility be permanently suspended until such time as the conditions which caused said suspension are eliminated.

§ 52-10. Revocation of License.

The eCounty manager shall revoke the license of any establishment ~~of if~~ the corrective action specified under ~~section § 52-9.A(a)~~ of this chapter is not taken. Procedure for revocation of a license shall be the same as described in ~~section § 52-7~~ of this chapter. Nothing in this section shall be construed to deny the right of any facility so affected to reapply for a license in accordance with the procedures established by this chapter.

§ 52-11. Deferred eCompliance.

The owner or operators of any facility required to be licensed by this chapter, operating in the eCounty as of the effective date of this chapter, may apply for and be granted a time period not to exceed twelve (12) months in order to comply with the standards and policies prescribed hereunder which were not in effect on the date of enactment of this chapter. All other provisions of this chapter become effective upon the effective date of the chapter.

§ 52-12. Inspection period.

Each facility required to be licensed by this chapter shall be subject to inspection by health authorities and by the eCounty manager or his ~~designated agent designee~~ at least once a year and as often as deemed necessary for the purpose of determining that there is compliance with the provisions of this chapter.

§ 52-13. Records and reports.

Each child care center, preschool and nursery school shall provide each prospective applicant for enrollment information concerning the education and training of the director and teacher.

The following records shall be maintained and be made available for eCounty and state inspection and shall be kept accurate and kept current:

- ~~(A)~~ Types.
- ~~(1)~~ An up-to-date register of all children admitted.
- ~~(2)~~ Individual child records.

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- (3.) Individual employee records including appointment, promotion or withdrawal notification.
- (4.) Any records required to be kept by sState or local law.
- (B.) *Content.* As a minimum, each record shall contain the following information:
 - (1.) Child register.
 - (a.) Child's name in full (and nickname, if any);
 - (b.) Home address;
 - (c.) Home telephone number;
 - (d.) Date of admission;
 - (e.) Sex;
 - (f.) Birth date;
 - (g.) Father's name in full;
 - (h.) Father's business address;
 - (i.) Father's business telephone number;
 - (j.) Mother's name in full;
 - (k.) Mother's business address;
 - (l.) Mother's business telephone number;
 - (m.) Designation of person authorized to receive child at end of session;
 - (n.) Name and telephone number of person to be contacted in an emergency when parent is not available;
 - (o.) Name and telephone number of the child's physician;
 - (p.) Hospital preferred by parents in case of emergency;
 - (q.) Date of child's withdrawal;
 - (r.) Reason(s) for withdrawal (child care centers only).
 - (2.) Child's health record.
 - (a.) Name in full;
 - (b.) Address;
 - (c.) Sex;
 - (d.) Date of birth;

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- | ~~(e.)~~ Date of examination;
- | ~~(f.)~~ Physician's report concerning general physical condition of child;
- | ~~(g.)~~ History of illnesses and diseases including allergy and specific communicable diseases;
- | ~~(h.)~~ Recent exposure to communicable disease;
- | ~~(i.)~~ Specific immunizations received (give dates);
- | ~~(j.)~~ Result of tuberculin testing;
- | ~~(k.)~~ Corrective defects recommendations and other remarks of examining physician;
- | ~~(l.)~~ Physician's signature;
- | ~~(m.)~~ Physician's address and telephone number;
- | ~~(n.)~~ Parents' health insurance information;
- | ~~(o.)~~ Parents' signed authorization for treatment of child in an emergency;
- | ~~(p.)~~ Name and telephone number of person to be contacted in an emergency.
- | ~~(3.)~~ Employee's teacher's and participating parent's record.
 - | ~~(a.)~~ Name and address of employing facility;
 - | ~~(b.)~~ Employee's name in full;
 - | ~~(c.)~~ Home address;
 - | ~~(d.)~~ Home telephone number;
 - | ~~(e.)~~ Sex;
 - | ~~(f.)~~ Birthdate;
 - | ~~(g.)~~ Title of position;
 - | ~~(h.)~~ Duties;
 - | ~~(i.)~~ Date of health examination;
 - | ~~(j.)~~ Employee's health record:
 - | ~~(1.)~~ Physician's signed statement concerning employee's general physical condition, freedom from disease in a communicable form and physical ability to work closely with or care for children without danger to such children;
 - | ~~(2.)~~ Date of chest X-ray or negative TB skin test;
 - | ~~(3.)~~ Date of laboratory tests for syphilis, gonorrhea or other communicable disease

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when such tests are required by the ~~e~~Commonwealth;

~~(4)~~ Physician's signature, address and telephone number;

~~(k)~~ Employee's educational background;

~~(l)~~ Name and telephone number of person to be contacted in an emergency;

~~(m)~~ Signature of employee;

~~(n)~~ Signature of employer.

§ 52-14. Emergency ~~p~~Provisions.

A plan for emergency situations and for illness of staff shall be maintained and made available for ~~e~~County and ~~s~~State inspections.

§ 52-15. Conflict of ~~e~~Chapter.

In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code, existing on the effective date of this chapter, which establishes a lower standard for the promotion and the protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail; and such other provisions are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.

§ 52-16. Penalties.

The person, firm or corporation who operates a child care center, preschool, nursery school or parent's-day out program without a valid license issued pursuant to this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment in jail not exceeding thirty (30) days, or both. Each day of violation shall constitute a separate offense.

§ 52-17. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstances be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter, or the application of such provisions to other persons or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which said judgment shall have been rendered, and the person or circumstances involved.

§ 52-18. Building ~~s~~Structure and ~~f~~Facilities.

~~(a)A.~~ No child care center, preschool, nursery school or parent's-day-out program shall begin operation until the premises to be occupied shall have been approved by the ~~e~~County ~~m~~Manager, who shall establish procedures for investigation and report by the administrative officers of the building, plumbing, electrical, health, and fire prevention codes.

~~(b)B.~~ An applicant for a permit to operate a child care center, preschool, nursery school or parent's-day out program shall submit to the ~~e~~County ~~m~~Manager plans and specifications of the quarters proposed to be occupied. Such plans shall show details of entrances, partitions, windows, openings, ventilation, plumbing fixtures, food service equipment, playground equipment and related facilities. The food preparation area shall conform ~~to~~ the

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requirements of the ~~f~~Food and ~~f~~Food-establishments Handling Code-ordinanee of Arlington County, Virginia (Chapter 92) and Chapter 3 of the Code of Virginia State Board of Health, where applicable. The premises shall meet the requirements of the Arlington County-Housing Building Maintenance Standards-Ordinanee Chapter (Chapter 29).

§ 52-19. Safety.

~~(a)~~A. Care shall be exercised in the transportation of children to and from the facility. In any vehicle used for the transportation of children, there shall be a seat for each child. The vehicle shall be operated at a safe speed.

~~(b)~~B. The interior of the facility shall be finished in light or bright colors, the walls and ceilings finished with washable paint or similar washable finish. The floor shall be smooth and free of splinters. All equipment, toys and furnishings shall be selected with prime consideration to the safety of the children. No highly flammable fabrics or other materials shall be used or be present in or about the premises.

~~(c)~~C. The location of the building shall be safe from traffic hazards. No facility may be in a location where unusual conditions exist that would be hazardous to the welfare of the children.

§ 52-20. Sanitation and ~~h~~Hygiene.

~~(a)~~A. All walls, ceilings, floors, toilet facilities, food serving facilities, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary manner.

~~(b)~~B. Soap safe for use by children, sanitary towels and toilet tissue shall be provided at all times.

~~(c)~~C. Linen shall be clean and laundered, handled and stored in an approved manner.

~~(d)~~D. Adequate refuse receptacles shall be provided and emptied and cleaned as required. Refuse receptacles must have lids.

§ 52-21. Indoor ~~f~~Facilities.

~~(a)~~A. A minimum of thirty-five (35) square feet of play area per child and three hundred (300) cubic feet of air space per child shall be provided.

~~(b)~~B. Adequate ventilation as prescribed by the building code shall be provided.

~~(c)~~C. Drinking water shall be accessible to the children at all times.

~~(d)~~D. A room or available space for isolation of sick children shall be provided in each facility.

~~(e)~~E. Adequate space for each child's clothing must be provided so that it may be hung separately.

~~(f)~~F. In child care centers and parent's-day-out programs, a separate crib, which meets the federal standard of safety, cot or plastic mat shall be provided for each child resting at any given time, and kept in a sanitary condition. When in use, there shall be at least two (2) feet of space between cots.

~~(g)~~G. In child care centers and parent's-day-out programs, pillows shall not be used and mattresses used only if covered with a moisture-proof material, which shall not be polyethylene film or similar material, and should be covered by an under-sheet. Crib bedsides are always to be up, and the fastenings are to be secured. Under-sheets shall be provided and be sufficient in number to provide at least one (1) change a week. Sufficient blankets shall be provided to assure adequate warmth. Sheets and blankets shall be assigned to individual use and shall not be used by other children without first being properly laundered.

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~~(H)~~ A minimum of one (1) toilet and one (1) hand basin shall be provided for each fifteen (15) children or major fraction thereof.

~~(I)~~ There shall be adequate separation between kitchen and toilet space.

~~(J)~~ Adequate lighting and ventilation shall be provided in each room at all times in conformity with ~~s~~State and local building codes.

~~(K)~~ All parts of the building used by the children shall be adequately heated. The heat must be evenly distributed at a temperature of between sixty-eight (68) degrees and seventy-two (72) degrees Fahrenheit to be maintained in the children's room. Temperature should be taken at one (1) or two (2) feet from the floor.

~~(L)~~ If an electric heater is used to supplement heat of any room, it must be placed out of the reach of the children. Gas stoves, if used, must be approved by the fire official responsible for inspecting fire hazards.

~~(M)~~ When a fan is used for cooling, it must be out of reach of children or screened for the protection of the children.

~~(N)~~ Electrical outlets in all rooms used by children should have protective caps and, if possible, should be placed above child height. If the building is an old one, electrical wiring in the walls as well as the outlets must be checked periodically to eliminate fire hazards.

~~(O)~~ Where children under two (2) years of age are cared for, adequate daylight is the preferable lighting. If artificial light is necessary, the lighting should be equal to ten (10) footcandles of light. All working space and examining tables must be provided with one hundred (100) footcandles of light.

~~(P)~~ Whenever the ~~e~~County ~~m~~Manager shall determine and declare that an energy shortage exists, the minimum thermal standards set forth in this chapter shall be superseded by thermal standards established by the ~~e~~County ~~m~~Manager. Such standards shall be consistent with the nature and extent of the energy shortage and the health and safety of the occupants. These standards shall remain in effect until the ~~e~~County ~~m~~Manager shall declare the emergency is ended.
(4-2-77)

§ 52-22. Outdoor ~~f~~Facilities.

~~(A)~~ A safe fenced play area shall be available with an allowance of seventy-five (75) square feet per child, provided that in C-O and R-A Zoning Districts such area shall be available and safely accessible. Fencing shall not be required if the applicant can show that the play area provides proper protection from traffic and other hazards. Individual group play times can be staggered to meet area size requirements.

~~(B)~~ Equipment that is sturdy and so constructed and maintained as to be safe to use shall be provided.

~~(C)~~ The play area shall be kept free of all debris.
(9-27-76)

§ 52-23. Fire ~~s~~Safety.

Fire drills shall be conducted in accordance with the provisions of ~~section-§~~ 8-F106.2, of the Arlington County Fire Code. Each facility shall be inspected by local fire officials at least once a year.

§ 52-24. Inspections.

Each facility shall be subject to inspection by health authorities at least once a month and by the Arlington

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County Manager or his ~~representatives~~ designees as often as deemed necessary.

§ 52-25. Director, ~~a~~A administrator or ~~a~~A administrative ~~b~~B body.

~~(a)~~A. A director, administrator or administrative body shall be legally responsible for the operation of the facility.

~~(b)~~B. The director, administrator or administrative body shall have sufficient time, training and ability to carry out effectively the duties involved.

~~(c)~~C. The director, administrator, administrative body or coordinator, if so designated, shall be responsible for the day-to-day operations of the facility.

§ 52-26. Staff ~~m~~Medical ~~r~~Requirements.

Each employee who comes into contact with the children and each staff person responsible for preparation and serving of food must have a current medical certificate certifying freedom from chronic communicable or incapacitating disease, based on an examination by a licensed physician, including a negative chest X-ray or TB skin test. Volunteers must provide a current medical certificate certifying a negative chest X-ray or TB skin test before coming in contact with the children. Employees and volunteers shall provide certification of a negative chest X-ray or TB skin test annually thereafter. Records of examinations must be presented upon request. In the event of serious illness or hospitalization of the licensee or director, the director of human resources must be informed immediately of the nature of the illness or hospitalization and the arrangements that have been made for delegation of responsibility for operation of the program in the licensee's absence.

§ 52-27. Children's ~~m~~Medical ~~r~~Requirements.

Medical certificates and immunizations:

~~(a)~~A. Before admission and annually, each child must have a physical examination and shall present a physician's certificate of freedom from communicable diseases. A written record of such examinations shall be on file at the facility. If any chronic conditions or defects are present, the record shall include recommended diet and/or treatment.

~~(b)~~B. Each child, prior to admission, shall have had a TB test and shall have been immunized (as appropriate for age) against diphtheria, whooping cough, tetanus, polio, measles (rubeola) and German measles (rubella). Copies of the immunization records shall be kept at the program's location.

~~(c)~~C. At the discretion of the director, a doctor's certificate must be presented before a child is readmitted after absence of more than five (5) days due to illness. With respect to the common childhood diseases such as measles, mumps, chicken pox and related diseases, the recommendations for exclusion from school as contained in the communicable disease chart issued by the Virginia State Department of Health must be followed. A copy of this chart must be posted in the facility.

§ 52-28. Health ~~p~~Procedures.

The program, through its health policies and practices, shall provide for the health development of the children under care.

~~(a)~~A. Morning inspection. There shall be a morning inspection of each child as he arrives and before he has mingled with the other children. If a trained nurse is not available, the inspection shall be made by a person, familiar with the children, who has been instructed as to how the inspection should be made. If there are indications

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of illness, the director or person in charge is responsible for taking the necessary action in accordance with ~~section § 52-28.C(e).~~

~~(b.)~~**B.** *First aid kit.* A first aid kit shall be provided and kept in an accessible place to adults but out ~~of~~ of reach of the children, and at least one (1) member of the staff trained in first aid shall be present whenever the program is in operation. This certificate shall be renewed periodically so as to be current. The telephone numbers of a hospital, rescue squad ambulance, and fire and police departments shall be posted in a conspicuous place for use in case of a serious accident, illness or emergency.

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~~(c.)~~**C.** In case of illness of a child, the parents or adult specified by the parents shall be notified, and arrangements shall be made to take the child home or to a place specified by the parent.

§ 52-29. Child ~~e~~Care ~~e~~Centers.

The provisions of this section pertain only to the regulation of child care centers.

~~(A.)~~**A.** *Director.* Each child care center shall have a director who shall have the necessary qualifications and experience for the planning, conduct and supervision of the operation of a child care center.

~~(1.)~~**1.** Qualifications:

~~(a.)~~**a.** Master's degree from an accredited college in child development or early childhood education; or

~~(b.)~~**b.** Master's degree from an accredited college in a related field including, but not limited to, education, social work, home economics, psychology, and one (1) year of experience as a teacher or director in a child care center or preschool run on child development principles; or

~~(c.)~~**c.** Bachelor's degree from an accredited college in child development, early childhood education or a related field including, but not limited to education, social work, home economics, psychology, plus at least twelve (12) college semester hours, or the equivalent quarter hours of advanced study in child development or early childhood education and one (1) year of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(d.)~~**d.** Bachelor's degree from an accredited college in child development, early childhood education or a related field including, but not limited to, education, social work, home economics, psychology, and two (2) years of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(e.)~~**e.** Two (2) or more years of college with twelve (12) college semester hours, or the equivalent quarter hours, in child development or early childhood education and five (5) years of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(f.)~~**f.** Directors operating licensed centers as of the effective date of this chapter who do not meet the above educational requirements shall have, or acquire within three (3) years, twelve (12) college semester hours, or the equivalent quarter hours, in child development or early childhood education or equivalent training.

~~(2.)~~**2.** Duties: The director shall be responsible for the overall operation of the facility. Responsibilities shall include, but not be limited to, the following:

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- | ~~(a.)~~ Program planning and evaluation.
- | ~~(b.)~~ Provision of necessary professional supportive staff to ensure that required child-staff ratios are maintained and a child development program is provided.
- | ~~(c.)~~ Direction and supervision of staff.
- | ~~(d.)~~ Provision of in-service staff development and education program.
- | ~~(e.)~~ Designation of an assistant director or head teacher to assume administrative responsibilities in the director's absence.
- | ~~(f.)~~ Maintenance of up-to-date records, including personnel records.
- | ~~(g.)~~ Securing proper maintenance of center to ensure fulfilling all aspects of Commonwealth of Virginia and Arlington County codes and regulations.
- | ~~(h.)~~ Shall make a reasonable attempt to involve parents in the program.
- | ~~(i.)~~ Representation of the center to the community.
- | ~~(j.)~~ Responsibility for orientation of volunteers.
- | ~~(B.)~~ *Teacher.* Teacher shall mean a person qualified to initiate and maintain activities acceptable to a good daily program based on the principles of child development.
- | ~~(1.)~~ Qualifications:
 - | ~~(a.)~~ Bachelor's degree in child development, early childhood education or a related field including, but not limited to education, social work, home economics, psychology, which includes nine (9) college semester hours, or the equivalent quarter hours, in child development and/or early childhood education; or
 - | ~~(b.)~~ Two (2) years or more of college which includes at least fifteen (15) college semester hours, or the equivalent quarter hours, of child development and/or early childhood education courses; or
 - | ~~(c.)~~ Shall possess a high school diploma or its equivalency. This applies only to teachers serving in facilities at the time of adoption of this chapter. Persons falling within this category shall acquire, within two (2) years, nine (9) college semester hours, or the equivalent quarter hours, in early childhood education and/or child development or equivalent training; or
 - | ~~(d.)~~ In a child care center which has as part of its program a Montessori component, the Montessori teacher must, in the alternative, hold Montessori diploma for the level being taught from an institution approved by the American Montessori Society or the Association Montessori International. If a Montessori teacher is to be employed as a teacher in that part of the day which is non-Montessori, the teacher shall meet child care center teacher qualifications.
- | ~~(2.)~~ Duties: Shall be responsible for, but not limited to:
 - | ~~(a.)~~ Initiating and maintaining activities acceptable to a good daily program based on the principles of child development.

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- | ~~(b.)~~ The health, welfare and safety of the children.
- | ~~(c.)~~ The supervision of the assistant teacher, aide or volunteer assigned to the teacher's group.
- | ~~(d.)~~ Maintaining an attractive, orderly and clean room.
- | ~~(e.)~~ Attending in-service programs.
- | ~~(C.)~~ *Assistant teacher.*
- | ~~(1.)~~ Qualifications: Shall possess a high school diploma and certificate in child development from an accredited high school or high school diploma or equivalency certificate and two (2) years of in-service training in a preschool or child care center run on child development principles.
- | ~~(2.)~~ Duties: Shall assist the teacher in providing for the health, welfare and safety of a group of children. In the absence of the teacher, shall assume responsibility for the group. Shall assist the teacher in the classroom. Shall participate in the planning of the daily program for children. Shall perform such other duties in the classroom as are assigned.
- | ~~(D.)~~ *Teacher's aide.* Teacher's aide shall mean a person qualified to assist a teacher or teacher's assistant in the planning of the daily curriculum and the supervision of the children.
- | ~~(1.)~~ Qualifications: Shall complete an eight-week training course in child development or complete eight (8) weeks of in-service training, approved by the ~~e~~County ~~m~~Manager, under the supervision of a qualified teacher; and shall have ability to work well with children and adults.
- | ~~(2.)~~ Duties: Shall assist the teacher in the planning of the daily curriculum; shall attend in-service training when offered; shall help keep classroom orderly, clean and attractive; prepare materials for activities; and assist in the care of equipment and supplies. When needed, shall assist in food preparation, serving and clearing up for mealtimes. When necessary, shall pick up and deliver children. Shall perform such other duties in the classroom as are assigned.
- | ~~(E.)~~ *Food and maintenance employees.* Child care centers shall provide sufficient personnel to maintain required Arlington County standards of cleanliness, safety, comfort and nutrition without depriving the children of proper supervision.
- | ~~(F.)~~ *Volunteers.* Volunteers shall show willingness and ability to work with children. Volunteers shall be under the supervision of the director, assistant director or teacher.
- | ~~(G.)~~ *Physical presence of staff*
- | ~~(1.)~~ The child care center shall have a director who is physically present during the week for at least one-half (1/2) of the time the children are present. In the director's absence, there must be a specifically designated assistant to function in the director's stead.
- | ~~(2.)~~ Regardless of the number of children under care, a minimum of two (2) responsible adults must be present at all times.
- | ~~(3.)~~ No child shall be left unattended at any time.
- | ~~(H.)~~ *Group size, child-adult ratio.*
- | ~~(1.)~~ The size of any one group of children in child care centers, shall not exceed that specified below

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for each particular age, and there shall be a teacher for each group with adequate staff or volunteer assistance to meet the applicable child-adult ratio. Child-adult ratios shall be maintained throughout the day.

Age	Maximum Size of Group	Child-Adult Ratio
Under 2	9	3--1
2	10	5--1
3	16	8--1
4 through 5	20	10--1
6 through 14	25	15--1

Where children of different ages are placed in groups, the ratio shall be adjusted by the director with the welfare of the youngest children in mind. A minimum of two (2) adults shall be required at the center during its hours of operation.

~~(2.)~~ In a child care center with a Montessori component, Montessori approved group sizes, as established by the American Montessori Society or the Association Montessori International, may be applied for the Montessori instruction period, providing ~~s~~State-required child-adult ratios are maintained.

~~(1.)~~ *Program.* A child development program, as a program responsive to the progressive stages of physical, emotional, social and intellectual growth of the young child, shall be the focus of child care centers.

~~(1.)~~ The program shall be under the supervision and direction of a staff member trained or experienced in child development, early childhood education and/or related field including, but not limited to education, social work, home economics, psychology.

~~(2.)~~ The daily program shall be planned to:

~~(a.)~~ Reflect knowledge and understanding of the fundamental needs, growth and development of children.

~~(b.)~~ Have continuity and flexibility so the needs of individual children as well as the needs of the group are met.

~~(c.)~~ Provide a balance between periods of active play and quiet activities. Child care programs shall provide for rest during the day, the length of which will vary with the age of the child and the length of the program, but shall not exceed a total of three (3) hours.

~~(d.)~~ Include a schedule of planned events for each day. Routine such as snacks, meals, naps and play shall occur daily at approximately the same time. Within the schedule there shall be flexibility to allow for individual differences.

~~(e.)~~ Provide daily activities, for each child, designed to:

~~(1.)-~~ Influence a positive concept of self.

~~(2.)-~~ Stimulate motivation.

~~(3.)-~~ Enhance his physical, social, cognitive and communication skills by giving him opportunities to learn about himself and others, about social relationships and about the world around him.

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- | ~~(4.)~~ Help him to deal with reality through tackling real tasks and learning to master them.
- | ~~(5.)~~ Help him to develop skills in both large and small muscle activities.
- | ~~(6.)~~ Help him to take responsibility for his bodily needs and encourage good health habits.
- | ~~(7.)~~ Include at least two (2) hours of outdoor play, divided between morning and afternoon, when the weather is suitable.
- | ~~(f.)~~ At no time shall the director use or permit corporal punishment or any humiliating or frightening methods of discipline.
- | ~~(g.)~~ Children shall not be punished for refusing food nor shall they be deprived of meals or parts of meals or snacks as disciplinary measures.
- | ~~(h.)~~ A weekly schedule of events shall be posted in a location readily visible to the staff and visitors.
- | ~~(j.)~~ *Nutrition and food services.*
- | ~~(1.)~~ The food for children shall be adequate for nutritional needs for wholesome growth and development. Special diets are to be provided as prescribed by a physician for individual children.
- | ~~(2.)~~ Provision shall be made for the children's comfort during mealtime.
- | ~~(3.)~~ Eating utensils and dishes shall be appropriate in size to be handled by the child. If disposable dishes and utensils are used, they shall be sturdy enough to prevent them from being a safety hazard.
- | ~~(4.)~~ Disposable dishes and utensils shall be used only once and discarded.
- | ~~(5.)~~ Meals and snacks:
 - | ~~(a.)~~ Meals shall include a morning snack, an afternoon snack and a hot lunch. If the child arrives before 8:00 a.m., breakfast or a snack shall also be served soon after arrival.
 - | ~~(b.)~~ The meals shall be planned to provide the opportunity for the child to learn to eat and enjoy a variety of nutritious foods.
 - | ~~(c.)~~ Meals shall be served in a pleasant, clean atmosphere.
 - | ~~(d.)~~ Children shall be served small size portions and shall be permitted to have additional servings.
 - | ~~(e.)~~ Snacks shall be selected and planned to provide for nutritional needs of the child. Portions served shall be small in amount and served not less than one and one-half (1 1/2) hours prior to the meal.
 - | ~~(f.)~~ Menus should either be provided on a weekly basis to parents or posted in a prominent place for their inspection.

§ 52-30. Preschools and ~~n~~Nursery ~~s~~Schools.

The provisions of this section pertain only to the regulation of preschools and nursery schools.

~~(A.)~~ *Director.* There shall be a director, administrator or administrative body for each preschool and nursery school.

~~(1.)~~ The director, administrator or administrative body shall be legally responsible for the operation of the facility.

~~(2.)~~ The director, administrator or administrative body shall have sufficient time, training and ability to carry out effectively the duties involved.

~~(3.)~~ The director, administrator, administrative body or head teacher, if so designated, shall be responsible for the day-to-day operation of the facility.

~~(B.)~~ *Director or head teacher, if any.* The director or head teacher shall have the necessary qualifications and experience for the planning, conduct and supervision of the operation of such a facility.

~~(1.)~~ Qualifications:

~~(a.)~~ Master's degree from an accredited college in child development or early childhood education; or

~~(b.)~~ Master's degree from an accredited college in a related field including, but not limited to, education, social work, home economics, psychology, and one (1) year of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(c.)~~ Bachelor's degree from an accredited college in child development, early childhood education or a related field including, but not limited to, education, social work, home economics, psychology, plus at least twelve (12) college semester hours, or the equivalent quarter hours, of advanced study in child development and/or early childhood education and one (1) year of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(d.)~~ Bachelor's degree from an accredited college in child development, early childhood education or a related field including, but not limited to, education, social work, home economics, psychology, and two (2) years of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(e.)~~ Two (~~2~~⁴) or more years of college with twelve (12) college semester hours, or the equivalent quarter hours, in child development and/or early childhood education and five (5) years of experience as a teacher or director in a child care center, preschool or kindergarten run on child development principles; or

~~(f.)~~ Directors or head teachers operating licensed schools as of the effective date of these regulations who do not meet the above educational requirements shall have or acquire, within three (3) years, twelve (12) college semester hours, or the equivalent quarter hours, in child development, early childhood education or equivalent training.

~~(2.)~~ Duties: The director, administrator, administrative body or head teacher, if so designated, shall be responsible for the operation of the facility. Responsibilities shall include, but not be limited to, the following:

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- | ~~(a.)~~ Program planning and evaluation.
- | ~~(b.)~~ Provision of necessary professional supportive staff to ensure that required child-staff ratios are maintained and a child development program is provided.
- | ~~(c.)~~ Direction and supervision of staff.
- | ~~(d.)~~ Provision of in-service staff development and education program.
- | ~~(e.)~~ Designation of an assistant to assume administrative responsibilities when necessary.
- | ~~(f.)~~ Maintenance of up-to-date records including personnel records.
- | ~~(g.)~~ Securing proper maintenance of center to ensure fulfillment of all aspects of Commonwealth of Virginia and Arlington County codes and regulations.
- | ~~(h.)~~ Shall make a reasonable attempt to involve parents in the program.
- | ~~(i.)~~ Representation of the preschool to the community.
- | ~~(j.)~~ Responsibility for orientation of volunteers.
- | ~~(C.)~~ *Teacher.* Teacher shall mean a person qualified to initiate and maintain activities acceptable to a good daily program based on the principles of child development.
- | ~~(1.)~~ Qualifications:
 - | ~~(a.)~~ Bachelor's degree in child development, early childhood education or a related field including, but not limited to, education, social work, home economics, psychology, which includes nine (9) college semester hours, or the equivalent quarter hours, in early childhood education and/or child development; or
 - | ~~(b.)~~ Two (2) years or more of college which includes at least fifteen (15) college semester hours, or the equivalent quarter hours, in early childhood education and/or child development courses; or
 - | ~~(c.)~~ Shall possess as high school diploma or its equivalency. This applies only to teachers serving in facilities at the time of adoption of this chapter. Persons falling in this category shall have, or acquire within two (2) years, nine (9) college semester hours, or the equivalent quarter hours, in child development and/or early childhood education or equivalent training; or
 - | ~~(d.)~~ In a school which represents itself as a Montessori school, the teachers must, in the alternative, hold a Montessori diploma for the level they are teaching from an institution approved by the American Montessori Society or the Association Montessori International.
- | ~~(2.)~~ Duties: Shall be responsible for but not limited to:
 - | ~~(a.)~~ Initiating and maintaining activities acceptable to a good daily program based on the principles of child development.
 - | ~~(b.)~~ The health, welfare and safety of the children.

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- | ~~(c.)~~ The supervision of the assistant teacher, aide or volunteer assigned to the teacher's group.
- | ~~(d.)~~ Maintaining an attractive, orderly and clean room.
- | ~~(e.)~~ Attending in-service programs.
- | ~~(D.)~~ *Assistant teacher.*
- | ~~(1.)~~ Qualifications: Shall possess a high school diploma and certificate in child development from an accredited high school or high school diploma or equivalency certificate and two (2) years of in-service training in a preschool or child care center run on child development principles.
- | ~~(2.)~~ Duties: Shall assist the teacher in providing for the health, welfare and safety of a group of children. In the absence of the teacher, shall assume responsibility for the group. Shall assist the teacher in the classroom. Shall participate in the planning of the daily program for children. Shall perform such other duties in the classroom as are assigned.
- | ~~(E.)~~ *Teacher's aide.* Teacher's aide shall mean a person qualified to assist a teacher or teacher's assistant in the planning of the daily curriculum and the supervision of the children.
- | ~~(1.)~~ Qualifications:
 - | ~~(a.)~~ Shall complete an eight-~~(8)~~ week training course in child development or complete eight (8) weeks of in-service training, approved by the ~~e~~County ~~m~~Manager, under the supervision of a qualified teacher; and
 - | ~~(b.)~~ Shall have the ability to work well with children and adults.
- | ~~(2.)~~ Duties:
 - | ~~(a.)~~ Shall assist the teacher in the planning of the daily curriculum.
 - | ~~(b.)~~ Shall attend in-service training when offered.
 - | ~~(c.)~~ Shall help keep classroom orderly, clean and attractive, shall prepare materials for activities and assist in the care of equipment and supplies. When needed, shall assist in food preparation, serving and cleaning up for meal times.
 - | ~~(d.)~~ Shall perform such other duties in the classroom as are assigned.
- | ~~(F.)~~ *Food and maintenance employees.* Preschools shall provide sufficient personnel to maintain required Arlington County standards of cleanliness, safety, comfort nutrition without depriving the children of proper supervision.
- | ~~(G.)~~ *Volunteers.* Volunteers shall be under the supervision of the director, assistant director or a teacher.
- | ~~(H.)~~ *Group and staff requirements.*
- | ~~(1.)~~ A responsible adult shall be present and in charge at all times.
- | ~~(2.)~~ In the director's absence, there must be present a specifically designated assistant to function in the director's stead.

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~~(3.)~~ The child-staff ratio required by this chapter shall be maintained throughout the day.

~~(4.)~~ No child shall be left unattended at any time.

~~(L.)~~ *Groups.*

~~(1.)~~ *Preschool.* The size of any one group of children in a preschool shall not exceed that specified below for each particular age, and there shall be a teacher for each such group with adequate staff or volunteer assistance to meet the applicable adult-child ratio.

Age	Maximum Size of Group	Child-Adult Ratio
2	15	5--1
3	16	8--1
4 to 5	20	10--1

Where children of different ages are placed in groups, the ratio shall be adjusted by the director with the welfare of the youngest children in mind. A minimum of two (2) adults shall be required at the school during its hours of operation.

~~(2.)~~ *Montessori.* In a school which represents itself as a Montessori school, staffing and class size must be consistent with standards established by either the American Montessori Society or the Association Montessori International. Each school must clearly state the standards on which its operation is primarily based.

~~(J.)~~ *Program.* A child development program, as a program responsive to the progressive stages of physical, emotional, social, and intellectual growth of the young child shall be the focus of preschool programs.

~~(1.)~~ The program shall be under the supervision and direction of a staff member trained or experienced in child development, early childhood education and/or a related field.

~~(2.)~~ The daily program shall be planned to:

~~(a.)~~ Reflect knowledge and understanding of the fundamental needs, growth and development of children.

~~(b.)~~ Have continuity and flexibility so the needs of individual children as well as the needs of the group are met.

~~(c.)~~ Provide a balance between periods of active play and quiet activities. Preschool programs of more than two and one-half (2 1/2) hours per day shall provide for rest during the day, the length of which will vary with the age of the child and length of the program.

~~(d.)~~ Include a schedule of planned events for each day. Routine such as snacks, rest and play shall occur daily at approximately the same time. Within the schedule, there shall be flexibility to allow for individual differences.

~~(e.)~~ Provide daily activities for each child designed to:

~~(1.)-~~ Influence a positive concept of self.

~~(2.)-~~ Stimulate motivation.

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~~(3.)~~ Enhance his physical, social, cognitive and communication skills by giving him opportunities to learn about himself and others, about social relationships, and about the world around him.

~~(4.)~~ Help him to deal with reality through tackling real tasks and learning to master them.

~~(5.)~~ Help him to develop skills in both large and small muscle activities.

~~(6.)~~ Help him to take responsibility for his bodily needs and encourage good health habits.

~~(7.)~~ Include at least twenty (20) minutes of outdoor play in half-day program during suitable weather conditions.

~~(f.)~~ At no time shall the director use or permit corporal punishment or any humiliating or frightening methods of discipline.

~~(g.)~~ Children shall not be punished for refusing food nor shall they be deprived of meals or parts of meals or snacks as disciplinary measures.

~~(h.)~~ A weekly schedule of events shall be posted in a location readily visible to the staff and visitors.

~~(K.)~~ *Nutrition and food services.*

~~(1.)~~ Snacks:

~~(a.)~~ Provision shall be made for the children's comfort during snack time.

~~(b.)~~ Eating utensils and dishes shall be appropriate in size to be handled by the child. If disposable dishes and utensils are used, they shall be sturdy enough to prevent them from being a safety hazard.

~~(c.)~~ Disposable dishes and utensils shall be used only once and discarded.

~~(d.)~~ The snacks shall be planned to provide the opportunity for the child to learn to eat and enjoy a variety of nutritious foods.

~~(e.)~~ Snacks shall be served in a pleasant, clean atmosphere.

~~(f.)~~ Snacks shall be selected and planned to provide nutritional needs of the child.

§ 52-31. ~~P~~arent's-~~d~~ay-~~e~~Out ~~p~~rogram.

The provisions of this section pertain only to the regulation of parent's-day-out programs.

~~(A.)~~ *Coordinator, director or head teacher, if any.* There shall be a coordinator, director or head teacher having the necessary qualifications and experience for the planning, conduct and supervision of the operation of such a facility.

~~(1.)~~ Qualifications:

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- | ~~(a.)~~ Bachelor's degree from an accredited college in child development, early childhood education or a related field including, but not limited to, education, social work, home economics, psychology, and one (1) year of experience as a teacher or director in a preschool or related agency; or
- | ~~(b.)~~ Two (2) or more years of college with nine (9) college semester hours, or equivalent quarter hours, of course work in child development or early childhood education and two (2) years of experience as a teacher or director in a preschool or related agency; or
- | ~~(c.)~~ Coordinators or directors without at least nine (9) college semester hours, or equivalent quarter hours, of credit in child development or early childhood education who are operating or propose to operate licensed programs, who do not meet the above educational requirements, shall acquire, within two (2) years, nine (9) college semester hours, or equivalent quarter hours, in child development, early childhood education or equivalent training.
- | ~~(2.)~~ Duties: The administrator, administrative body, director, coordinator or head teacher, if so designated, shall be responsible for the overall operation of the facility. Responsibilities shall include, but not be limited to, the following:
 - | ~~(a.)~~ Program planning and evaluation.
 - | ~~(b.)~~ Provision of necessary professional supportive staff to ensure that required child-staff ratios are maintained and a child development program is provided.
 - | ~~(c.)~~ Direction and supervision of staff.
 - | ~~(d.)~~ Provision of in-service staff development and education programs.
 - | ~~(e.)~~ Designation of an assistant to assume administrative responsibilities when necessary.
 - | ~~(f.)~~ Maintenance of up-to-date records including personnel records.
 - | ~~(g.)~~ Proper maintenance to facility to ensure fulfilling all aspects of Commonwealth of Virginia and Arlington County Codes and regulations.
 - | ~~(h.)~~ Shall make a reasonable attempt to involve parents in the programs.
 - | ~~(i.)~~ Representation of the program to the community.
 - | ~~(j.)~~ Responsibility for orientation of volunteers.
- | ~~(B.)~~ *Teacher.* This person shall have ability to work well with children and adults, shall possess a high school diploma or its equivalency and shall be willing to improve himself or herself by attending workshops or in-service training programs.
 - | ~~(1.)~~ Duties: Shall be responsible for, but not limited to:
 - | ~~(a.)~~ Initiating and maintaining activities acceptable to a good daily program based on the principles of child development.
 - | ~~(b.)~~ The health, welfare and safety of the children.
 - | ~~(c.)~~ The supervision of the assistant teacher, aide or volunteer assigned to the group.

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- | ~~(d.)~~ Maintaining an attractive, orderly and clean room.
- | ~~(e.)~~ Performing related work as required.
- | ~~(C.)~~ *Cooperating parent.* This person shall be willing to improve himself or herself by attending workshops or in-service programs.
- | ~~(1.)~~ Duties: Shall assist the teacher in providing for the health, welfare and safety of a group of children. In the absence of the teacher, shall assume responsibility for the group. Shall assist the teacher in the classroom. Shall participate in the planning of the daily program for children. Shall perform such other duties in the classroom as are assigned.
- | ~~(D.)~~ *Food and maintenance employees.* Parent's-day-out programs shall provide sufficient personnel to maintain required Arlington County standards of cleanliness, safety, comfort and nutrition without depriving the children of proper supervision.
- | ~~(E.)~~ *Group staff requirements.*
- | ~~(1.)~~ Staff. Parent's-day-out programs shall have a director or coordinator who is physically present during the week for at least one-half (1/2) of the time that the children are present. In the director's or coordinator's absence, there must be present a person designated to act in the director's or coordinator's stead. The size of any one (1) group of children, age two (2) and over, shall not exceed fifteen (15); and there shall be one (1) teacher and one (1) parent for each group.
- | ~~(2.)~~ Where children under two (2) receive care, the size of any group shall not exceed twelve (12); and the ratio of adults to children shall be one (1) to three (3).
- | ~~(3.)~~ Separate area shall be provided for those children learning to walk from those children who have not yet reached this stage of development.
- | ~~(4.)~~ No child shall be left unattended at any time.
- | ~~(F.)~~ *Program.*
- | ~~(1.)~~ The program shall be under the supervision and direction of a staff member trained or experienced in early childhood education, child development and/or a related field.
- | ~~(2.)~~ The program shall be planned to:
 - | ~~(a.)~~ Reflect knowledge and understanding of the fundamental needs, growth and development of children.
 - | ~~(b.)~~ Have continuity and flexibility so the needs of individual children as well as the needs of the group are met.
 - | ~~(c.)~~ Provide a balance between periods of active play and quiet activities. Parent's-day-out programs shall provide for rest during the day, length of which will vary with the age of the child and the length of the program.
 - | ~~(d.)~~ Include a schedule of planned events for each day. Routine such as snacks, meals, nap and play shall occur daily at approximately the same time. Within the schedule there shall be flexibility to allow for individual differences.

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~~(e.)~~ At no time shall the coordinator or director use or permit corporal punishment or any humiliating or frightening methods of discipline.

~~(f.)~~ Children shall not be punished for refusing food nor shall they be deprived of meals or parts of meals or snacks as disciplinary measures.

~~(g.)~~ A weekly schedule of events shall be posted in a location readily visible to the staff and visitors.

~~(G.)~~ *Nutrition and food services.*

~~(1.)~~ Provision shall be made for the children's comfort during mealtime.

~~(2.)~~ Eating utensils and dishes shall be appropriate in size to be handled by the child. If disposable dishes and utensils are used, they shall be sturdy enough to prevent them from being a safety hazard.

~~(3.)~~ Disposable dishes and utensils shall be used only once and discarded.

~~(4.)~~ The snacks shall be planned to provide the opportunity for the child to learn to eat and enjoy a variety of nutritious foods.

~~(5.)~~ Snacks shall be served in a pleasant, clean atmosphere.

~~(6.)~~ Snacks shall be selected and planned to meet nutritional needs of the child.

(12-6-75)

§ 52-32. Cooperative Playgroups.

The following provisions of this Chapter 52 shall apply to cooperative playgroups only:

~~(a)A.~~ ~~Sections- §§ 52-3- through 52-10, Section- § 52-12, Sections- §§ 52-14- through 52-25, Section- § 52-28, B(b) and C(e).~~

~~(b)B.~~ Each cooperative playgroup shall have a chairman, coordinator or administrator whose responsibilities shall include, but not be limited to, the following:

~~(1.)~~ Assurance that required child-adult ratios are maintained.

~~(2.)~~ Maintenance of up-to-date records, including children's and supervising parent's health records.

~~(3.)~~ Proper maintenance of facility to insure fulfilling all aspects of Commonwealth of Virginia and Arlington County Codes and regulations.

~~(c)C.~~ Cooperating parents of the cooperative playgroup shall provide supervision of children on a cooperative basis.

~~(d)D.~~ Group staff requirements.

~~(1.)~~ Cooperative playgroups shall maintain the following child-adult ratios:

 a. ~~In here~~Where children under two (2) receive care, the size of any group shall not exceed

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- | _____ twelve (12); and the ratio of adults to children shall be one (1) to three (3).
- | ~~(2)~~ b. The size of any one (1) group of children, age two (2) and over, shall not exceed fifteen
| _____ (15); and the ratio of adults to children shall be one (1) to five (5).
- | ~~(2)~~ Where children of different ages are placed in groups, the ratio shall be adjusted by the chairman
| with the welfare of the youngest children in mind. A minimum of two (2) adults shall be required
| at the school during its hours of operation.
- | ~~(3)~~ No child shall be left unattended at any time.
(4-25-81)

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AUXILIARY POLICE FORCE

§ 53-1. General pPolicy.

§ 53-2. Definitions.

§ 53-3. County mManager mMay eEstablish an aAuxiliary pPolice fForce.

§ 53-4. Application for aAppointment.

§ 53-5. Calling aAuxiliary pPolice into sService.

§ 53-6. Auxiliary pPolice oOfficers to eConform to rRules and rRegulations.

§ 53-7. Grandfather eClause, eContinuation of eEmployment.

§ 53-1. General pPolicy.

It is hereby declared to be the policy of the County of Arlington, Virginia, to establish, equip and maintain an auxiliary police force for the further preservation of the public peace, safety and good order of the community. (5-22-76)

§ 53-2. Definitions.

~~When used in this chapter, the following definitions shall apply to these words~~The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

~~“Chief of pPolice” means the eChief of pPolice of Arlington County, Virginia, or the designated acting eChief of pPolice.~~

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~~“County mManager” means the eCounty mManager of Arlington County, Virginia, or any of his duty authorized deputies or agents designees.~~

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(5-22-76)

§ 53-3. County mManager mMay eEstablish an aAuxiliary pPolice fForce.

The eCounty mManager may establish an auxiliary police force, the members of which, when called into service as hereinafter provided, shall have all the powers and authority and all the immunities of constables at common law. The County mManager may appoint as many persons of good character as he shall deem necessary to serve as auxiliary police officers, but the total number of persons comprising the auxiliary police force shall not at any time exceed fifty (50) persons. Each such appointment shall be revocable at any time by the eCounty mManager.

(5-22-76)

§ 53-4. Application for aAppointment.

Any person who desires to become an auxiliary police officer shall make application to the eCounty mManager. Upon receipt of the application, the eCounty mManager shall cause an investigation to be made in order to determine whether the applicant is of good character to serve as an auxiliary police officer. Each applicant shall be required to submit to a physical examination, personal interview and such other tests as may be determined by the eCounty mManager.

(5-22-76)

§ 53-5. Calling aAuxiliary pPolice into sService.

A. The eCounty mManager may call into service auxiliary police officers as may be deemed necessary:

1. In time of public emergency;

2. At such times as there are insufficient numbers of regular police officers to preserve the peace, safety, and good order of the community; or

3. At any time for the purpose of training such auxiliary police officers.

B. Auxiliary police officers shall perform in that capacity only when assigned by the County Manager or his designated agent. At all times when serving, the members of the auxiliary police force shall wear the uniform prescribed by the County Manager.
(5-22-76)

§ 53-6. Auxiliary Police Officers to Conform to Rules and Regulations.

Each auxiliary police officer shall conform to and be subject to all the rules and regulations governing police officers of Arlington County, Virginia, including disciplinary regulations, and to such additional rules and regulations as the Chief of Police may make concerning auxiliary police.
(5-22-76)

§ 53-7. Grandfather Clause, Continuation of Employment.

Every person presently serving as an auxiliary police officer on the date of the enactment of this chapter shall continue in that capacity; provided, however, that this grandfather clause shall not exempt any person so continued in the capacity of an auxiliary police officer from any other provision of this chapter.
(5-22-76)

ARLINGTON COUNTY CODE

Chapter 54

FUEL TAX*

* **Editors Note:** At the time of the 1978 codification, Chapter 54 was not effective because all Northern Virginia jurisdictions had not adopted similar ordinances.

§ 54-1. Levy; ~~£~~Tax ~~£~~Rate; ~~H~~Local ~~£~~Fuel ~~£~~Tax.

§ 54-2. Administration, ~~e~~Collection and ~~d~~Distribution of ~~H~~Local ~~£~~Fuel ~~£~~Tax.

§ 54-1. Levy; ~~£~~Tax ~~£~~Rate; ~~H~~Local ~~£~~Fuel ~~£~~Tax.

Pursuant to Title 58, Chapter 8.1, ~~Section-§~~ 58-441.5:1, Virginia Code Annotated, a local fuel tax at the rate of four ~~percentum~~ (4%) ~~percentum~~, to provide revenue for roads and other transportation purposes, is hereby levied on the retail sales price of fuels which are subject to tax under Chapters 13 and 14 of Title 58. It shall be subject to all provisions of Chapter 8.1, Title 58, Virginia Code Annotated, and all the amendments thereto.
(7-1-76)

§ 54-2. Administration, ~~e~~Collection and ~~d~~Distribution of ~~H~~Local ~~£~~Fuel ~~£~~Tax.

Pursuant to Title 58, Chapter 8.1, ~~Section-§~~ 58-441.52, Virginia Code Annotated, the local fuel tax levied pursuant to Title 58, Chapter 8.1, ~~Section-§~~ 58-441.5:1 shall be administered, collected and distributed by the ~~s~~State ~~£~~Tax ~~e~~Commissioner in the manner prescribed by ~~Section-§~~ 58-441.52. Upon receipt of the tax monies, the Northern Virginia Transportation Commission (hereinafter "NVTC") shall apply them first toward the METRO bus operating deficit obligation of Arlington County, which the ~~e~~County has agreed to pay pursuant to Title 15.1, Chapter 52, ~~Section-§~~ 1359, Virginia Code Annotated. If after discharge of said METRO bus operating deficit, there are tax monies in excess or that deficit remaining from the total amount of the credit account established for Arlington County by the ~~s~~State ~~e~~Comptroller, then such excess shall be paid to Arlington County by NVTC for use, first in honoring any obligation for METRORAIL capital costs including debt service, and second for any road, street, or bridge facility within Arlington County which is funded in whole or in part by Arlington County.
(7-1-76)

ARLINGTON COUNTY CODE

Chapter 55

UNDERGROUND UTILITY PROTECTION

- § 55-1. Short ~~¶~~Title.
- § 55-2. Authorization and ~~d~~Declaration of ~~p~~Policy.
- § 55-3. Definitions.
- § 55-4. Administration and ~~e~~Enforcement.
- § 55-5. Responsibilities of the ~~e~~Contractor.
- § 55-6. Responsibilities of the ~~o~~Operator.
- § 55-7. Procedures for ~~h~~Hazards and ~~e~~Emergencies.
- § 55-8. Violations.
- § 55-9. Severability.

§ 55-1. Short ~~¶~~Title.

This chapter shall be known and may be cited as the "Underground Utility Protection Ordinance of Arlington County."
(10-26-76)

§ 55-2. Authorization and ~~d~~Declaration of ~~p~~Policy.

There are hereby established in the County of Arlington, Virginia, procedures intended to prevent damage to underground utility lines for the purpose of protecting the health, safety and welfare of persons within the ~~e~~County. It is the intent of the ~~e~~County ~~b~~Board that this chapter shall be interpreted so that procedures established herein shall be consistent to the maximum extent possible with similar procedures of other local Metropolitan Washington jurisdictions and of the Virginia and federal government.
(10-26-76)

§ 55-3. Definitions.

For the purpose of this chapter, the words used in the present tense include the future; words in the singular number include the plural number and vice-versa; the word "shall" is mandatory and not directory; the following phrases and ~~words terms~~ shall have the ~~following~~ meanings ~~assigned below except in those instances where unless~~ the context clearly indicates ~~otherwise a different meaning~~.

- (1) ~~_____~~ "Contractor": ~~means A~~any person, including a subcontractor, who contracts with an operator or property owner, public or private, for the purpose or engaging in, at least, excavation, demolition or blasting.
- (2) ~~_____~~ "County ~~m~~Manager": ~~Shall mean and include means~~ the ~~e~~County ~~m~~Manager of Arlington County or any of his ~~duly authorized deputies or agents designees~~.
- (3) ~~_____~~ "Emergency": ~~means A~~any imminent threat of interruption or interruption of essential services resulting from the destruction of, disruption of, or damage to underground utility lines. (An emergency is classified as less severe than a hazard.)
- (4) ~~_____~~ "Excavate": ~~means F~~the movement or removal of earth, using mechanized equipment or blasting, and includes auguring, backfilling, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scrapping, trenching and tunneling.
- (5) ~~_____~~ "Hazard": ~~means A~~any imminent threat of interruption or interruption of essential services which includes a severe risk of death or injury to persons or property due to destruction of, disruption of, or damage to

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underground utility lines. (A hazard is classified as more severe than an emergency.)

(6) "Operator" means Any person who furnishes or transports any of the following materials or services by means of a utility line:

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- (a) Flammable, natural, toxic or corrosive gas.
- (b) Petroleum, petroleum products and hazardous liquids.
- (c) Electricity.
- (d) Sanitary sewer.
- (e) Communications.
- (f) Water.

(7) "Person" means Any individual, partnership, association, corporation, state, subdivision or instrumentality of a state, or the legal representative thereof.

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(8) "Property owner" means Any person who owns fee title to or leases a given area of land, excluding, however, any recorded easement or right-of-way.

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(9) "Utility line" means Any underground conduit and its related facilities including pipe or cable, by which an operator furnishes or transports materials or services.

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(10) "Working hours" means 7:30 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. (10-26-76)

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§ 55-4. Administration and eEnforcement.

The administrative authority of this chapter shall be the eCounty mManager and ~~such duly appointed agent(s) as may be authorized by him his designees~~, any one of whom may perform the tasks and may make inspections required by this chapter and may take such steps as may be reasonably necessary to enforce its provisions. (10-26-76)

§ 55-5. Responsibilities of the eContractor.

(A) Exceptions.

(1) The requirements of this section shall not apply to any property owner who, without the aid of a contractor, is performing work within the boundaries of his property which does not require the acquisition of any permit issued by Arlington County.

(2) The requirements of section § 55-5.B(2) of this chapter shall not apply to any person acting as/or for the operator of a damaged line in making emergency repairs to its own underground facilities, streets, or alleys when such repairs must be made within a shorter period of time than that provided for in section § 55-5.B.1(2-4) of this chapter, provided, however, that this exemption from obtaining information shall not excuse the person making the excavation from any liability for damages caused by his negligence.

(3) The requirements of this chapter shall not apply to persons and operators excavating for routine maintenance including concrete repairs, "patch" type paving, sign erection, if working on the traveled way, shoulder, sidewalks or drainage features of a public road, street, or highway when

the excavation does not exceed eighteen (18) inches in depth below the grade existing prior to such excavation.

~~(2)B.~~ *Demolition or excavation, prior notice.*

~~(2-1)1.~~ Contractors doing work which does or does not require permits and property owners doing work requiring permits shall notify all operators who maintain underground utility lines in the area of the proposed excavation or blasting, at least two (2) working days, but not more than ten (10) working days prior to commencement of said excavation or demolition. This notification shall consist, at least, of the following:

~~(2-1.1)a.~~ _____ The contractor's name and telephone number.

~~(2-1.2)b.~~ _____ The name of the person for whom the proposed work is being done.

~~(2-1.3)c.~~ _____ The date and approximate time work is to commence.

~~(2-1.4)d.~~ _____ The location and approximate depth of proposed work.

~~(2-1.5)e.~~ _____ The nature of work to be done.

~~(2-1.6)f.~~ _____ The contractor's field representative or filed contact, if any.

~~(2-1.7)g.~~ _____ Any special remarks.

~~(2-2)2.~~ The telephone number(s) to be used for giving notice to operators as required in ~~section § 55-5.B.1(2-1)~~ above shall be located on the approved site plan, subdivision plan, or engineering plan which is to be at the site during excavation or demolition as required in ~~section § 55-5.C.3(3-3)~~ of this chapter.

~~(2-3)3.~~ It shall be unlawful for any contractor to commence excavation or demolition on any property without first receiving clearance for excavation from each operator as provided in ~~section § 55-6.A.1(4-1)~~ of this chapter.

~~(3)C.~~ *Demolition or excavation, performance.*

~~(3-1)1.~~ Verification that rough grading is to within six (6) inches or finished grade must be provided to the operator in writing by the contractor or property owner before such operator shall commence excavation for the installation of its utility lines.

~~(3-2)2.~~ Any person excavating within two (2) feet of any side of the staked or marked location of an operator's underground utility line or blasting which has any effect within the same distance of the underground utility line, shall take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but not be limited to hand digging within the limits of the planned excavation or demolition, starting two (2) feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel excavations.

~~(3-3)3.~~ Any contractor performing excavation or demolition is required to have an approved site plan, subdivision plan or engineering plan indicating the plan view of all known existing and proposed utility lines (with exception of house service laterals) at the site during excavation or demolition.

~~(3-4)4.~~ Any person who is designated to operate mechanized equipment for the purpose of excavation or demolition shall not perform such excavation or demolition until he has examined the plan(s) provided in ~~section § 55-5.C.3(3-3)~~ and written the time and date of that examination followed by his signature on the plan.

~~(3.5)5.~~ It is not the intent of this section to make the act of obtaining information as required by this chapter an excuse for any person making an excavation or demolition from doing so in a careful and prudent manner nor an excuse for such person from liability for any damage resulting from his negligence.

(10-26-76; Ord. No. 84-7, 4-7-84)

§ 55-6. Responsibilities of the ~~e~~Operator.

~~(1)A.~~ *Excavation.*

~~(1.1)1.~~ An operator who receives notification of a proposed excavation pursuant to ~~section § 55-5.B.1(2.1)~~ of this chapter and who has received, if applicable, verification of site grading pursuant to ~~section § 55-5.C.1(3.1)~~ of this chapter, shall provide clearance for excavation to the contractor before such excavation may commence by:

~~(1.1.1)a.~~ _____ Providing to designing engineers horizontal location data on its utility lines prior to field survey for designing new work so that such information on existing utility lines may be included in survey notes.

~~(1.1.2)b.~~ _____ At least one (1) hour prior to the commencement of the proposed excavation through its own employees or the employees of another operator it has designated in writing for this purpose, horizontally locating its utility lines and notifying the contractor that the proposed excavation will not affect its existing utility lines. Horizontal location means marking on the surface of the ground above the utility line a surface line which is in the same vertical plane as the center line of the utility line over which the surface line is being marked.

~~(1.1.3)c.~~ _____ Indicating the horizontal location of their utility lines on a site map if requested by the contractor.

~~(1.2)2.~~ Horizontal location of utility lines at the site of excavation shall consist of a durable marking system approved by the Office of Pipeline Safety or the U.S. Department of Transportation or the State Corporation Commission of Virginia; or a locating system approved by the ~~e~~County ~~m~~anager clearly and definitely indicating the horizontal location of the operator's facilities.

~~(1.3)3.~~ When trenches excavated for the installation or repair of gas pipelines are backfilled, a continuous tape, or similarly effective device, shall be installed after tampering eighteen (18) inches above all direct burial plastic mains and twelve (12) inches above services, stubs and stub extensions. The tape shall be not less than three (3) inches wide, brilliant in color and imprinted with words clearly defining the utility line as "GAS." The tape shall be impregnated with metal so that locating equipment can readily pick it up. The remainder of the backfill may then be placed.

~~(2)B.~~ *Demolition.*

~~(2.1)1.~~ An operator who receives notification of a proposed demolition pursuant to ~~section § 55-5.B.1(2.1)~~ of this chapter shall ensure clearance for demolition by:

~~(2.1.1)a.~~ _____ Disconnecting, or capping all of its utility lines to the structure to be demolished by 5:00 p.m. of the day before demolition is to begin.

~~(2.1.2)b.~~ _____ Advising the contractor of the means of assuring adequate protection for its other utility lines in the vicinity.

~~(2.1.3)c.~~ _____ Notifying the contractor that such disconnection has been completed or that its utility lines will not be affected by such demolition.

~~(3)C.~~ *Standards and procedures.*

~~(3-1)1.~~ The horizontal location of all existing underground utility lines and those underground utility lines proposed by any operator shall be indicated on all site plans, subdivision plans, or engineering plans prior to ~~e~~CCounty approval.

~~(3-2)2.~~ Wherever it is necessary for safe excavation or demolition for a person with expert knowledge of an operator's utility lines to be present during any work, the affected operator shall provide such a person during the time the work is being done.

(10-26-76)

§ 55-7. Procedures for ~~h~~Hazards and ~~e~~Emergencies.

~~(1)A.~~ *The contractor.*

~~(1-1)1.~~ Communication between the job site and the contractor's base office shall be maintained at all times through the use of a two-way radio system or some other means approved by the ~~e~~CChief ~~f~~Fire ~~m~~Marshal of Arlington County.

~~(1-2)2.~~ When any person damages a utility line, or the protective coating thereof, or accidentally exposes or severs a utility line during excavation or demolition, an emergency shall be deemed to exist and the operator of such utility line shall be directly notified at that time.

~~(1-3)3.~~ When any gas or flammable liquid utility line is severed, or damaged to the extent that there is escapement of its contents, a hazard shall be deemed to exist and the operator of such utility line and the Arlington County Fire Alarm Headquarters shall be immediately notified.

~~(1-4)4.~~ Contractors shall display in plain sight on the instrument or control panel, or dash of all trucks and mechanized equipment operated by them, the current telephone number(s) which is to be utilized to give notice as required in ~~paragraph subsection A.3(1-3)~~ above.

~~(1-5)5.~~ The telephone numbers to be utilized in giving notice as required in ~~paragraph subsection A.2(1-2)~~ above shall be located on the approved site plan, subdivision plan, or engineering plan which is to be at the site during excavation or demolition as required by ~~section § 55-5.C.3(3-3)~~ of this chapter.

~~(1-6)6.~~ It shall be unlawful to backfill around a damaged utility line, as described in ~~paragraphs subsections A.2(1-2) and A.3(1-3)~~ above, until the operator of that utility line has been notified of such incident, has repaired the damage and/or has given clearance to backfill in writing.

~~(1-7)7.~~ During an emergency or hazard, prudent work to relieve the emergency or hazard may be undertaken by the contractor with the permission of the operator, after notice has given as required in ~~paragraphs subsections A.2(1-2) and A.3(1-3)~~.

~~(2)B.~~ *The operator.*

~~(2-1)1.~~ All operators shall make available on a twenty-four-~~(24)~~ hour basis adequate emergency response crew(s) including answering personnel, radio dispatchers, appliance servicemen and utility repair crews capable of performing all work tasks necessary to cope with emergencies or hazards. The number of emergency work crews shall be determined by the operator based upon the number and frequency of experiences recorded and a reasonable response time to the site of the emergency during other than working hours as determined by the ~~e~~CCounty ~~m~~Manager.

~~(2-2)2.~~ All hazards reported to operators shall be reported by them immediately to Arlington County Fire Alarm Headquarters.

- ~~(2.3)~~3. Emergency shut-off valves shall be provided for all new gas service line installations such that:
- ~~(2.3.1)~~a. _____ All gas services supplying inside meters shall be equipped with an easily accessible outside shut-off.
- ~~(2.3.2)~~b. _____ Steel or copper services to outside meters shall be equipped with an outside shut-off as provided in ~~paragraph subsection B.3(2.3)~~ of this section or an above ground shut-off at the meter.
- ~~(2.3.3)~~c. _____ Plastic services to outside meters shall be equipped with an outside shut-off at the meter.
- ~~(2.4)~~4. The decision to shut off a utility main line during a hazard shall be vested in an appropriate representative of the utility company concerned.
- ~~(2.5)~~5. When adequate operator emergency response crews are not available during a hazard, the operator involved shall notify the Arlington County Fire Department to take necessary safety precautions to protect the area affected until the utility operator can respond.
- ~~(2.6)~~6. Only the appropriate utility line representatives shall be permitted to reopen any valve or breaker which was closed during such a hazard and only after a thorough investigation has indicated that it is safe to place the affected lines back into service.
- ~~(2.7)~~7. During any emergency or hazard, prudent work to relieve the emergency or hazard may be undertaken by the contractor with permission of the operator. ~~(A~~after notice has been given as required in ~~sections §§ 55-7.A.2(1-2) and A.3(1-3).~~

(10-26-76)

§ 55-8. Violations.

- ~~(1)~~A. Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punishable by a fine not to exceed two thousand five hundred dollars (\$2,500.00). If the unlawful act resulted in injury to any person or property then the act shall be punishable by a criminal penalty not to exceed thirty (30) days in jail and a fine not to exceed two thousand five hundred dollars (\$2,500.00), or both. Each day a violation of this chapter shall continue shall constitute a separate offense.
 - ~~(2)~~B. If, during excavation or demolition, an underground utility line is damaged by any person who has failed to comply with any provision of this chapter, it is the policy of the Arlington County Board, and the ~~b~~Building ~~e~~Official shall take such action with respect to permits issued by Arlington County as provided in the Virginia Uniform Statewide Building Code.
 - ~~(3)~~C. The ~~e~~County ~~m~~anager or the ~~b~~Building ~~e~~Official shall temporarily suspend the license(s) issued by Arlington County to any person who is convicted of violating any provision of this chapter two (2) or more times within any twelve ~~(12)~~ month period. They shall further recommend the suspension of such license(s) for a period not to exceed one (1) year to the appropriate licensing board of Arlington County.
- (10-26-76; Ord. No. 91-34, 9-18-91)

§ 55-9. Severability.

Should any section, subsection, sentence, clause or phrase of this chapter be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the chapter in its entirety or of any part thereof other than that so declared to be invalid.

(10-26-76)

ARLINGTON COUNTY CODE

Chapter 56

OBSCENITY

§ 56-1. Definitions.

§ 56-2. Obscene items enumerated.

§ 56-3. Unlawful acts.

§ 56-4. Penalties.

§ 56-5. Severability.

§ 56-1. Definitions.

The following definitions shall apply to these words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

(a) "Person": Shall means any individual, partnership, firm, association, corporation or other legal entity.

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(b) "Obscene": means that which, considered as a whole:

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(A) Has as its dominant theme or purpose an appeal to the prurient interest in sex, that is, a shameful or morbid interest in nudity, sexual conduct, sexual excitement, excretory functions or projects thereof or sadomasochistic abuse; and

(B) Which contains patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, or masturbation or excretory functions or lewd exhibition of the genitals; and

(C) Which goes substantially beyond customary limits of candor in description or representation of such matters; and

(D) Which, taken as a whole, does not have serious literary, artistic, political or scientific value.

(e) "Distribute": means delivery in person, by mail, messenger, or by any other means by which obscene items as defined in this chapter may pass from one person, firm, or corporation to another.

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(f) "Genital" or "genital part": means the penis, genitals, pubic area, anus, perineum or vulva of any person.
(10-9-76)

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§ 56-2. Obscene items enumerated.

Obscene items shall include:

(A) Any obscene book; or

(B) Any obscene leaflet, pamphlet, magazine, booklet, picture, painting, drawing, photograph, film, negative, slide, motion picture; or

(C) Any obscene figure, object, article, instrument, novelty device, or recording or transcription used or intended to be used in disseminating any obscene song, ballad, words, or sounds.
(10-9-76)

| § 56-3. Unlawful ~~a~~acts.

| ~~(a)~~A. *Production, publication, sale, possession of obscene items.* It shall be unlawful for any person knowingly to:

- | ~~(1.)~~ Prepare any obscene item for the purposes of sale or distribution; or
- | ~~(2.)~~ Print, copy, manufacture, produce, or reproduce any obscene item for purposes of sale or distribution; or
- | ~~(3.)~~ Publish, sell, rent, lend, transport in intrastate commerce, or distribute or exhibit any obscene item, or offer to do any of these things; or
- | ~~(4.)~~ Have in his possession with intent to sell, rent, lend, transport, or distribute any obscene item. Possession in public or in a public place of any obscene item as defined in this article shall be deemed prima facie evidence of a violation of this section.

| ~~(b)~~B. *Obscene exhibitions and performances.* It shall be unlawful for any person knowingly to:

- | ~~(1.)~~ Produce, promote, prepare, present, manage, direct carry on or participate in, any obscene exhibitions or performances, including the exhibition or performance of any obscene motion picture, play, drama, show, entertainment, exposition, tableau or scene; provided that no employee of any person or legal entity operating a theatre, garden, building, structure, room or place which presents such obscene exhibition or performance shall be subject to prosecution under this section if the employee is not the manager of the theatre or an officer of such entity, and has no financial interest in such theatre other than receiving salary and wages;
- | ~~(2.)~~ Own, lease or manage any theatre, garden, building, structure, room or place and lease, let, lend or permit such theatre, garden, building, structure, room or place to be used for the purpose of presenting such obscene exhibition or performance or to fail to post prominently therein the name and address of a person resident in the locality who is the manager of such theatre, garden, building, structure, room or place.

| ~~(c)~~C. *Advertising, etc., obscene items, exhibitions or performances.* It shall be unlawful for any person knowingly to prepare, print, publish or circulate, or cause to be prepared, printed, published or circulated, any notice or advertisement of any obscene item proscribed in Chapter 56, or of any obscene performance or exhibition proscribed in ~~section § 56-3.B(b)~~, stating or indicating where such obscene item, exhibition, or performance may be purchased, obtained, seen or heard.

| ~~(d)~~D. *Placards, posters, bills, etc.* It shall be unlawful for any person knowingly to expose, place, display, post up, exhibit, paint, print or mark, or cause to be exposed, placed, displayed, posted, exhibited, painted, printed or marked, in or on any building, structure, billboard, wall or fence, or on any street, or in or upon any public place, any placard, poster, banner, bill, writing, or picture which is obscene, or which advertises or promotes any obscene exhibition or performance proscribed in ~~section § 56-3.B(b)~~ or knowingly to permit the same to be displayed on property belonging to or controlled by him.

| ~~(e)~~E. *Photographs, slides, and motion pictures.* It shall be unlawful for any person knowingly to:

- | ~~(1.)~~ Photograph himself or any other person, for purposes of preparing an obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution; or
- | ~~(2.)~~ Model, pose, act, or otherwise assist in the preparation of any obscene film, photograph, negative, slide or motion picture for purposes of sale or distribution.

| ~~(f)~~F. *Coercing acceptance of obscene articles or publications.* It shall be unlawful for any person, as a

condition to any sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical or publication to require that the purchaser or consignee receive for resale any other article, book, or other publication which is obscene; nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept such articles, books, or publications, or by reason of the return thereof.

| ~~(G.)~~ *Employing or permitting minor to assist in offense under chapter.* It shall be unlawful for any person knowingly to hire, employ, use or permit any minor to do or assist in doing any act or thing constituting an offense under this chapter.

| ~~(H.)~~ *Exceptions to application of chapter.* Nothing contained in this chapter shall be construed to apply to:

| ~~(1.)~~ The purchase, distribution, exhibition, or loan of any book, magazine, or other printed or manuscript material by any library, school, or institution of higher learning, supported by public appropriation.

| ~~(2.)~~ The purchase, distribution, exhibition, or loan of any work of art by any museum or fine arts, school, or institution of higher learning, supported by public appropriation.

| ~~(3.)~~ The exhibition or performance of any play, drama, tableau, or motion picture by any theatre, museum of fine arts, school, or institution of higher learning, supported by public appropriation.

(10-9-76)

§ 56-4. Penalties.

Every person convicted of an offense violating this Chapter shall, upon conviction, be guilty of a Class 1 misdemeanor.

(10-9-76; Ord. No. 91-34, 9-18-91)

§ 56-5. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate the remainder of this chapter or the application of such provisions to other persons or circumstances but shall be confined in its application to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.

(10-9-76)

ARLINGTON COUNTY CODE

Chapter 57

EROSION AND SEDIMENT CONTROL*

* Editor's Note: Ord. No. 08-01, adopted January 26, 2008, amended Ch. 57, in its entirety, to read as herein set out.

- § 57-1. Title.
§ 57-2. Purpose.
§ 57-3. Authorization.
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§ 57-6. Regulated Hand-dDisturbing aActivities.
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§ 57-10. Administrative aAppeal; jJudicial rReview.
§ 57-11. Penalties, iInjunctions, and oOther HLegal aActions.
§ 57-12. Severability.
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§ 57-1. Title.

This chapter shall be known as the "Erosion and Sediment Control Chapter of Arlington County, Virginia." (6-27-76; Ord. No. 08-01, 1-26-08)

§ 57-2. Purpose.

The purpose of this chapter is to conserve the land, water, air and other natural resources of Arlington County and promote the public health and welfare of the people in Arlington County by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced. (6-27-76; Ord. No. 08-01, 1-26-08)

§ 57-3. Authorization.

This chapter is authorized by the Code of Virginia, Title 10.1, Chapter 5, Article 4, known as the "Erosion and Sediment Control Law." This article provides for a comprehensive statewide program with standards and guidelines to control soil erosion and sedimentation which is implemented on the local level. (6-27-76; Ord. No. 92-16, 5-1-92; Ord. No. 08-01, 1-26-08)

§ 57-4. Definitions.

AsThe following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

- 1- "Administrator" means the County Manager or his designated representative designee.
2- "Applicant" means any person submitting an erosion and sediment control plan for approval or

Comment [LH1]: In the process of alphabetizing these terms, some of the numbering from the previous version was lost

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requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.

“Conservation plan, erosion, and sediment control plan” or “plan” means 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 and appropriate soil and water plan inventory and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that entire unit or units of land will be treated so as to achieve the conservation objectives.

“Conservation standards” or “standards” means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation.

~~3.~~ “Governing body” means the County Board of Arlington County.

4. “Land-disturbing activity” means 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 state, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- ~~(i)~~(1) iIndividual service connections;
- ~~(ii)~~(2) iInstallation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street, or sidewalk provided such land-disturbing activity is confined to the area of the road, street, or sidewalk provided such land-disturbing activity is confined to the area of the road, street, or sidewalk which is hard-surfaced;
- ~~(iii)~~(3) sSeptic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- ~~(iv)~~(4) sSurface or deep mining;
- ~~(v)~~(5) eExploration or drilling for oil and gas including well-site, roads, feeder lines and off-site disposal areas;
- ~~(vi)~~(6) iInstallation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- ~~(vii)~~(7) sShoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetland boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;
- ~~(viii)~~(8) sSuch minor land-disturbing activities as home gardens and individual landscaping, repairs, and maintenance work of areas which are less than two thousand five hundred (2,500) square feet and for which no building permit is required;
- ~~(ix)~~(9) eEmergency 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, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan approving authority or the commission when applicable;
- ~~(x)~~(10) Ilivestock feed lot operations, tilling, planting, or harvesting of agricultural, horticultural, forestry, or forest crops, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, to reforest or convert to bona fide agriculture or improved pasture use, land drainage and land irrigation;

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~~(xi)(11) r~~Repair or rebuilding of tracks, right-of-ways, bridges, communication facilities, and other related structures and facilities of a railroad company;

~~(xii)(12) p~~Preparation for single-family residences separately built where the disturbed site area is less than two thousand five hundred (2,500) square feet in size, unless in conjunction with multiple construction in subdivision development;

~~(xiii)(13) d~~Disturbed land areas for commercial or noncommercial uses of less than two thousand five hundred (2,500) square feet in size;

~~(xiv)(14) e~~Agricultural engineering operations including, but not limited to, the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.

“Land-disturbing permit” means a permit issued by Arlington County for any land-disturbing activity that requires the submission and review of an approved conservation plan by the plan approving authority under the provisions of this chapter.

~~5. “Local erosion and sediment control program” or “local control program” means an outline of the various methods employed by a locality to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and including, without limitation, such items as local ordinances, policies, and guidelines, technical materials, inspection, enforcement, and evaluation.~~

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~~6. “Natural channel design concepts” means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.~~

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~~7. “Owner” means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a property.~~

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~~8. “Peak flow rate” means the maximum instantaneous flow from a given storm condition at a particular location.~~

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~~9. “Person” means 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 this state, any interstate body, or any other legal entity.~~

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“Plan approving authority” means the Arlington County Department of Environmental Services which is responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of land and which shall approve such plan if the plan is determined to be adequate and which is responsible for inspecting land-disturbing activity to ensure compliance with the approved plan.

~~10. Conservation standards or standards means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation.~~

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~~11. Conservation plan, erosion, and sediment control plan or plan means 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 and appropriate soil and water plan inventory and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that entire unit or units of land will be treated so as to achieve the conservation objectives.~~

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~~12. "Runoff volume" means the volume of water that runs off the land development project from a prescribed storm event.~~

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~~13. "State erosion and sediment control program" or "state program" means the program adopted by the Commission consisting of conservation standards, guidelines, and criteria to minimize erosion and sedimentation.~~

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~~14. "State waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth of Virginia or within its jurisdiction.~~

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~~15. "Subdivision" shall have the meaning in the definition provided in Chapter 23, Subdivisions, of the Code of Arlington County, Virginia.~~

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~~16. Plan approving authority means the Arlington County Department of Environmental Services which is responsible for determining the adequacy of a conservation plan submitted for land disturbing activities on a unit or units of land and which shall approve such plan if the plan is determined to be adequate and which is responsible for inspecting land disturbing activity to ensure compliance with the approved plan.~~

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~~17. Land disturbing permit means a permit issued by Arlington County for any land disturbing activity that requires the submission and review of an approved conservation plan by the plan approving authority under the provisions of this chapter.~~

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~~18. "Water Quality Volume" means the volume equal to the first one-half (1/2) inch of runoff multiplied by the impervious surface of the land development project. (6-27-76; 7-30-77; Ord. No. 82-11, 4-25-82; Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 98-25, 10-17-99; Ord. No. 04-25, 10-2-04; Ord. No. 08-01, 1-26-08)~~

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~~§ 57-5. Local Erosion and Sediment Control Program.~~

~~(A) This chapter and the current edition of the "Virginia Erosion and Sediment Control Handbook" shall be an integral part of the Arlington County erosion and sediment control program and shall comprise the Arlington County Erosion and Sediment Control Handbook.~~

~~(B) The Arlington County Board hereby adopts the Virginia Erosion and Sediment Control Regulations (Section 4VAC50-30, as amended) for Controlling Erosion and Sediment from Land-Disturbing Activities as setting the minimum requirements for controlling erosion and sedimentation from land-disturbing activities. In addition to these minimum requirements, the relevant requirements of the Storm Water Detention Ordinance, Chapter 60 of the Code of Arlington County, Virginia, also apply.~~

~~(C) In accordance with § 10.1-561 of the Code of Virginia, and as an alternative to the requirements of the most recent version of Minimum Standard 19 contained in the Virginia Erosion and Sediment Control Regulations, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to (i) detain the water quality volume and to release it over forty-eight (48) hours; (ii) detain and release over a twenty-four (24)-hour period the expected rainfall resulting from the one (1) year, twenty-four (24)-hour storm; and (iii) reduce the allowable peak flow rate resulting from the one and one-half (1.5), two (2), and ten (10)-year, twenty-four (24)-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels as defined herein or other County regulation.~~

~~(D) The "Virginia Erosion and Sediment Control Handbook," current edition, shall be used by an applicant making a submittal under the provisions of this chapter in preparing the erosion and sediment control plan. The plan approving authority, in considering the adequacy of such submitted plan, shall be guided by the same~~

guidelines and standards.

~~(5)E.~~ In accordance with ~~7~~ § 10.1-561 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as set forth herein or applicable state law. (6-27-76; Ord. No. 82-11, 4-25-82; Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 08-01, 1-26-08)

§ 57-6. Regulated ~~H~~Land-~~d~~Disturbing ~~a~~Activities.

~~(4)A.~~ Except as provided in subsections ~~B(2)~~ and ~~C(3)~~, no person shall engage in any land-disturbing activity until he has submitted to the plan approving authority an erosion and sediment control plan for such land-disturbing activity and until that plan has been reviewed and approved by the plan approving authority. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-~~r~~approving authority.

~~(2)B.~~ Projects undertaken by state agencies in accordance with Section 10.1-564 of the Code of Virginia shall be deemed not to be in violation of this chapter for land-disturbing activities.

~~(3)C.~~ Any person whose land-disturbing activities involve lands which extend into the jurisdiction of another local erosion and sediment control program may submit a conservation plan to the Virginia Soil and Water Conservation Board for review and approval, rather than submission to each jurisdiction concerned.

~~(4)D.~~ Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

~~(5)E.~~ State Water Control Board approval of linear utility and railroad project specifications.

~~(6)E.~~ In accordance with the procedure set forth by § 10.1-563 (E) of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the Board. (6-27-76; Ord. No. 82-11, 4-25-82; Ord. No. 94-17, 6-4-94; Ord. No. 08-01, 1-26-08)

§ 57-7. Action on ~~e~~Erosion and ~~s~~Sediment ~~e~~Control ~~p~~Plans ~~p~~Prior to ~~H~~Land-~~d~~Disturbing ~~a~~Activity.

~~(4)A.~~ The plan approving authority shall approve any erosion and sediment control plan submitted to it if it determines that the plan meets the conservation standards of the local control program and if the person responsible for carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this chapter.

~~(2)B.~~ The plan approving authority shall act on all plans submitted to it and for which a fee is paid within forty-five (45) days after receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving the specific reasons for its disapproval. When a plan submitted for approval pursuant to this chapter is found upon review to be inadequate, the plan approving authority shall review or specify such modifications, terms, and conditions as will permit approval of the plan and shall communicate these requirements to the applicant. If no action is taken by the plan approving authority within the time specified above, the plan shall be deemed approved and the applicant shall be authorized to proceed with the proposed activity. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence to the program authority, as provided by § 10.1-561 of the Code of Virginia, who will be in charge of and responsible for carrying out the land-disturbing activity. However, any plan-~~r~~approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs

during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by § 10.1-561 of the Code of Virginia. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided herein.

~~(3)C.~~ An approved plan may be changed by the plan approving authority in the following cases:

~~(a)1.~~ Where, upon inspection of the site, the plan approving authority has found the implementation of the plan to be inadequate to accomplish the erosion and sediment control objectives of the plan; or

~~(b)2.~~ Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, the proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the plan approving authority and the person responsible for carrying out the plan.

(6-27-76; Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 08-01, 1-36-08)

§ 57-8. Issuance of ~~l~~and-~~d~~isturbing ~~p~~ermit and ~~f~~ees.

~~(+)A.~~ No person shall engage in any regulated land-disturbing activity, as defined in ~~section §~~ 58-6 of this chapter, until he has acquired a land-disturbing permit from the plan approving authority.

~~(2)B.~~ No grading, building, or other permits for land-disturbing activities may be issued unless the applicant submits with his application an approved erosion and sediment control plan as required by this chapter.

~~(3)C.~~ An ~~E~~rosion and ~~S~~ediment ~~C~~ontrol fee for reviewing plans and performing field inspections shall be collected at the time of building permit application as follows:

All exterior alteration, plumbing, electrical, or mechanical building permits where more than one hundred (100) square feet and less than two thousand five hundred (2,500) square feet are estimated to be disturbed.

Fence permits are not included. . . . \$100.00

All exterior alteration, plumbing, electrical, or mechanical building permits where more than two thousand five hundred (2,500) square feet are disturbed. . . . \$750.00

All demolition and new residential single-family structure building permits \$400.00

New town house building permits (per structure of less than 10 units) \$275.00

New town house building permits (per structure of 10 units or more) \$700.00

~~but n~~Not to exceed \$34,000.00

Each new commercial structure, each new apartment structure, and any other new structure requiring building permits where less than five thousand (5,000) square feet are estimated to be disturbed \$1,500.00

Each new commercial structure, each new apartment structure, and any other new structure requiring building permits where more than five thousand (5,000) square feet are disturbed \$1,500.00

~~p~~Plus, ~~\$0.30~~ for each square foot of disturbed area over the first five thousand (5,000) square feet \$0.30

The maximum fee to be charged not to exceed fifty-five thousand dollars (\$55,000).

(6-27-76; Ord. No. 82-11, 4-25-82; Ord. No. 90-5, 7-1-90; Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 01-9, 4-21-01; Ord. No. 07-07, 4-21-07, effective 7-1-07; Ord. No. 08-01, 1-26-08; Ord. No. 09-14, 4-28-09;

effective 7-1-09)

§ 57-9. Monitoring, ~~r~~Reports and ~~i~~Inspections.

The plan approving authority (i) shall periodically inspect the land-disturbing activity and (ii) may require that the permit holder furnish periodic monitoring reports of the land-disturbing activity to ensure compliance with the approved plan and to determine whether the measures required in that plan are effective in controlling erosion and sediment resulting from the land-disturbing activity. The right-of-entry to conduct such inspections shall be expressly reserved in the permit. The permit holder, or his ~~duly-designated representative designee~~, shall be given notice of the inspection.

If the plan approving authority determines that the permit holder has failed to comply with the plan, the plan approving authority shall immediately serve a notice to comply upon the permit holder by registered or certified mail to the address specified by the permit holder in his permit application, or by delivery at the site of the permitted activities to the agent or employee of the permit holder supervising such activities. Such notice shall set forth specifically the measures needed to come into compliance with such plan and shall specify the time within which such measures shall be completed. If the permit holder fails to comply within the time specified, his permit may be revoked; furthermore, he shall be deemed to be in violation of this chapter and upon conviction of such violation shall be subject to the penalties provided by this chapter.

(6-27-76; Ord. No. 87-4, 1-24-87; Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 08-01, 1-26-08)

§ 57-9.1. Adherence to ~~a~~Approved ~~p~~Plans and ~~s~~Specifications.

Upon receipt of a sworn complaint by the project inspector of a violation of the terms of the permit or any applicable law, the County Manager or his designee, in conjunction with or subsequent to a notice to comply, as specified in ~~section § 57-9~~ above, may issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken, or, if land-disturbing activities have commenced without an approved plan, as required by this ~~ordinance chapter~~, then all of the land-disturbing activities shall be stopped until an approved plan or any required permits are obtained. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposits in waters within the watersheds, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permit holder has been issued a notice to comply, as specified in ~~section § 57-9~~ above. Otherwise, such an order may be issued only after the permit holder has failed to comply with such a notice to comply, as specified in ~~section § 57-9~~ above. The order shall be served in the same manner as a notice to comply, as specified in ~~section § 57-9~~ above, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Arlington County. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted. Nothing in this section shall prevent the County Manager or his designee from taking any other permissible action.

(Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 08-01, 1-26-08)

§ 57-10. Administrative ~~a~~Appeal; ~~j~~Judicial ~~r~~Review.

~~(A).~~ Final decisions of the plan approving authority under this chapter shall be subject to review by the County Manager provided written request for such review is filed within thirty (30) days from the date of any written decision by the plan approving authority which adversely affects the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

~~(B).~~ Final decisions of the County Manager under this chapter shall be subject to review by the Circuit Court of Arlington County, provided an appeal is filed within thirty (30) days from the date of the final written decision which adversely affects the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

(6-27-76; 10-23-76; Ord. No. 92-16, 5-1-92; Ord. No. 08-01, 1-26-08)

§ 57-11. Penalties, ~~i~~njunctions, and ~~e~~Other ~~I~~Legal ~~a~~ctions.

~~(+)~~A. A civil penalty of one hundred dollars (\$100.00) shall apply to any person who violates (i) any condition of a permit or (ii) any provisions of this chapter, except the civil penalty for commencement of land-disturbing activities without an approved plan shall be one thousand dollars (\$1,000.00). Each day any violation of the provisions of this chapter is found to have existed shall constitute a separate offense. In no event shall a series of violations result in civil penalties which exceed a total of three thousand dollars (\$3,000.00) arising from the same operative set of facts, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00).

~~(a)~~1. Any person who violates (i) any condition of a permit or (ii) any provisions of this chapter shall be issued a notice of violation by certified mail or by delivery at the site of land-disturbing activity. The notice shall require such violation to cease within a reasonable time which is specified in such notice. After such notice is sent or given, and such violation is not ceased within such reasonable time as is specified in the notice, then the administrator may proceed to remedy the violation as provided below.

~~(b)~~2. After having sent or delivered the notice referred to above, and if such violation has not ceased within such reasonable time as is specified in such notice, then the administrator shall cause a summons to be served upon such person.

~~(c)~~3. Such summons shall contain the following information:

~~1-a.~~ 1-a. The name and address of the person charged;

~~2-b.~~ 2-b. The nature of the infraction and the provision(s) being violated;

~~3-c.~~ 3-c. The location, date and time that the infraction occurred or was observed;

~~4-d.~~ 4-d. The amount of the civil penalty assessed for the infraction;

~~5-e.~~ 5-e. The manner, location and time in which the civil penalty may be paid to the County;

~~6-f.~~ 6-f. The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial;

~~7-g.~~ 7-g. The right of any person summoned for a violation to elect to pay the civil penalty to the ~~T~~Treasurer for the ~~e~~eCounty at least seventy-two (72) hours prior to the time and date fixed for trial and that payment of such civil penalty shall constitute a waiver of trial and an admission of liability; and

~~8-h.~~ 8-h. A statement that a signature to an admission of liability shall have the same force and effect as a judgment of court, but that an admission shall not be deemed a criminal conviction for any purpose.

~~(d)~~4. The administrator shall note the date of such service on the copy of the summons so delivered or posted.

~~(e)~~5. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. A finding of liability shall not be deemed a criminal conviction for any purpose.

~~(2)~~B. The governing body may apply to the Circuit Court of Arlington County for injunctive relief to enjoin a violation or a threatened violation of this chapter.

~~(3)~~C. The ~~e~~eCounty's legal representative shall, upon the request of the County Manager, take legal

action to enforce the provisions of this chapter.

~~(4)~~D. Without limiting the remedies which may be obtained under this section, any person violating or failing, neglecting or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this chapter shall be subject, in the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the ~~e~~CCounty. Any civil penalties assessed by a court shall be paid into the treasury of the ~~e~~CCounty.

~~(5)~~E. With the consent of any person who has violated or failed, neglected or refused to obey (i) any condition of a permit or (ii) any provisions of this chapter, the administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection ~~D~~4 of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection ~~A~~(4) or ~~D~~(4).

~~(a)~~1. Civil charges in lieu of appropriate civil penalties issued in orders against violators of this chapter shall be assessed as follows:

~~(1)~~a. Failure to make proper application for a land-disturbing permit, as required by ~~section~~§ 57-8 of this chapter, within the time limit specified in a duly served notice of permit requirement--Five hundred dollars (\$500.00).

~~(2)~~b. Failure to comply with the requirements of an approved erosion and sediment control plan within the time limit specified in a duly served notice to comply--One hundred dollars (\$100.00), plus one hundred dollars (\$100.00) for each violation cited in the notice. Each day for which the violation is continued beyond the date of the issuance of such notice to comply shall constitute a separate offense.

~~(3)~~c. Failure to stop all work activities within the time limit specified in a duly served stop work order--One hundred dollars (\$100.00), plus one hundred dollars (\$100.00) for each violation cited in the notice. Each day for which the violation(s) is continued beyond the date of the issuance of such stop work order shall constitute a separate offense.

(6-27-76; Ord. No. 92-16, 5-1-92; Ord. No. 94-17, 6-4-94; Ord. No. 98-25, 10-17-99; Ord. No. 01-16, 7-28-01; Ord. No. 08-01, 1-26-08)

§ 57-12. Severability.

If any provision of this chapter is held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining provisions.

(6-27-76; Ord. No. 08-01, 1-26-08)

§ 57-13. Conflict of ~~e~~CChapter.

In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter which establishes a less stringent standard for the promotion and protection of the health and safety of the people, the provisions of this chapter shall be deemed to prevail, and such other provisions are hereby declared to be repealed to the extent that they may be found in conflict with this chapter.

(6-27-76; Ord. No. 08-01, 1-26-08)

ARLINGTON COUNTY CODE

Chapter 58

EMERGENCY MANAGEMENT

§ 58-1. Office of Emergency Management ~~e~~Established.

§ 58-2. Director.

§ 58-3. Responsibilities of ~~d~~Director.

§ 58-4. Local ~~e~~Emergency ~~o~~Operations ~~p~~Plan; ~~m~~Mutual ~~a~~Aid ~~a~~Agreements.

§ 58-5. Appointment of ~~e~~Coordinator.

§ 58-6. Line of ~~s~~Succession.

§ 58-1. Office of Emergency Management ~~e~~Established.

There is hereby established an Office of Emergency Management pursuant to ~~Section-§§~~ 44-146.13 et seq. of the Code of Virginia (1950) as amended.
(10-23-76; Ord. No. 05-11, 9-17-05)

§ 58-2. Director.

The Director of Emergency Management shall be the ~~e~~County ~~m~~Manager, and while acting in this capacity, he shall have all of the powers and duties established by law for the ~~d~~Director and for the ~~e~~County ~~m~~Manager.
(10-23-76; Ord. No. 05-11, 9-17-05)

§ 58-3. Responsibilities of ~~d~~Director.

The ~~d~~Director shall be responsible for organizing emergency services and directing emergency operations through the regularly constituted government structure, and shall utilize the services, equipment, supplies and facilities of existing departments, offices and agencies.
(10-23-76; Ord. No. 05-11, 9-17-05)

§ 58-4. Local ~~e~~Emergency ~~o~~Operations ~~p~~Plan; ~~m~~Mutual ~~a~~Aid ~~a~~Agreements.

The ~~d~~Director shall prepare and keep current a local emergency operations plan. He may, in collaboration with other public and private agencies, develop or cause to be developed mutual aid agreements for reciprocal assistance in the case of a disaster or emergency.
(10-23-76; Ord. No.05-11, 9-17-05)

§ 58-5. Appointment of ~~e~~Coordinator.

The ~~d~~Director shall have authority to appoint Coordinator of Emergency Management with the consent of the ~~e~~County ~~b~~Board.
(10-23-76; Ord. No. 05-11, 9-17-05)

§ 58-6. Line of ~~s~~Succession.

The line of succession for the Director of Emergency Management during a disaster or emergency, or an impending disaster or emergency, shall be established by the ~~e~~County ~~m~~Manager.
(10-23-76; Ord. No. 05-11, 9-17-05)

ARLINGTON COUNTY CODE

Chapter 59

FAMILY DAY CARE HOMES

- § 59-1. Policy, ~~a~~Assurances.
- § 59-2. Definitions.
- § 59-3. License ~~r~~Required, ~~p~~Posting of ~~l~~License.
- § 59-4. Types of ~~l~~Licenses.
- § 59-5. Applications for ~~l~~License.
- § 59-6. Investigation on ~~r~~Receipt of ~~a~~Application.
- § 59-7. Issuance of ~~l~~License.
- § 59-8. Denial of ~~a~~Application.
- § 59-9. Renewal of ~~l~~License.
- § 59-10. Suspension of ~~l~~License.
- § 59-11. Revocation of ~~l~~License.
- § 59-12. Deferred ~~e~~Compliance.
- § 59-13. Inspection ~~p~~Period.
- § 59-14. License ~~e~~Conditions.
- § 59-15. Modification.
- § 59-16. Personnel and ~~h~~Household ~~r~~Requirements.
- § 59-17. Care of ~~e~~Children.
- § 59-18. Family ~~d~~Day ~~e~~Care ~~h~~Homes in ~~w~~Which ~~l~~ess ~~F~~ewer ~~¶~~Than ~~¶~~Four ~~e~~Children ~~a~~Are ~~r~~Received.
- § 59-19. Penalties.
- § 59-20. Severability.

§ 59-1. Policy, ~~a~~Assurances.

It is hereby declared to be the policy of the County of Arlington in the exercise of its police power for the protection of the public health, safety and general welfare to provide for the licensing and regulation of family day care homes in order to adequately protect the children of Arlington County. The facility licensed under this chapter shall operate in accordance with Titles VI and VII of the Civil Rights Act of 1964, which prohibit any distinction on the grounds of race, color, or national origin in providing to individuals any of its services or in employing staff. The facility shall provide the licensing authority annually with written assurance of such compliance.

§ 59-2. Definitions.

~~The followings words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:~~

~~(a) "Person": means A~~any natural person, or any association, partnership or corporation.

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~~(b) "Child": means A~~any natural person under eighteen (18) years of age.

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~~(c) "County mManager": means T~~he ~~e~~County ~~m~~Manager of Arlington County, Virginia, in his role as the local board of public welfare or any of his ~~duly authorized deputies or agents designees~~ acting in his role as the local board or public welfare.

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~~(d) "Family day care home: means A~~a private family home where nine (9) or fewer children are received, for a fee, for the care, protection and guidance during only part of the twenty-four (24) hour day, except children

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who are related by blood, adoption or marriage to the person who maintains the home.

§ 59-3. License ~~r~~Required, ~~p~~Posting of ~~l~~License.

It shall be unlawful to operate a family day care home as defined herein in which more than three (3) but less than ten (10) children are received, without a valid nonsuspended license issued pursuant to this chapter. Such license shall be posted in a conspicuous location within the licensed premises.

§ 59-4. Types of ~~l~~licenses.

(a) ~~A~~. *Annual license*: One which is granted to a family day care home whose program, facilities, and operations meet the minimum standards for a license.

(b) ~~B~~. *Provisional license*: One which is granted if the applicant is temporarily unable to completely comply with the requirements but does not endanger the health, safety and welfare of the children and under the condition that all of the requirements will be met within six (6) months from the date of its issuance. A provisional license is nonrenewable.

§ 59-5. Applications for ~~l~~License.

(a) ~~A~~. Any person who intends to operate or maintain a family day care home for more than three (3) children and any person who operates or maintains a family day care home for more than three (3) children on the effective date of this chapter shall make application (on forms provided by the ~~e~~County ~~m~~Manager) to the ~~e~~County ~~m~~Manager for a license in the name of the person for the specified structure to which the application relates. No license issued pursuant to this chapter shall be transferable.

(b) ~~B~~. Any person who intends to provide a family day care home in which four (4) through nine (9) children are to be received shall file an application for a license at least two (2) months in advance of the planned opening date.

§ 59-6. Investigation on ~~r~~Receipt of ~~a~~Application.

Upon receipt of the application, the ~~e~~County ~~m~~Manager shall cause an investigation to be made of the activities, services and facilities of the applicant. The applicant shall afford the representatives of the ~~e~~County ~~m~~Manager required to make the investigation reasonable opportunity to inspect all of the applicant's facilities and to interview the applicant or his agents and employees.

§ 59-7. Issuance of ~~l~~License.

(a) ~~A~~. *Annual license*. Upon completion of the investigation, the ~~e~~County ~~m~~Manager shall grant an annual license in writing to any applicant thereof upon production of evidence satisfactory to him that the applicant, his facilities, services and activities are in compliance with the provisions of this chapter, the Arlington County Code and the Code of Virginia.

(b) ~~B~~. *Provisional license*. Upon completion of the investigation, the ~~e~~County ~~m~~Manager shall grant a provisional license in writing to any applicant thereof upon production of evidence satisfactory to him that the applicant is in compliance with the County Code and the Code of Virginia but that the facilities, services and activities are temporarily unable to completely comply with the requirements of this chapter and do not endanger the health, safety and welfare of the children and that all the requirements will be met within six (6) months from the date of its issuance.

§ 59-8. Denial of ~~a~~Application.

(a) ~~A~~. The ~~e~~County ~~m~~Manager shall deny a license to any applicant upon a finding that the activities, services and facilities of the applicant are in violation of any provision of this chapter, the Arlington County Code, the Code of Virginia and are a danger to the health, safety and welfare of the children.

~~(b)~~B. Upon the denial of the application for a license or renewal or upon revocation of a permit as described in ~~section § 59-8.A(a)~~, the eCounty mManager shall notify the applicant that the application or license is denied or revoked stating:

~~(1.)~~ The reason for the denial; and

~~(2.)~~ That the applicant has the right to request a hearing if written request is made within thirty (30) days after receipt of the notice of denial or revocation. Unless written request is made within the thirty-day period, the applicant's right to a hearing is waived.

§ 59-9. Renewal of License.

Every license shall be renewed annually on or before thirty (30) days prior to the expiration of the license. The facilities and records of each applicant for renewal of a license may be inspected or examined by the eCounty mManager or his designee to determine whether the applicant is in compliance with this chapter.

A provisional license may be issued for any period not to exceed six (6) months and shall not be renewable.

§ 59-10. Suspension of License.

~~(a)~~A. Whenever the eCounty mManager finds by complaint, investigation, or otherwise that any condition exists, within a facility required to be licensed by this chapter, which is a violation of the ordinance but does not endanger the life, health or safety of the children, he shall order that the necessary corrective action be taken within a specified period of time as determined by the eCounty mManager.

~~(b)~~B. Whenever the eCounty mManager finds by complaint, investigation, or otherwise that any condition exists that endangers the life, health or safety of the children, within a facility required to be licensed by this chapter, he shall order that the license to operate the facility be temporarily suspended. Whenever a license has been so temporarily suspended, a hearing shall be held before the eCounty mManager to determine whether the license to operate the facility should be permanently suspended. If the temporary suspension occurs during normal business hours, the hearing shall be held prior to 5:00 p.m. of that day. Should the temporary suspension occur after business hours, the hearing shall be held on the next regular business day. At the hearing a representative of the facility shall have the right to answer personally or in writing or both personally and in writing. The right to answer personally includes the right to answer orally in person or by being given a reasonable opportunity to make representations which the representative believes might affect the final decision of the eCounty mManager. The eCounty mManager shall send a written statement of the findings of the hearing to the facility within twenty-four (24) hours after the hearing is terminated. In the event the eCounty mManager finds that the conditions at the facility do not endanger the life, health or safety of the children, he shall order that the license of that facility be reinstated immediately. In the event that the eCounty mManager finds that there exist conditions which endanger the life, health or safety of the children, he shall order that the license of that facility be suspended until such time as the conditions which caused said suspension are eliminated.

§ 59-11. Revocation of License.

The eCounty mManager shall revoke the license of any establishment if the corrective action specified under ~~section § 59-10.A(a)~~ of this chapter is not taken. Procedure for revocation of a license shall be the same as described in ~~section § 59-8~~ of this chapter. Nothing in this section shall be construed to deny the right of any facility so affected to reapply for a license in accordance with the procedures established by this chapter.

§ 59-12. Deferred Compliance.

The owner or operators of any facility required to be licensed by this chapter, operating in the eCounty as of the effective date of this chapter, may apply for and be granted a time period not to exceed six (6) months in order to comply with the licensing requirement prescribed hereunder which were not in effect on the date of enactment of this chapter. All other provisions of this chapter become effective upon the effective date of this chapter.

§ 59-13. Inspection ~~p~~Period.

Each facility required to be licensed by this chapter shall be subject to inspection by health authorities and by the ~~e~~County ~~m~~Manager or his ~~designated-agent~~ designee at least once a year and as often as deemed necessary for the purpose of determining that there is compliance with the provisions of this chapter.

§ 59-14. License ~~e~~Conditions.

Each license issued pursuant to this chapter shall set forth the conditions under which the license may operate. Said conditions shall include, but not be limited to, the name(s) of the operator(s) of the family day care home, the maximum number and age range of children to be served, and the period of time for which the license is effective. Each provisional license issued pursuant to this chapter shall be accompanied by a letter from the ~~e~~County ~~m~~Manager or his ~~designated-agent~~ designee stating the reason(s) for its being provisional.

§ 59-15. Modification.

The conditions of the license may be modified by the ~~e~~County ~~m~~Manager or his ~~designated-agent~~ designee during the licensing year with respect to the number of children, the age range or other conditions. A licensee shall report in writing to the ~~e~~County ~~m~~Manager or his ~~designated-representative~~ designee any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. No contemplated changes in staff or program of a family day care home shall be reported unless they affect the terms of the license or the continuing eligibility of the licensee.

§ 59-16. Personnel and ~~h~~Household ~~r~~Requirements.

~~(a)~~A. *Personnel and management.*

~~(1.)~~ There shall be one (1) adult day care parent for a maximum of six (6) children, including the parent's own or related children under age fourteen (14). The ages and number of the children in care may vary according to age combinations as shown in the following tables:

	Adults	Ages of Children	Maximum Number of Children
Table I	1	Under 2 years	0
		Over 2 years	6
Table II	1	Under 2 years	1
		Over 2 years	4
Table III	1	Under 2 years	2
		Over 2 years	2

~~(2.)~~ There shall be at least one (1) adult day care parent and an assistant when more than six (6) children are in care, up to a maximum of nine (9) children, including the parent's or assistant's own or related children under age fourteen (14). Both the day care parent and the assistant must be present at all times. In the absence of either, a qualified substitute shall be present. The ages and number of the children in care may vary according to age combinations as shown in the following tables:

	Adults	Ages of Children	Maximum Number of Children
Table I	2	Under 2 years	0
		Over 2 years	9
Table II	2	Under 2 years	1
		Over 2 years	8

Table III	2	Under 2 years	2
		Over 2 years	7
Table IV	2	Under 2 years	3
		Over 2 years	6
Table V	2	Under 2 years	4
		Over 2 years	4
Table VI	2	Under 2 years	5
		Over 2 years	2
Table VII	2	Under 2 years	6
		Over 2 years	0

- (3.) Where the day care provider has responsibility for a handicapped person including any person related by blood or marriage, that person shall be considered for the purpose of the adult-child ratio on the basis of his or her mental and physical functional age.
- (4.) Provided, however, that children of the adult day care parent and assistant shall not be included in determining the aforementioned adult-child ratio unless such children are being provided day care at the family day care home contemporaneously.
- ~~(b)B.~~ *Household.*
- (1.) Age of adults: The adults in charge of day care children shall be at least eighteen (18) years of age.
- (2.) All members of the day care household, including relatives, lodgers, and servants, shall be responsible, wholesome, and emotionally stable persons of good character and reputation. They shall not be persons convicted of any unlawful act involving sex offenses or offenses of bodily harm.
- (3.) Medical requirements.
 - a. Each employee who comes into contact with the children and each staff person responsible for preparation and serving of food must have a current medical certificate certifying freedom from chronic, communicable or incapacitating disease, based on an examination by a licensed physician, including a negative chest X-ray or TB skin test. Employees shall provide certification of a negative chest X-ray or TB skin test annually thereafter. Records of examinations must be presented upon request. In the event of serious illness or hospitalization of the licensee or director, the ~~e~~County ~~m~~Manager must be informed immediately of the nature of the illness or hospitalization and the arrangements that have been made for delegation of responsibility for operation of the program in the licensee's absence.
 - b. For providers of family day care for four (4) or more children: All members of the day care household who are exposed to the children including relatives, lodgers, servants, and cooks, and assistants, shall have had a satisfactory chest X-ray and shall have had a tuberculin test at the time of application. Annually thereafter, those whose previous tuberculin test was negative shall be required to have a tuberculin skin test only, but those whose previous tuberculin test was positive shall be required to be X-rayed annually.
- (4.) A family day care parent must have understanding of the problems of childhood and sympathy for them. He/she shall be able to give the child the affection and security that the child needs. The family day care parent's motivation in taking a child shall include a desire to contribute to the child's wholesome development and not be limited to meeting the family day care parent's own needs. All members of the family must be willing to accept the family day care child into the

home as a member of the family.

~~(e)C.~~ *Physical environment.*

~~(1.)~~ The physical facilities of homes used for day care shall provide adequate space for daily activities of young children and present no hazards to their health or safety. There shall be space indoors and outdoors for the child to play, and sufficient play materials and equipment to stimulate activity and imaginative play suitable to the ages of the children. A safe, fenced play area shall be provided. Fencing shall not be required if the applicant can show that the play area provides proper protection from traffic and other hazards.

- a. In family day care homes, emphasis shall be placed on homemaking rather than housekeeping. The premises shall be kept clean.
- b. Provision shall be made for individual children for quiet rest or napping on beds, cribs, cots and couches. All beds, cribs, cots and couches used shall be safe, in clean and sanitary condition at all times with bedding suitable to the occasion. The crib should either meet federal standards or be equipped with securely fastened bumper pads. When cots are used, there shall be at least two (2) feet of space between cots.
- c. A space to keep clothing, toys and other personal belongings shall be provided for each child.
- d. Play material and equipment which are necessary to provide children with stimulating experiences, especially for preschool children who spend their whole day in the day care home shall be made available for the children's use. Day care parents shall be encouraged to provide safe, constructive, educational, and not necessarily expensive equipment and to let children make use of available material such as kitchen utensils, water, dough, empty cartons, newspapers, spools, bags, string, fabric remnants, and scraps.
- e. There shall be proper provision for food preparation, care of perishable food, and for refrigeration, especially of milk.
- f. The house must be screened and properly ventilated and must be dry and heated in the winter; sixty-eight (68) to seventy-two (72) degrees Fahrenheit shall be maintained in all rooms occupied by children. Where a heater is used to supplement heat in any room, protection must be provided for the safety of the children.
- g. Drinking water must be made available to the children at all times. If paper cups are not used, each child shall have his individually assigned glass.
- h. Provisions for isolation of sick children shall be made.
- i. Paper towels may be used. If paper towels are not used, towels shall be individually assigned.
- j. Adequate lighting shall be provided in each room. There shall be sufficient windows to admit natural light. Whenever natural light must be supplemented, there shall be the equivalency of thirty (30) footcandles of light.
- k. There must be adequate bathing and toilet facilities to include at least one (1) lavatory and one (1) commode easily accessible to the children.
- l. There shall be a telephone in the family day care home. The number for the doctor who may be called in an emergency, ambulance, fire department, and the police shall be posted near the telephone out of children's reach.

- m. Fire prevention: The home shall be free from fire hazards and have adequate fire protection. Inspection and approval of such authorities as are either required or permitted to inspect and enforce fire regulations shall be required in instances when conditions seem to indicate need for same.

~~(4)D.~~ *Records.* Each family day care home in which four (4) or more children are received shall maintain a record for each child as long as the child remains in care. In homes with one (1) to three (3) children, these records are recommended:

~~(1.)~~ Identifying information: Name and nickname (if any) of the child, birthdate, names, home addresses, and telephone number of parents or other responsible person and of the family physician; place of parents' employment and telephone numbers; address and telephone number of some designated person to call in case of an emergency when the parent cannot be reached; names of persons authorized to call for the child as well as those who are not to visit; and date of admission and date of withdrawal.

~~(2.)~~ A current medical statement signed by a licensed physician shall be required on each child at the time of the child's acceptance in the home and annually thereafter. This statement shall consist of a record of the child's having had a TB test and immunizations as required by the state health department. In the case of infants below two (2) years of age, there shall be a statement from the physician as to the child's immunization status since the timing of immunizations for infants will be a determination of the child's physician.

~~(3.)~~ There shall be a record of other information including allergies, food habits (special diets), and any pertinent information pertaining to a particular child.

~~(4.)~~ Each home shall have a ~~s~~State ~~h~~Health ~~d~~Department "Communicable Disease Chart" and a ~~s~~State ~~h~~Health and ~~e~~Education ~~d~~Department flip chart "Suggestions for Temporary Care of Emergencies in Schools."

~~(5.)~~ Agreement forms: Written agreements shall be made between the day care parent and the natural parent, guardian or other responsible person for each child in care. Sample forms may be obtained from the child care coordinator. These agreements shall cover:

- a. Hours of care per day, week, or month; cost of care per day, week, or month; frequency and amount of payment per day, week, or month; and any special services to be provided by either party to the agreement.
- b. Authorization for emergency medical care if any emergency occurs when parents cannot be located immediately.
- c. Authorization for participation in community activities when feasible.
- d. Authorization for field trips when taken.
- e. Provision that the day care parent will notify him or her when the child becomes ill and that the child will be picked up as soon as it is feasible for the parent to do so.
- f. One (1) copy shall be maintained with the record and one (1) copy shall be given to the parent, guardian, or other responsible person.

~~(6.)~~ *Fees:* There shall be a record of fees paid for each child.

~~(e)E.~~ *Liability and fire insurance.*

(1.) For four (4) through nine (9) children: The day care provider(s) shall have adequate liability and fire insurance to protect themselves and the children served. The possibility of carrying a nursery supplement shall be considered with the insurance company. A copy of the insurance policy shall be available to the eCounty mManager or his ~~designated agent designee~~ upon request.

(2.) For one (1) through three (3) children: Subsection ~~E.1(5)a~~ is recommended.

(F) *Energy shortage emergencies.* Whenever the eCounty mManager shall determine and declare that an energy shortage exists, the minimum thermal standards set forth in this section shall be superseded by thermal standards established by the eCounty mManager. Such standards shall be consistent with the nature and extent of the energy shortage and the health and safety of the occupants. These standards shall remain in effect until the eCounty mManager shall declare the emergency is ended.
(2-11-78)

§ 59-17. Care of eChildren.

(A) The family day care home shall provide a homelike atmosphere. In its provision of supplementary care, the family day care parent shall be aware of the development needs and varying potentialities of each child.

(B) *Activities and experiences.*

(1.) Each family day care home shall provide opportunities to meet the needs of the children in attendance, to help each child learn about himself, others, and the world about him.

(2.) The developmental experiences of the family day care home shall emphasize self-expression, creativity, physical development, social, and emotional development of the child.

(3.) The daily experiences shall include opportunities for alternating periods of active and quiet participation.

(4.) Depending upon the age of the child, the activities for each day shall include opportunities for vigorous indoor and outdoor play dependent upon the weather and the health of the child.

(5.) Each preschool child shall have one (1) or more regularly scheduled rest period(s) appropriate to his age and needs.

(6.) Children shall be supervised at all times by the day care home provider or qualified assistant.

(7.) Television shall be used sparingly with discretion and selectivity. Visual protection is essential. The television room shall be well-lighted and the child shall be a safe distance from the television set when viewing a television program.

(C) *Nutrition and food services.*

(1.) The food for children shall be adequate for nutritional needs for wholesome growth and development. Special diets are to be provided as prescribed by a physician for individual children.

(2.) Provision shall be made for the children's comfort during mealtime.

(3.) Eating utensils and dishes shall be appropriate in size to be handled by the child. If disposable dishes and utensils are used, they shall be sturdy enough to prevent them from being a safety hazard.

(4.) Disposable dishes and utensils shall be used only once and discarded.

(5.) Meals and snacks.

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- a. Meals shall include a morning snack. If the child arrives before 8:00 a.m., breakfast or a snack shall be served soon after arrival, if the child has not been given breakfast before leaving home. Sugarless snacks shall be available.
- b. The meals shall be planned to provide the opportunity for the child to learn to eat and enjoy a variety of nutritious foods.
- c. Meals shall be served in a pleasant, clean atmosphere.
- d. For providers of family day care for four (4) or more children: The main meal of the day served in the family day care home, unless otherwise specifically provided by the parent, shall consist of:

~~(1)~~ Meat, eggs, cheese, poultry, fish (2--4 tablespoons). Dry beans, peas, or peanut butter may be substituted in place of meat not more than two (2) times a week (2--4 tablespoons).

~~(2)~~ Dark green leafy vegetable or deep yellow vegetable at least three (3) times a week (1/2 cup).

~~(3)~~ Another vegetable (potatoes approximately three (3) times a week (1/2 cup)).

~~(4)~~ Fruit (1/2 cup).

~~(5)~~ Milk (1/2 to 1 cup).

~~(6)~~ Enriched or whole grain bread (1/2--1 1/2 slices).

~~(7)~~ Butter or fortified margarine (1/2 teaspoon).

- e. For providers of family day care for three (3) or fewer children: Subsection ~~C.5.d.1(5)(d)~~ through 7: is recommended.
- f. All food for children shall be adequate for nutritional needs for wholesome growth and development. Meals shall be planned to provide the opportunity for each child to learn to eat and enjoy a variety of nutritious food.
- g. Children shall be served small-sized portions and permitted to have additional servings.
- h. Snacks shall be selected and planned to provide nutritional needs of the child. Portions served shall be small in amount and not less than one and one-half (1 1/2) hour ~~and a half (1 1/2 hr.)~~ prior to the meal.

~~(d)~~ *Parental involvement.*

~~(1)~~ Parents or other responsible persons shall be encouraged by the day care parent to visit the home while it is in operation. There shall be a plan for parental involvement for homes of four (4) or more children.

~~(2)~~ Opportunities shall be provided for development of mutual understanding and attitudes toward:

- a. Guidance and behavior;
- b. Development experience; and

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c. Knowledge of preventive health measures.

~~(3.)~~ If the family day care parent becomes aware of any unusual or special needs of a child, he/she shall discuss them with the parent or guardian. Consultation regarding referral resources is available through the ~~e~~County ~~m~~Manager's representative.

~~(4.)~~ Parents shall be encouraged to participate in planned activities within the home and to exchange ideas with other parents and to offer special talents where feasible.

~~(e)E.~~ *Behavior and guidance.*

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~~(1.)~~ Constructive methods for establishing freedom within limitations shall be used for behavioral guidance with an awareness of total developmental needs of the child.

~~(2.)~~ The family day care parent shall not use or permit an employee or volunteer to use corporal punishment or any humiliating or frightening methods of discipline.

~~(3.)~~ Any effort toward toilet training shall be made in consultation with and consent of the child's parent or parents.

~~(4.)~~ Children shall not be punished for refusing food nor shall they be deprived of meals or parts of meals or snacks as disciplinary measures.

~~(f)E.~~ *Health care; safety.*

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~~(1.)~~ Prior to admission and annually thereafter, a child shall meet the medical requirements as outlined in ~~section §~~ 59-16.D.2~~(d)2~~ and 3.

~~(2.)~~ The day care parent shall inspect each child daily for signs of communicable diseases and other illnesses.

~~(3.)~~ Parents shall be advised that children who are ill will not be accepted at the family day care home.

~~(4.)~~ If a child becomes ill during the day, the child shall be isolated and the parents or other responsible person shall be notified immediately in order that the child may be removed. The child shall be isolated, but not left unattended.

~~(g)G.~~ *Medical policies.*

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~~(1.)~~ Arrangements shall be made to have a licensed physician available for referral or contact in cases of emergency when the physician designated by the parent or other responsible person cannot be reached. The provider shall furnish to the ~~e~~County ~~m~~Manager the name of the physician or facilities to be used.

~~(2.)~~ The telephone number of a doctor who may be called in an emergency when the child's own doctor is unavailable and that of a hospital shall be posted in a conspicuous place for use in case of serious accident or illness. The telephone number of an ambulance or rescue squad service shall be posted, but out of reach of children. At least one (1) person in the home during the time children are there shall have a current Red Cross First Aid Certificate or shall obtain one within a year after the date these standards become effective.

~~(3.)~~ All injuries or accidents and all head injuries shall be reported immediately to the parents. Parents shall also be notified if the child has been exposed to a contagious disease.

~~(4.)~~ No medication shall be given a child without a signed doctor's order and a signed permission from the parents, guardian, or other responsible person. Medications shall be identified and carefully

labeled with the child's name, kept out of reach of all children, and be returned to the parents when no longer needed.

- (5.) In cases where there are pets in the day care home, special care shall be exercised in protecting the children.
- a. All dogs and cats over six (6) months of age shall be immunized against rabies. A maximum of three (3) dogs and/or cats shall be permitted. Dogs past the age of six (6) months must be licensed.
 - b. There shall be no turtles due to high accident of gastroenteritis, which is turtle-related, or wild animals in the family day care home.
 - c. Animals known to be dangerous to children shall not be kept near the children nor shall children be allowed access to such animals.
 - d. At no time shall animal excreta be allowed to remain in areas used by children.

§ 59-18. Family dDay eCare hHomes in wWhich-less Fewer tThan fFour eChildren aAre rReceived.

Family day care homes in which ~~less fewer~~ than four (4) children are received shall comply with all standards and policies prescribed herein except that a license shall not be required. If the eCounty mManager determines that such standards and policies are not being met in any family day care home in which ~~less fewer~~ than four (4) children are received, he shall notify the operator of such failure and he shall require compliance within ten (10) days of such notice. Continued operation beyond the ten- (10) day period without correcting the violation shall be unlawful, and the penalties prescribed under ~~section §~~ 59-19 shall apply. In addition to said penalties, the home shall not be operated for a period of six (6) months unless the eCounty mManager receives satisfactory evidence that full compliance with the standards will be made.

§ 59-19. Penalties.

Any person who operates a family day care home in which four (4) or more children are received without a valid, nonsuspended license issued pursuant to this chapter, and any person who operates a family day care home in which ~~less fewer~~ than four (4) children are received, for more than ten (10) days after receipt of notice from the eCounty mManager that a violation of this chapter exists without having corrected such violation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment in jail not to exceed thirty (30) days or both. Each day of violation shall constitute a separate offense.

§ 59-20. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of the chapter or the application of such provisions to other persons or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof, directly involved in the controversy in which said judgment shall have been rendered, and the person or circumstance involved.

ARLINGTON COUNTY CODE

Chapter 60

STORMWATER DETENTION

- § 60-1. Title.
- § 60-2. Purpose.
- § 60-3. Applicability.
- § 60-4. Manual of ~~e~~Operation.
- § 60-5. Criteria.
- § 60-6. Penalty.
- § 60-7. Severability.

§ 60-1. Title.

This chapter shall be known as the "Stormwater Detention Ordinance of Arlington County, Virginia."
(9-11-76)

§ 60-2. Purpose.

The purpose of this chapter is to reduce the harmful effects of stormwater runoff on streambeds, banks, parklands, private properties and other areas in Arlington County by requiring the installation of on-site stormwater detention facilities as properties are developed or redeveloped within the ~~e~~County.
(9-11-76)

§ 60-3. Applicability.

The provisions of this chapter shall apply to any work for which a site development plan and/or building permit is required and shall apply to any work requiring a permit for which other changes in the land use are made which change the runoff characteristics. The provisions of this chapter shall apply in all use districts under the ~~z~~Zoning ~~e~~Ordinance of Arlington County except for single unit residential development that occurs within the Potomac Watershed.

Potomac Watershed: The basin that drains directly into the Potomac River without passing through Four Mile Run Watershed.

Four Mile Run Watershed: The basin that drains directly into Four Mile Run, which ultimately empties into the Potomac River.
(9-11-76)

§ 60-4. Manual of ~~e~~Operations.

The ~~d~~Director of the ~~d~~Department of ~~e~~Environmental ~~s~~Services shall prepare and set forth in the form of a manual, guidelines for compliance of the standards of this chapter. The manual will assist those persons who are required to comply with the provisions of the ~~s~~Stormwater ~~d~~Detention ~~e~~Ordinance and may be secured at the ~~d~~Department of ~~e~~Environmental ~~s~~Services and shall be followed unless otherwise specified. The ~~d~~Director of the ~~d~~Department of ~~e~~Environmental ~~s~~Services shall act as the ~~e~~County ~~m~~Manager's designee for control, final approval of submitted plans, and waiver of requirements.
(9-11-76; Ord. No. 82-23, 5-20-82; Ord. No. 04-25, 10-2-04)

§ 60-5. Criteria.

~~(A)~~ *Plan submittal and waiver of requirements.* Site, subdivision and building plans submitted to the ~~D~~Department of ~~E~~Environmental ~~S~~Services will include plans and design calculations for each detention facility proposed. Detention facilities shall be designed so that they do not become health or safety hazards. Whenever the benefits resulting from full compliance with this chapter are not sufficient to warrant the required detention capacity, the applicant may appeal to the ~~C~~County ~~M~~Manager or his designee for a determination. Upon determination, the ~~C~~County ~~M~~Manager may waive or vary the requirements of the ordinance to the extent necessary to take account of the following factors and at the same time to maintain the maximum stormwater detention system. One (1) or more of the following factors must be found to exist in order to grant a waiver or variance of the requirements:

- ~~(1.)~~ The proposed use is a temporary use, not to exceed five (5) years and not to be renewed for any combination of periods which would exceed five (5) years, unless permanent improvements are made in connection with undertaking the temporary use which are likely to outlast the period of temporary use.
- ~~(2.)~~ The proposed use will have a nominal impact on the stormwater runoff characteristics and the provisions of a detention system will not produce a positive effect on the downstream storm sewer or watershed area.
- ~~(3.)~~ The positive effect of the benefits on the downstream storm sewer or watershed area gained by the construction of a detention facility are slight and the cost of construction exceeds the ordinary cost of construction of detention facilities in Arlington County.

~~(B)~~ *Improvements on developed or undeveloped areas.*

- ~~(1.)~~ Whenever any work for which a site development plan or a building permit is required is undertaken on a developed site or previously undeveloped site, then the person or persons undertaking the work shall provide stormwater detention capacity sufficient to accommodate the maximum storage required for a ten- (10) year rain storm at the runoff rate on the developed site (using the applicable runoff coefficient) and a release rate which would be equivalent to that for the ten- (10) year rain storm using an assumed runoff coefficient of 0.2 on the site work. Insubstantial remodeling which has no impact on stormwater runoff from the site is exempted from this chapter and shall not be considered "work" as that word is used in this chapter.
- ~~(2.)~~ Whenever any said work is undertaken on a site which is located within the Four Mile Run Watershed, the following requirement shall be met in order to comply with measures authorized by the United States Congress under ~~Section §~~ 201 of the 1965 Flood Control Act (PL 89-298) and reauthorized under ~~Section §~~ 84 of the Water Resources Development Act of 1974 (PL 93-251). Within the Four Mile Run Watershed, the person or persons undertaking the said work shall provide stormwater detention capacity sufficient to accommodate the maximum storage required for a one hundred- (100) year rain storm at the runoff rate on the developed site (using the applicable runoff coefficient) and a release rate which would be equivalent to that for the ten- (10) year rain storm using an assumed runoff coefficient of 0.3 on the site of the work. In the event that the release rate from the site would have a negative impact and impair the effectiveness of the flood control improvement by increasing the runoff, the County Manager is vested with the authority to vary the release rate in order to comply with the aforesaid federal laws.

~~(C)~~ *Construction and maintenance.* Construction of all detention facilities shall be in conformance with approved plans. The County may require a test operation of facility during or after construction as a condition of approval. All plans submitted for stormwater detention systems shall describe an adequate procedure of normal maintenance for the detention system. It shall be the responsibility of the owner, or its successors or assigns, of the property on which the detention system is located to provide adequate maintenance for proper functioning of the detention system. The County may require periodic maintenance inspections certificates from the owner, or its successors or assigns, pursuant to schedules outlined by state or federal regulations. Periodic inspection by the Department of Environmental Services will be made to determine conformity with the ~~C~~chapter. The submittal of plans for such a system or the purchase of property on which such a system is located shall be deemed an acceptance of responsibility for normal and capital maintenance of the system. Additionally, this responsibility of maintenance

shall be duly recorded in the land records of Arlington County prior to the issuance of any construction permit (9-11-76; Ord. No. 82-23, 5-20-82; Ord. No. 01-19, 4-21-01; Ord. No. 04-25, 10-2-04; Ord. No. 10-14, 6-12-10)

§ 60-6. Penalty.

~~(A)~~ Any development or redevelopment in which a person, whether applicant, owner, lessee, principal, agent, employee or assigns, is required to build and maintain a stormwater detention system and fails to do so, the development or redevelopment shall be considered an unlawful use of land and the applicant shall be deemed in violation of this ~~C~~chapter.

~~(B)~~ Any person, who violates this ~~C~~chapter or any regulations adopted thereunder, or who fails, neglects or refuses to comply with any order of the County Manager or his designee, shall be subject to a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation within the discretion of the Court. Each day of violation shall constitute a separate offense. The County Manager or his designee may issue a summons for collection of the civil penalty in the Arlington County Circuit Court. Such civil penalties shall be paid to the Treasurer of Arlington County and shall be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters.

~~(1.)~~ A first violation under this subsection shall be subject to a civil penalty of two hundred and fifty dollars (\$250.00).

~~(2.)~~ A second violation under this subsection shall be subject to a civil penalty of five hundred dollars (\$500.00).

~~(3.)~~ A third violation or thereafter under this subsection shall be subject to a civil penalty of one thousand dollars (\$1,000.00).

~~(C)~~ Any person who willfully and knowingly violates any provision of this ~~C~~chapter shall be guilty of a Class 1 misdemeanor.

~~(D)~~ Violations of this ~~C~~chapter may also be addressed in the following ways:

~~(1.)~~ The County may apply to the Circuit Court of Arlington County for injunctive relief to enjoin a violation or threatened violation.

~~(2.)~~ In lieu of any appropriate civil penalty that could be imposed under subsection ~~B~~(~~b~~), the County may, with the consent and agreement of any person who has violated or failed, neglected or refused to obey with this ~~C~~chapter or any regulation thereunder, the County may provide, in an order issued against such person, for payment of civil charges for violations in specific sums, not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation. Any civil charges collected shall be paid to the Treasurer of Arlington County and shall be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters.

~~(E)~~ "Person" as used in this section ~~shall~~ means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes, without limitation, all federal, state or local government entities.

(9-11-76; Ord. No. 10-14, 6-12-10)

§ 60-7. Severability.

If any provision of this chapter is declared to be invalid, such declaration shall not affect, impair or invalidate the remaining provisions of this chapter.

(9-11-76)

ARLINGTON COUNTY CODE

Chapter 61

CHESAPEAKE BAY PRESERVATION ORDINANCE*

* **Editors Note:** Ord. No. 03-1, adopted Feb. 8, 2003, amended Ch. 61, in its entirety, to read as herein set out in §§ 61-1--61-19.

- § 61-1. Title
- § 61-2. Purpose and Intent
- § 61-3. Definitions
- § 61-4. Administration.
- § 61-5. Areas of Applicability.
- § 61-6. Use Regulations.
- § 61-7. Allowable Development, Modifications, and Encroachments in RPAs.
- § 61-8. Minimum Lot Size.
- § 61-9. Interpretation of RPA Boundaries.
- § 61-10. General Performance Standards for Development in Chesapeake Bay Preservation Areas.
- § 61-11. Watershed Management Fund.
- § 61-12. Water Quality Impact Assessment.
- § 61-13. Plan of Development Process in Chesapeake Bay Preservation Areas.
- § 61-14. Nonconforming Uses and Structures.
- § 61-15. Exemptions.
- § 61-16. Exceptions.
- § 61-17. Enforcement.
- § 61-18. Penalties.
- § 61-19. Severability.

§ 61-1. Title

This ordinance chapter shall be known and referenced as the "Chesapeake Bay Preservation Ordinance" of Arlington County.
(Ord. No. 03-1, 2-8-03)

§ 61-2. Purpose and Intent

A. This ordinance chapter is enacted to implement the requirements of Section § 10.1-2100 et seq. of the Code of Virginia, the Chesapeake Bay Preservation Act. The intent of the County Board and the purpose of the Chesapeake Bay Preservation Area Overlay District created herein is to:

- (1.) Protect existing high quality state waters;
- (2.) Restore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, which might reasonably be expected to inhabit them;
- (3.) Safeguard the waters of the Commonwealth from pollution;
- (4.) Prevent any increase in pollution;
- (5.) Maintain and improve riparian habitat; and,

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(6.) Promote water resource conservation in order to provide for the health, safety, and welfare of the citizens of Arlington County.

B. This Overlay District shall be in addition to and shall overlay all zoning districts where they are applied, so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one (1) or more of the zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in these regulations, the review and approval procedures provided for in Section 61-13 (Plan of Development) shall be followed in reviewing and approving development and uses governed by this Chapter. (Ord. No. 03-1, 2-8-03)

§ 61-3. Definitions

The following words and terms, used in these regulations when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

“Act” means the Chesapeake Bay Preservation Act found in Chapter 21 (Section 10.1-2100 et seq.) of Title 10.1 of the Code of Virginia, as may be amended from time to time.

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“Average land cover” means the average amount of impervious surfaces within a watershed, assumed to be sixteen percent (16%) percent for the Chesapeake Bay watershed.

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“Best Management Practices” (BMP’s) means a practice, or combination of practices, that are determined by a state or designated area-wide planning agency, and approved by the County Manager, to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

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“Buffer” means an area managed to protect the components of a Resource Protection Area and State waters from significant degradation due to land disturbances.

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“Clean Water Act” means the 1972 amendments to the Federal Water Pollution Control Act and the Federal Water Quality Act of 1987 and any subsequent amendments to those Acts.

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“Code” or “Arlington County Code” means the Code of the County of Arlington County, Virginia, including the Appendix and the Zoning Ordinance.

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“Chesapeake Bay Preservation Area” (CBPA) means any land designated by the County Board pursuant to Section 61-5 of this Chapter, Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20 et seq., and Section 10.1-2107 of the Code of Virginia. Chesapeake Bay Preservation Areas shall consist of Resource Protection Areas and Resource Management Areas.

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“Construction footprint” means the area of all impervious surfaces, including but not limited to buildings, roads and drives, parking areas, sidewalks, and the area necessary for construction of such improvements.

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“County” means Arlington County, Virginia.

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“County Board” means the County Board of Arlington County, Virginia.

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“County Manager” means the County Manager for the County of Arlington or his designees.

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“Department” means the Chesapeake Bay Local Assistance Department or its successor agency.

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“Development” means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures. Unless otherwise specified, the term development shall be taken to include both new development and redevelopment, as defined herein.

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▲ “Diameter at breast height” or “DBH” means the diameter of a tree measured outside the bark at a point ~~four and one-half (4.5)~~ feet above the ground.

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▲ “Dripline” means a vertical projection to the ground surface from the furthest lateral extent of a tree or shrub’s canopy.

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▲ “Floodplain” means all lands that would be included in “Zone A” as defined in ~~Section §~~ 48-2.23 of the Arlington County Code and shown on the adopted floodplain map.

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▲ “Highly erodible soils” means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than ~~eight (8)~~, as defined by the U.S. Department of Agriculture - Natural Resource Conservation Service. The erodibility index for any soil is defined by the Universal Soil Loss Equation formula (RKLS/T), 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.

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▲ “Highly permeable soils” ~~are defined as means~~ any soil having a permeability equal to or greater than six ~~(6)~~ inches of water movement per hour in any part of the soil profile to a depth of ~~seventy-two (72)~~ inches (i.e., permeability groups “rapid” and “very rapid”) as found in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U.S. Department of Agriculture - Natural Resources Soil Conservation Service.

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▲ “Impervious cover” or “impervious surface” means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Depending on the design, impervious surfaces may include, but are not limited to: non-vegetated roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel or dirt surface without measurable permeability. For the purposes of this ~~C~~chapter, any impervious cover removed from a site within the preceding two ~~(2)~~ years may be counted as impervious cover for the pre-development condition, if a valid demolition permit was obtained for the project or other documentation of the removal acceptable to the County Manager is provided.

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▲ “Intensely ~~D~~developed ~~A~~areas” means a portion of a ~~R~~resource ~~P~~rotection ~~A~~area or ~~R~~resource ~~M~~anagement ~~A~~rea designated by the County Board and shown on the official map where little of the natural environment remains and where development is currently concentrated.

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▲ “Land-disturbance” or “land-disturbing activity” means those activities which disturb land by grading of soil, removing soil, filling over soil, altering structures such that soil is disturbed, dredging, paving or removing pavement over soils, clearing, grubbing, or any other activity specifically included in this ~~ordinance chapter~~ as having the potential for impacts to water quality, except that minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work shall not be considered land disturbance under this ~~ordinance chapter~~ unless it involves the creation of impervious cover in the Resource Protection Area, the disturbance of more than ~~two thousand five hundred (2,500)~~ square feet of land, or the removal of trees with a diameter of at least three (3) inches in the RPA.

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▲ “Landward” means any portion of the RPA buffer located more than ~~fifty (50)~~ feet from a waterbody or other component of the RPA, as specified in ~~Section §~~ 61-5.B.-

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▲ “Map” means the map adopted by the County Board that delineates the areas presumed to be Chesapeake Bay Preservation Areas.

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▲ “New development” means the process of developing land that has not been previously developed by the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

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▲ “Nonpoint source pollution” means pollution consisting of contaminants including, but not limited to, sediment, nitrogen, phosphorus, hydrocarbons, heavy metals and other organic or toxic substances that are washed from the land surface from diffuse sources by stormwater runoff from agricultural and urban land development and use.

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▲“Nontidal wetlands” means 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, and in 33 C.F.R. Part 328.3b, as each may be amended from time to time.

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▲“Noxious Vvegetation” means invasive or otherwise harmful plants as may be determined by the County Manager including, but not limited to, poison ivy, poison oak, poison sumac, Johnson grass, kudzu, bamboo, English ivy, porcelain berry, and multiflora rose.

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▲“Passive recreation” means recreational activities that are commonly unorganized and noncompetitive, including, but not limited to, picnicking, bird watching, kite flying, bicycling, and walking. Site amenities for such activities include, but are not limited to, picnic tables, photo stands, open play areas where substantial clearing is not required, rest rooms, tot lots, boardwalks, paved paths, pathways, benches, and pedestrian bridges and appurtenant structures.

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▲“Plan of Ddevelopment” means the process for plan review and all required information submitted to the County to ensure compliance with Section § 10.1-2109 of the Code of Virginia and Section § 61-13 of this Cchapter, prior to any clearing and grading of a site and the issuance of a building permit.

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▲“Pollutant” means any substance that causes or contributes to, or may cause or contribute to, environmental degradation when discharged into the environment.

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▲“Pollutant load” means the amount of a particular pollutant delivered to a waterbody measured in units of mass per unit time (e.g., pounds per year).

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▲“Public road” means a publicly owned road, or a road designated for public use, that is designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Section § 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (Section 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where roads are constructed or maintained, or both, by Arlington County in accordance with the County's standards for road design and construction activities.

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▲“Redevelopment” means the process of developing land that is or has been previously developed by the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

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▲“Resource mManagement Aarea (RMA)” means that component of the Chesapeake Bay Preservation Area that is not classified as the Rresource Pprotection Aarea.

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▲“Resource pProtection eArea (RPA)” means that component of the Chesapeake Bay Preservation Area as defined in Section § 61-5.B of this Cchapter.

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▲“Seaward” means that portion of the RPA buffer located within fifty (50) feet of a waterbody or other component of the RPA, as specified in Section § 61-5.B.

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▲“Substantial alteration” means expansion or modification of a building or development that would result in a disturbance of any land within a Rresource Pprotection Aarea, or disturbance of any land exceeding an area of two thousand five hundred (2,500) square feet within a Rresource Mmanagement Aarea.

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▲“Tree canopy” means the branches, leaves, or other foliage from woody vegetation exceeding five (5) feet in height. The area of tree canopy may be measured by determining the area surrounding a tree located within the dripline.

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“Tidal shore” or “shore” means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

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“Tidal wetlands” means vegetated and nonvegetated wetlands as defined in Section § 28.2-1300 of the Code of Virginia, as may be amended from time to time.

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“Use” means the purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

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“Water-dependent facility” or “water-dependent development” means the development of land or a facility that cannot exist outside of a Resource Protection Area and must be located within a Resource Protection Area, either in whole or in part, 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 structures; (iv) beaches and other public water-oriented recreation areas; (v) fisheries or other marine resources facilities; and (vi) water-oriented education facilities.

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“Watershed management fund” means a fund administered by the County for the purpose of reducing nonpoint source pollution runoff through regional nonpoint source pollution control and stream restoration programs, demonstration programs, and public education and outreach.

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“Wetlands” means tidal and nontidal wetlands.

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“Zoning Ordinance” means that part of the Arlington County Code called the “Zoning Ordinance.” (Ord. No. 03-1, 2-8-03)

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§ 61-4. Administration

The County Manager shall be responsible for the administration of this Chapter and is authorized to develop regulations to implement this Chapter, as necessary. The County Board may establish a schedule of fees to implement this Chapter. (Ord. No. 03-1, 2-8-03)

§ 61-5. Areas of Applicability

A. Resource Protection Areas shall consist of sensitive lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of State waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on State waters and aquatic resources.

B. The Chesapeake Bay Preservation Area (CBPA) Overlay District shall apply to all lands identified as the CBPA by the County Board and as shown on the adopted CBPA map. The adopted CBPA map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.

1. The Resource Protection Area (RPA) includes:

- a. Tidal wetlands;
- b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
- c. Tidal shores;

d. A buffer area not less than one hundred (100) feet in width located adjacent to and landward of the components listed in subsections 61-5.B.1.a through c., and along both sides of any water body with perennial flow.

e. Such other lands considered by the County Board to meet some or all of the criteria described in ~~Section §~~ 61.5.A of this ~~C~~hapter and to be necessary to protect the quality of State waters.

~~i.~~(1) Other lands to be included within the RPA may include, but are not limited to, natural stream channels and man-made open channels as depicted on the most recent ~~S~~storm ~~S~~ewer ~~M~~ap layer of the County's ~~G~~eographic ~~I~~nformation ~~S~~ystem and including a buffer area not less than one hundred (100) feet in width located adjacent to and landward of these lands.

~~ii.~~(2) The buffer area described in ~~Section-subsections~~ 61-5.B.1.d and 61-5.B.1.e. ~~i.~~(1), shall be expanded to include any contiguous steep slopes greater than or equal to twenty-five percent (25%) ~~percent~~ located adjacent to the landward boundary of the RPA buffer.

~~iii.~~(3) When necessary to protect the integrity of the RPA buffer, contiguous slopes greater than or equal to fifteen percent (15%) ~~percent~~ located adjacent to the landward boundary of the RPA buffer may also be designated by the County Board.

2. The ~~R~~esource ~~M~~anagement ~~A~~rea (RMA) includes all areas within the County not designated as an RPA. Resource ~~M~~anagement ~~A~~reas include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the RPA.

C. The adopted CBPA map shows only the general location of the RPA and should be consulted by persons contemplating activities within the County prior to engaging in development activities or modifications to the RPA. Where RPA boundaries on the adopted CBPA map differ from boundaries as determined from the text of this ~~C~~hapter, the text shall govern. The specific location of an RPA on a lot or parcel shall be delineated on each site or parcel or subdivision plat as required under ~~Section §~~ 61-9 of this ~~C~~hapter through the review and approval of the plan of development in accordance with ~~Section §~~ 61-13, or as required under ~~Section §~~ 61-12, through the review and approval of a water quality impact assessment.

D. Portions of RPAs and RMAs may be designated by the County Board as ~~I~~ntensely ~~D~~eveloped ~~A~~reas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards in ~~Section §~~ 61-10 (~~P~~erformance ~~S~~tandards). Intensely ~~D~~eveloped ~~A~~reas may include those areas of existing development where little of the natural environment remains, provided at least one (1) of the following conditions existed on May 16, 1992:

1. Development had severely altered the natural state of the area such that it had more than fifty percent (50%) ~~percent~~ impervious surface;

2. Public sewer and water systems, or a constructed stormwater drainage system, or both, had actually been constructed and served the area;

3. Housing density was equal to or greater than four (4) dwelling units per acre.

(Ord. No. 03-1, 2-8-03)

§ 61-6. Use ~~R~~egulations

Permitted uses, special exceptions, site plan requirements, proffered uses, accessory uses and special requirements shall be as established by the Zoning Ordinance, unless specifically modified by the requirements set

forth herein.
(Ord. No. 03-1, 2-8-03)

§ 61-7. Allowable Development, Modifications, and Encroachments in RPAs

The following uses are allowed within the RPA, subject to the conditions set forth below. All other uses, as may be permitted in this Chapter, are subject to additional requirements contained in Section § 61-14 (Nonconforming Uses and Structures), Section § 61-15 (Exemptions), and Section § 61-16 (Exceptions).

a.A. Allowable development in RPAs. Land development in RPAs may be allowed only when permitted by the County Manager and if it: (i) is water-dependent; or (ii) constitutes redevelopment; or (iii) constitutes new development or redevelopment within a designated Intensely Developed Area; or (iv) is a road or driveway crossing satisfying the conditions set forth in Section § 61-7.A.3 below; or (v) is a flood control or stormwater management facility that satisfies the criteria in Section § 61-7.A.4.

1. A new or expanded water-dependent facility may be allowed provided that the following criteria are met:
 - a. It does not conflict with the County's comprehensive plan;
 - b. It complies with the performance standards set forth in Section § 61-10 of this Chapter;
 - c. Any nonwater-dependent component is located outside of the RPA; and,
 - d. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
2. Redevelopment outside of locally designated Intensely Developed Areas designated by the County shall be permitted only if there is no increase in the amount of impervious cover within the RPA and there is no further encroachment within the RPA and it shall conform to the erosion and sediment control requirements outlined under Section § 61-10.E. of this chapter and the stormwater management requirements outlined under Section § 61-10.F of this Chapter. Within an Intensely Developed Area, an increase in impervious area in the RPA may be allowed only if there is no adverse impact on water quality and suitable Best Management Practices are incorporated in the approved plan of development so as to comply with applicable provisions of Section § 61-10.F of this Chapter, and any additional conditions required by the County Manager.
3. Roads and driveways not exempt under Section § 61-15 may be constructed in or across RPAs if each of the following conditions is met:
 - a. The County Manager makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
 - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
 - c. The design and construction of the road or driveway satisfy all applicable criteria of this Chapter;
 - d. The County Manager reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under Section § 61-13, or the proposed subdivision plan or plat.
4. Flood control and stormwater management facilities that drain or treat water from multiple

development projects or from a significant portion of a watershed may be allowed in RPAs, provided that:

- a. The County Manager has conclusively established that location of the facility within the RPA is the optimum location;
- b. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
- c. The facility shall be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board;
- d. All applicable permits for construction in state or federal waters shall be obtained from the appropriate state and federal agencies;
- e. Approval shall be received from the County Manager prior to construction; and,
- f. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.

B. *Allowable Modifications to RPA Buffers.* To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a buffer area at least one hundred (100) feet wide of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. Notwithstanding permitted uses, encroachments, and vegetation clearing allowed in this Cchapter, the minimum one hundred (100)-foot buffer area is not reduced in width.

In order to maintain the functional value of the RPA buffer, existing trees and vegetation may be removed, only as permitted by the County Manager, to provide for reasonable sight lines, access paths, general woodlot management, and best management practices including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed from the RPA buffer 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.
2. Trees may be pruned or removed from the RPA buffer in an area no greater than five thousand (5,000) square feet or twenty-five percent (25%)-~~percent~~ of the RPA buffer, whichever is less, for all sight lines and vistas combined. The bounds of this area shall be determined in a manner acceptable to the County Manager and are to be based on identified vantage points and the portion of the landscape to be viewed.
3. Trees may not be removed where reasonable sight lines or vistas can be created by pruning trees alone. No more than twenty-five (25%)-~~percent~~ of the trees six (6) inches or greater in diameter at breast height (four and one-half (4.5) feet) may be removed from the areas designated for sight lines and vistas.
4. A written request for a determination by the County Manager that the proposed removal of vegetation from the RPA buffer is in accordance with the requirements of this Cchapter is required. Such request shall include a plan showing the following:
 - a. The vantage points for the sight lines and vistas;
 - b. The portion of the landscape to be viewed;

- c. The area in which trees are to be pruned or removed;
 - d. The location of all trees six (6) inches or greater in diameter at breast height (~~four and one-half~~ (4.5) feet) or as required by the County Manager;
 - e. The location of the trees to be removed or pruned;
 - f. The type of replacement vegetation proposed.
5. Trees may not be pruned or removed from the RPA buffer until a written determination is obtained from the County Manager that the proposed activity is in accordance with the requirements of this ~~C~~chapter.
 6. Any path shall be constructed and surfaced so as to control erosion effectively. Paths serving individual residential lots shall be no more than four (4) feet in width.
 7. Noxious weeds and dead, diseased, or dying trees or shrubbery may be removed from the RPA buffer at the discretion of the landowner 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.
 8. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with applicable permit conditions or requirements. For shoreline erosion control projects which propose the use of sea walls, rip-rap, groins or other structural means of stabilization, it shall be demonstrated to the satisfaction of the County Manager that vegetative techniques cannot be effectively utilized.
- C. *Allowable Encroachments into RPA Buffer*
1. When the application of the RPA buffer would result in the loss of a reasonable buildable area on a lot or parcel recorded prior to October 1, 1989, the County Manager may, through an administrative process, permit encroachments into the RPA buffer in accordance with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) and the following criteria:
 - a. Encroachments into the RPA buffer shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. For the purpose of this section, reasonable buildable area shall mean that area reasonably necessary for a principal structure and necessary utilities with compatible bulk and scale to those in the surrounding neighborhood or area;
 - b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the RPA buffer encroachment, and is equal to the area of encroachment into the RPA buffer shall be established elsewhere on the lot or parcel; and,
 - c. The encroachment shall not extend into the seaward ~~fifty~~ (50) feet of the RPA buffer unless an exception has been approved as provided in ~~Section §~~ 61-16.
 2. When the application of the RPA buffer would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, the County Manager may permit encroachments into the RPA buffer in accordance with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) and the following criteria:
 - a. The lot or parcel was created as a result of a legal process conducted in conformity with the subdivision regulations under Chapter 23 of the Arlington County Code;

- b. Conditions or mitigation measures imposed through a previously approved exception shall be met;
- c. If the use of a ~~b~~Best ~~m~~Management ~~p~~Practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and,
- d. The criteria in ~~Section §~~ 61-7.C.1 shall be met.

D. A water quality impact assessment as outlined in ~~Section §~~ 61-12 of this ~~C~~chapter shall be required for any proposed land disturbance, development, or modification within RPAs.
(Ord. No. 03-1, 2-8-03)

§ 61-8. Minimum Lot Size

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot subdivided after October 1, 1989, shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in ~~Section §~~ 61-10, unless the development is otherwise allowed in the RPA, in accordance with ~~Section §~~ 61-7.
(Ord. No. 03-1, 2-8-03)

§ 61-9. Interpretation of RPA Boundaries.

A. *Delineation of RPA ~~B~~boundaries on a ~~P~~plan of ~~D~~development or ~~S~~ubdivision ~~P~~plat.* The site-specific boundaries and location of the RPA shall be determined by the applicant, surveyor, or engineer following guidelines and procedures to be provided by the County, and shall be made part of the submittal, for review and approval by the County, of a plan of development or subdivision plat showing the RPA delineation. The RPA delineation shown on a plan of development or subdivision plat shall be subject to approval by the County Manager and in accordance with ~~Section §~~ 61-8 (~~M~~inimum ~~L~~ot ~~S~~ize), ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) and ~~Section §~~ 61-12 (~~W~~ater ~~Q~~uality ~~I~~mpact ~~A~~ssessment) of this ~~C~~chapter, if applicable. The adopted CBPA map may be used as a guide to the general location of RPAs.

B. *Where ~~C~~onflict ~~A~~arises ~~O~~ver ~~D~~delineation.* Where the applicant has provided a determination of the RPA, the County Manager shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the County Manager may render adjustments to the applicant's boundary delineation, in accordance with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) of this ~~C~~chapter. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of ~~Section §~~ 61-13.H (~~D~~enial/~~A~~ppeal of ~~P~~plan).
(Ord. No. 03-1, 2-8-03)

§ 61-10. General Performance Standards for Development in Chesapeake Bay Preservation Areas

The following general performance standards shall apply to development in Chesapeake Bay Preservation Areas, including development in both RPAs and RMAs.

- A. Land disturbance shall be limited to the area reasonably necessary to provide for the proposed use or development.
 - 1. In accordance with an approved plan of development, the limits of clearing and grading shall be strictly defined by the construction footprint. The County Manager shall review and approve the construction footprint through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked on the development site.
 - 2. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the County Manager.

B. Existing vegetation and trees shall be preserved to the maximum extent practicable consistent with the proposed use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.

1. Existing trees over three (3) inches in diameter at breast height (DBH) shall be preserved outside the approved construction footprint consistent with the preceding paragraph. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the County Manager.
2. Site clearing for construction activities shall be allowed as approved by the County Manager through the Plan of Development review process outlined under ~~Section §~~ 61-13 of this ~~C~~chapter.
3. Prior to clearing and grading, suitable protective barriers consistent with the County's construction standards and specifications, and including safety fencing, signs, or such other material as may be required by the County Manager, shall be erected to protect the critical root zone for any tree or stand of trees to be preserved on the site, as well as to protect the critical root zone of trees on adjacent properties that extend onto the site.
4. Exceptions may be granted to allow reasonable access to the site and work area, with specific conditions to be established by the County Manager. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

C. All new development or redevelopment shall provide for the planting or retention of trees on the site to the extent that, at a maturity of twenty (20) years, the minimum lot coverage of the tree canopy shall be as specified below:

1. *Minimum tree canopy requirements*

- a. Ten percent (10%) ~~percent~~ tree canopy for a site zoned business, commercial, or industrial;
- b. Ten percent (10%) ~~percent~~ tree canopy for a residential site zoned twenty (20) or more units per acre;
- c. Fifteen percent (15%) ~~percent~~ tree canopy for a residential site zoned more than ten (10) but less than twenty (20) units per acre; and,
- d. Twenty percent (20%) ~~percent~~ tree canopy for a residential site zoned ten (10) units or less per acre.

2. The County Manager may modify the tree canopy coverage requirements in this ~~C~~chapter where necessary to preserve wetlands or where the strict application of the requirements would be unnecessary, or an unreasonable hardship to the developer.
3. Dedicated school sites, playing fields, or other nonwooded public recreation areas, and other facilities and uses of a similar nature are exempt from these tree canopy coverage requirements.
4. The County Manager may impose conditions on any request for a modification or exception to the tree canopy coverage requirements that will assure that the results of the modification or exception will be in accordance with the purpose and intent of this ~~C~~chapter.
5. The tree canopy coverage requirements in this ~~S~~section shall be subject to the enforcement provisions of the Zoning Ordinance.

D. Land development shall minimize impervious cover consistent with the proposed use or

development.

E. Notwithstanding any other provisions of this ~~C~~chapter or exceptions or exemptions thereto, any land disturbing activity exceeding two thousand five hundred (2,500) square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 57 - Erosion and Sediment Control Ordinance.

F. All development shall meet the following stormwater quality requirements:

1. *Pollutant removal requirements.* The pollutant removal requirements for all development shall be determined according to ~~Sections-subsections~~ 61-10.F.1.a through 61-10.F.1.d.

- a. If pre-development impervious cover is less than or equal to the average land cover condition, defined for purposes of this ~~C~~chapter as the Chesapeake Bay watershed average of sixteen percent (16%)~~percent~~, and post-development impervious cover is less than or equal to the average land cover condition, there are no pollutant removal requirements for the site.
- b. If pre-development impervious cover is less than or equal to the average land cover condition, and post-development impervious cover is greater than the average land cover condition, the post-development pollutant load shall be reduced to the pollutant load generated by the average land cover condition.
- c. If pre-development impervious cover is greater than the average land cover condition, the post-development pollutant load shall be reduced to ninety percent (90%)~~percent~~ of the pre-development pollutant load or to the pollutant load generated by the average land cover condition, whichever pollutant load reduction is smaller.
- d. If pre-development impervious cover is served by an existing stormwater quality BMP, the post-development pollutant load shall be reduced to the pre-development pollutant load after treatment by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

2. *Compliance with pollutant removal requirements*

- a. Onsite stormwater treatment shall be provided for impervious surfaces on the development site with which vehicles come into contact, including but not limited to parking areas; streets and roadways except for public roads exempt under ~~Section-§~~ 61-15; loading docks; equipment, material, and waste storage areas; and vehicle fueling, washing, storage, maintenance, and repair areas.

Onsite treatment of vehicle-related impervious cover is not required to exceed the total pollutant removal requirements under ~~Section-§~~ 61-10.F.1.

- b. If onsite stormwater treatment required under ~~Section-§~~ 61-10.F.2.a does not meet the total pollutant removal requirements under ~~Section-§~~ 61-10.F.1, full compliance with ~~Section-§~~ 61-10.F.1 shall be achieved by a combination of the following options, subject to approval by the County Manager:

~~i-~~(1) Additional onsite stormwater treatment for roofs, plazas, and other areas of the development site;

~~ii-~~(2) Onsite stormwater treatment for offsite areas; or

~~iii-~~(3) A contribution to the County's ~~W~~atershed ~~M~~anagement ~~F~~und, as described in ~~Section-§~~ 61-11.

3. *Site design standards.* All development shall incorporate site design standards recognized by the County Manager as a means of minimizing impervious cover, stormwater runoff, and nonpoint source pollution and protecting or improving indigenous vegetation and habitat.

4. Compliance with the pollutant removal, ~~W~~watershed ~~M~~management ~~F~~fund, and site design standards requirements shall be determined using the administrative guidance and calculation procedures provided by the County Manager.

G. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the County Manager, in accordance with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) of this ~~C~~chapter.

H. *On-site sewage disposal system requirements*

1. All on-site sewage disposal systems not requiring a state or federal permit shall be pumped out at least once every five (5) years. Pumping of systems and disposal of waste shall be in accordance with the provisions of the Arlington County Health Code. Owners of on-site sewage treatment systems shall submit to the County, every five (5) years, documentation certified by a sewage handler permitted by the Virginia Department of Health that the septic system has either been pumped out, or that the on-site sewage disposal system has been inspected and is functioning properly and does not need to be pumped out.

2. For new development or redevelopment, each on-site sewage disposal system shall be provided with a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site for lots recorded after October 1, 1989. Buildings or the construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system that operates under a permit issued by the State Water Control Board, until the structure is served by public sewer.

(Ord. No. 03-1, 2-8-03)

§ 61-11. Watershed Management Fund

A. The County Manager shall administer a dedicated fund known as the "~~W~~watershed ~~M~~management ~~F~~fund" to be used in conjunction with the County's ~~W~~watershed ~~M~~management ~~P~~plan to reduce nonpoint source pollution and improve stream quality and habitat through programs which provide BMP retrofits, stabilize or restore stream valleys and streams, educate the residents of the County on methods of reducing nonpoint source pollution runoff, promote public awareness of the importance of stormwater quality, supplement County programs which provide water quality protection, provide demonstration projects, or provide water quality monitoring or analysis.

B. The County Manager shall fund the ~~W~~watershed ~~M~~management ~~F~~fund from participation contributions made by development projects, in accordance with ~~Section §~~ 61-10.F, and any additional funds the County Board may authorize. The County Board shall establish a contribution rate that shall not exceed the typical cost of providing on-site stormwater quality treatment, and periodically adjust the rate to reflect inflation and changes in the cost of designing, building, and maintaining stormwater treatment facilities. Expenditures from the ~~W~~watershed ~~M~~management ~~F~~fund shall be used to provide regional stormwater management, stream restoration programs, demonstration projects, and outreach and education programs that protect water quality.

C. The initial contribution rate for the ~~W~~watershed ~~M~~management ~~F~~fund is equal to two dollars and fifty cents (\$2.50) per square foot of impervious area mitigation required, as specified under ~~Section §~~ 61-10.F. of this ~~C~~chapter. Such rate may be adjusted in the future by the County Board in accordance with ~~Section §~~ 61-11.B. and shall be hereafter set forth in Chapter 22 of the Arlington County Code.

(Ord. No. 03-1, 2-8-03)

§ 61-12. Water Quality Impact Assessment

A. *Applicability.* A water quality impact assessment shall be required for any proposed land disturbance or development within an RPA, including development permitted under ~~Section § 61-7.A~~ of this ~~C~~chapter, as well as any RPA buffer modification or encroachment, including modifications or encroachments permitted under ~~Section § 61-7.B~~ or C of this ~~C~~chapter. A water quality impact assessment shall also be required for any proposed land disturbance or development on contiguous steep slopes greater than or equal to fifteen percent ~~(15%) percent~~ located adjacent to the landward boundary of the RPA buffer. A water quality impact assessment may also be required for any proposed land disturbance or development in an RMA as regarded appropriate by the County Manager due to the presence of wetlands, potential for harmful discharge of contaminants from the property, or due to the unique site characteristics or intensity of the proposed use or development and its potential impact on water quality.

At a minimum, a water quality impact assessment shall demonstrate that enhanced RPA buffer vegetation and/or onsite stormwater BMPs will retard runoff, prevent erosion, and result in pollutant reduction. In general, the WQIA shall demonstrate that there is either a forty percent ~~(40%) percent~~ reduction of pollutant loads from the post-development condition for sites with an RPA buffer that consists primarily of natural vegetation (trees, shrubs, and ground cover), or there is a net reduction in pollutant loads over the pre-development condition and a net improvement in RPA buffer vegetation and riparian habitat for sites with an RPA buffer that contains impervious cover and/or little natural vegetation. Actual site requirements will be determined during the review of the water quality impact assessment as well as by any other requirements applicable to the site (e.g., pollutant removal requirements under ~~Section § 61-10.F~~) under this ~~C~~chapter.

There shall be two (2) levels of water quality impact assessments: a minor assessment and a major assessment. Information shall be provided using the forms and guidance provided by the County Manager.

B. *Minor Wwater Qquality Iimpact Aassessment.* A minor water quality impact assessment shall be performed for any land disturbance or development that proposes to disturb up to five thousand ~~(5,000)~~ square feet of land in the landward fifty ~~(50)~~ feet of the RPA buffer or proposes to modify or encroach into the landward fifty ~~(50)~~ feet of the RPA buffer. A minor water quality impact assessment shall also be required for any proposed land disturbance or development that proposes to disturb up to five thousand ~~(5,000)~~ square feet of land on contiguous steep slopes greater than or equal to fifteen percent ~~(15%) percent~~ located adjacent to the landward boundary of the RPA buffer.

A minor assessment shall include a site drawing to scale, which shows the following:

1. Location of the components of the RPA as defined in ~~Section § 61-5.B.1~~ and required in ~~Section § 61-13.B~~, including the minimum one hundred ~~(100)~~ foot buffer area measured from the top of the streambank and adjacent twenty-five percent ~~(25%) percent~~ slopes; the location of slopes greater than or equal to fifteen percent ~~(15%) percent~~ located adjacent to the landward boundary of the RPA buffer shall also be delineated;
2. Location and nature of the proposed encroachment into the RPA buffer, including the 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. Estimation of pre- and post-development impervious surfaces on the site and stormwater calculations required by the County Manager;
4. Type and location of proposed ~~b~~Best ~~m~~Management ~~p~~Practices to mitigate the proposed encroachment and the location of existing and proposed runoff outfalls or drainage pathways from the property;
5. Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the RPA buffer to accommodate the encroachment or modification;
6. Re-vegetation or vegetation enhancement plan that supplements the existing RPA buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

C. *Major ~~Water Quality Impact Assessment~~*. A major water quality impact assessment shall be performed for any land disturbance or development that proposes to disturb more than five thousand (5,000) square feet of land in the landward fifty (50) feet of the RPA buffer or proposes to disturb, modify, or encroach into any portion of the seaward fifty (50) feet of the Resource Protection Area buffer, regardless of the size of the proposed disturbance. A major water quality impact assessment shall also be required for any proposed land disturbance or development that proposes to disturb more than five thousand (5,000) square feet of land on contiguous steep slopes greater than or equal to fifteen percent (15%) ~~percent~~ located adjacent to the landward boundary of the RPA buffer. The information required in this section shall be considered a minimum, unless the County Manager determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development.

The following elements shall be included in the preparation and submission of a major water quality impact assessment.

1. All of the information required in a minor water quality impact assessment, as specified in Section § 61-12.B.
2. A hydrogeological element that:
 - a. Describes the existing topography, soils, hydrology and geology of the site and adjacent lands.
 - b. Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.
 - c. Includes the following elements, if applicable:
 - ~~i~~(1) Disturbance or removal of wetlands and justification for such action;
 - ~~ii~~(2) Changes or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
 - ~~iii~~(3) Changes to the existing hydrology of the site and adjacent lands;
 - ~~iv~~(4) Source, location, and description of proposed fill material;
 - ~~v~~(5) Location of dredging and location of dumping area for such dredged material;
 - ~~vi~~(6) Percent of site to be cleared for the proposed project;
 - ~~vii~~(7) Anticipated duration and phasing schedule of the proposed construction project;
 - ~~viii~~(8) Listing of all requisite permits from all applicable agencies necessary to develop the proposed project.
 - d. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures may include, but are not limited to:
 - ~~i~~(1) Additional proposed erosion and sediment control concepts beyond those normally required under Section § 61-10.E of this ~~C~~chapter; these additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection;
 - ~~ii~~(2) Proposed stormwater management system for nonpoint source quality and quantity control.

3. A landscape conservation element that:
 - a. Identifies and delineates the location of all woody plant material on site, including shrubs having a canopy greater than ~~twenty-four~~ (24) inches in diameter and all trees on site three (3) inches or greater in diameter at breast height or, where there are groups of trees, said stands may be outlined.
 - b. Describes the impacts the development or use will have on the existing vegetation. Information shall include:
 - ~~i.~~(1) General limits of land disturbance, based on all anticipated improvements, including buildings, drives, and utilities;
 - ~~ii.~~(2) Clear delineation of all trees and other woody vegetation that will be removed.
 - c. Describes the proposed measures for mitigation, including a proposed design plan and planting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used. Possible mitigation measures include:
 - ~~i.~~(1) The re-vegetation plan shall supplement the existing RPA buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control;
 - ~~ii.~~(2) The design of the plan shall 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;
 - ~~iii.~~(3) Indigenous plants shall be used unless otherwise approved by the County Manager.
- D. ~~Water Quality Impact Assessment Submission and Review Requirements~~
 1. Copies of all site drawings and other applicable information as required by ~~S~~subsections B and C above shall be submitted to the County Manager for review.
 2. A major or minor water quality impact assessment shall be prepared, as applicable, and submitted to and reviewed by the County Manager in conjunction with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) of this ~~C~~chapter.
 3. All information required in this section shall be certified as complete and accurate by a professional engineer or certified land surveyor, except that the landscape conservation element of the assessment shall be certified as complete and accurate by a licensed arborist or landscape architect.
- E. ~~Evaluation Procedure~~. Upon the completed review of a water quality impact assessment, the County Manager or the Chesapeake Bay Ordinance Review Committee (CBORC), in accordance with ~~Section §~~ 61-16, will determine whether the proposed modification or encroachment into the RPA buffer, if any, is consistent with the provisions of this ~~C~~chapter and applicable regulations.
(Ord. No. 03-1, 2-8-03)

§ 61-13. Plan of Development Process in Chesapeake Bay Preservation Areas

Any new development or redevelopment exceeding ~~two thousand five hundred~~ (2,500) square feet of land disturbance in aggregate shall be accomplished through a plan of development process prior to any development preparation activities onsite, including, but not limited to, clearing and grading of the site and the issuance of any

building or other applicable permit, to assure compliance with all applicable requirements of this Chapter.

A. *Required Information.* The plan of development process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the County Manager. The County Manager may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

The applicant shall submit the following plans or studies to the County Manager:

1. Copies of plans submitted to the Zoning Administrator to ensure compliance with the provisions of the Zoning Ordinance;
2. A plan showing the RPA delineation, as defined in Section § 61-13.B;
3. A landscape conservation plan, as defined in Section § 61-13.C;
4. A stormwater management plan, as defined in Section § 61-13.D;
5. An erosion and sediment control plan in accordance with the provisions of Chapter 57 of the Arlington County Code.
6. A ~~W~~ater ~~Q~~uality ~~I~~mpact ~~A~~ssessment, if applicable, in accordance with Section § 61-12.
7. Other studies requested by the County Manager reasonably required to ensure compliance with this Chapter.

B. *Plan Showing RPA Delineation.* The applicant shall submit a plan showing the RPA delineation, if any portion of the property is located within an RPA, in conjunction with any proposed land disturbance exceeding two thousand five hundred (2,500) square feet.

1. The plan showing the RPA delineation shall be drawn to scale and clearly delineate all environmental features, as defined in Section § 61-5.B.1, including any sensitive environmental features as may be determined by the County Manager;
2. Wetlands delineation shall be performed consistent with the procedures specified in the most current version of the *Corps of Engineers Wetlands Delineation Manual*, 1987, as may be revised from time to time;
3. The plan showing the RPA delineation shall be drawn at the same scale as the preliminary site plan unless otherwise requested by the County Manager, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. The County Manager may waive this requirement when the proposed use or development would result in less than five thousand (5,000) square feet of disturbed area.

C. *Landscape Conservation Plan.* A ~~L~~andscape ~~C~~onservation ~~P~~lan shall be submitted in conjunction with plan review and approval. No clearing or grading of any lot or parcel will be permitted without an approved landscape conservation plan for any land disturbance exceeding two thousand five hundred (2,500) square feet. Landscape conservation plans shall be prepared and/or certified by a landscape architect or arborist practicing within their areas of competence as prescribed by the Code of Virginia.

1. *Contents of the Plan*
 - a. The landscape conservation plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site three (3) inches or greater diameter at breast height (DBH) shall be shown on the plan, or where there are groups of trees, said stands may be outlined instead. The

specific number of trees three (3) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the plan.

- b. The location of the critical root zone, as defined by the County's construction standards and specifications, for any trees shown on the plan or located on adjacent properties where the critical root zone extends onto the site, shall be delineated on the plan.
- c. Any required RPA shall be clearly delineated and any plant material to be added to establish or supplement the RPA buffer, as required under the authority of this Chapter, shall be shown on the plan.
- d. Within the RPA buffer, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and Best Management Practices, as provided for in this Chapter, shall be shown on the plan. Vegetation required by this Chapter to replace any existing trees within the RPA buffer shall be also be depicted on the plan.
- e. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this Chapter shall be shown on the plan.
- f. The plan shall depict grade changes or other work adjacent to trees that would affect them adversely. Specifications shall be provided showing how grade, drainage, and aeration will be maintained around trees to be preserved to ensure the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.

2. *Plant Specifications*

- a. All plant materials necessary to supplement the RPA buffer or vegetated areas outside the construction footprint shall be installed according to the County's standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- c. Where areas to be preserved, as designated on an approved landscape conservation plan, are encroached, the County Manager may require reasonable replacement of any trees damaged or destroyed in accordance with the County's current tree replacement policy, as adopted by the County Manager.
- d. Native or indigenous species shall be used for all supplementary or replacement plant materials, unless otherwise approved by the County Manager.

D. *Stormwater Management Plan.* A stormwater management plan shall be submitted as part of the plan of development process required by this Chapter.

1. *Contents of the Plan.* The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this Chapter. At a minimum, the stormwater management plan shall contain the following:

- a. Pre- and post-development impervious cover and stormwater calculations required by the County Manager;

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- b. Location and design of all planned stormwater BMPs, including total area of impervious surface treated by each BMP and BMP treatment efficiencies;
 - c. Description and design of any non-structural stormwater control practices and techniques;
 - d. For stormwater management facilities, verification of performance and structural soundness, including a ~~P~~professional ~~E~~ngineer ~~C~~ertification;
 - e. Any worksheets or other documentation required by the County Manager.
2. Site specific facilities shall be designed, where required by the County Manager, to accommodate the future development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.
 3. All engineering calculations shall be performed in accordance with the procedures outlined in the current edition of the Virginia Stormwater Management Handbook or engineering manuals developed by designated area-wide planning agencies.
 4. The plan shall establish a 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 County then a maintenance agreement shall be executed between the responsible party and the County.

E. *Erosion and ~~S~~ediment ~~C~~ontrol ~~P~~lan.* An erosion and sediment control plan shall be submitted that satisfies the requirements of this ~~C~~hapter and in accordance with Chapter 57 (Erosion and Sediment Control Ordinance) of the Arlington County Code.

F. *Other ~~S~~ubmittal ~~R~~equirements*

1. Final plans for all lands within CBPAs shall include the following additional information:
 - a. All wetlands permits required by law;
 - b. A maintenance agreement as deemed necessary and appropriate by the County Manager to ensure proper maintenance of ~~b~~est ~~m~~anagement ~~p~~actices in order to continue their function.
 - c. Plat or plan note stating that no land disturbance is allowed in the RPA buffer without review or approval by the County Manager.
2. Installation and ~~B~~onding ~~R~~equirements
 - a. Where RPAs, 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 material or facilities is completed in accordance with the approved plan.
 - b. 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 County Manager a form of surety satisfactory to the County Manager in an amount equal to the cost of any remaining plant materials, related materials, or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities, under terms to be established by the County Manager. A certificate of occupancy may be issued if the County Manager determines that the cost of

any uncompleted work is less than one thousand five hundred dollars (\$1,500.00).

- c. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the County.
- d. All required stormwater management facilities or other specifications shall be installed and approved within six (6) months of project initiation, as evidenced by issuance of the initial County building permit, this period being subject to extension for cause by the County Manager. Should the applicant fail, after proper written notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to County. The County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
- e. The applicant shall submit a written request for final inspection after all required actions of the approved plan have been completed. If the requirements of the approved plan have been completed to the satisfaction of the County Manager, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following receipt of the applicant's request for final inspection. The County Manager may require a certificate of substantial completion from a Professional Engineer or Class III B Surveyor, as applicable, before making a final inspection.

G. *Administrative Responsibility.* The County Manager shall approve, approve subject to conditions, or disapprove the plans or subdivision plats in accordance with this ~~C~~chapter. The County Manager shall review and return the plan or plat review results to the applicant, including required conditions or modifications if the applicant wishes to proceed. If the applicant decides to proceed, the plan or plat shall be modified by the applicant to reflect any required conditions or modifications and submitted for approval.

H. *Denial of Pplan or Ssubdivision Pplat, Appeal of Cconditions or Mmodifications.* The applicant, when aggrieved by a decision of the County Manager in the enforcement of this ~~C~~chapter, may request a meeting with the County Manager to review the decision. Requests for the meeting shall be made no more than thirty (30) calendar days after the applicant has been notified of the County Manager's decision. The County Manager shall then preside at a meeting of the involved parties and then reconsider the decision. The meeting participants shall be notified by the County Manager within thirty (30) calendar days after the meeting of the result of the reconsideration.

(Ord. No. 03-1, 2-8-03)

§ 61-14. Nonconforming Uses and Structures

A. Any structure or nonagricultural use that was legally established in accordance with the provisions of the Arlington County Code and was in existence on the effective date of this ~~C~~chapter, May 16, 1992, and made non-conforming by operation of this ~~C~~chapter, may continue and be maintained, but shall not be enlarged or expanded, unless such enlargement or expansion is approved pursuant to ~~Section-§~~ 61-16 (~~E~~xceptions) of this ~~C~~chapter and otherwise complies with applicable provisions of the Arlington County Code, or is otherwise allowed under ~~Section-§~~ 61-14.C.

B. Nothing in this ~~C~~chapter shall prevent the reconstruction of such nonconforming structures destroyed or damaged by any casualty unless the reconstruction is otherwise restricted by the Zoning Ordinance or other portions of the Arlington County Code. Such reconstruction shall occur within two (2) years after the destruction or damage and there shall be no increase in the amount of impervious area and no further encroachment into the RPA, to the extent possible by sound engineering practices.

C. No change or expansion of nonconforming uses or structures in the RPA buffer shall be allowed except that:

- 1. The County Manager may approve exception requests to modify principal nonconforming

structures on legal nonconforming lots or parcels, including the addition of decks, garages, and other customary and incidental structures attached to the principal structure, provided that:

- a. The principal structure remains intact and the modification is compatible in bulk and scale to those in the surrounding neighborhood or area, as determined by the County Manager. If these criteria are not met, the modification shall be subject to the exception request requirements for redevelopment under § 61-16.A.
 - b. There will be no net increase in nonpoint source pollution load;
 - c. Any development or land disturbance exceeding an area of **two thousand five hundred (2,500)** square feet complies with all erosion and sediment control requirement of this **Chapter**.
 - d. The County Manager finds that the exception request complies with the provisions of **Section § 61-16.C**.
2. The County Manager may establish criteria to determine when the request shall become null and void, if granted and no substantial work has commenced.
3. Requests to expand nonconforming uses or to construct or modify nonconforming, non-attached accessory structures in the RPA buffer shall only be approved by the Chesapeake Bay Ordinance Review Committee (CBORC) through the exceptions process in **Section § 61-16.A** of this **Chapter**.

(Ord. No. 03-1, 2-8-03)

§ 61-15. Exemptions

A. *Exemptions for **Public Utilities, Railroads, Public Roads, and Facilities**.* Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads (built separately from development projects regulated under **Section § 61-13**) and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (**Section § 10.1-560 et seq. of the Code of Virginia**) and the Stormwater Management Act (**Section § 10.1-603.1 et seq. of the Code of Virginia**), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above **State** requirements are deemed to comply with this **Chapter**. Any road alignment and design shall be optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the RPA buffer and to minimize adverse effects on water quality.

B. *Exemptions for **Local Utilities and Other Service Lines**.* Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned or permitted by Arlington County or a service authority shall be exempt from the requirements of this **Chapter** provided that:

- 1. To the degree possible, the location of such utilities and facilities shall be outside RPAs;
 - 2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
 - 3. All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and,
 - 4. Any land disturbance exceeding an area of **two thousand five hundred (2,500)** square feet complies with all Arlington County erosion and sediment control requirements.
- C. *Exemptions in RPAs.* The following land disturbances in RPAs may be exempt from the

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requirements of this Chapter provided that they comply with the requirements listed in subdivisions 1 through 3 below: (i) water wells; (ii) passive recreation facilities and associated amenities such as boardwalks, trails, and pathways, including nature trails operated by government agencies, and trails and bikepaths that provide a link to a planned County trail system or have been recognized by the County Manager as an integral portion of a public trail network; (iii) conservation or preservation of soil, water, vegetation, fish, and other wildlife; and (iv) historic preservation and archaeological activities. The applicant shall demonstrate to the satisfaction of the County Manager that:

1. Any required permits, except those to which this exemption specifically applies, shall have been issued;
2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and,
3. Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet shall comply with all Arlington County erosion and sediment control requirements.

(Ord. No. 03-1, 2-8-03)

§ 61-16. Exceptions

A. *Exception Requests Submitted to the Chesapeake Bay Ordinance Review Committee*

1. A request for an exception to the requirements of ~~Section §~~ 61-7.A and ~~Section §~~ 61-7.B (~~A~~llowable ~~D~~evelopment, ~~M~~odifications and ~~E~~ncroachments in RPAs) of this Chapter, or an exception request to modify nonconforming, non-attached accessory structures and uses in the RPA buffer under ~~Section §~~ 61-14.C.3, shall be made in writing to the Chesapeake Bay Ordinance Review Committee (CBORC), which is to be appointed by the County Manager. CBORC shall hold a public hearing on any such requests prior to approving or denying the exception.
2. CBORC shall consist of an odd number of members, including at least five (5), but not more than nine (9), individuals. Members shall be appointed to serve staggered terms of service, not to exceed four (4) years. Members may be appointed from County staff, residents of Arlington County, or persons doing business in Arlington, provided that all members shall be knowledgeable in County development policies and/or Chesapeake Bay Preservation Ordinance policies, and provided further that no more than three (3) staff members shall serve on the ~~e~~Committee at any time.

B. *Exception Requests Submitted to the County Manager.* A request for an exception to the requirements of this Chapter shall be made in writing to the County Manager in the following cases:

1. Exception requests for provisions other than ~~Section §~~ 61-7.A and ~~Section §~~ 61-7.B (~~A~~llowable ~~D~~evelopment, ~~M~~odifications and ~~E~~ncroachments in RPAs);
2. Exception requests to modify principal nonconforming structures on legal nonconforming lots or parcels in the RPA buffer, as may be approved by the County Manager under ~~Section §~~ 61-14.C.1.

C. CBORC or the County Manager, as appropriate, shall review the exception request, including the water quality impact assessment, if applicable, and may grant the exception with such conditions and safeguards as are deemed necessary to further the purpose and intent of this Chapter, if CBORC or the County Manager find:

1. The requested exception to the criteria is the minimum necessary to afford relief;
2. Granting the exception will not confer upon the applicant any special privileges that are denied by this Chapter to other property owners who are subject to its provisions and who are similarly situated;

- 3. The exception is in harmony with the purpose and intent of this Chapter and is not of substantial detriment to water quality;
- 4. The exception request is not based upon conditions or circumstances that are self-created or self-imposed;
- 5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and,
- 6. Other findings, as appropriate and required by CBORC or the County Manager.

D. *Public Notification.* For exception requests submitted to CBORC under Section § 61-16.A, the applicant shall notify the affected public as set forth below:

- 1. Applicants submitting exception requests, waiver requests or water quality impact assessment review requests under this Chapter shall be required to provide notice to all persons owning property abutting or immediately across the street from the parcel, who are identified as the owners of record in the County Tax Records. The local Civic Association president and the Neighborhood Conservation Advisory Committee representatives that are on file with the County Board Office shall also be notified by the applicant. If a County designated historic district or landmark is situated on, abuts or is immediately across the street from the parcel affected by the request, the applicant shall also give notice to the Historic Affairs and Landmark Review Board Chairman.
- 2. The notices shall be sent by mail certified, return receipt requested by the applicant and at their expense. The notices shall use the form prescribed by the County. The return receipts or copies shall be given to the County Manager and become part of the documentation for the exception request. CBORC shall not hold a public hearing on any request for at least ten (10) working days from the last date as shown in the signed and dated return receipts provided to the applicant by the U.S. Postal Service, except where the County Manager determines an emergency situation requires an immediate response. The applicant shall ensure that a copy of the request is readily available for public review during the ten (10) working day period and shall note the location of the copy in the request filed with the County Manager.

E. If CBORC or the County Manager cannot make the required findings or refuse to grant the exception, CBORC or the County Manager shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

F. Any person aggrieved by a decision of CBORC or the County Manager in the enforcement of this Chapter may request a meeting with the County Manager and a representative of CBORC, if the exception request was submitted to CBORC, to review the decision. Requests for the meeting shall be made no more than thirty (30) days after the decision has been made. The County Manager and a representative of CBORC, if the exception request was submitted to CBORC, shall then preside at a meeting of the involved parties and then reconsider the decision. The County Manager shall notify the meeting participants within thirty (30) days of the result of the reconsideration.

(Ord. No. 03-1, 2-8-03)

§ 61-17. Enforcement

The County Manager, on behalf of the County Board, may seek injunctive relief to enjoin a violation or a threatened violation of any provision of this Chapter.

(Ord. No. 03-1, 2-8-03)

§ 61-18. Penalties

- A. *General Provisions*

1. Any building erected or improvements constructed contrary to any of the provisions of this ~~C~~chapter and any land disturbing activity regardless of area contrary to any of the provisions of this ~~C~~chapter and any removal of vegetation in Chesapeake Bay Preservation Areas contrary to any of the provisions of this ~~C~~chapter shall be and the same is hereby declared to be unlawful.
2. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ~~C~~chapter, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or land in violation of the provisions of this ~~C~~chapter shall be subject to the enforcement provisions of this ~~C~~chapter.
3. Upon becoming aware of any violation of any provisions of this ~~C~~chapter, the County Manager may serve a notice of violation on the property owner, the person committing or permitting the same either in person or by registered or certified mail to the property or the owner's address. Such notice shall specify the provisions of the ~~C~~chapter which have been violated, the measures needed to remedy the violation, and a reasonable time in which to remedy the violations. Failure to take steps to comply with such notice within the time provided for shall constitute a separate violation of this ~~C~~chapter.
4. Restoration of Chesapeake Bay Preservation Areas shall be performed as necessary to meet the intent of this ~~C~~chapter. In addition to the plantings required by ~~Section §~~ 61-10.C, the County Manager may require that trees illegally removed from Chesapeake Bay Preservation Areas be replaced by other trees of the same or comparable species of equal value. The value of the replacement trees shall not exceed the value of those illegally removed as determined by the formula in the latest revision of the Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture.
5. The County Manager may require the submission of a ~~W~~ater ~~Q~~uality ~~I~~mpact ~~A~~ssessment (WQIA) in accordance with the provisions of ~~Section §~~ 61-12 as a condition for remedying a violation. In addition to the components of the WQIA listed in ~~Section §~~ 61-12.C, the WQIA shall include a restoration plan acceptable to the County Manager for any removal of vegetation from Chesapeake Bay Preservation Areas which does not comply with the provisions of this ~~C~~chapter.

B. *Criminal violations and penalties*

1. Violation of this ~~ordinance chapter~~ shall constitute a Class ~~One 1~~ misdemeanor punishable by a fine of up to ~~two thousand five hundred dollars (\$2,500.00)~~ for each offense. Each separate act on the part of the person violating the ~~C~~chapter shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall be deemed to constitute a separate offense.
2. In addition to any criminal penalties provided under this ~~C~~chapter, any person who violates any provision of this ~~C~~chapter may be liable to the County in a civil action for damages, or for injunctive relief.

C. *Civil ~~P~~enalties*

1. With the consent of any person who: (i) violates any provision of any local ordinance related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any Arlington County notice, order, rule, regulation, or variance or permit condition authorized under such ordinance, Arlington County may provide for the issuance of an order against such person for the one-~~(1)~~ time payment of civil charges for each violation in specific sums, not to exceed ~~ten thousand dollars (\$10,000.00)~~ for each violation. Such civil charges shall be paid into the Watershed Management Fund established by ~~Section §~~ 61-11 of this Chapter in the ~~T~~reasury of Arlington County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas, except that where the violator is the County itself or its agent, the civil charges shall be paid into the ~~s~~State ~~T~~reasury. Civil charges shall be in lieu

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of any appropriate civil penalty that could be imposed under ~~S~~subsection C.2. of this ~~S~~section. Civil charges may be in addition to the cost of any restoration required or ordered by the local governmental body or official.

2. Any person who (i) violates this ~~Ordinance chapter~~ or (ii) violates or fails, neglects, or refuses to obey any Arlington County final notice, order, rule, regulation, or variance or permit condition authorized under this ~~Ordinance chapter~~ shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the ~~W~~atershed ~~M~~anagement ~~F~~und established by ~~Section §~~ 61-11 of this ~~C~~hapter in the ~~t~~reasury of Arlington County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas, in such a manner as the court may direct by order except that where the violator is the County itself or its agent, the court shall direct the penalty to be paid into the ~~s~~State ~~t~~reasury.

(Ord. No. 03-1, 2-8-03)

§ 61-19. Severability

It is the intention of the County Board that the phrases, clauses, sections, paragraphs, and sentences of this ~~C~~hapter are severable, and if any phrase, clause, section, paragraph or sentence of this ~~ordinance chapter~~ shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ~~C~~hapter.

(Ord. No. 03-1, 2-8-03)

ARLINGTON COUNTY CODE

Chapter 62

PAWNBROKERS AND DEALERS IN SECONDHAND ARTICLES

- § 62-1. Policy.
- § 62-2. Definitions.
- § 62-3. Inspection of identifying eredentials.
- § 62-4. Records to be kept by pawnbrokers and merchants.
- § 62-5. Report of pawns and purchases to be furnished to the eChief of pPolice.
- § 62-6. Injuring, eConcealing, eEtc., pProperty rReceived on dDeposit or pPledge by pawnbrokers; rRemoving, eChanging, eEtc., sSerial or identification nNumbers.
- § 62-7. Inspection of premises; warrantless search and seizure authorized.
- § 62-8. Purchase from minors.
- § 62-9. Purchases to be retained for inspection.
- § 62-10. Permit rrequired.
- § 62-10.1. To whom ilicense issued.
- § 62-10.2. How permits are obtained.
- § 62-10.3. False statements on application.
- § 62-10.4. Bond rrequirement.
- § 62-10.5. Revocation of permit.
- § 62-11. Penalties.
- § 62-12. Severability.

§ 62-1. Policy.

It is hereby declared to be the policy of the County of Arlington, in the exercise of its police power for the protection of the safety, health and welfare of its citizens, to regulate the purchase and sale of secondhand articles by pawnbrokers and other merchants.
(11-15-80)

§ 62-2. Definitions.

~~For the purpose of this chapter, the following words and phrases, terms, when used in this chapter, shall have the following meanings assigned below, except in those instances when the unless the context clearly indicates a different meaning otherwise:~~

~~“Established merchant” means Any merchant which has been continuously conducting its business at the same fixed address in Arlington County for a period of not less than sixty (60) calendar days and for not less than five (5) days in any calendar week prior to applying for a license required by this chapter; provided, however, if such merchant has been continuously conducting its business in Arlington County for the twelve- (12) month period prior to such application, it qualifies as an established merchant even if it has changed addresses, so long as it has not changed addresses more than once. Any employee or agent who does the foregoing acts on behalf of his employer or principal and any partner or principal of any legal entity shall also be considered an established merchant.~~

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~~“Gem” means Any item containing precious or semiprecious stones customarily used in jewelry.~~

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~~“Itinerant merchant” means Any merchant who is not an established merchant. Any employee or agent who does the foregoing acts on behalf of his employer or principal and any partner or principal of any legal entity shall also be considered an itinerant merchant.~~

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ARLINGTON COUNTY CODE

PAWNBROKERS AND DEALERS IN SECONDHAND ARTICLES

"Merchant"; means Any person, partnership, corporation or other legal entity who either purchases secondhand articles for profit, or for a fee accepts secondhand articles for sale on consignment. Any employee or agent who does the foregoing acts on behalf of his employer or principal and any partner or principal of any legal entity shall also be considered a merchant.

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"Pawnbroker"; means Any person who shall in any manner lend or advance money or other things for profit on the pledge or possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. Any employee or agent who does the foregoing acts on behalf of his employer or principal, and any partner or principal of any legal entity shall also be considered a pawnbroker.

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"Precious metal"; means Any item, except coins, composed in whole or in part of gold, silver, platinum, or platinum alloys.

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"Secondhand articles"; means Any of the following items of personal property or objects of value, previously owned or used, which are not purchased or sold as new:

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- (1) Gold, silver, platinum, or platinum alloy, except coins, in any chemical, physical, or other form;
- (2) Watches and clocks;
- (3) Stamps, stamp collections and commemorative issues;
- (4) Currency and mint sets excluding coins;
- (5) Figurines, defined as china, or other objects painted or made that are valuable primarily by reason of age, scarcity, or the skill and craftsmanship of the artist or artisan;
- (6) Paintings;
- (7) Jewelry, gems, semiprecious stones;
- (8) Electronic or electrical appliances, typewriters, business machines, and equipment, excluding those that are traded in on new appliances.

Secondhand articles do not include property purchased by one established merchant from another within or without Arlington County in the normal course of business. (11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-3. Inspection of identifying credentials.

It shall be unlawful for any pawnbroker or merchant dealing in secondhand articles to take in pawn, buy or exchange any such articles prior to examining the identifying credentials of the person pawning, selling or exchanging said articles. The pawnbroker or merchant shall be deemed to be in compliance with this section if they are in compliance with Section § 54.1-4102 of the Code of Virginia of 1950, as amended. (11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-4. Records to be kept by Pawnbrokers and Merchants.

(A) Every pawnbroker and merchant dealing in secondhand articles shall keep at his place of business an accurate and legible record of each loan, transaction or purchase in the course of business. The record of each purchase of precious metal or gem shall be retained by the dealer for at least twenty-four (24) months. The account shall be recorded at the time of the loan, transaction or purchase, and shall include:

- (1.) A complete description, including all names, initials or other identifying marks or monograms,

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serial number, true weight or carat of any gem, purchase price, and a statement of ownership of the goods, article or thing pawned or pledged or received on account of money loaned thereon, or bought or received in exchange;

- (2.) The time, date and place of the transaction;
- (3.) The full name, residence address, work place, and home and work telephone numbers of the person pawning or pledging or selling the goods, article or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks of such person;
- (4.) The amount of any money loaned thereon at the time of pledging the same;
- (5.) The rate of interest to be paid on any loan;
- (6.) Verification of the identification by exhibition of a government-issued identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency and the number thereon;
- (7.) The terms and conditions of any loan, including the period for which any such loan may be made; and
- (8.) All other facts and circumstances respecting any loan.

(b)B. The records described in this section shall be available for inspection during regular business hours by the eChief of pPolice or his ~~designated agent designee~~.
(11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-5. Report of pPawns and pPurchases to be fFurnished to the eChief of pPolice.

(a)A. All pawnbrokers and merchants dealing in secondhand articles shall furnish daily to the eChief of pPolice, upon forms to be prescribed by him, a record of all articles taken in pawn or bought or exchanged by such dealers. Reports of articles taken into pawn shall be filed by 12:00 noon of the day following the pawn or pledge. Reports of articles bought or exchanged by merchants shall be conveyed within twenty-four (24) hours of the time of the purchase or exchange. Reports of such transactions occurring on weekends or holidays shall be conveyed to the eChief of pPolice on the following business day. Such forms shall contain all the information required by subsections 62-4.A.1(a)(1), (2) and (3).

(b)B. In the event stolen property or property believed to be stolen is located in the custody of a licensed merchant, the eChief of pPolice or his ~~designated agent designee~~ shall notify the merchant that the article or articles are stolen. No such article or articles shall be removed from the location specified on the business license until authorized by the eChief of pPolice or his ~~designated agent designee~~.
(11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-6. Injuring, eConcealing, eEtc., pProperty rReceived on dDeposit or pPledge by pPawnbrokers; rRemoving, eChanging, eEtc., sSerial or iIdentification nNumbers.

(a)A. No secondhand articles of any kind received on deposit or pledge by any pawnbroker or merchant shall be disfigured or its identity destroyed, changed or modified in any manner whatsoever so long as it continues in pawn or in the possession of such pawnbroker or merchant, nor shall any article be removed from the premises where received for any reason for a period of fifteen (15) days after the same shall have been received by such pawnbroker or merchant, unless redeemed by the pledger or seized by the police as stolen property, without the permission of the eChief of pPolice or his designee.

(b)B. It shall be unlawful for any pawnbroker or merchant dealing in secondhand articles to remove, change, alter or conceal any serial or other identification number which may be attached or affixed to any property

of any kind received by such person, without the consent of the eChief of pPolice or his ~~designated agent designee~~. Nor shall such person knowingly take in pawn, buy, exchange or keep in his possession any such property, the serial or other identification number of which has been removed, changed or altered, without the consent of the eChief of pPolice or his designee of any article offered for pawn, sale or exchange whose serial number or other identification number or name has been removed, changed or altered.
(11-15-80)

§ 62-7. Inspection of pPremises; wWarrantless sSearch and sSeizure aAuthorized.

Every pawnbroker or merchant dealing in secondhand articles and every employee of such pawnbroker or merchant shall admit to his place of business, during regular work hours, the eChief of pPolice or his agent or any law enforcement official of the state or federal government, shall permit such officer to examine all records required to be maintained under ~~section §~~ 62-4, and shall permit the officer to examine any article listed in a record which is believed by the officer to be missing or stolen and to search for and take into possession any article known to him to be missing or known or believed by him to have been stolen.
(11-15-80; Ord. No. 90-2, 1-16-90; Ord. No. 90-17, 7-1-90)

§ 62-8. Purchase from mMinors.

It shall be unlawful for any pawnbroker or merchant dealing in secondhand articles to take in pawn, buy or exchange any article of any kind from a person under eighteen (18) years of age.
(11-15-80)

§ 62-9. Purchases to be rRetained for iInspection.

Every pawnbroker and merchant dealing in secondhand articles shall retain in his possession, at the location specified in his business license, and open to the inspection of the eChief of pPolice or any designated member of the Arlington Police Department, all such articles so purchased or acquired by such person for at least fifteen (15) days before disposing of the same, unless otherwise authorized by the eChief of pPolice or his designee.
(11-15-80)

§ 62-10. Permit rRequired.

No pawnbroker or merchant shall transact any business, regardless of the quantity, in the County of Arlington of buying or acquiring secondhand articles without first obtaining a permit therefor from the eChief of pPolice or his designee. Such permit shall be necessary in addition to any required business license.
(11-15-80)

§ 62-10.1. To wWhom lLicense iIssued.

The eChief of pPolice or his designee shall grant a permit to any established merchant, as defined above, or any person seeking to become an established merchant in Arlington County desiring to engage in the business of buying or acquiring secondhand articles upon proof of good character. Permits shall be issued to itinerant merchants upon proof of good character, designation of the premises on which the person shall conduct business and specification of the date or dates upon which such business shall be conducted. Good character shall be considered proved if neither the merchant, or any of its principals, agents or employees who perform any functions related to the activities regulated by this chapter, have been convicted of any crime involving moral turpitude within the last ten (10) years if the crime was a felony and within five (5) years if the crime was a misdemeanor. The burden shall be on the merchant to prove good character, and any applicant shall produce necessary releases, so appropriate record checks can be made.
(11-15-80)

§ 62-10.2. How pPermits aAre oObtained.

The eChief of pPolice, or his ~~designated agent designee~~, shall process applications on Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. at the pPolice dDepartment. Permits shall be issued to

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established merchants, as defined above, for a charge of ten dollars (\$10.00). Itinerant merchants and persons desiring to become an established merchant shall pay a fee of fifty dollars (\$50.00), payable to the ~~e~~Treasurer of Arlington County, for such permit. Permits issued to established merchants shall be valid indefinitely, provided that such merchant does not change the nature of his business or its address. Established merchants who change their address or the nature of their business must reapply for such permit and pay a fee of ten dollars (\$10.00). Permits shall be issued to itinerant merchants only for the period specified in the application. Itinerant merchants must obtain a permit for each period of operation in Arlington County. Each applicant must specify on the application the identity of all corporations, firms or businesses with which they are affiliated, and their authorized agents. Permits are not transferable.
(11-15-80)

§ 62-10.3. False ~~s~~Statements on ~~a~~Application.

The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of any application or revocation of a permit." Any false statement made on the application form will constitute a misdemeanor punishable under ~~section~~ § 62-11.
(11-15-80)

§ 62-10.4. Bond ~~r~~Requirement.

In addition to all other requirements, all itinerant vendors shall be required to post a bond with surety in a form acceptable to the ~~e~~County ~~a~~Attorney in the amount of ten thousand dollars (\$10,000.00) before a permit is issued. The surety shall be a bank authorized to do business in Virginia. In lieu of a bond with surety, an irrevocable letter of credit in a form acceptable to the ~~e~~County ~~a~~Attorney may be provided. The period of the bond or letter of credit shall extend for a period of two (2) years beyond the last day on which the merchant transacts any business regulated by this chapter. The bond or letter of credit shall indemnify all persons who suffer any loss resulting from the failure of the merchant to abide by the provisions of this chapter.
(11-15-80)

§ 62-10.5. Revocation of ~~p~~Permit.

~~(a)~~A. The ~~e~~Chief of ~~p~~Police shall revoke the permit of any person after notice and hearing if the ~~e~~Chief finds that such person has knowingly violated any provisions of this chapter.

~~(b)~~B. Notice of the hearing before the ~~e~~Chief for revocation of the permit shall be given in writing to the permit holder at the last known address of the permit holder which shall be mailed by certified mail to the permit holder at least eight (8) days prior to the hearing and no more than thirty (30) days prior to the hearing. Said notice shall set forth the grounds of the proposed revocation and the time and place of the meeting.

~~(c)~~C. At the hearing, the permit holder may be represented by counsel, may cross-examine witnesses, and may present evidence in his or her favor.

~~(d)~~D. The ~~e~~Chief shall submit his decision to the permit holder within five (5) days of his decision or within thirty (30) days of the hearing, whichever is sooner.

~~(e)~~E. In the case of an itinerant merchant, the ~~e~~Chief of ~~p~~Police may forthwith revoke such permit if the ~~e~~Chief finds that such person has knowingly violated the provisions of this chapter. Any itinerant merchant who has had his or her permit revoked by the ~~e~~Chief may demand notice and hearing as described above within forty-eight (48) hours of the next business day following revocation. At such hearing, the itinerant merchant shall be afforded all ~~of~~ the rights and privileges described above.
(11-15-80)

§ 62-11. Penalties.

Any person violating the provisions of this chapter shall, upon conviction, in addition to having his or her

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permit revoked, be punished by confinement in jail for a period not exceeding six (6) months or by a fine not to exceed one thousand dollars (\$1,000.00), either or both.
(11-15-80)

§ 62-12. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter or the application of such provisions to other provisions or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.
(11-15-80)

ARLINGTON COUNTY CODE

Chapter 63

UTILITY TAX*

* **Editor's Note:** Ord. No. 07-08, adopted May 5, 2007, amended Ch. 63, in its entirety, to read as herein set out.

§ 63-1. Definitions.

§ 63-2. Levy; ~~¶~~Tax ~~¶~~Rate; ~~¶~~Rate ~~¶~~Payment.

§ 63-3. Collection.

§ 63-4. Records to be ~~k~~Kept by the ~~s~~Seller.

§ 63-5. Exemptions from ~~¶~~Tax.

§ 63-6. Penalty for ~~v~~Violation of ~~e~~Chapter.

§ 63-7. Effective ~~d~~Date.

§ 63-8. Severability ~~e~~Clause.

§ 63-1. Definitions.

"CCF" means the volume of gas at standard pressure and temperature in units of one hundred (100) cubic feet.

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"Consumer" means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

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"Gas utility" means a public utility authorized to furnish natural gas service in Virginia.

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"Interruptible gas users" ~~shall~~ means users who receive gas service, pursuant to executed contracts, which may be interrupted by the provider of gas service under tariffs approved by the ~~s~~State ~~e~~Corporation ~~e~~Commission of Virginia.

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"Kilowatt hours (kWh) delivered" means one thousand (1,000) watts of electricity delivered in a one- (1) hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

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"Person" ~~shall~~ includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

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"Pipeline distribution company" means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

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"Residential consumer" ~~shall~~ means the owner, occupant or tenant of property used primarily for residential purposes who pays for utility service in or for such property and shall include, whether or not master metered, apartment houses and other multiple-family dwellings.

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"Service provider" means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

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UTILITY TAX

~~“Treasurer” shall~~ means the ~~T~~reasurer of Arlington County.

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~~“Used primarily” shall~~ relates to the larger portion of the use for which the utility service is furnished, and for the purposes of this chapter in the determination of the primary use for which a utility service is furnished, the primary or larger portion of that use shall be determined by the relative load for each use or the relative time of operation of each.

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~~“Utility service” shall~~ means electric and gas service, excluding bottled gas, furnished within the boundaries of Arlington County.
(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

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§ 63-2. Levy; ~~T~~ax ~~R~~ate; ~~R~~ate ~~p~~ayment.

There is hereby imposed and levied by Arlington County upon each and every consumer of a utility service a tax in the following amounts with respect to each utility service, which tax in every case shall be collected by the service provider from the consumer and shall be paid to the service provider for the use of Arlington County at the time the purchase price or such charge shall become due and payable under the agreement between the consumer and the service provider. There shall be no tax computed on bills submitted on sales of electric utility service for resale.

~~(a)~~A. *Electric utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

~~(1)~~ *Commercial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.00649 on each kWh delivered monthly to commercial consumers.

~~(2)~~ *Industrial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.01043 on each kWh delivered monthly to industrial consumers.

~~(3)~~ *Residential consumers* --For electricity consumption in excess of ~~four hundred (400)~~ kWh such tax shall be \$0.00341 on each kWh delivered monthly to residential consumers not to exceed ~~three dollars (\$3.00)~~ per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be \$0.00341 on each kWh delivered monthly in excess of the number of units times ~~four hundred (400)~~ kWh with the tax not to exceed ~~three dollars (\$3.00)~~ multiplied by the number of individual dwelling units served by the master meter or meters.

~~(b)~~B. *Local natural gas utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code § 58.1-3814 J., as follows:

~~(1)~~ *Commercial and industrial consumers* --Such tax shall be \$0.845 plus the rate of \$0.06522 on each CCF delivered monthly to commercial and industrial consumers.

~~(2)~~ *Interruptible nonresidential consumers* --Such tax shall be four dollars and fifty cents (\$4.50) plus the rate of \$0.01187 on each CCF delivered monthly to nonresidential consumers of interruptible gas service.

~~(3)~~ *Residential consumers* --For natural gas consumption in excess of ~~twenty (20)~~ CCF such tax shall be ~~three cents (\$0.03)~~ on each CCF delivered monthly to residential consumers not to exceed ~~three dollars (\$3.00)~~ per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be ~~three cents (\$0.03)~~ on each CCF delivered monthly in excess of the number of unit times ~~twenty (20)~~ CCF with the tax not to exceed ~~three dollars (\$3.00)~~ multiplied by the number of individual dwelling units served by the master meter or meters.

(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 05-01, 4-16-05, effective 7-1-05; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-3. Collection.

~~(A)~~ It shall be the duty of every service provider in acting as the tax collecting medium or agency for Arlington County to collect from the purchaser for the use of Arlington County the tax hereby imposed and levied at the time of collecting the purchase price charged therefore and the taxes collected during each calendar month shall be reported and paid by each service provider to the ~~T~~Treasurer and the seller shall remit the amount of tax shown by said report to the ~~T~~Treasurer on or before the last working day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

Such taxes shall be paid by the service provider to the ~~T~~Treasurer, and the service provider shall act in accordance with Virginia Code § 58.1-3814, paragraphs F, G, H, and I, and Virginia Code § 58.1-2901. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the ~~T~~Treasurer.

If any consumer fails to pay a bill issued by a service provider, including the taxes imposed by this chapter, the service provider shall follow its normal collection procedures and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for utility service and the tax and remit the tax portion to this jurisdiction.

~~(B)~~ Bills shall be considered as monthly bills for the purposes of this chapter if submitted twelve (12) times per year of approximately one ~~(1)~~ month each. Accordingly, the tax for a bi-monthly bill (approximately sixty (60) days) shall be determined as follows: (i) the CCF will be divided by two (2); (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by two (2); (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-4. Records to be ~~k~~Kept by the ~~s~~Seller.

Each and every seller shall keep complete records showing all purchases in Arlington County, which records shall show the price charged against each purchaser with respect to each purchase, the date of purchase, the date of payment, and the amount of tax imposed, and such records shall be kept open for inspection by the duly authorized agents of Arlington County who shall have the right, power and authority to make such copies thereof during such times as they may desire.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-5. Exemptions from ~~t~~Tax.

The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof, and persons exempted from payment of real property taxes within Arlington County under state or federal law, are hereby exempted from the payment of tax imposed and levied by this ~~e~~Chapter with respect to the purchase of utility services.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07; Ord. No. 09-08, 4-28-09)

§ 63-6. Penalty for ~~v~~Violation of ~~e~~Chapter.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax hereby levied, and any officer, agent or employee of any seller service provider violating the provisions hereof shall, upon conviction, be subject to penalty not to exceed those prescribed by general law for a ~~e~~Class 3 misdemeanor if the amount of tax due is one thousand dollars (\$1,000.00) or less, or a ~~e~~Class 1 misdemeanor if the amount of the tax due is more than one thousand dollars (\$1,000.00). Each failure, refusal, neglect or violation and each day's continuance shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this ~~ordinance chapter~~.

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

| § 63-7. **Effective ~~a~~Date.**

| ~~(a)~~—The tax levied or imposed under this chapter shall become effective on the later of July 1, 1989, or on the day immediately after sixty (60) days' written notice by certified mail to the registered agent of the service provider required to collect the tax.

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 05-01, 4-16-05, effective 7-1-05; Ord. No. 07-08, 5-5-07, effective 7-1-07)

Editors Note: Ord. No. 05-01, adopted April 16, 2005, repealed former Ch. 63, § 63-7(b).

| § 63-8. **Severability ~~e~~Clause.**

| It is hereby declared to be the intention of the ~~e~~County ~~b~~Board that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this chapter.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07)

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Chapter 64

SHORT-TERM RENTAL TAX

- § 64-1. Definitions.
- § 64-2. Levy and ~~r~~Rate of ~~d~~Daily ~~r~~Rental ~~t~~Tax.
- § 64-3. Exemptions from ~~d~~Daily ~~r~~Rental ~~t~~Tax.
- § 64-4. Short-~~t~~Term ~~r~~Rental ~~b~~Business ~~a~~Application for ~~e~~Certificates of ~~r~~Registration.
- § 64-5. Issuance and ~~e~~Effect of ~~e~~Certificate of ~~r~~Registration for ~~s~~Short-~~t~~Term ~~d~~Daily ~~r~~Rental ~~b~~Business.
- § 64-6. Collection and ~~r~~Record-~~k~~Keeping.
- § 64-7. Filing of ~~e~~Quarterly ~~t~~Tax ~~r~~Returns and ~~r~~Remittance of ~~t~~Tax.
- § 64-8. Taxes ~~h~~Held in ~~t~~Trust for ~~e~~County.
- § 64-9. Penalty for ~~f~~Failure or ~~r~~Refusal to ~~e~~Collect ~~t~~Tax.
- § 64-10. Penalties and ~~i~~Interest; ~~f~~Failure to ~~f~~ile ~~r~~Return or ~~p~~Pay ~~o~~ver ~~t~~Taxes ~~e~~Collected.
- § 64-11. Uncertified ~~r~~Renters ~~p~~rohibited from ~~e~~Collecting ~~t~~Tax.
- § 64-12. Criminal ~~p~~Penalties.
- § 64-13. Taxation of ~~r~~Rental ~~p~~roperty ~~t~~hat is ~~n~~Not ~~d~~Daily ~~r~~Rental ~~p~~roperty.
- § 64-14. Effect of ~~r~~Revocations of ~~e~~Certification as ~~s~~Short-~~t~~Term ~~r~~Rental ~~b~~Business.

§ 64-1. Definitions.

~~For purposes of this chapter, t~~The following words and ~~phrases~~ terms, when used in this chapter, shall have the following meanings ~~respectively ascribed to them by this section unless the context clearly indicates otherwise:~~

~~(a) "A person is affiliated with another person" if either has a five percent (5%) percent or greater ownership interest in the other, either directly or through a third person.~~

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~~(b) "Certificate of rRegistration" shall refer to the annual certificate issued by the Arlington Commissioner of the Revenue to persons engaged in the short-term rental business in Arlington County who make application for such certificate pursuant to section § 64-4 of this chapter.~~

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~~(c) "Commissioner of the rRevenue" shall mean the eCommissioner of the rRevenue of Arlington County, Virginia, and any of the eCommissioner's duly authorized deputies or agents designees.~~

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~~(d) "County" shall mean Arlington County, Virginia.~~

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~~(e) "Daily rental property" shall mean all tangible personal property held for rental and owned by a person engaged in the short-term rental business as defined in section § 64-1(i) of this chapter, except trailers, as defined in Section § 46.2-100(33) of the Virginia Code and other tangible personal property required to be licensed or registered with the dDepartment of mMotor vVehicles, the dDepartment of gGame and iInland fFisheries or the dDepartment of aAviation.~~

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~~(f) "Gross proceeds" shall mean the total amount charged including penalties, late charges or interest, to each person for the rental of daily rental property from a short-term rental business with a valid eCertificate of rRegistration, excluding any state and local sales taxes paid pursuant to Chapter 6 of Title 58.1 of the Virginia Code. Gross proceeds is the taxable basis for the daily rental tax.~~

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~~(g) "Gross rental receipts" shall mean all proceeds from rentals during a calendar year, including rentals to persons affiliated with the lessor, except that proceeds from rental of personal property which also involves the~~

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provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. For purposes of this section the delivery and installation of tangible personal property shall not mean operation.

(h) ~~“Person” shall mean and include means~~ individuals, firms, partnerships, associations, corporations, and combinations of individuals of whatever form and character.

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(i) ~~“Short-term rental business” shall~~ include any person engaged in the short-term rental of daily rental property as defined in ~~section §~~ 64-1(e) of this chapter if:

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(1) Not less than eighty ~~percent (80%) percent~~ of the gross rental receipts of such business in any year are from transactions involving rental periods of ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor; and, provided that,

(2) Any rental to a person affiliated with the lessor shall be treated as rental receipts for the purposes of the eighty ~~percent (80%) percent~~ requirement to qualify as a short-term rental business.

(Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

§ 64-2. Levy and ~~r~~Rate of ~~d~~Daily ~~r~~Rental ~~t~~Tax.

Pursuant to ~~Section §~~ 58.1-3510.1 of the Virginia Code, and in addition to all other taxes of every kind now or hereinafter imposed by law, Arlington County hereby levies and imposes on every person engaged in the short-term rental business a tax of one ~~percent (1%) percent~~ on the gross proceeds of such business as defined in ~~section §~~ 64-1(f). Such tax shall be in addition to the tax levied pursuant to ~~Section §~~ 58.1-605 of the Virginia Code. (Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

§ 64-3. Exemptions from ~~d~~Daily ~~r~~Rental ~~t~~Tax.

(a) ~~A.~~ No tax hereunder shall be collected or payable on rentals by the Commonwealth of Virginia, by any political subdivision of the ~~e~~Commonwealth or by the United States.

(b) ~~B.~~ No tax hereunder shall be collected or payable on any rental of durable medical equipment as defined in subsection 22 of ~~Section §~~ 58.1-608.

(c) ~~C.~~ All rentals exempt from the Virginia Sales and Use Tax, pursuant to Chapter 6 of Title 58.1 of the Virginia Code, shall be exempt from this daily rental tax.

(d) ~~D.~~ All exemptions from this tax claimed by short-term rental businesses at the time of payment of collected taxes shall be proved by the filing of appropriate documentation as directed by the ~~e~~Commissioner of the ~~r~~Revenue and are subject to verification by the ~~e~~Commissioner at any time. (Ord. No. 89-29, 1-1-90)

§ 64-4. Short-~~t~~Term ~~r~~Rental ~~b~~Business ~~a~~Application for ~~e~~Certificate of ~~r~~Registration.

Every person engaging in the business of short-term rental, as defined in ~~section §~~ 64-1(i), shall annually file an application for a ~~e~~Certificate of ~~r~~Registration with the ~~e~~Commissioner of the ~~r~~Revenue for each place of business in Arlington County from which short-term rental business will be conducted by the applicant. Such application shall be filed by January 31 of each year or within thirty (30) days of the beginning of a short-term rental business. The application shall be on a form prescribed by the ~~e~~Commissioner and shall contain:

(a) ~~A.~~ The name under which the applicant intends to operate the rental business;

(b) ~~B.~~ The location in the ~~e~~County from which the rental business will be conducted as well as the location of the rental business headquarters;

~~(c)~~C. The figures for the previous year's business including the total gross receipts from all business, the total gross rental proceeds and the total receipts from short-term rental of daily rental property;

~~(d)~~D. A list of all tangible personal property owned by the applicant as of January 1 of the current year and used as short-term rental property;

~~(e)~~E. A list of all property leased or licensed to the short-term rental business as of January 1 of the current year, used for short-term rental, with the name and address of the owner of such property;

~~(f)~~F. Such other information as the ~~e~~C~~ommissioner~~ may require; and

~~(g)~~G. An oath by the person making application or an officer, partner or ~~duly authorized agent designee~~ for such applicant, that they are in fact qualified for tax treatment as a short-term rental business, they shall collect only those daily rental taxes due under the law in the time and manner prescribed by law, and they shall remit all daily rental taxes collected or due and owing to the ~~e~~C~~ounty~~.
(Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

§ 64-5. Issuance and ~~e~~Effect of ~~e~~Certificate of ~~r~~Registration for ~~s~~Short-~~t~~erm ~~d~~Daily ~~r~~Rental ~~b~~Business.

Upon approval of the application required by ~~section~~-§ 64-4, by the ~~e~~C~~ommissioner~~ of the ~~r~~R~~ev~~enue, a ~~e~~C~~ertificate~~ of ~~r~~R~~eg~~istration shall be issued for each location from which a daily rental business is to be conducted or operated in the ~~e~~C~~ounty~~ by the applicant. The ~~e~~C~~ertificate~~ shall be conspicuously displayed at all times at the place of business for which it is issued. Each annual ~~e~~C~~ertificate~~ shall be valid and authorize the collection of the short-term rental tax until renewal or revocation of the ~~e~~C~~ertificate~~. The ~~e~~C~~ertificate~~ is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.
(Ord. No. 89-29, 1-1-90)

§ 64-6. Collection and ~~r~~Record-~~k~~eeping.

~~(a)~~A. Every person engaged in the short-term rental business with a valid ~~e~~C~~ertificate~~ of ~~r~~R~~eg~~istration from the ~~e~~C~~ommissioner~~ of the ~~r~~R~~ev~~enue shall collect this daily rental tax from the lessee of the daily rental property at the time of the rental.

~~(b)~~B. The person collecting this tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:

~~(1)~~ A description of the property rented;

~~(2)~~ The period of time for which the property was rented;

~~(3)~~ The name and address of the person to whom the property was rented; and

~~(4)~~ The amount charged for each rental including all late charges, penalties and interest.

~~(c)~~C. Every person engaged in the short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property including, in addition to the information specified in subsection ~~B~~(~~b~~) of this section:

~~(1)~~ A copy of the Virginia Department of Taxation tax-exemption certificate; or

~~(2)~~ A copy of the U.S. State Department tax exemption certificate, which U.S. State Department card must specify that the renter by name is exempt from sales tax; or

~~(3)~~ Other explanation and proof of claimed exemption.

(Ord. No. 89-29, 1-1-90)

§ 64-7. Filing of ~~q~~Quarterly ~~t~~Tax ~~r~~Returns and ~~r~~Remittance of ~~t~~Tax.

Each certified short-term rental business under the provisions of this chapter shall file a quarterly tax return with the ~~e~~Commissioner of the ~~r~~Revenue, indicating for the quarter just past:

~~(+)A.~~ The total business gross receipts of the return filer;

~~(+)B.~~ The gross proceeds derived from the short-term rental business;

~~(+)C.~~ All rental gross proceeds claimed to be exempt from the daily rental tax and documentation of each such claim; and

~~(+)D.~~ The total daily rental tax due the ~~e~~County for the previous quarter's short-term rental business.

Each return shall be accompanied by payment of the taxes due and owing or collected by the certified short-term rental business. The quarterly return and payment of tax shall be filed with the ~~e~~Commissioner of the ~~r~~Revenue on or before the twentieth day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31.

(Ord. No. 89-29, 1-1-90)

§ 64-8. Taxes ~~h~~Held in ~~t~~Trust for ~~e~~County.

The taxes required to be collected under this chapter shall be deemed to be held in trust for the ~~e~~County by the person required to collect such taxes until remitted as required in this ~~e~~Chapter.

(Ord. No. 89-29, 1-1-90)

§ 64-9. Penalty for ~~f~~Failure or ~~r~~Refusal to ~~e~~Collect ~~t~~Tax.

If any certified short-term rental business in the ~~e~~County fails or refuses to collect the tax imposed under this chapter, their current ~~e~~Certificate of ~~r~~Registration shall be revoked and the business shall not be subject to the provisions of ~~Sections §§~~ 58.1-3510, 58.1-3510.1 and 58.1-3706.C of the Virginia Code nor to the provisions of ~~section 11-61.4 Chapter 11~~ and Chapter 64 of the Arlington County Code for the calendar year in which the ~~e~~Certificate was revoked. Any payments of daily rental tax made previous to the revocation of the ~~e~~Certificate shall be refunded to such lessees as can be identified by the lessor.

(Ord. No. 89-29, 1-1-90)

§ 64-10. Penalties and ~~i~~Interest; ~~f~~Failure to ~~f~~File ~~r~~Return or ~~p~~Pay ~~o~~Over ~~t~~Taxes ~~e~~Collected.

If any certified short-term rental business fails to file the returns required by this section or fails or refuses to remit to the ~~e~~Commissioner of the ~~r~~Revenue the tax collected and paid under this chapter at the time specified in this chapter, its certification as a short-term rental business shall be revoked and there shall be added to such tax collected prior to revocation of the ~~e~~Certificate and due the ~~e~~County but not paid a penalty in the amount of ten ~~percent~~ (10%) ~~percent~~ of the tax past due or the sum of ten dollars (\$10.00), whichever is greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.

Interest shall accrue on taxes due and delinquent prior to June 30, 1999, at the rate of ten ~~percent~~ (10%) ~~percent~~ for the first year. For the second and subsequent years, interest shall be paid on the delinquent tax and penalty at a rate established by the ~~t~~Treasurer, at his or her discretion, but not to exceed ten ~~percent~~ (10%) ~~percent~~ per annum or the rate of interest established pursuant to ~~Section §~~ 6621 of the Internal Revenue Code of 1984, as amended, whichever is greater, up to June 30, 1999; and as prescribed in § 27-3 thereafter. Interest on taxes due and payable after July 1, 1999, shall accrue interest as prescribed in § 27-3. Penalty and interest for failure to file the return or to pay the tax due pursuant to this chapter shall be assessed on the first day following the day such quarterly return and tax payment is due. The certification shall be revoked if the failure to pay the tax due or to file the returns required by this chapter continues for sixty (60) days beyond the due date.

(Ord. No. 89-29, 1-1-90; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99)

§ 64-11. Uncertified ~~r~~Renters ~~p~~Prohibited from ~~e~~Collecting ~~t~~Tax.

No person renting any property or services to any other person shall collect from the lessee the daily rental tax authorized by this chapter unless they have a valid ~~e~~Certificate of ~~r~~Registration issued for the current year by the ~~e~~Commissioner of the ~~r~~Revenue. Any taxes collected in a manner not authorized by law shall be forfeited to the ~~e~~County.

(Ord. No. 89-29, 1-1-90)

§ 64-12. Criminal ~~p~~Penalties.

Persons violating or failing to comply with any provision of this chapter shall be guilty of a Class 3 misdemeanor, except as provided below:

~~(+)A.~~ If the amount of tax due and unpaid for any quarter exceeds one thousand dollars (\$1,000.00), any person failing to file a return or remit payment when due and convicted with such failure on a criminal warrant shall be guilty of a Class 1 misdemeanor.

~~(2)B.~~ Any person violating ~~section §~~ 64-11 of this chapter shall be guilty of a Class 1 misdemeanor.
(Ord. No. 89-29, 1-1-90)

§ 64-13. Taxation of ~~r~~Rental ~~p~~Property ~~t~~That is ~~n~~Not ~~d~~Daily ~~r~~Rental ~~p~~Property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to ~~Section §~~ 58.1-3503 of the Virginia Code.

(Ord. No. 89-29, 1-1-90)

§ 64-14. Effect of ~~r~~Revocations of ~~e~~Certification as ~~s~~Short-~~t~~Term ~~r~~Rental ~~b~~Business.

If upon audit by the ~~e~~Commissioner of the ~~r~~Revenue of the preceding full year's gross proceeds and gross rental receipts, it is ascertained that a certified short-term rental business did not meet the criteria for certification set out in ~~section §~~ 64-1 ~~(+)~~, any current certification shall be revoked or renewal of certification shall be denied. In addition, the business shall not be treated for business license tax and business tangible property tax assessment as a certified short-term rental business for the preceding year and for the current year. The business shall be assessed any additional business license and business tangible property taxes found to be due.

(Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

ARLINGTON COUNTY CODE

Chapter 65

MEALS, FOOD AND BEVERAGE TAXATION

- § 65-1. Definitions.
- § 65-2. Levy.
- § 65-3. Exemptions, **H**limitations, and **e**Credits.
- § 65-4. Certificate of **r**Registration.
- § 65-5. Collection.
- § 65-6. Taxes **e**Collected **h**Held in **t**Trust.
- § 65-7. Filing of **t**Tax **r**Returns and **r**Remittance of **t**Tax.
- § 65-8. Penalties, **i**Interest, and **e**Collection **f**Fees.
- § 65-9. Assessment and **e**Collection of **o**mitted **t**Taxes.
- § 65-10. Posting **b**Bond or **l**Letter of **e**Credit.
- § 65-11. Records.
- § 65-12. Sale or **e**Cessation of **b**Business.
- § 65-13. Criminal **p**Penalties.
- § 65-14. Severability.

§ 65-1. Definitions.

~~For purposes of this chapter, the following words and phrases terms, when used in this chapter, shall have the following meanings stated below to the extent the context where they are used indicates unless the context clearly indicates otherwise:~~

~~“Caterer” means Aa person who prepares food at a business site in the eCounty for compensation, for service, or consumption off the premises.~~

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~~“Commissioner of the Revenue” means Tthe Commissioner of the Revenue of Arlington County and any of the eCommissioner’s duly authorized deputies, assistants, employees, or agents designees.~~

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~~“Grocery items” means Ffood and foodstuffs, green groceries, beverages and household goods usually prepackaged or measured into quantities for household use from containers made for retail grocery or baking sales and not generally suitable for immediate consumption by the purchaser. Grocery items, sometimes called staples, include, by way of illustration and not limitation, sugar, flour, spices, dry pasta, loaves of bread, ground coffee, coffee beans and loose or bagged tea, bottled and unopened wine, cooking oils, four (4) or more rolls, donuts or other baked goods, canned, bottled, and jarred goods (other than individual, nonalcoholic beverages sold with food).~~

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~~“Meals” means Aall food or beverages or both including alcoholic beverages and snack foods sold in a state ordinarily associated with consumption at one (1) period by a single person or a group, whether or not eaten in the place where it is bought or prepared including at delicatessen counters of grocery and convenience stores in the eCounty. The term "meals" does not include grocery items nor alcoholic beverages sold in factory-sealed containers for off-premises consumption.~~

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~~“Person” means Aany business, individual, corporation, company, association, firm, partnership, or any combination of individuals of whatever form or character.~~

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~~“Purchaser” means Aany person who buys meals in or from a restaurant, caterer, or delicatessen counter at grocery or convenience stores.~~

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~~“Restaurant” means:~~

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- (1) Any place in the eCounty where meals are prepared for service to the public on or off the premises, or any place where meals are served. Examples of such places include, but are not limited to, any lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, and for profit schools; and
- (2) Any place or operation which prepares or stores meals for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include, but are not limited to, operations preparing or storing meals for catering services, push cart operations, hotdog stands and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence.

~~“Seller” means~~ Any person who sells for money or other consideration meals in or from a restaurant, or as a caterer from business premises in the eCounty or from a delicatessen counter at grocery or convenience stores in the eCounty.

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~~“Treasurer” means~~ The Treasurer of Arlington County and any of the Treasurer’s duly authorized deputies, assistants, employees, or agents designees.
(Ord. No. 91-8, 6-1-91; Ord. No. 00-19, 8-1-00)

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§ 65-2. Levy.

~~(a)A.~~ Except as outlined in subparagraph ~~B(b)~~, there is hereby imposed and levied by Arlington County, in addition to all other taxes, fees, and charges of every kind now or hereafter imposed by law, a tax upon all meals sold for money or other consideration in, from, or by a restaurant or caterer, whether prepared in such restaurant or not and whether consumed on the premises or not, and upon prepared sandwiches and single-meal platters sold at the delicatessen counters of grocery and convenience stores, such tax to be at a rate of four ~~percent (4%)~~ percent (4%) on the total amount charged by the seller for the meal. In the computation of this tax, any fraction of one-half (1/2) cent or more shall be treated as one (1) cent.

~~(b)B.~~ For meals sold by a restaurant or caterer specifically prepared for use on commercial airlines and delivered to the purchaser for that purpose, the tax rate shall be two ~~percent (2%)~~ percent (2%) of the total amount charged by the seller for the meal. In the computation of this tax, any fraction of one-half (1/2) cent or more shall be treated as one (1) cent.

~~(c)C.~~ In situations where any amount or percentage, whether designated as a gratuity, tip, or service charge, is added to the price of the meal by the seller and required to be paid by the purchaser and the amount of said gratuity, tip or service charge exceeds twenty percent (20%) of the cost of the meal, said amount or percentage shall be included in the calculation of the amount charged for the meal.
(Ord. No. 91-8, 6-1-91; Ord. No. 08-21, 11-15-08)

§ 65-3. Exemptions, ~~U~~ limitations, and ~~e~~ Credits.

~~(a)A.~~ *Exemptions:* The tax levied by ~~section § 65-2.A(a)~~ shall not be collected or assessed on the following sales of meals:

- ~~(1.)~~ Meals sold through vending machines;
- ~~(2.)~~ Meals sold at or included in the cost of accommodations or services at the following facilities: boardinghouses that do not accommodate transients, child care and senior care facilities, nursing homes, senior and disabled living facilities, hospitals, and public or nonprofit institutions of learning;
- ~~(3.)~~ Meals sold at cafeterias operated by industrial plants for employees only;

~~(4.)~~ a. Meals sold by nonprofit organizations including churches, fraternal, civic and social organizations, volunteer fire departments and rescue squads, at occasional dinners and bazaars of up to three (3) days duration at which meals prepared in the homes of members or in the kitchen of the church or organization are offered for sale to the public;

b. Meals sold by nonprofit organizations including churches, fraternal, civic and social organizations, volunteer fire departments and rescue squads, at occasional dinners or special events, of up to three (3) days duration per event, if the nonprofit organization has three (3) or fewer such events a year and the food or meals sold by the nonprofit organization to the public is prepared by the members of the nonprofit organization.

~~(5.)~~ Meals which churches serve for their members as a regular part of their religious observances; and

~~(6.)~~ Meals sold at wholesale for resale, which sales are exempt from Virginia sales and use taxation under Chapter 6 of Title 58.1 of the Virginia Code.

~~(7.)~~ Meals sold for delivery in another state or the District of Columbia by caterers based in Arlington County to an entity which is exempt from a similar tax on the sale, delivery, or service of meals in the jurisdiction where the meal is served. This exemption is not applicable except upon proof that the entity in the foreign jurisdiction is exempt from a sales and use tax. This section shall not be applicable to meals sold by a restaurant or caterer specifically prepared for use on commercial airlines and delivered to the purchaser for that purpose.

~~(b)B.~~ *Limitations.* The following limitations on the tax levied by ~~section §~~ 65-2 shall apply:

~~(1.)~~ Alcoholic beverages sold in factory-sealed containers for off-premises consumption shall not be subject to this tax;

~~(2.)~~ Nonalcoholic beverages sold alone and not in connection with a meal shall not be subject to this tax;

~~(3.)~~ Meals sold by enterprises under the jurisdiction of the Virginia Department for the Visually Handicapped which are exempted by state law from this tax are not subject to this tax;

~~(4.)~~ Meals for the elderly which are exempt from Virginia sales and use taxation pursuant to ~~Section §~~ 58.1-608.8.C. of the Virginia Code, as amended, are not subject to this tax; and

~~(5.)~~ Meals served by organizations exempt from business license taxes under Arlington County Code ~~section §~~ 11-61.3 are exempt from this tax.

~~(e)C.~~ *Credits.* There shall be a credit for taxes paid by a seller as defined in this chapter in another state or the District of Columbia by reason of the imposition of a similar tax on the sale, delivery, or service of the meals subject to tax under this chapter in that other taxing jurisdiction to the extent the foreign jurisdiction's tax exceeds the Virginia sales tax, as reflected in the Code of Virginia, including the local portion of the tax. The amount of this credit shall not exceed the tax imposed by this chapter. Credit shall not be granted when the laws of the other taxing jurisdiction provide a credit for payment by the seller of Arlington County's meals tax. The other taxing jurisdiction's tax credit must be exhausted before any credit is granted under this subsection. The credit under this subsection shall not be granted except upon proof of actual tax payments to the other jurisdiction based on the sale, delivery, or service of the same meals which are the subject of taxation under this chapter.

(Ord. No. 91-8, 6-1-91; Ord. No. 93-14, 8-1-93; Ord. No. 96-18, 12-7-96; Ord. No. 00-19, 8-1-00; Ord. No. 08-21, 11-15-08)

§ 65-4. Certificate of ~~r~~Registration.

~~(a)A.~~ Every person responsible for the collection of the tax levied by ~~section §~~ 65-2 shall file an application for a certificate of registration with the ~~e~~Commissioner of the ~~r~~Revenue. The application shall be on a

form prescribed by the ~~e~~Commissioner of the ~~r~~Revenue to provide information for the assessment and collection of this tax and for the enforcement of the provisions of this chapter. The application shall be signed under oath by the person making application who shall be an officer, partner, or authorized agent of the applicant.

~~(b)~~B. Upon approval of the application by the ~~e~~Commissioner of the ~~r~~Revenue, a certificate of registration authorizing the collection of this meals, food, and beverage tax shall be issued to the applicant.

~~(c)~~C. Each person with a certificate of registration pursuant to this section shall notify the ~~e~~Commissioner of the ~~r~~Revenue of any changes to the information provided on their application for the certificate within thirty (30) days of the change.

(Ord. No. 91-8, 6-1-91)

§ 65-5. Collection.

The tax levied by ~~section §~~ 65-2, in each and every case, shall be collected by each seller from the purchaser at the time that the charges for the meals are due and payable, whether such payment is made in cash, by check, or on credit by means of a credit card or otherwise. The seller shall separately state the amount of the tax and add such tax to the amount charged for the meal, and the tax shall be paid to the ~~e~~County by the seller as hereinafter provided.

(Ord. No. 91-8, 6-1-91)

§ 65-6. Taxes ~~e~~Collected ~~h~~Held in ~~t~~Trust.

The taxes required to be collected under this chapter shall be deemed to be held in trust for the ~~e~~County by the person required to collect such taxes until remitted to the ~~e~~County as required in this chapter.

(Ord. No. 91-8, 6-1-91)

§ 65-7. Filing of ~~t~~Tax ~~r~~Returns and ~~r~~Remittance of ~~t~~Tax.

~~(a)~~A. Every person required to collect the taxes levied under the provisions of this chapter shall file a tax return for each calendar month and upon such forms as the ~~e~~Commissioner of the ~~r~~Revenue shall prescribe. Each monthly tax return shall be filed with the ~~e~~Commissioner of the ~~r~~Revenue with remittance of the tax required to be collected for the previous month.

~~(b)~~B. Such tax returns and remittances shall be made to the ~~e~~Commissioner of the ~~r~~Revenue on or before the twentieth day of each calendar month and shall cover the taxes required to be collected by the seller during the previous month; provided, however, that when the ~~e~~Commissioner of the ~~r~~Revenue finds any seller demonstrates a pattern of late filing of tax returns or payment of taxes, the ~~e~~Commissioner of the ~~r~~Revenue may require the filing of tax returns and remittance of taxes on a more frequent basis.

(Ord. No. 91-8, 6-1-91)

§ 65-8. Penalties, ~~i~~Interest, and ~~e~~Collection ~~f~~Fees.

~~(a)~~A. If a seller required to collect taxes pursuant to this chapter fails or refuses to file the tax returns or to remit the taxes collected or due within the time and in the amount specified by this chapter, there shall be added to such tax due a penalty of ten ~~percent~~ (10%) ~~percent~~ of the tax due.

~~(b)~~B. Interest shall accrue as prescribed in ~~section §~~ 27-3.

~~(c)~~C. The assessment or payment of penalties or interest pursuant to this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.

(Ord. No. 91-8, 6-1-91; Ord. No. 92-12, 4-25-92; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99; Ord. No. 09-23, 10-24-09)

§ 65-9. Assessment and ~~e~~Collection of ~~e~~Omitted ~~t~~Taxes.

~~(a)~~A. If the ~~e~~CCommissioner of the ~~r~~Revenue finds that any seller has failed to collect the taxes required by this chapter or has failed to remit taxes collected to the ~~e~~County, the ~~e~~CCommissioner of the ~~r~~Revenue shall immediately assess such taxes, including penalty as provided in ~~section~~ ~~§~~ 65-8, against the seller as the ~~e~~CCommissioner of the ~~r~~Revenue determines are due pursuant to ~~Section~~ ~~§~~ 58.1-3903 of the Virginia Code, as amended, and certify such assessment to the ~~t~~Treasurer for collection.

~~(b)~~B. Any seller who neglects, fails, or refuses to collect the taxes due under this chapter from the purchaser shall be liable for and be assessed with and pay the omitted taxes due.

~~(c)~~C. Upon receipt of a certified omitted tax assessment due under this chapter, the ~~t~~Treasurer may undertake immediate collection action for the omitted taxes.

~~(d)~~D. The assessment and payment of omitted taxes under this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.
(Ord. No. 91-8, 6-1-91)

§ 65-10. Posting ~~b~~Bond or ~~l~~Letter of ~~e~~Credit.

The ~~e~~CCommissioner of the ~~r~~Revenue shall require any seller with a record of late filing of the tax returns or of late remittance of the taxes required by this chapter to annually post a bond with corporate surety payable to the ~~e~~County to insure the seller's faithful performance of the seller's duties to the ~~e~~County under this chapter. The bond, including the corporate surety thereon, shall be in an amount which is three (3) times the taxes collected or which should have been collected by the seller during the month previous to bonding, but in no case less than one thousand dollars (\$1,000.00). An irrevocable letter of credit from a bank approved by the ~~e~~County ~~m~~Manager with an expiration date not earlier than one (1) year from the date of issuance in the amount specified in this section and payable to the ~~e~~County may be accepted in lieu of the bond.
(Ord. No. 91-8, 6-1-91)

§ 65-11. Records.

Every seller subject to the requirements of this chapter shall keep and preserve books of account and complete records of the sales taxable or claimed exempt and the taxes paid under this chapter for the current year and the three (3) years last past.
(Ord. No. 91-8, 6-1-91)

§ 65-12. Sale or ~~e~~Cessation of ~~b~~Business.

When any seller required to collect and remit taxes to the ~~e~~County under this chapter ceases to operate or otherwise disposes of his business, any taxes collected by the seller are immediately due and payable to the ~~e~~County, and the seller shall file a final tax return within fifteen (15) days of ceasing business.
(Ord. No. 91-8, 6-1-91)

§ 65-13. Criminal ~~p~~Penalties.

~~(a)~~A. Any person who willfully files a false or fraudulent tax return with intent to defraud the ~~e~~County under the provisions of this chapter, or who willfully fails or refuses to file a tax return under the provisions of this chapter, shall be guilty of a Class 3 misdemeanor if the amount of the tax lawfully due in connection with the return is one thousand dollars (\$1,000.00) or less and of a Class 1 misdemeanor if the amount of the tax lawfully due in connection with the return is more than one thousand dollars (\$1,000.00).

~~(b)~~B. Violations or failure to comply with any other provisions of this chapter shall be a Class 3 misdemeanor.

~~(c)~~C. Each day any violation or failure to comply continues shall constitute a separate offense.
(Ord. No. 91-8, 6-1-91)

§ 65-14. Severability.

It is hereby declared to be the intention of the eCounty bBoard that the sections, paragraphs, clauses, sentences, and parts of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder of this chapter or the application of such provisions to other provisions or circumstances but shall be confined in its application to the section, clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.

Should any exemption from, lower rate of, or limitation on this tax be declared invalid, illegal, unconstitutional, or void for any reason, such declaration is not intended to affect the taxes imposed by this chapter, but the transactions found to be wrongfully exempted, limited, or subjected to lower tax rate shall become fully subject to this tax to the same extent as if such exemption, attempted exemption or limitation, or lower rate had never been included in this chapter.

(Ord. No. 91-8, 6-1-91)

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Chapter 66

TECHNOLOGY ZONES*

* **Editor's Note:** Ord. No. 07-11, adopted September 8, 2007, amended Ch. 66, in its entirety, to read as herein set out.

Article I. General Provisions

§ 66-1. Purpose.

§ 66-2. Compliance.

§ 66-3. Definitions.

§ 66-4. Business License Tax.

ARTICLE I.

GENERAL PROVISIONS

§ 66-1. Purpose.

The Arlington County Board finds that certain classes of high technology business activities have special economic significance to the eCounty due to the nature of the technology developed or employed, their interrelationship with other Arlington-based federal and private organizations/businesses, and their potential for high growth in employment and capital investment. The Arlington County Board further finds that the most appropriate method of offering incentives to certain classes of technology businesses is to create technology zones in the Rosslyn-Ballston Corridor, the Jefferson Davis Corridor, the Columbia Pike Special Revitalization District, and the Shirlington Area, as authorized in the Code of Virginia, Section § 58.1-3850, in which zones inducements may be offered to encourage such technology businesses to relocate to the eCounty. The eCounty has determined that the establishment of these technology zones will improve economic conditions, hasten redevelopment, and benefit the welfare of its citizens.

(Ord. No. 00-01, § 1, 2-1-00; Ord. No. 03-02, 2-25-03; Ord. No. 07-11, 9-8-07)

§ 66-2. Compliance.

A business shall qualify as a qualified technology business on an annual basis. If a business ceases to be a qualified technology business during a calendar tax year in which the tax reductions apply, any tax owed by the business at the reduced rate for a qualified technology business shall be prorated for the months the business was a qualified technology business.

Failure of the business to fully comply with any tax imposed by the eCounty will result in the revocation of its designation as a qualified technology business for the current tax year and any other tax years in which it fails to comply. Upon such a determination, the eCommissioner of the Revenue shall assess additional business license taxes with penalties and interest as authorized in Arlington County Code, Chapter 11.

(Ord. No. 00-01, § 1, 2-1-00; Ord. No. 07-11, 9-8-07)

§ 66-3. Definitions.

~~For the purpose of this chapter, the following words and phrases terms, when used in this chapter, shall have the following meanings, unless clearly indicated to the contrary, the context clearly indicates otherwise:~~

~~(a)A.~~ *Qualified technology business.* The term "Qualified technology business" shall mean a business that has a "definite place of business" as defined in paragraph ~~D(4)~~, below, within a "qualified technology zone" as defined in paragraph ~~E(e)~~ of this section, and which:

1. Is engaged in the design, or research and development of computer hardware or software:
 - for aerospace or aviation applications; or
 - for interactive or simulated real-time use; or
 - for instruction in the use or development of customized computer technology; or
 - for gathering data from the internet or computerized data bases, or integrating such data; or
 - for emergency communications, emergency service delivery and tracking
 - for security training, security data collection, storage and/or analysis
 - for building energy management and control systems.

OR

2. Provides:
 - production of multi-media products; or
 - computerized data mapping systems; or
 - on-line financial services including buying, selling, handling, managing, investing and/or advice regarding money, credit, securities, or other investments over the Internet.

AND

3. If located in a "Downtown Technology Zone," has at least ~~two hundred fifty (250)~~ employees on site after February 1, 2000, and before November 15, 2005, or ~~two hundred (200)~~ employees on site after November 15, 2005 and before October 1, 2007, or ~~one hundred (100)~~ employees on site after July 7, 2007, at the "~~D~~efinite ~~P~~lace of ~~B~~usiness" within the technology zone; if located in the "Shirlington Technology Zone" or the "Columbia Pike Corridor Technology Zone" as defined in paragraph ~~E(e)~~ subsection 2- and 3- below, respectively, no size threshold shall apply;

~~(b)B.~~ The use of computers, telecommunications services, or a web page or internet site shall not, in itself, be sufficient to qualify as a qualified technology business.

~~(c)C.~~ No business shall be a qualified technology business unless (1) that business has first established a ~~D~~efinite ~~P~~lace of ~~B~~usiness in Arlington County after February 1, 2000, and (2) within eighteen (18) months after establishing a definite place of business in a technology zone, that business has met the requirements of this ordinance and applied for such status.

~~(d)D.~~ *Definite place of business.* The term "definite place of business" means an office or a location at which occurs a regular and continuous course of dealing over a period of thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person and real property leased to another.

~~(e)E.~~ *Qualified Technology Zone.* The term "Qualified technology zone" shall mean one (1) of the following:

ARLINGTON COUNTY CODE

TECHNOLOGY ZONES

1. *Downtown Technology Zones.* Those areas zoned for commercial or industrial use in the Rosslyn-Ballston or Jefferson Davis Corridors, as designated on the General Land Use Plan in effect on December 11, 1999, and which is a part of the Comprehensive Plan for Arlington County, Virginia. The precise boundaries of the Rosslyn-Ballston Corridor and Pentagon City - Crystal City Technology Zones are set forth in Appendix A, which is attached to this Chapter.
2. *Shirlington Technology Zone.* Those areas zoned for commercial or industrial use in the Shirlington area as set forth in Appendix A.
3. *Columbia Pike Corridor Technology Zone.* Those specific parcels within the "Columbia Pike Special Revitalization District" as set forth in Appendix A.

~~(F)~~ ~~“Employee” is means~~ a person who is on the qualified technology business' payroll within the technology zone and is required to report to work in the technology zone.
(Ord. No. 00-01, 2-1-00; Ord. No. 03-02, 2-25-03; Ord. No. 06-01, 1-21-06; Ord. No. 07-11, 9-8-07)

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§ 66-4. Business License Tax.

A qualified technology business as defined by this chapter shall be subject to the business license tax provided in Arlington County Code ~~section §~~ 11-86.
(Ord. No. 00-01, 2-1-00; Ord. No. 07-11, 9-8-07)

APPENDIX A

DEFINITION OF TECHNOLOGY ZONES

DOWNTOWN TECHNOLOGY ZONES:

ROSSLYN-BALLSTON CORRIDOR TECHNOLOGY ZONE -- The geographic area as delineated by the following:

Beginning at Route 50 and Arlington Ridge Road, west on Route 50 to ~~North-~~ Mead Street, south along ~~North-~~ Mead Street to 12th Street ~~North-~~, west on 12th Street ~~North-~~ to Route 50, west on Route 50 to 10th Street, west on 10th Street to Washington Boulevard, south on Washington Boulevard to 7th Street ~~North-~~, west on 7th Street ~~North-~~ to ~~North-~~ Hudson Street, south on ~~North-~~ Hudson Street to 6th Street ~~North-~~, west on 6th Street ~~North-~~ to North Ivy Street, south on ~~North-~~ Ivy Street to 5th Street ~~North-~~, west on 5th Street ~~North-~~, to Glebe Road, southeast on Glebe Road to 4th Street ~~North-~~, southwest on 4th Street ~~North-~~ to George Mason Drive, northwest on George Mason Drive to I-66, northeast on I-66 to Washington Boulevard, east on Washington Boulevard to Kirkwood Road, north on Kirkwood Road to 13th Street ~~North-~~, east on 13th Street ~~North-~~ to North Jackson Street, north on ~~North-~~ Jackson Street to Key Boulevard, east on Key Boulevard to Custis Road, southeast on Custis Road to Barton Street, north on Barton Street to Key Boulevard, east on Key Boulevard to ~~North-~~ Adams Street, north on ~~North-~~ Adams Street to 18th Street ~~North-~~, east on 18th Street ~~North-~~ to ~~North-~~ Veitch Street, north on ~~North-~~ Veitch Street to Lee Highway, east on Lee Highway to ~~North-~~ Oak Street, north along ~~North-~~ Oak Street, and continuing in that line to the George Washington Memorial Parkway, west on the George Washington Memorial Parkway to Arlington Ridge Road, then south along Arlington Ridge Road to Route 50.

JEFFERSON DAVIS CORRIDOR -- The geographic area delineated by the following:

Beginning at South Joyce Street and Shirley Highway, east on Shirley Highway then northward to its intersection with the George Washington Memorial Parkway, east on the George Washington Memorial Parkway to the R F&P railroad track ~~r.o.w., right-of-way,~~ south along the R F&P railroad ~~r.o.w., right-of-way~~ to the Four Mile Run waterway, west along Four Mile Run to South Eads Street, north on ~~South-~~ Eads Street to 23rd Street ~~South-~~, west on 23rd Street ~~South-~~ to South Fern Street, north on ~~South-~~ Fern Street to 18th Street ~~South-~~ at its intersection with South Hayes Street, northwest on South Hayes Street to its intersection with 15th Street ~~South-~~, west on 15th Street ~~South-~~ to South Joyce Street, north on South Joyce Street to Shirley Highway.

OTHER TECHNOLOGY ZONES

SHIRLINGTON TECHNOLOGY ZONE:

The geographic area delineated by the following:

Beginning at Walter Reed Drive at Four Mile Run Drive, east on Four Mile Run Drive to ~~South-~~ Shirlington Road, north on ~~South-~~ Shirlington Road to 24th Street ~~South-~~, east on 24th Street ~~South-~~ to South Glebe Road, southeast on ~~South-~~ Glebe Road to I-395, south on I-395 to the Arlington County boundary with the City of Alexandria, thence west along said boundary to ~~South-~~ Shirlington Road, south on Shirlington Road to Shirlington Circle, south on Shirlington Circle to the edge of the C-O-1.5 zoning, thence west along said zoning line to the southern edge of the Arlington County Trades Center property, north along said property line to 29th Street ~~South-~~, north on 29th Street ~~South-~~ to Arlington Mill Drive, west on Arlington Mill Drive to ~~South-~~ Walter Reed Drive, and thence north on Walter Reed Drive to Four Mile Run Drive.

COLUMBIA PIKE CORRIDOR TECHNOLOGY ZONE:

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Being all parcels with commercial, mixed use or public use zoning within the boundaries of the "Columbia Pike Special Revitalization District"; as such district is more specifically defined on the County's General Land Use Plan, and said Plan's Note #8, as such may be amended; and as the sub-components of such District are further more precisely defined in the Regulating Plans of the Form-Based Code for Columbia Pike, for each of "Town Center", "Village Center", "Neighborhood Center" and "Western Gateway" areas.

(Ord. No. 03-02, 2-25-03; Ord. No. 06-01, 1-21-06; Ord. No. 07-11, 9-8-07)

ARLINGTON COUNTY CODE

Chapter 67

TREES AND SHRUBS

* **Editor's Note:** Ord. No. 02-25, adopted November 16, 2002, enacted Ch. 67, in its entirety, to read as herein set out.

Article ~~1~~I. General Provisions

- § ~~67-1-1~~1. Title.
- § ~~67-1-2~~2. Purpose and ~~i~~ntent.
- § ~~67-1-3~~3. Definitions.

Article ~~2~~II. Regulation of Trees and Shrubs on Public Property.

- § ~~67-2-14~~14. Treatment of Trees and Shrubs.
- § ~~67-2-25~~25. Injury to or Removal of Trees and Shrubs.

Article ~~3~~III. Regulation of Heritage Trees, Memorial Trees, Specimen Trees, and Street Trees on Public or Private Property.

- § ~~67-3-16~~16. Designation-~~P~~rocedure.
- § ~~67-3-27~~27. Preservation.
- § ~~67-3-38~~38. Penalties.
- § ~~67-3-49~~49. Exceptions.

ARTICLE ~~1~~I.

GENERAL PROVISIONS

§ ~~67-1-1~~1. Title.

This ~~ordinance~~ chapter shall hereafter be known, cited and referred to as the "Tree Preservation Ordinance" of Arlington County, Virginia.
(Ord. No. 02-25, 11-16-02)

§ ~~67-1-2~~2. Purpose and Intent.

There is hereby established a ~~T~~ree ~~P~~reservation ~~O~~rdinance to ensure that the tree cover within Arlington County's boundaries is maintained and improved in order to protect the health, safety, and welfare of County citizens and the general public, to safeguard the ecological and aesthetic environment necessary to a community, to preserve, protect, and enhance valuable natural resources, and to conserve properties and their values.
(Ord. No. 02-25, 11-16-02)

§ ~~67-1-3~~3. Definitions.

~~For the purposes of this Chapter, t~~he following words and ~~phrases~~ terms, when used in this chapter, shall have the following meanings ~~ascribed to them in this section, unless the context clearly indicates otherwise:~~

ARLINGTON COUNTY CODE

TREES AND SHRUBS

“Arborist” or “Urban Forester” means Aa person trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees who is in the employ of or under contract to Arlington County.

“County Manager” means The County Manager of Arlington County or the County Manager’s designee.

“Destroy” means To cut down a tree or shrub or perpetrate any intentional or negligent act which will cause a tree or shrub to decline substantially or die within a period of two (2) years. This shall include, but not be limited to, damage inflicted upon the root system of a tree or shrub by the application of toxic substances, by the operation of equipment and vehicles, or by the change of natural grade by unapproved excavation or filling inside or on the dripline of a tree or shrub- or damage caused by the unapproved alteration of natural physical conditions.

“Dripline” means Aa vertical projection to the ground surface from the furthest lateral extent of a tree’s or shrub’s canopy.

“Heritage Tree” means Aany tree that has been individually designated by the County Board to be of notable historic or cultural interest.

“Memorial Tree” means Aany tree that has been individually designated by the County Board to be a special commemorating memorial.

“Shrub” means Aany self-supporting, woody, perennial plant growing upon the earth that usually produces several branches without any distinct head and usually does not exceed ten to fifteen feet in height at maturity.

“Specimen Tree” means Aany tree that has been individually designated by the County Board to be notable by virtue of its outstanding size and quality for its particular species.

“Street Tree” means Aany tree that has been individually designated by the County Board and that grows in the street right-of-way.

“Tree” means Aany self-supporting woody plant growing upon the earth that usually produces a main stem or trunk or a more or less distinct and elevated head, and with many branches. It may appear to have several stems or trunks. A tree usually exceeds ten feet in height at maturity. In any case the County Manager or the Urban Forester or arborist designated by the County Manager shall have the right to determine whether any specific woody plant shall be considered a tree. Such determination shall be final and not subject to appeal.

“Tree Guidelines” means Guidelines established or selected by the County Manager for selecting, planting, pruning, maintaining, removal, replacement, and other treatment of trees and shrubs.

“Utility Company” means Aa company engaged in the provision of electric, cable, telephone, or gas service.

“Volunteer Maintenance Contractors” means County citizens who have agreed in a current, County-approved writing to maintain trees or shrubs on County property. (Ord. No. 02-25, 11-16-02)

ARTICLE 2II.

REGULATION OF TREES AND SHRUBS ON PUBLIC PROPERTY

§ 67-2-14. Treatment of Trees and Shrubs.

The planting, pruning, maintaining, removal, or other treatment of trees and shrubs upon the streets, public rights-of-way, other County-owned public lands, and public vehicular or public pedestrian access easements where Arlington County is responsible for the maintenance of such easement shall be under the direction of the County Manager. Such planting, pruning, removal, or other treatment shall be in accord with the tree guidelines and shall

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not be performed without the County Manager's approval if such planting, pruning, removal, or other treatment is performed by other than County employees or County contractors or agents. Volunteer Maintenance Contractors shall be deemed to have the County Manager's approval for pruning and maintaining, but not removal of or injury to, the trees or shrubs specified in their agreement with the County. Permission is not required for routine watering and mulching of County-owned trees.
(Ord. No. 02-25, 11-16-02)

§ 67-2-25. Injury to or Removal of Trees and Shrubs.

(a)A. It shall be unlawful for any person, including any person employed by or under contract to any utility company, to destroy, cut down, girdle, break, bend, wound, or in any manner injure or remove any tree or shrub upon any public right-of-way, any other County-owned public land, or any public vehicular or public pedestrian access easements where the County is responsible for the maintenance of such easement without the written permission of the County Manager. Any person violating this ~~S~~section shall be guilty of a Class 3 misdemeanor.

(b)B. The County Manager shall not remove or permit removal of all or any part of any tree or shrub unless the County Manager has determined that the action proposed is necessary or desirable and will not be contrary to any County policy or plan or ordinance for or related to trees, shrubs, plants, or other vegetation.

(c)C. The County Manager's permission under this section shall be evidenced by a writing that specifies the tree or shrub for which removal is permitted and the duration of the permission, except such written permission is not required if the removal is performed by County employees or County contractors or County agents. Such permission shall be issued only upon the conditions that (i) the applicant for permission agrees either to replace the tree or shrub specified to be removed at a rate and with guaranties in accord with the tree guidelines within one (1) year of the date of the permission or immediately pays to the County an amount equaling the full value of the tree or shrub specified to be removed, at the option of the County Manager, and (ii) the applicant, in the event of destruction of or injury to an unspecified tree or shrub, agrees to either replace such unspecified tree or shrub at a rate and with guaranties in accord with the ~~T~~ree ~~G~~uidelines or to pay to the County an amount equaling the full value of the unspecified tree or shrub, at the option of the County Manager. The full value of a tree or shrub shall be determined by the County Manager in accordance with appraisal methods developed by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture in *Guide for Plant Appraisal*.
(Ord. No. 02-25, 11-16-02)

ARTICLE ~~3~~III.

REGULATION OF HERITAGE TREES, MEMORIAL TREES, SPECIMEN TREES, AND STREET TREES ON PUBLIC OR PRIVATE PROPERTY

§ 67-3-16. Designation.

(a)A. A County ~~U~~rb~~a~~n ~~F~~orester or an arborist designated by the County Manager may, in accordance with the provisions of this ~~A~~rticle, recommend to the County Board that certain trees located within the County on public property or private property, excluding parcels used for a single-family dwelling unless the owner of such property consents to the designation of such tree, be designated by ordinance as ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet Trees. The County Board shall hold a public hearing prior to so designating any ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet ~~T~~ree. Trees may be recommended to the ~~U~~rb~~a~~n ~~F~~orester or designated arborist by any person in the instance of a tree on public property and on private property, excluding parcels used for a single-family dwelling, and by the private property owner in the instance of a tree on parcels used for a single-family dwelling, by submitting a complete report to the ~~U~~rb~~a~~n ~~F~~orester, designated arborist or County Manager describing the tree in question and its significance in needing protection.

(b)B. In the case of a tree on private property the County Manager shall notify the owner of the property on which the tree is located by certified mail (i) as soon as practicable once the recommendation is received by the Urban Forester; and (ii) again at least ~~thirty~~ (30) days prior to the hearing on the adoption by ordinance of the designation of such tree. The owner may request an extension of the hearing date for up to six (6) months.

~~(c)~~C. A property owner shall not destroy a tree proposed for designation pursuant to this ~~S~~section pending final County Board decision or a decision by the Urban Forester or designated arborist not to recommend designation.

~~(d)~~D. In the event that the application of this ~~A~~article regulating ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~street ~~T~~rees results in a taking of private property for a public purpose or use, the County shall compensate by fee or other consideration the property owner for such taking, to the extent that such claim is recognized and compensable under state or federal law, and shall notify the owner of his right to seek such fee or compensation.
(Ord. No. 02-25, 11-16-02)

~~§ 67-3-27. Preservation.~~

No ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~street ~~T~~ree shall be removed or damaged in any way unless the County Board determines that: ~~(a)~~ there is an overriding need for public improvements; or ~~(b)~~ a severe hardship exists for reasonable use of a site. Should the County Board determine to permit such treatment, the County Board may require that the tree be replaced with a similar tree or trees to approximate the canopy lost, and must issue a writing specifying the action permitted, the tree and its location, and the findings justifying the permission. Nothing in this section shall prevent the County Manager from permitting the removal of a tree in the event that an ~~A~~arborist or ~~U~~rban ~~F~~orester determines that the tree is dead, has become the irreversibly diseased or irreversibly damaged by natural causes, or presents a hazard to the public.
(Ord. No. 02-25, 11-16-02)

~~§ 67-3-38. Penalties.~~

Any person or entity who violates any provision of this ~~A~~article by causing, contributing to, or permitting injury to or removal or destruction of a ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~street ~~T~~ree shall be subject to a civil penalty not to exceed ~~two thousand five hundred dollars~~ (\$2,500.00) for each violation.

Civil penalties shall be imposed by the issuance of a civil summons by the County Manager. Any person or entity served with a summons shall have thirty (30) days in which either to pay a fine to the Treasurer of Arlington County, Virginia, or to appeal the violation to the General District Court.
(Ord. No. 02-25, 11-16-02)

~~§ 67-3-49. Exceptions.~~

The provisions of this ~~A~~article shall not apply ~~(a)~~ to work conducted on federal or state property; ~~(b)~~ to emergency work to protect life, limb or property; ~~(c)~~ to routine installation, maintenance and repair of cable and wires used to provide cable television, electric, gas or telephone service; ~~(d)~~ to activities with minor effects on trees, including but not limited to home gardening and landscaping of individual homes; and ~~(e)~~ to commercial silvicultural or horticultural activities, including but not limited to planting, managing, or harvesting forest or tree crops.
(Ord. No. 02-25, 11-16-02)

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