ARLINGTON COUNTY CODE

Chapter 1

GENERAL PROVISIONS

§ 1-1. How Code ~~d~~Designated and ~~c~~Cited.
§ 1-2. Rules of ~~c~~Construction.
§ 1-3. Catchlines of ~~s~~Sections.
§ 1-4. Provisions ~~c~~Considered as ~~c~~Continuations of ~~e~~Existing ~~o~~Ordinances.
§ 1-5. Severability of ~~p~~Parts of Code.
§ 1-6. General ~~p~~Penalty; ~~c~~Continuing ~~v~~Violation; ~~a~~Applicable ~~p~~Penalty if the ~~l~~Local ~~p~~Penalty is in ~~e~~Excess of ~~t~~That ~~p~~Permissible.
§ 1-7. Fines and ~~c~~Costs.
§ 1-7.1. Late ~~p~~Payment ~~p~~Penalty; ~~c~~Collection of ~~d~~Delinquent ~~l~~Local ~~a~~Accounts by ~~t~~Treasurer.
§ 1-8. Correction of ~~e~~Errors or ~~o~~Omissions.
§ 1-9. Classification of ~~p~~Penalties for ~~m~~Misdemeanors.

§ 1-1. How Code ~~d~~Designated and ~~c~~Cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated "The Code of the County of Arlington, Virginia, 1957," and may be so cited.

§ 1-2. Rules of ~~c~~Construction.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the ~~c~~County ~~b~~Board or the context clearly requires otherwise:

Computation of time:~~.~~ Whenever a notice is required to be given, or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

County:~~.~~ The word "~~c~~County" shall be construed as if the words "of Arlington" followed it.

County Manager: Unless otherwise prohibited by the Code of Virginia or where the context clearly indicates otherwise, County Manager shall mean County Manager of Arlington County or his designee or authorized agent or representative.

Gender:~~.~~ A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Highway:~~.~~ The word "highway" shall be construed to embrace streets, avenues, boulevards, roads, alleys, walkways, lanes, viaducts and all other public ways in the ~~c~~County.

Number:~~.~~ A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

Person:~~.~~ The word "person" may extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

Preceding, following:~~.~~ The "preceding" and "following" mean next before and next after, respectively.

State:~~:~~ The word "state" shall be construed as if the words "of Virginia" followed it.

§ 1-3. Catchlines of ~~s~~Sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

§ 1-4. Provisions ~~c~~Considered as ~~c~~Continuations of ~~e~~Existing ~~o~~Ordinances.

The provisions appearing in this Code, so far as they are the same as those of all ordinances included herein, shall be considered as continuations thereof and not as new enactments.

§ 1-5. Severability of ~~p~~Parts of Code.

It is hereby declared to be the intention of the ~~c~~County ~~b~~Board that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code 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 Code.

§ 1-6. General ~~p~~Penalty; ~~c~~Continuing ~~v~~Violation; ~~a~~Applicable ~~p~~Penalty if the ~~l~~Local ~~p~~Penalty is in ~~e~~Excess of ~~t~~That ~~p~~Permissible.

~~(a)~~A. Whenever in this Code or in any ordinance of the ~~c~~County, or rule or regulation or order promulgated by any officer or agency of the ~~c~~County under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, rule, regulation, or order shall be punished by a fine not exceeding two thousand five hundred dollars ($2,500.00), or by imprisonment in the ~~c~~County ~~j~~Jail not exceeding thirty (30) days, or both such fine and imprisonment. Each day any violation of this Code or any such ordinance, rule, regulation, or order shall continue shall constitute, except where otherwise provided, a separate offense.

~~(b)~~B. If the penalty provided for the violation of any Code provision, ordinance of the ~~c~~County, or rule or regulation or order promulgated by any officer or agency of the ~~c~~County, is in excess of the penalty permissible under ~~s~~State law, the maximum penalty for any such violations shall be the maximum penalty permissible under ~~s~~State law.
(8-3-74; 11-18-78; Ord. No. 91-34, 9-18-91)

§ 1-7. Fines and ~~c~~Costs.

~~(a)~~A. All fines and costs collected under the terms of this Code shall be paid over to the ~~t~~Treasurer of the ~~c~~County and credited by him to the ~~g~~General ~~c~~County ~~f~~Fund.

~~(b)~~B. Costs shall be taxed in prosecutions under this Code in the same amounts and in the same manner as prescribed by law in misdemeanor cases under ~~s~~State statutes.

§ 1-7.1. Late ~~p~~Payment ~~p~~Penalty; ~~c~~Collection of ~~d~~Delinquent ~~l~~Local ~~a~~Accounts by ~~t~~Treasurer.

~~(a)~~A. Any County department or agency may impose a late payment penalty in the amount of ten dollars ($10.00) or ten percent (10%) of the amount due, whichever is greater, upon all local accounts that are not paid by the due date. Such penalty shall be added to the amount of the account due from such person. No penalty shall be imposed for the failure to pay any account if such failure was not in any way the fault of the debtor. Interest at the rate of ten percent (10%) annually shall be collected on the principal and penalty of all such accounts, from the first day following the day such penalty is imposed.

~~(b)~~B. Any County department or agency having delinquent accounts may transfer those accounts to the County Treasurer for collection.
(Ord. No. 99-14, 6-12-99)

~~**Sec. 1-7.1. Late payment penalty; collection of delinquent local accounts by treasurer.**~~

~~(a) Any County department or agency may impose a late payment penalty in the amount of ten dollars or ten percent of the amount due, whichever is greater, upon all local accounts that are not paid by the due date. Such penalty shall be added to the amount of the account due from such person. No penalty shall be imposed for the failure to pay any account if such failure was not in any way the fault of the debtor. Interest at the rate of ten percent annually shall be collected on the principal and penalty of all such accounts, from the first day following the day such penalty is imposed.~~

~~(b) Any County department or agency having delinquent accounts may transfer those accounts to the County Treasurer for collection.~~
~~(Ord. No. 99-14, 6-12-99)~~

§ 1-8. Correction of ~~e~~Errors or ~~o~~Omissions.

The ~~e~~County ~~m~~Manager shall order the reprinting of any page of this Code to correct any typographical or grammatical errors or omissions existing herein when, in the opinion of the ~~e~~County ~~m~~Manager, the ~~e~~County ~~b~~Board ~~e~~Clerk and the ~~e~~County ~~a~~Attorney, such errors or omissions are of a minor, nonsubstantive nature and the correction thereof will have no material effect thereon. The ~~e~~County ~~m~~Manager shall maintain a record of all such changes.
(9-29-79)

§ 1-9. Classification of ~~p~~Penalties for ~~m~~Misdemeanors.

Whenever in this Code an act is made unlawful or a misdemeanor, where a penalty is prescribed using the following terms, they should have the following meanings:

~~(1)~~A. *Class 1 misdemeanors:* An offense for which the authorized punishment is confinement in jail for not more than twelve (12) months and a fine of not more than two thousand five hundred dollars ($2,500.00), either or both.

~~(2)~~B. *Class 2 misdemeanors:* An offense for which the authorized punishment is confinement in jail for not more than six (6) months and a fine of not more than one thousand dollars ($1,000.00), either or both.

~~(3)~~C. *Class 3 misdemeanors:* An offense for which the authorized punishment is a fine of not more than five hundred dollars ($500.00).

~~(4)~~D. *Class 4 misdemeanors:* An offense for which the authorized punishment is a fine of not more than two hundred fifty dollars ($250.00).
(Ord. No. 91-31, 8-10-91)

ARLINGTON COUNTY CODE

Chapter 2

ANIMALS AND FOWL

Article I. In General

§ 2-1. Fowl ~~r~~Running at ~~l~~Large--Definitions.
§ 2-2. Same--Prohibited.
§ 2-3. Keeping ~~p~~Pigs, ~~h~~Hogs, ~~e~~Etc.

Article II. Animals

§ 2-4. Definitions.
§ 2-5. Running at ~~l~~Large ~~p~~Prohibited; ~~r~~Removal of ~~d~~Droppings.
§ 2-6. Leashing ~~d~~Dogs.
§ 2-7. Dogs ~~o~~Over ~~s~~Six ~~m~~Months ~~o~~Old to be ~~l~~Licensed.
§ 2-8. Rabies ~~v~~Vaccination.
§ 2-8.1. Existence of a ~~r~~Rabies ~~e~~Emergency.
§ 2-8.2. Rabies ~~v~~Vaccination of ~~c~~Cats.
§ 2-8.3. Transportation, ~~h~~Harboring, and ~~s~~Sale of ~~f~~Foxes, ~~s~~Skunks and ~~r~~Raccoons ~~p~~Prohibited.
§ 2-9. Impoundment; ~~r~~Redemption; ~~d~~Disposition of ~~i~~Infected ~~a~~Animals.
§ 2-10. Vicious or ~~d~~Dangerous ~~d~~Dogs.
§ 2-11. Interference, ~~e~~Etc., with ~~d~~Dogs.~~+~~
§ 2-12. Licensing of ~~d~~Dogs.
§ 2-13. Enforcement.

Article III. Animal Housing

§ 2-14. Definitions.
§ 2-15. Minimum ~~r~~Requirements.

Article IV. Sale and Distribution of Live Turtles

§ 2-16. Sale and ~~d~~Distribution of ~~l~~Live ~~t~~Turtles.
§ 2-17. Enforcing ~~a~~Agency.

Article V. Reptiles

§ 2-18. Definitions.
§ 2-19. Keeping and ~~h~~Handling of ~~r~~Reptiles.
§ 2-20. Penalty.

Article VI. Trapping of Animals

§ 2-21. Trapping and/or ~~p~~Poisoning of ~~a~~Animals ~~p~~Prohibited.

Article VII. Penalties

§ 2-22. Penalties for ~~v~~Violations.
§ 2-23. Repeated ~~o~~Offenses and ~~o~~Offenses ~~i~~Involving ~~i~~Injury to ~~h~~Humans.

ARTICLE I.

IN GENERAL

§ 2-1. Fowl ~~r~~Running at ~~l~~Large--Definitions.

The following words and ~~phrases,~~terms when used in this chapter ~~and the following sections,~~ shall have the following meanings ~~respectively ascribed to them in this section~~unless the context clearly indicates otherwise:

"Fowl" ~~shall be construed to embrace~~means chickens, hens, roosters, guineas, ducks, geese, turkeys and poultry of all kinds, whether herein specifically enumerated or not.

"Manager" ~~shall include~~means any owner or possessor and any person having the management and control of any fowl.

"Owner" ~~shall include~~means any person owning any fowl.

"Possessor" ~~shall include~~means any person having the possession of any fowl.
(9-14-35)

§ 2-2. Same--Prohibited.

It shall be unlawful for the owner, possessor or manager of any fowl to permit the same to go upon and trespass upon the lands in the ~~c~~County owned, occupied or leased by any other person.
(9-14-35)

§ 2-3. Keeping ~~p~~Pigs, ~~h~~Hogs, ~~e~~Etc.

It shall be unlawful for any person to keep or maintain, or to permit to be kept or maintained, any pig, shoat, sow, hog or other porcine animal anywhere within the confines of the ~~c~~County.
(9-14-35)

ARTICLE II.

ANIMALS

§ 2-4. Definitions.

The following words and ~~phrases,~~terms, when used in this article, shall have the following meanings ~~respectively ascribed to them in this section~~unless the context clearly indicates otherwise:

"Dog" ~~shall~~ means both male and female.

"Officer" ~~shall include~~means any police officer, animal warden, deputy animal warden, and all other persons employed by the County whose duty it is to preserve the peace, to make arrests, or to enforce the law.

"Own" and "owner" ~~shall include~~means any person having a right of property in a dog, and any person who keeps or harbors a dog, or has it in his care, or who acts as its custodian, and any person who permits a dog to remain on or about any premises occupied by him.

"Running at large" ~~shall~~ means any dog while roaming, running or self-hunting off the property of its owner or custodian and not under its owner's or custodian's immediate control.
(6-1-56; 10-12-64; Ord. No. 83-25, 8-13-83)

§ 2-5. Running at ~~l~~Large ~~p~~Prohibited; ~~r~~Removal of ~~d~~Droppings.

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~~(a)~~A. It shall be unlawful for the owner of any dog to permit such dog, whether licensed or unlicensed to run at large in the ~~c~~County, and any person who, after being notified by any landowner or officer that his dog is running at large, permits his dog to run at large thereafter, shall be deemed to have violated the provisions of this Code.

~~(b)~~B. The owner of a dog shall be responsible for the removal of the dog's excretion from any property other than the dog owner's property and between the edges or curbs of public streets.
(8-9-75)

§ 2-6. Leashing ~~d~~Dogs.

All dogs shall be kept secured by a leash or lead, and under the control of the owner or other responsible person, or within the real property limits of its owners. A waiver to this requirement for a specific time and place may be obtained from the animal warden's office for such activities as off-lead training, obedience matches and trials, when the dog has a skin condition which would be exacerbated by the wearing of a collar, and other activities which promote animal control. Nothing in this section of the County Code nor in any other section shall be deemed to make unlawful the exercising of dogs not upon a leash in areas of the ~~c~~County specifically designated for such exercising.
(12-20-75; 11-14-81; Ord. No. 83-25, 8-13-83)

§ 2-7. Dogs ~~o~~Over ~~s~~Six ~~m~~Months ~~o~~Old to be ~~l~~Licensed.

It shall be unlawful for the owner or custodian of any dog over six (6) months old not to place or cause to be placed and kept around the neck of such dog a substantial collar and attach securely thereto the current Arlington County license and the current rabies vaccination tag issued for such dog. The owner of the dog may remove the collar and license tag for such activities as:

~~(1)~~A. A dog show;

~~(2)~~B. When the dog has a skin condition that would be exacerbated by the wearing of a collar;

~~(3)~~C. When the dog is in a supervised formal obedience training class; or

~~(4)~~D. During formally sanctioned field trials.
(10-12-64; 11-14-81)

§ 2-8. Rabies ~~v~~Vaccination.

~~(a)~~A. It shall be unlawful for any person to keep, harbor or have in his custody or control a dog of six (6) months old or older, for longer than fourteen (14) days, unless such dog has been vaccinated with a modified live virus (Avianied) rabies vaccine approved by the Virginia State Department of Health within a period of thirty-six (36) months or vaccinated within a period of twelve (12) months with a killed rabies vaccine approved by the Virginia State Department of Health.

No license shall be issued for any dog by Arlington County unless there is presented at the time of application for such license, a certificate of rabies vaccination or inoculation signed by a licensed veterinarian and certifying that the dog for which the license is to be issued has been vaccinated or inoculated by the said veterinarian as required above. The license period shall not exceed the effective period of the vaccine. The certificate shall show the date of expiration, the type of vaccine used (whether modified live virus or killed virus), the rabies tag number, the sex and breed of the dog and the name of the owner. No certificate or affidavit other than the above-described certificate or a duplicate issued by a licensed veterinarian shall be accepted.

~~(b)~~B. Whenever it becomes necessary to provide the public with additional safeguards against the danger of rabies, the ~~c~~County ~~b~~Board shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises. Any dog not on the premises of its owner shall have a muzzle of sufficient strength to prevent its biting any person. It shall be unlawful not to comply with the requirements of such

proclamation. All dogs apprehended by any officer that are noticeably infected with rabies and displaying vicious propensities shall be killed by the officer without notice to the owner.

~~(c)~~C. Dogs showing active signs of rabies or suspected of having rabies shall be confined under competent observation for such time as may be necessary to determine a diagnosis. If confinement is impossible or impracticable, such dog shall be destroyed.

~~(d)~~D. Every person having knowledge of the existence of an animal apparently afflicted with rabies shall report immediately to the local health department the existence of such animal, the place where seen, the owner's name, if known, and the symptoms suggesting rabies.

~~(e)~~E. Any dog bitten by an animal believed to be afflicted with rabies shall be destroyed immediately or confined in a pound, kennel, or enclosure approved by the ~~h~~Health ~~d~~Department for a period not to exceed six (6) months at the expense of the owner; provided, that if the bitten dog has been vaccinated against rabies within one (1) year, the dog shall be revaccinated and confined to the premises of the owner for thirty (30) days.
(10-12-64; 11-14-81; Ord. No. 82-40, 11-6-82; Ord. No. 86-12, 6-28-86)

§ 2-8.1. Existence of a ~~r~~Rabies ~~e~~Emergency.

A rabies emergency is hereby declared in Arlington County and shall be deemed in existence until such time as the ~~d~~District ~~h~~Health ~~o~~Officer determines, based on medical evidence, that the emergency no longer exists.
(Ord. No. 82-40, 11-6-82)

§ 2-8.2. Rabies ~~v~~Vaccination of ~~c~~Cats.

It shall be unlawful for any person to keep, harbor or have in his custody or control a cat six (6) months old or older, for longer than fourteen (14) days unless such cat has been vaccinated with a rabies vaccine licensed for use by the United States Department of Agriculture, Veterinary Biologics Section. This section shall remain in effect for as long as the medical emergency declared by ~~section~~ § 2-8.1 remains in effect.
(Ord. No. 82-40, 11-6-82)

§ 2-8.3. Transportation, ~~h~~Harboring, and ~~s~~Sale of ~~f~~Foxes, ~~s~~Skunks and ~~r~~Raccoons ~~p~~Prohibited.

For as long as a rabies emergency shall exist, in accordance with ~~section~~ § 2-8.1, the transportation, importation, translocation, harboring, and sale of foxes, skunks, and raccoons is prohibited except that a wildlife rehabilitator licensed by the Virginia Department of Game and Inland Fisheries may be allowed to harbor and translocate foxes, skunks and raccoons in the practice of rehabilitating these animals, so long as all applicable regulations are followed.
(Ord. No. 82-40, 11-6-82; Ord. No. 96-16, 10-26-96)

§ 2-9. Impoundment; ~~r~~Redemption; ~~d~~Disposition of ~~i~~Infected ~~a~~Animals.

~~(a)~~A. It shall be the duty of~~r~~ any officer to apprehend any dog found running at large and to impound such dog in such retention facilities as are provided by the ~~c~~County. A complete registry shall be maintained of the breed, color and sex of all dogs so apprehended. If the ownership of a dog so impounded can be determined, the owner shall be notified, and the dog returned to such owner upon the payment of a reasonable and fair fee to be determined by the animal welfare agency to cover the cost of boarding an animal. If the owner cannot provide proof of current license for the dog then the animal welfare agency shall not release the dog until fees for rabies vaccination and license have been paid.

~~(b)~~B. For subsequent impoundment within one (1) year there shall be an additional fee of ten dollars ($10.00) for the second impoundment, and an additional fee of twenty dollars ($20.00) for the third impoundment and an additional fee of thirty dollars ($30.00) for each subsequent impoundment within the year.

~~(c)~~C. Impounded dogs having a current license tag at the neck shall be kept for five (5) days unless sooner redeemed by the owner. If, at the expiration of five (5) days, such dog shall not have been redeemed, it may

be sold or destroyed.

~~(d)~~D. Impounded dogs not having a current license tag at the neck shall be confined for a period of five (5) days unless sooner redeemed by the owner. If at the expiration of five (5) days, such dog shall not have been redeemed, it may be sold or destroyed.

~~(e)~~E. The animal welfare agency shelter may euthanize before the five (5)~~-~~ day holding period is up any stray, nonlicensed animal which is injured or diseased, if in their opinion the animal is injured beyond help or if the disease appears to be contagious and no owner can be immediately located.

~~(f)~~F. At the discretion of the ~~d~~Director of the ~~c~~County ~~h~~Health ~~d~~Department, any animal which has bitten a person shall be confined under competent observation for ten (10) days, unless the animal develops active symptoms of rabies or expires before that time; provided that a seriously injured or sick animal may be humanely euthanized and its head sent to the ~~h~~Health ~~d~~Department for evaluation.
(11-14-81; Ord. No. 83-25, 8-13-83; Ord. No. 85-14, 4-27-85)

§ 2-10. Vicious or ~~d~~Dangerous ~~d~~Dogs.

~~(a)~~A. *Definitions.* ~~For the purpose of this ordinance, t~~The following words and ~~phrases~~terms, when used in this article, shall have the following meanings ~~respectively ascribed to them in this section~~unless the context clearly indicates otherwise:

"Dangerous dog" means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, or killed a companion animal.

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"Vicious dog" shall mean a canine or canine crossbreed which:

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~~(~~1.~~)~~ Killed a person; or

~~(~~2.~~)~~ Inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or

~~(~~3.~~)~~ Continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner or custodian has been given notice of that finding.

~~(b)~~B. *Impoundment; euthanization.* Any animal warden that has reason to believe that a canine or canine crossbreed within the ~~c~~County is a dangerous or vicious dog shall apply to a magistrate for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner or custodian of the nature of the proceeding and the matters at issue. The animal warden or owner shall confine the animal until such time as evidence shall be heard and a verdict rendered, if the animal poses a substantial risk to humans or other animals. If the animal does not pose such a risk or if the owner or custodian can adequately confine the animal without risk of its escape, the animal warden or police officer shall order the owner or custodian to keep the animal confined inside a dwelling or adequate structure so constructed to prevent its escape. Until such time as evidence may be heard and a verdict rendered, the animal may not be removed from the owner's or custodian's immediate property and must be secured on a leash no longer than six (6) feet when not confined indoors or locked within an adequate structure. Failure to comply with such an order shall be a violation of this section. The court, through its contempt powers, may compel the owner, custodian or harborer of the animal to produce the animal. If, after hearing evidence, the court finds the animal is a dangerous dog, the court shall order the animal's owner or custodian to comply with the provisions of ~~s~~Subsection D~~(d)~~. If, after hearing the evidence, the court finds the animal is a vicious dog, the court shall order the animal euthanized by the animal warden, in accordance with state law.

~~(c)~~C. *Exceptions.* No animal shall be found to be a dangerous or vicious dog solely because it is a particular breed. No animal shall be found to be a dangerous or vicious dog if the threat, injury or damage was sustained by a person who was:

(1.) Committing, at the time, a crime upon the premises occupied by the animal's owner or custodian;

(2.) Committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian; or

(3.) Provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused or assaulted the animal at other times.

No police dog which was engaged in the performance of its duties at the time of the acts complained of shall be found to be a dangerous or vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner/custodian or owner's/custodian's property, shall be found to be a dangerous or vicious dog.

(d)D. *Responsibilities of owners or custodians of dangerous dogs.*

(1.) The owner or custodian of any animal found by a court to be a dangerous dog shall, within ten (10) days of such finding, obtain a dangerous dog registration certificate from the animal warden for a fee of fifty dollars ($50.00), in addition to other fees that may be authorized by law. The animal warden shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner or custodian shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this paragraph shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained. If the owner fails to obtain such a certificate within the time allotted, the animal warden shall have the power to seize the animal and euthanize the animal in accordance with sState law.

(2.) a. Certificates shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence that:

a.(1) The animal has a current rabies vaccination, if applicable;

b.(2) The animal is and will be confined in a proper enclosure designed to prevent its escape or is and will be confined inside the owner's or custodian's residence or is and will be muzzled and confined in the owner's or custodian's fenced-in yard with adequate shelter until the proper enclosure can be constructed.

b. In addition, owners or custodians who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

a.(1) Their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and

b.(2) The animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implant.

(3.) While on the property of its owner or custodian, an animal to be found by the court to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design, with adequate shelter, to prevent its escape and to prevent direct contact with or entry by minors, adults or animals. When off its owner's or custodian's property, an animal found by a court to be a dangerous dog shall be caged or kept securely on leash no longer than six (6) feet and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(4.) If the owner or custodian of a dangerous dog is an unemancipated minor, the custodial parent or

legal guardian shall be responsible for complying with all the requirements of this section.

(5.) After an animal has been found by a court to be a dangerous dog, the animal's owner or custodian shall, upon learning of same, immediately notify the animal warden if the animal;

a. Is loose or unconfined;

b. Bites or attacks either a person or other animal;

c. Is sold, given away or dies; or

d. Has been moved to a different address.

(e)E. *Penalty.* The owner or custodian of any animal who fails to comply with the requirements of this section shall be guilty of a Class 1 misdemeanor.
(8-9-75; 11-14-81; Ord. No. 96-16, 10-26-96)

§ 2-11. Interference, eEtc., with dDogs.

It shall be unlawful for any person, other than the owner or lawful possessor, to remove or cause to be removed the collar, license tag or rabies vaccination tag from the neck of any dog, or entice any dog out of the enclosure or house, or off the premises of its owner or lawful possessor, or to seize or molest any dog while held or led by its owner or lawful possessor.
(10-12-64)

§ 2-12. Licensing of dDogs.

(a)A. Dog licenses required by section § 2-7 of this chapter shall run for a period of one (1) year or a period of three (3) years from the dates of their issuance. No license tax will be imposed on any dog owner moving into Arlington County who possesses a valid dog license issued by another political subdivision of Virginia and a valid certificate of rabies vaccination. However, such owners will be required to have an Arlington County license tag for which a charge of twenty-five cents ($0.25) will be imposed.

(b)B. The license tax shall be as follows:

(1.) Ten dollars ($10.00) for each dog regardless of sex for a one (1)- year license.

(2.) Twenty-five dollars ($25.00) for each dog regardless of sex for a three (3)- year license.

(3.) A kennel shall mean any lot or premises on which four (4) or more dogs, more than four (4) months of age are kept. No kennel shall be located in the eCounty without the approval of the eCounty zZoning aAdministrator and no license for a kennel shall be issued until the zZoning aAdministrator has approved of its location.

(4.) Twenty-five cents ($0.25) for a duplicate tag.

(c)C. Any person may obtain a dog license by making oral or written application to the designated officer of Arlington County accompanied by the amount of the license tax and the certificate of vaccination. The officer charged with issuing dog licenses shall only have authority to license dogs of owners or custodians who reside within the boundaries of Arlington County and may require information to this effect from any applicant. Upon receipt of the proper license tax, application and certificate of vaccination the designated officer shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the year for which issued, the serial number of the tag and shall deliver the license tag provided by Arlington County.

(1.) No unclaimed dog shall be released from the animal shelter for adoption without written

agreement from the adopter guaranteeing that the dog will be vaccinated for rabies and licensed as required by law.

(2.) No animal shall be released from the animal shelter for adoption without written agreement from the adopter that the animal will be sterilized. Proof of sterilization shall be submitted to the animal shelter by the date specified in the written agreement.

(d)D. The cCounty mManager shall designate an officer of Arlington County to handle the sale of dog licenses for Arlington County. The cCounty mManager shall, from time to time, prescribe such regulations as are necessary for the sale of Arlington County dog licenses which shall include but not be restricted to the following:

(1.) Specifications for the individual and kennel license tags.

(2.) The contents, design, method of preparation, distribution and filing of any receipts, forms or reports required.

(3.) The method of disposing of unsold tags at the end of a calendar year.

(4.) The method of issuing duplicate tags.

(e)E. It is unlawful for any person to make a false statement in order to secure a dog license to which he is not entitled.

(f)F. It is unlawful for any person to conceal or harbor any dog on which the license has not been paid, or to conceal a mad dog to keep the same from being killed.
(10-12-64; 8-9-75; 9-24-77; 11-14-81; Ord. No. 86-2, 1-4-86; Ord. No. 86-18, 6-28-86)

§ 2-13. Enforcement.

The cCounty mManager shall be responsible for establishing such facilities and procedures as are necessary for the proper enforcement of this article.
(10-12-64)

ARTICLE III.

ANIMAL HOUSING

§ 2-14. Definitions.

The following words and phrases,terms when used in this article, shall have the following meanings respectively ascribed to them in this sectionunless the context clearly indicates otherwise:

"Animal" shall means domestic animals, including both agricultural and companion animals, if not specified otherwise.

"Companion animals" shall means dogs, both domestic and feral, cats, both domestic and feral, monkeys and all members of the monkey family, guinea pigs, hamsters, rabbits, reptiles, exotic animals and exotic and native birds.

"County Manager" shall means the Arlington County Manager or his authorized representativesdesignees.

"Exotic bird" shall means any bird that is not a native species to the United States.

"Owner" shall includemeans any person having a right of property in an animal, and any person who keeps or harbors an animal, or has in his care, or who acts as its custodian, and any person who permits an animal to remain on or about any premises occupied by him. Owner shall also include all persons, firms, copartnerships or

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corporations, irrespective of residence or business address who own, board, sell or offer for sale any animal or birds in Arlington County.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, cage, compartment, or hutch.
(3-23-63; 11-6-76; 11-14-81)

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§ 2-15. Minimum ~~r~~Requirements.

It shall be unlawful for any owner to violate the following minimum requirements governing the manner of keeping, raising or sheltering of any animal on any premises, lot or in any structure or building in Arlington County:

Item 1. All animals must be supplied with sufficient, good and wholesome food and water as often as the feeding habits of such animals require.

Item 2. All animals shall be provided a proper enclosure as its quarters which shall have clean, dry bedding, floors elevated at least four (4) inches from the ground and all sides enclosed including the front. All animals, animal quarters and primary enclosures shall be kept in a clean and sanitary condition and adequate ventilation shall be maintained.

Item 3. Proper shelter and protection from the weather shall be provided at all times. Animals must not be overcrowded nor exposed to excessive heat or cold. Proper temperature for the well-being of animals shall be maintained at all times.

Item 4. Every reasonable precaution shall be used to ensure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or by any means.

Item 5. No condition shall be maintained or permitted to exist that is, or could be, injurious to the animals.

Item 6. Animals must be maintained in quarters so constructed as to prevent their escape. The owner assumes full responsibility for recapturing any animal that escapes from his premises. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

Item 7. Animal bedding shall be sufficient in size and quantity and shall be kept clean.

Item 8. Sick or diseased animals shall be isolated from healthy animals at all times, so segregated that the illness or disease shall not be transmitted to another animal, and shall not be sold.

ARTICLE IV.

SALE AND DISTRIBUTION OF LIVE TURTLES

§ 2-16. Sale and ~~d~~Distribution of ~~l~~Live ~~t~~Turtles.

It shall be unlawful to sell or offer for sale to the public a live turtle or turtles.
(8-9-75)

§ 2-17. Enforcing ~~a~~Agency.

The ~~c~~County ~~m~~Manager or his ~~authorized representative~~designee shall be considered as the enforcing officer of this article.
(4-23-63)

ARTICLE V.

REPTILES

§ 2-18. Definitions.

The following words ~~or phrases~~and terms, when used in this article, shall have the following meanings ~~respectively ascribed to them in this section~~unless the context clearly indicates otherwise:

"Reptile" ~~shall include~~means all species of reptiles.

"Poisonous reptile" ~~shall refer to~~means any reptile, including snakes, which is venomous.

"To be at large" ~~shall refer to~~means any reptile as defined in this section, which, through any method of movement, is off the property of its owner or custodian or not under its owner's or custodian's immediate control, whether it has escaped accidentally or been purposely released.
(11-14-81; Ord. No. 08-12, 05-17-08, effective 06-17-08)

§ 2-19. Keeping and ~~h~~Handling of ~~r~~Reptiles.

~~(a)~~A. No person shall keep, or permit to be kept, any poisonous reptile, as defined in § 2.18, for any purpose, except that this prohibition shall not apply to zoological or educational animal exhibitions, circuses, wildlife rehabilitators, scientific researchers, animal shelters or veterinary clinics which are properly licensed or permitted by the Federal Government or the Commonwealth of Virginia.

~~(b)~~B. Poisonous reptiles lawfully kept for the purposes stated herein shall not be allowed by their owner or custodian to be at large or to be exhibited or displayed in such a manner that persons other than their handlers can pet, fondle, or otherwise come in direct physical contact with such reptiles.

~~(c)~~C. It shall be unlawful for the owner or keeper of any reptile to keep any such reptile in any manner that will not sufficiently confine any such reptile as to prevent its escape or to knowingly permit such reptile to be at large.

~~(d)~~D. Any poisonous reptile found to be at large shall be captured and confiscated by the animal warden and the owner of that reptile shall be required to pay a fee, to be determined by the animal warden, which covers the ~~c~~County's actual cost in locating and capturing or otherwise disposing of the reptile.

~~(e)~~E. It shall be unlawful for any person to purposely release a poisonous reptile into the community.
(Ord. No. 08-12, 05-17-08)

§ 2-20. Penalty.

Any person violating any of the provisions of this article, except § 2-19.E~~(e)~~ shall be deemed guilty of a Class 4 misdemeanor. Each day a violation of this article shall continue constitutes a separate offense; and for each poisonous reptile kept, a separate offense shall arise. Any person convicted of violating § 2-19.E~~(e)~~ to this ~~A~~article or who commits a subsequent violation of any other section of this ~~A~~article shall be guilty of a Class 3 misdemeanor.
(Ord. No. 08-12, 05-17-08)

ARTICLE VI.

TRAPPING OF ANIMALS

§ 2-21. Trapping and/or ~~p~~Poisoning of ~~a~~Animals ~~p~~Prohibited.

It shall be unlawful for any person to set or bait any trap or other contrivance for the catching of game or tame animals, or to knowingly permit any such trap to be set or baited on his premises or property or to set out any

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poisoned bait with the intent of poisoning any game or tame animal except by the consent of the animal warden. Only box traps may be used for the purposes of trapping a game or domestic animal.
(11-14-81)

ARTICLE VII.

PENALTIES

§ 2-22. Penalties for ~~v~~Violations.

The violations of or failure to comply with any requirements of this chapter except ~~section~~ § 2-12.C~~(c)(2)~~ shall constitute a misdemeanor. Upon conviction, the person found guilty shall be punished by a fine not to exceed one hundred dollars ($100.00). A violation of ~~section~~ § 2-12.C~~(c)~~ shall be a misdemeanor and, upon conviction, the person shall be punished by confinement in jail for not more than twelve (12) months, or fined not more than three hundred dollars ($300.00), either or both. Each day of any such violation or failure to comply shall constitute a separate offense.
(11-14-81)

§ 2-23. Repeated ~~o~~Offenses and ~~o~~Offenses ~~i~~Involving ~~i~~Injury to ~~h~~Humans.

~~(a)~~A. It shall be unlawful and a separate offense for any person to commit, within a twelve-month period, three (3) or more violations of any of the following sections of Chapter 2 above: 2-2, 2-3, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-15, 2-18, 2-19 and 2-20. The penalty shall be a fine of not more than one hundred dollars ($100.00), which shall not be prepayable.

~~(b)~~B. In any case where an offense in Chapter 2 involves an injury to a human, the fine shall not be prepayable.
(Ord. No. 82-12, 4-24-82)

ARLINGTON COUNTY CODE

Chapter 3

BUILDING CODE*

_____

* **Editor's Note:** Ord. No. 09-11, adopted April 28, 2009, amended Ch. 3, in its entirety, as herein set-out. Prior to inclusion of said ordinance, Ch. 3 pertained to similar subject matter.

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§ 3-1. Definitions.
§ 3-2. Availability of ~~b~~Building ~~c~~Codes.
§ 3-3. Supplemental ~~r~~Requirements.
§ 3-4. Reserved.
§ 3-5. Permit ~~f~~Fees.
§ 3-6. Effect on ~~o~~Other ~~l~~Legislation.
§ 3-7. Severability.
§§ 3-8.1--3-8.3. Reserved.
§ 3-9. ~~Exterior driveways.~~Frost Depth.
§ 3-10. ~~Maintenance.~~Reserved.
§ 3-11. Reserved.
§ 3-12. ~~Snow loads and frost line requirements.~~Reserved.
§ 3-13. Reserved.
§ 3-14. Unsafe ~~b~~Buildings.
§ 3-15. ~~Small appliance replacement program.~~Reserved.
§ 3-16. ~~Arlington County Building Code Board of Appeals.~~Reserved.

§ 3-1. Definitions.

The following words and ~~phrases~~terms, when used in this chapter, shall have the following meanings ~~respectively ascribed to them in this Section~~unless the context clearly indicates otherwise:

"Administrative authority"~~. Wherever the words "administrative authority" appear in this code, they shall~~ means the ~~b~~Building ~~o~~Official.

"Building Official"~~. Wherever the term "building official" is used in the building code, it shall be held to~~ means the ~~i~~Inspections ~~s~~Services ~~d~~Division ~~c~~Chief for the ~~c~~County or such other person as is designated by the County Manager to serve as the "~~b~~Building ~~o~~Official."

"Municipality"~~. Wherever the word "municipality" is used in the building code, it shall be held to~~ means the ~~c~~County.

(12-8-79; 9-22-81; Ord. No. 82-42, 12-4-82; Ord. No. 86-11, 5-17-86; Ord. No. 97-7, 4-12-97; Ord. No. 07-13, 09-18-07, effective 10-01-07, Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 4-28-09, effective 7-1-09)

§ 3-2. Availability of ~~b~~Building ~~c~~Codes.

There is hereby made available by the County Board of Arlington County, Virginia, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties, those certain building codes known as the Uniform Statewide Building Code, adopted and promulgated by the Virginia State Board of Housing pursuant to Chapter 6, Title 36, of the Code of Virginia, (1950) as amended, have been and now are filed in the office of the ~~i~~Inspection ~~s~~Services ~~d~~Division and may be viewed there during their regular business days.

(12-8-79; 9-22-81; Ord. No. 82-42, 12-4-82; Ord. No. 86-11, 5-17-86; Ord. No. 97-7, 4-12-97; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 04-28-09, effective 07-01-

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§ 3-3. Supplemental ~~r~~Requirements.

Barbed wire and electrically charged fences. Barbed wire shall not be allowed on any fence or wall at a height of less than six (6) feet. Sharp, unfinished, or cut prongs or links of open mesh type fences shall not be allowed on any fence at a height of less than six (6) feet unless the cut prongs or links are placed at the bottom of the fence. The erection or installation of an electrically charged fence is prohibited.
(12-8-79; Ord. No. 82-42, 12-4-82; Ord. No. 86-11, 5-17-86; Ord. No. 88-8, 4-30-88; Ord. No. 94-9, 4-23-94; Ord. No. 97-7, 4-12-97; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 3-4. Reserved.

Editors Note: Former § 3-4, which pertained to fire limits and derived from legislation of Dec. 18, 1976, was repealed by Ord. No. 86-11, adopted May 17, 1986.

§ 3-5. Permit ~~f~~Fees.

All fees shall be paid prior to release of the permit and in accordance with the fee schedule as it may be adopted from time~~-~~ to~~-~~ time by the County Board.
(12-8-79; 10-21-80; 9-22-81; Ord. No. 82-5, 2-27-82; Ord. No. 82-42, 12-4-82; Ord. No. 83-10, 7-1-83; Ord. No. 84-9, 4-28-84; Ord. No. 85-25, 7-13-85; Ord. No. 86-11, 5-17-86; Ord. No. 87-9, 3-21-87; Ord. No. 88-8, 4-30-88; Ord. No. 90-6, 7-1-90; Ord. No. 91-17, 7-1-91; Ord. No. 92-1, 2-1-92; Ord. No. 93-4, 7-1-93; Ord. No. 94-9, 4-23-94; Ord. No. 95-8, 4-29-95; Ord. No. 97-7, 4-12-97; Ord. No. 98-10, 7-1-98; Ord. No. 99-9, § 1, 4-14-99; Ord. No. 03-10, 4-26-03; Ord. No. 04-10, 4-24-04, effective 07-01-04; Ord. No. 07-13, 09-18-07, effective 10-01-07, Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 04-28-09, effective 07-01-09; Ord. No. 10-10, 4-24-10)

§ 3-6. Effect on ~~o~~Other ~~l~~Legislation.

Nothing in this chapter or in the ~~b~~Building ~~c~~Code adopted in this chapter shall be held to invalidate any part of the ~~z~~Zoning ~~o~~Ordinance of the ~~c~~County, dated July 15, 1950, except in cases of direct conflict.
Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, enacted 04-19-08, effective 07-01-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 3-7. Severability.

If any part or parts, section, subsection, sentence, clause, or phrase of this chapter is for any reason declared unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter, which shall remain in full force and effect as if this chapter had been passed with the unconstitutional or otherwise invalid part or parts, section, subsection, sentence, clause or phrase thereof eliminated.
Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, enacted 04-19-08, effective 07-01-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 3-8. Reserved.

§§ 3-8.1--3-8.3. Reserved.

Editors Note: Former §§ 3-8.1--3-8.3, which pertained to safety requirements, were repealed by Ord. No. 86-11, enacted May 17, 1986. The repealed provisions derived from an ordinance of Dec. 8, 1979, and Ord. No. 82-42, enacted Dec. 4, 1982.

§ 3-9. Frost Depth.

The frost line depth shall be twenty~~-~~-four (24) inches.
(9-22-81; Ord. No. 82-42, 12-4-82; Ord. No. 88-8, 4-30-88; Ord. No. 90-6, 7-1-90; Ord. No. 92-1, 2-1-92; Ord. No. 97-7, 4-12-97; Ord. No. 04-22, 10-2-04, effective 07-01-04; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, enacted 04-19-08, effective 07-01-08; 09-11; 04-28-09, effective 07-01-09)

§ 3-10. Reserved.

Editors Note: Former § 3-10, which pertained to maintenance and derived from legislation of Sept. 22, 1981, was repealed by Ord. No. 09-11, enacted April 28, 2009.

§ 3-11. Reserved.

Editors Note: Former § 3-11, which pertained to smoke detectors and derived from legislation of Sept. 22, 1981, was repealed by Ord. No. 86-11, enacted May 17, 1986.

§ 3-12. Reserved.

Editors Note: Former § 3-12, which pertained to snow loads and frontline requirements derived from legislation of Sept. 22, 1981, was repealed by Ord. No. 07-13, enacted Sept. 18, 2007.

§ 3-13. Reserved.

Editors Note: Former § 3-13, which pertained to parking garage clearances, and derived from Ord. No. 82-42, enacted Dec. 4, 1982 and Ord. No. 83-18, enacted June 18, 1983, was repealed by Ord. No. 93-25, enacted Dec. 14, 1993.

§ 3-14. Unsafe ~~b~~Buildings.

~~(1)~~ *Abatement or removal of nuisances and recovery of costs.* Whenever the ~~b~~Building ~~o~~Official believes dangerous, unsafe, or unsanitary conditions exist in any building, and further believes that those conditions menace the health and safety of the building's occupants or the public, then the ~~b~~Building ~~o~~Official shall declare the building to be a public nuisance, shall order the responsible party to abate, raze, or remove the nuisance, and shall initiate a legal action to compel the responsible party to do so.

~~(a)~~A. Authority to require removal or repair of unsafe buildings and structures and recovery of costs.

~~(1)~~1. The owner of property shall at such time or times as the ~~b~~Building ~~o~~Official may prescribe, remove, repair, or secure any building, wall, or any other structure which might endanger the public health or safety of other residents. The ~~b~~Building ~~o~~Official, through its own agents or employees, may remove, repair, or secure any building, wall, or any other structure which might endanger the public health or safety of other residents and the ~~c~~County, when the owner and lien holders of property, after reasonable notice and a reasonable time to do so, have failed to remove, repair, or secure said building, wall, or other structure.

~~(2)~~2. In the event the ~~c~~County, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions above, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the ~~c~~County as taxes and levies are collected.

~~(3)~~3. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 and 4 of Chapter 39 of Title 58.1 of the Code of Virginia.

~~(b)~~B. Whenever a public nuisance exists in the ~~c~~County, the ~~c~~County ~~m~~Manager or his designee may maintain an action to compel the responsible party to abate, raze, or remove such public nuisance. If the public nuisance presents an imminent and immediate threat to life or property, then the ~~c~~County may abate, raze, or remove such public nuisance and recover from the responsible party the necessary costs incurred for the provision of public emergency services reasonably required to abate any such public nuisance.

~~(c)~~C. The term "nuisance" shall include, but not be limited to, dangerous or unhealthy substances which have escaped, spilled, been released, or which have been allowed to accumulate in or on any place, and all unsafe,

dangerous, or unsanitary public or private buildings, walls, or structure which constitute a menace to the health and safety of the occupants thereof or the public. The term "responsible party" shall include, but not be limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released, and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or negligence caused such public nuisance.
(Ord. No. 82-42, 12-4-82; Ord. No. 83-18, 6-18-83; Ord. No. 90-26, 8-11-90; Ord. No. 93-25, 12-13-93), Ord. No. 07-13, 09-18-07, effective 10-01-07, Ord. No. 08-08, 09-18-07, effective 07-01-07; Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 3-15. Reserved.

Editors Note: Former § 3-15, which pertained to the small appliance replacement program derived from legislation of June 18, 1983, was repealed by Ord. No. 07-13, enacted Sept. 18, 2007.

§ 3-16. Reserved.

Editors Note: Former § 3-16, which pertained to the Arlington County Building Code Board of Appeals derived from legislation of Sept. 23, 1989, was repealed by Ord. No. 07-13, enacted Sept. 18, 2007.

Chapter 4

RESERVED*

* **Editors Note:** Ord. No. 92-43, adopted Aug. 8, 1992, repealed former Ch. 4, §§ 4-1--4-4, relative to carnivals and shows, which derived from Min. Bk. 1, p. 152, of May 7, 1932.

ARLINGTON COUNTY CODE

Chapter 5

CEMETERIES

§ 5-1. Application to ~~u~~Use ~~c~~Cemeteries for ~~b~~Burial of ~~d~~Dead ~~b~~Bodies--Required.
§ 5-2. Same--Contents and ~~f~~Form.
§ 5-3. Same--Notice of ~~i~~Intention to ~~m~~Make.

§ 5-1. Application to ~~u~~Use ~~c~~Cemeteries for ~~b~~Burial of ~~d~~Dead ~~b~~Bodies--Required.

It shall be unlawful for any person to bury any corpse or dead body in any public cemetery within the limits of the ~~c~~County until or after application has been made to the ~~c~~County ~~b~~Board for permission to use or employ any land as such public cemetery for the burial or interment of dead bodies or corpses and this ~~b~~Board shall have approved the use of the land as a public cemetery or given its consent to the use of the land for such purposes.
(7-14-24)

§ 5-2. Same--Contents and ~~f~~Form.

The application for permission to use any land for the purpose of a public cemetery shall be in writing and addressed to the ~~c~~County ~~b~~Board. It shall state the name of the individual, person, party or corporation asking the privilege, the location and area of the land proposed to be used for such purposes and the names of the adjoining and adjacent real estate owners.
(7-14-24)

§ 5-3. Same--Notice of ~~i~~Intention to ~~m~~Make.

Notice of the intention to make the application referred to in this ~~c~~Chapter and the day on which it will be made shall be served on each of the property owners at least ten (10) days prior to the day mentioned in this notice and by publication of the notice in one (1) or more newspapers printed and published in the ~~c~~County once a week for four (4) successive weeks immediately preceding the day upon which such application is to be made.
(7-14-24)

ARLINGTON COUNTY CODE

Chapter 6

CIVIL SERVICE

§ 6-1. Civil ~~s~~Service ~~c~~Commission--Created.
§ 6-2. Same--Designation; ~~t~~Term.
§ 6-3. Same--Composition; ~~q~~Qualifications.
§ 6-4. Same--Compensation; ~~f~~Funds.
§ 6-5. Same--Chairman.
§ 6-6. Same--Quorum.
§ 6-7. Same--Removal of ~~m~~Members.
§ 6-8. Same--Responsibilities and ~~d~~Duties.
§ 6-9. Department of ~~p~~Personnel ~~e~~Established.
§ 6-10. Responsibilities and ~~d~~Duties of the ~~c~~County ~~m~~Manager.
§ 6-11. Director of ~~p~~Personnel--Qualifications and ~~m~~Method of ~~a~~Appointment.
§ 6-12. Same--Powers and ~~d~~Duties.
§ 6-13. Employee/~~e~~Employer ~~r~~Relations.
§ 6-14. ~~Two~~ Three ~~c~~Classes of ~~s~~Service.
§ 6-15. Administrative ~~r~~Regulations (~~p~~Personnel).
§ 6-16. Present ~~e~~Employees to ~~r~~Retain ~~p~~Positions.
§ 6-17. Basis for ~~a~~Appointments, ~~p~~Promotions, ~~d~~Dismissals, ~~e~~Etc., of ~~c~~Certain ~~e~~Employees.
§ 6-18. Probational ~~a~~Appointments; ~~d~~Disciplinary ~~a~~Action for the ~~c~~Competitive ~~s~~Service.
§ 6-19. Job ~~e~~Evaluation and ~~c~~Classification ~~s~~System for the ~~c~~Competitive ~~s~~Service.
§ 6-20. Pay ~~s~~System and ~~p~~Plan.
§ 6-21. Promotions.
§ 6-22. Prohibited ~~p~~Practices ~~g~~Generally.
§ 6-23. Political ~~a~~Activities.
§ 6-24. Penalties.
§ 6-25. Suspension of ~~p~~Provisions.
§ 6-26. Physical ~~e~~Examination of ~~p~~Policemen and ~~f~~Firemen.
§ 6-27. Employment of ~~o~~Off-~~d~~Duty ~~o~~Officers.
§ 6-28. Employee ~~b~~Benefits; ~~h~~Housing ~~a~~Assistance.
§ 6-29. Employee ~~b~~Benefits: ~~r~~Retiree ~~m~~Medical and ~~d~~Dental ~~p~~Plan.

§ 6-1. Civil ~~s~~Service ~~c~~Commission--Created.

Under authority vested in the ~~c~~County ~~b~~Board by the Code of Virginia, 1950, § 15.2-721~~Section 15-355~~, there is hereby created the Arlington Civil Service Commission, hereinafter referred to as "the ~~c~~Commission."
(6-15-51)

§ 6-2. Same--Designation; ~~t~~Term.

The terms of office of members of the ~~c~~Commission shall expire June 30, 1964. The ~~b~~Board shall appoint successors to members whose terms are so terminated for terms ending on June 30, 1965, 1966 and 1967. At the expiration of the term of each such member, his successor shall be appointed for a term of four (4) years.
(8-24-64)

§ 6-3. Same--Composition; ~~q~~Qualifications.

~~(a)~~A. The ~~c~~Commission shall be composed of five (5) persons who are qualified voters in the ~~c~~County, who have had broad experience in management or public affairs, and who are in full agreement with the application of merit principles in public employment.

~~(b)~~B. Members of the ~~c~~Commission shall not, while serving, become candidates for election to public

office; nor shall they be a member of any local, state or national committee of a political party, nor any officer of any organization which actively sponsors and works for the election of candidates to public office.

~~(c)~~C. Members of the ~~c~~Commission shall hold no paid office or employment under the government of the ~~c~~County while serving as members of the ~~c~~Commission.
(6-15-51; 7-1-78)

§ 6-4. Same--Compensation; ~~f~~Funds.

Members of the ~~c~~Commission shall serve without compensation, but funds will be provided by the ~~c~~County ~~b~~Board in the annual budget for reasonable and necessary expenses to be incurred by the ~~c~~Commission.
(6-15-51)

§ 6-5. Same--Chairman.

The ~~c~~County ~~b~~Board shall designate one (1) member of the ~~c~~Commission to serve as ~~c~~Chairman; and the ~~c~~County ~~b~~Board shall give consideration at its first meeting in each calendar year to continuation of its previous designation of the ~~c~~Chairman of the ~~c~~Commission.
(6-15-51)

§ 6-6. Same--Quorum.

Three (3) members of the ~~c~~Commission shall constitute a quorum for the transaction of business.
(10-13-79)

§ 6-7. Same--Removal of ~~m~~Members.

Any member of the ~~c~~Commission may be removed for good cause shown by a majority vote of the ~~c~~County ~~b~~Board, but only after the ~~c~~County ~~b~~Board has given the member a statement in writing of the reasons for such removal and an opportunity to be heard before a public session of the ~~c~~County ~~b~~Board.
(6-15-51)

§ 6-8. Same--Responsibilities and ~~d~~Duties.

The ~~c~~Commission shall have the responsibility and shall be required:

~~(a)~~A. To represent the public interest in the improvement of personnel administration in the ~~c~~County Service.

~~(b)~~B. To advise the ~~c~~County ~~b~~Board, the ~~c~~County ~~m~~Manager and the ~~d~~Director of ~~p~~Personnel in the formulation of policies concerning personnel administration in the competitive service.

~~(c)~~C. To foster the interests of institutions of learning, and of civic, professional and employee organizations in the improvement of personnel standards in the ~~c~~County ~~s~~Service.

~~(d)~~D. To investigate any or all matters relating to conditions of employment in the service of the ~~c~~County and to make, at least annually, a report of its findings and recommendations. The annual report of the ~~c~~Commission to the ~~c~~County ~~b~~Board shall be made available to the public concurrently upon presentation to the ~~c~~County ~~b~~Board.

~~(e)~~E. To make specific recommendations to the ~~c~~County ~~b~~Board concerning such changes in ~~s~~State legislation affecting personnel administration and the broadening of the coverage of the merit system for the ~~c~~County as would be necessary and desirable to ensure fairness of treatment in salary opportunity (namely, equal pay for equal work requiring equal qualifications) and other employment conditions for all employees of the ~~c~~County within or without the competitive service, as herein defined.

~~(f)~~F. To perform other duties as set forth elsewhere in this ~~c~~Chapter.

~~(g)~~G. To select and appoint a clerk if authorized by ~~s~~State law and if sufficient funds are appropriated for that purpose by the ~~c~~County ~~b~~Board. The ~~c~~Clerk shall have the duties of:

1. Attending all ~~c~~Commission meetings and taking such notes and minutes of the meetings, as directed by the ~~c~~Commission and as required by law;

2. Assisting the ~~c~~Commission in scheduling matters to be considered by the ~~c~~Commission;

3. Ensuring that the appropriate persons are notified of matters to be considered by the ~~c~~Commission;

4. Coordinating the obtaining of information required by the ~~c~~Commission;

5. Performing other clerical duties as the ~~c~~Commission may direct.

If ~~s~~State law does not permit the ~~c~~Commission to hire the ~~c~~Clerk, the ~~c~~County ~~m~~Manager is authorized to hire a person to serve in that function.

~~(h)~~H. To appoint such other employees as the ~~c~~Commission deems appropriate if authorized by ~~s~~State law and if sufficient funds are appropriated for that purpose by the ~~c~~County ~~b~~Board. If ~~s~~State law does not permit the commission to hire these employees, the ~~c~~County ~~m~~Manager is authorized to hire such other employees as the ~~c~~Commission deems appropriate.

~~(i)~~I. To adopt such procedural rules as it deems necessary for the conduct of its meetings, hearings or other matters within its jurisdiction.
(6-5-51; 10-13-79; Ord. No. 87-27, 1-3-88)

§ 6-9. Department of ~~p~~Personnel ~~c~~Established.

There is hereby established a ~~d~~Department of ~~p~~Personnel for the ~~c~~County.
(6-15-51)

§ 6-10. Responsibilities and ~~d~~Duties of the ~~c~~County ~~m~~Manager.

In the administration of the personnel system established by this chapter, the ~~c~~County ~~m~~Manager shall have the authority and shall be required:

~~(a)~~A. To administer the merit system, through his general authority to supervise the ~~d~~Director of ~~p~~Personnel and all other heads of departments, subject to the personnel rules adopted hereunder.

~~(b)~~B. To recommend proposed personnel rules to the ~~c~~Commission.

~~(c)~~C. To appoint and, when necessary for the good of the service, remove employees in the competitive service.

~~(d)~~D. To appoint and remove employees in the executive management service.

~~(e)~~E. To cooperate with and render necessary assistance to the ~~c~~Commission.
(10-13-79; Ord. No. 03-15, enacted 6-14-03)

§ 6-11. Director of ~~p~~Personnel--Qualifications and ~~m~~Method of ~~a~~Appointment.

The ~~c~~County ~~m~~Manager shall appoint a ~~d~~Director of ~~p~~Personnel who shall be a person trained and skilled in personnel administration, with knowledge of and interest in public personnel administration.
(6-15-51)

§ 6-12. Same--Powers and ~~d~~Duties.

The ~~d~~Director of ~~p~~Personnel shall have general management and control of the ~~d~~Department of ~~p~~Personnel and shall have the following functions and responsibilities:

~~(a)~~A. The head of the ~~d~~Department of ~~p~~Personnel shall be the ~~d~~Director of ~~p~~Personnel. Under the administrative direction of the ~~c~~County ~~m~~Manager, the ~~d~~Director of ~~p~~Personnel shall be responsible for the selection of all employees of the ~~d~~Department of ~~p~~Personnel, in such numbers and grades as may be authorized by the ~~c~~County ~~b~~Board in the annual budget, or amendments thereto.

~~(b)~~B. To give leadership to department heads in the application of sound principles of human relations to matters of supervision, teamwork, discipline, employee adjustments and work motivation. To stimulate all supervisory personnel to use the most effective methods of utilization and coordination of employee abilities and skills.

~~(c)~~C. To conduct open competitive assembled or unassembled examinations for all original appointments in the competitive service and, whenever the ~~c~~County ~~m~~Manager shall determine in accordance with the rules of the ~~c~~Commission that the same is practicable, for promotions in the competitive service. To give wide publicity to all announcements of competitive examinations. To organize plans for the recruitment of trained personnel for the ~~c~~County's competitive service; provided, that in formulating examinations he shall consult with all department heads concerning their personnel requirements and the qualifications necessary to perform the work.

~~(d)~~D. To maintain eligible lists, based on such examinations, for each class of position in the competitive service to which appointments are to be made.

~~(e)~~E. To enter into, with the approval of the ~~c~~Commission and the ~~c~~County ~~m~~Manager, agreements with other public personnel departments or agencies (local, regional, ~~s~~State or federal) for the joint administration of examinations and the joint use of eligible lists resulting therefrom or for the administration by the ~~d~~Department of ~~p~~Personnel of other personnel systems.

~~(f)~~F. To prepare and recommend, when appropriate, to the ~~c~~County ~~m~~Manager a job evaluation and classification system for all positions in the competitive service for consideration by the ~~c~~County ~~b~~Board pursuant to its authority under ~~section~~ § 6-19.A~~(a)~~. The job evaluation and classification system shall include a classification plan that groups similar positions under a common class title and description. The ~~p~~Personnel ~~d~~Director shall consult with affected agency heads about changes deemed necessary to the classification plan and review with the agency heads the content and qualifications of positions as stated in the position descriptions, and, based upon such review, make a recommendation to the ~~c~~County ~~m~~Manager. The ~~c~~County ~~m~~Manager may, by written determination, delegate to the ~~p~~Personnel ~~d~~Director authority to make final decisions for changes in the classification plan and content and qualifications of categories of positions stated in the written determination.

~~(g)~~G. To prepare and recommend to the ~~c~~County ~~m~~Manager a pay system, including a pay plan with salary rates and rules covering all employees in the competitive service.

~~(h)~~H. To review at least once each fiscal year the pay plan in consultation with the ~~c~~County ~~m~~Manager. The ~~c~~County ~~m~~Manager's recommendations for amendments or revision shall be forwarded to the ~~c~~County ~~b~~Board, together with the comments thereon of the ~~c~~Commission.

~~(i)~~I. To direct and enforce the maintenance by all departments, boards, commissions and offices of the ~~c~~County, excluding the ~~s~~School ~~d~~Department and employees under ~~a~~Attorney for the ~~s~~State, the ~~t~~Treasurer, the ~~s~~Sheriff, the ~~c~~Commissioner of the ~~r~~Revenue, and the ~~c~~Clerk to the ~~c~~Circuit ~~c~~Court, of such personnel records of members of the competitive service as he shall prescribe.

~~(j)~~J. To maintain a roster of all persons in the competitive service which shall specify as to each such person:

~~(1)~~1. The class title of the position held;

~~(2)~~2. The position grade;

~~(3)~~3. The current salary or pay rate;

~~(4)~~4. Any changes in class title, salary or pay; and

~~(5)~~5. Such other data as may be deemed useful or significant in the development of a career service.

~~(k)~~K. To certify approved appointments to the management, systems and budgets department, and no payments for personal services shall be made to any person in the competitive service unless so certified.

~~(l)~~L. To assist department heads in developing systematic programs of in-service training for members of the competitive service, for the purpose of bettering their performance and of qualifying them when practicable for consideration when vacancies occur in the service of the ~~c~~County.

~~(m)~~M. To encourage and cooperate with ~~c~~County employees in developing employee health and welfare activities.

~~(n)~~N. To investigate the operation and effect of this ~~c~~Chapter, and any amendments thereto hereafter adopted by the ~~c~~County ~~b~~Board, and the rules adopted thereunder, and report annually in writing his findings and recommendations to the ~~c~~County ~~m~~Manager.

~~(o)~~O. To perform such duties for the ~~c~~Commission as it shall direct.

~~(p)~~P. The ~~d~~Director of ~~p~~Personnel shall be authorized to request and receive information concerning the criminal history records, including fingerprint comparisons, of applicants for employment with Arlington County, Virginia, in order to determine whether, in the interest of public welfare and safety, the past criminal conduct of an applicant with a conviction record is compatible with the nature of the employment under consideration. Such applicant shall submit to fingerprinting by the Arlington County Sheriff or other agency designated by the ~~d~~Director of ~~p~~Personnel and provide descriptive information as required by the ~~s~~Sheriff or other agency. Such criminal history record information obtained shall be considered confidential and shall be used solely to assess eligibility for public employment and shall not be disseminated to any person not involved in the assessment process.
(2-26-77; 10-13-79; Ord. No. 82-24, 6-28-82; Ord. No. 87-27, 1-3-88; Ord. No. 02-17, 6-22-02)

§ 6-13. Employee/~~c~~Employer ~~r~~Relations.

~~(a)~~A. *Purpose*. The sole underlying purpose of both the ~~c~~County and the employees of the ~~c~~County is to serve and protect the interests of the citizenry of the ~~c~~County. Such interests are best served and protected only when there exists between the ~~c~~County and employees of the ~~c~~County a continuing harmonious relationship. Further, it is recognized that the paramount interests of the citizenry create an employment relationship in the public sector inherently different from that which exists in private employment. It is, therefore, the purpose of this policy to provide guidelines by which management and employees of the ~~c~~County may hear and discuss matters concerning their employment with the ~~c~~County.

~~(b)~~B. *Definitions.*~~:~~ The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

~~(1)~~1. ~~The term~~ "~~c~~County" means Arlington County, Virginia, but does not include the Arlington County School Board.

~~(2)~~2. ~~The term~~ "~~c~~County ~~m~~Manager" means the ~~c~~County ~~m~~Manager or the ~~c~~County ~~m~~Manager's designee.

~~(3)~~3. ~~The term~~ "~~e~~Employee" means any person employed by the ~~c~~County, excluding: ~~E~~employees whose wages are provided for under the budget of the Arlington County School Board; employees employed by the Commonwealth of Virginia; supervisory, judicial and confidential employees of the ~~c~~County; elected and appointed officials; constitutional officers and employees appointed by them; persons possessing the status of independent contractors; and employees whose duties are temporary or seasonal in nature.

~~(4)~~4. ~~The term~~ "~~s~~Supervisory employee" means any individual having authority in the interests of the

~~c~~County:

a. To hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or

b. To responsibly direct other employees; or

c. To adjust the grievances of other employees; or

d. To effectively recommend any action set forth in a., b. or c. of this subsection,~~;~~ ~~P~~provided~~,~~ that the authority to act as set forth in a., b., c. or d. of this subsection requires the exercise of independent judgment and is not merely routine or clerical in nature.

~~(5)~~5. ~~The term~~ "~~p~~Professional employee" means:

a. Any individual whose primary duty consists of the performance of work requiring knowledge of an advanced type in a field of science of learning customarily acquired by a prolonged course or specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship and who customarily and regularly exercises discretion and independent judgment in the performance of such function; or

b. Any employee who has completed or is engaged in a course of specialized intellectual instruction and study described above and who is performing related work in conjunction with a professional employee as described in ~~p~~Paragraph B.6~~(b)(6)~~ of this subsection.

~~(6)~~6. ~~The term~~ "~~t~~Technical employee" means:

a. Any individual whose primary duty consists of the performance of work requiring the routine exercise of a specialized knowledge or skill acquired through distinctive training, as distinguished from a prolonged course of specialized intellectual instruction and study; or

b. Any employee who has completed or is engaged in the distinctive training described above, or who is receiving on-the-job training in a specialized knowledge or skill, and who is performing related work in conjunction with a professional employee as described in ~~p~~Paragraph a. of ~~s~~Subsection B.5~~(b)(5)~~ or technical employees as described in ~~p~~Paragraph a. of this subsection B.6~~(b)(6)~~.

~~(7)~~7. ~~The term~~ "~~c~~Confidential employee" means any individual who, in the course of his or her employment:

a. Has access to confidential ~~c~~County personnel files or other confidential ~~c~~County information (including budgetary and fiscal data) subject to use by the ~~c~~County in the hear and discuss process or in the adjustment of grievances; or

b. Assists and acts in a confidential capacity to persons who formulate, determine and effectuate government policies in the area of employee relations.

~~(8)~~8. ~~The term~~ "~~e~~Employee organization" means any organization or association of any kind which admits to membership employees of Arlington County and which has a primary purpose of representing employees in the public sector as to their conditions of employment.

~~(9)~~9. ~~The term~~ "~~r~~Representation" means any individual employee may represent himself or herself or have an employee organization or individual represent his or her interests in discussions with ~~c~~County representatives as to conditions of employment. Under no circumstances shall exclusive representation be permitted for an employee organization or association.

~~(10)~~10. ~~The term~~ "~~h~~Hear and discuss" means the process by which representatives of the ~~c~~County and individual employees or their chosen employee organization or representative may meet at reasonable times to make known their mutual concerns regarding conditions of employment.

~~(11)~~11. ~~The term~~ "~~c~~Conditions of employment" shall not include:

a. Any subject preempted by or in contravention of federal or ~~s~~State law or governmental charter; or

b. The authority and power of the Arlington County Board, the Arlington County Civil Service Commission, or the ~~p~~Personnel ~~d~~Department to establish and administer standards relating to the recruitment of candidates, to conduct and grade merit examinations and generally to rate candidates in the order of their relative qualifications for the purpose of appointment, assigning, transferring, and promoting employees, to establish position descriptions, class specifications and to assign class specifications to pay grades; or

c. Any subject inconsistent with the provisions of this policy.

~~(12)~~12. ~~The term~~ "~~s~~Strike" means the concerted refusal or failure of employees to perform their duties as assigned.

~~(13)~~13. ~~The term~~ "~~e~~Employee group" means an occupational grouping of employees with a community of interests in their conditions of employment.

~~(c)~~C. *Employee rights*. Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of hearing and discussing with the ~~c~~County and with respect to conditions of employment; provided, that nothing herein shall be deemed to permit an employee to engage in a strike. An employee shall also have the right to refuse to join or to participate in the activities of employee organizations, and shall have the right to represent himself or herself individually or designate a personal representative in his or her employee relations with the ~~c~~County. No employee shall be interfered with, restrained, coerced, intimidated, or discriminated against because of his or her exercise of these rights.

~~(d)~~D. *Procedures for raising a question concerning representation*. An employee organization shall be recognized by the ~~c~~County and shall have the right to represent any employees for the purpose of hearing and discussing conditions of employment. Such employee organization may be required to provide written authorization from the individual employees they represent.

~~(e)~~E. *Employee groups*. The following employee groups shall be the only groups deemed appropriate for the purpose of this policy: all sworn employees of the ~~p~~Police ~~d~~Department; all uniformed employees of the ~~f~~Fire ~~d~~Department; all employees in trades and maintenance occupations; all employees whose functions are primarily clerical in nature; and all professional and technical employees.

~~(f)~~F. *Hear and discuss procedure*. Before the ~~c~~County ~~m~~Manager meets with the ~~c~~County ~~b~~Board in each budget cycle, the ~~m~~Manager shall meet with each employee group to discuss terms and conditions of their employment.

In addition, the ~~c~~County will provide a means of regular communication with employees through the posting of notices on bulletin boards and other effective means.

Adequate time shall be provided for employees to respond to issues to the extent practical, considering each individual item of interest. The response time shall be specified on the notice. The designated ~~c~~County representative who individual employees or their representatives are to contact will be stated on the notice.

~~(g)~~G. *Limitations*. This policy shall not be a substitute for the normal process by which individual employees and their supervisors discuss employment matters.
(6-15-51; 5-7-62; 7-30-77)

§ 6-14. ~~Two~~ Three ~~c~~Classes of ~~s~~Service.

All employees of the ~~c~~County shall be divided into the ~~two (2)~~three (3) following services:

~~(a)~~A. *Competitive service*. Included in the competitive service shall be all positions existing now or hereafter created which are under the administrative control and direction of the ~~c~~County ~~m~~Manager, and to which appointments are made by the ~~c~~County ~~m~~Manager.

~~(b)~~B. *Noncompetitive service*. Included in the noncompetitive service shall be members of the ~~c~~County ~~b~~Board and all other elected officials, the ~~c~~County ~~m~~Manager, the ~~c~~County ~~a~~Attorney, the ~~c~~Clerk to the ~~c~~County ~~b~~Board; employees appointed by the ~~t~~Treasurer, ~~a~~Attorney for the ~~c~~Commonwealth, ~~c~~Commissioner of ~~r~~Revenue, ~~c~~Clerk to the ~~c~~Circuit ~~c~~Court, the ~~c~~County ~~a~~Attorney, the ~~c~~Clerk to the ~~c~~County ~~b~~Board, and the ~~s~~Sheriff; members of part-time boards, councils and commissions, employees of the ~~s~~School ~~b~~Board and heads of departments whose appointment is vested by law in the ~~c~~County ~~b~~Board.

~~(c)~~C. *Executive management service*. Effective June 15, 2003, included in the executive management service shall be employees under the administrative control and direction of the ~~c~~County ~~m~~Manager who are executives or senior executive assistants, which includes, but is not limited to ~~d~~Deputy ~~c~~County ~~m~~Manager, department directors, ~~a~~Assistant~~s~~ ~~c~~County ~~m~~Manager~~s~~, assistants to the ~~c~~County ~~m~~Manager, and legislative liaison. Such employees serve at the will of the ~~c~~County ~~m~~Manager and are exempt from coverage by merit and civil service provisions of this ~~c~~Chapter, and policy and administrative regulations, except as expressly provided therein. Executive employees hired before the effective date of this section shall be converted to this class of service effective June 15, 2003.

The jurisdiction of the ~~c~~Commission shall be limited to the competitive service and employees appointed by the County Attorney.
(6-15-58; Ord. No. 82-24, 6-28-82; Ord. No. 03-15, 6-14-03)

§ 6-15. Administrative ~~r~~Regulations (~~p~~Personnel).

~~(a)~~A. The ~~c~~County ~~m~~Manager shall prepare administrative regulations relating to personnel matters as the need of the service requires.

~~(b)~~B. The ~~c~~Civil ~~s~~Service ~~c~~Commission shall review the draft regulations and may make recommendations to the ~~c~~County ~~m~~Manager.

~~(c)~~C. The regulations shall become effective when approved by the ~~m~~Manager.
(11-4-72; 7-30-77)

§ 6-16. Present ~~e~~Employees to ~~r~~Retain ~~p~~Positions.

All persons in the ~~c~~County ~~s~~Service holding positions included within the competitive service, as defined herein, shall be continued in their respective positions, without further examination. Any such employees who may become subject to removal for disciplinary reasons shall be removed in accordance with the provisions of this ~~c~~Chapter and the personnel rules adopted hereunder.
(6-15-51)

§ 6-17. Basis for ~~a~~Appointments, ~~p~~Promotions, ~~d~~Dismissals, ~~e~~Etc., of ~~c~~Certain ~~e~~Employees.

All employees in the competitive service who are under the administrative control of the ~~c~~County ~~m~~Manager or those employees under the ~~c~~County ~~a~~Attorney shall be appointed, promoted, demoted, transferred or dismissed solely on the basis of merit and fitness for position. The ~~c~~County ~~m~~Manager reserves the right to appoint, promote, dismiss and make other employment decisions regarding the members of the executive management service. Appointments and promotions shall be made based on qualifications and a determination of fitness. Competitive announcement is not required. Dismissals shall be made whenever the County Manager determines that it is in the best interests of the County. Nothing herein shall be construed as requiring cause for the dismissal of employees in the executive management service or to create any right in the employee to continued employment.
(6-15-51; Ord. No. 82-24, 6-28-82; Ord. No. 03-15, 6-14-03)

§ 6-18. Probational ~~a~~Appointments; ~~d~~Disciplinary ~~a~~Action for the ~~c~~Competitive ~~s~~Service.

~~(a)~~A. All original appointments in the competitive service shall be made from an eligible list certified by the ~~d~~Director of ~~p~~Personnel. All original appointments shall be made for a probationary period the conditions of which shall be governed by the personnel rules.

~~(b)~~B. Members of the competitive service shall be subject to such disciplinary action, including removal, as may be ordered or approved by the ~~c~~County ~~m~~Manager. Prior to the conclusion of the probationary period of any employee his service may be terminated by the ~~c~~County ~~m~~Manager if, in his opinion, the employee does not demonstrate possession of the qualifications required by the position to which he was appointed.

~~(c)~~C. After the completion of his probationary period, any member of the competitive service who shall be suspended, reduced in rank or pay, or removed, shall be entitled to notice in writing of the grounds of the disciplinary action.

~~(d)~~D. Procedure for appeal of such actions shall be in conformance with the administrative regulations of the ~~c~~County ~~m~~Manager, provided that such regulations shall provide for a right of appeal to the ~~c~~Commission.

~~(e)~~E. The finding of the ~~c~~Commission on such appeals shall be binding. In any case where the ~~c~~Commission then determines that the disciplinary action constituted an abuse of discretion, the ~~c~~Commission may direct that the affected employee shall be paid in full or in part for such portion of time as he or she was unjustly suspended, reduced in rank or pay or removed.

~~(f)~~F. The ~~c~~Commission shall have no jurisdiction over appeals from police officers who have elected to proceed pursuant to the Law-Enforcement Officers' Procedural Guarantees (~~Section~~ § ~~2.1-116.1~~9.1-500 et seq., Code of Virginia, 1950, as amended) or who have chosen the ~~p~~Police ~~t~~Trial ~~b~~Board for the resolution of their grievance or firefighters who have chosen the ~~f~~Fire ~~t~~Trial ~~b~~Board for the resolution of their grievance.
(11-20-76; 10-13-79; Ord. No. 85-2, 1-5-85; Ord. No. 03-15, 6-14-03)

§ 6-19. Job ~~e~~Evaluation and ~~c~~Classification ~~s~~System for the ~~c~~Competitive ~~s~~Service.

~~(a)~~A. The job evaluation and classification system shall be put into effect by the ~~c~~County ~~b~~Board and shall include a procedure for assigning a class to each position within the classification plan. Such system shall supersede any earlier plans. The ~~c~~County ~~b~~Board shall not put such a system into effect until a qualified consultant has developed a new job evaluation and classification system with determination by the consultant of the appropriate allocation of each position to a class at the time of implementation.

~~(b)~~B. No person shall be appointed to or employed in a position in the competitive service until such position is classified under the approved job evaluation and classification system.

~~(c)~~C. Except at the time of adoption by the ~~c~~County ~~b~~Board under ~~section~~ § 6-19.A~~(a)~~, employees, when their positions have been evaluated and proposed for reclassification, shall be afforded an opportunity to have an appeal hearing thereon by the ~~c~~Commission after filing with the ~~d~~Director of ~~p~~Personnel a request for such hearing. Procedures for the appeal of such action shall be in conformance with administrative regulations of the ~~c~~County ~~m~~Manager.

~~(d)~~D. No position in the competitive service shall be filled other than on a temporary appointment basis of not more than eighteen (18) months by any person who is a trainee, except where the ~~c~~County ~~m~~Manager determines a longer period is consistent with this section and ~~c~~County ~~b~~Board policy. At the end of the trainee status, the person must meet the qualification requirements for that position as set forth in the position descriptions which are a part of the job evaluation and classification system.

~~(e)~~E. *Definitions.*~~:~~ The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

~~(1)~~1. "Job evaluation and classification system" ~~shall~~ means the formal system for classifying all ~~c~~County positions and shall include the evaluation methodology, classification plan and all

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associated rules and procedures.

~~(2)~~2. "Classification plan" ~~shall~~ means the approved classes of positions and the associated rules and procedures to establish, amend, cancel, title and group occupational classes, and a position description to describe each class.

~~(3)~~3. "Class" ~~shall~~ means one (1) or more positions so nearly alike in the essential character of their duties and responsibilities that the same pay grade, title and qualification requirements can be applied fairly and equitably for pay purposes.

~~(4)~~4. "Position description" ~~shall~~ means the document that summarizes the most important features of a position. As a minimum, the description shall contain a general summary of the work, major duties and tasks, minimum qualifications, and the knowledge, skills and abilities required to perform satisfactorily the duties of the position.

(6-5-61; Ord. No. 87-3, 1-24-87; Ord. No. 87-27, 1-3-88; Ord. No. 03-15, 6-14-03)

§ 6-20. Pay ~~s~~System and ~~p~~Plan.

~~(a)~~A. There shall be a pay plan for all positions in the ~~c~~County. The ~~c~~County ~~m~~Manager shall forward the proposed pay plan, together with the recommendations thereon of the ~~c~~Commission, to the ~~c~~County ~~b~~Board for approval. Where a salary range is established for a position in the job evaluation and classification system, increases within such range shall be earned by length of service and/or quality of work performance. The pay plan and rates shall be determined with due regard to compensation for similar employment in the Washington metropolitan area, and shall compare therewith, and any other factors that may properly be considered to have a bearing upon the fairness or adequacy of the pay plan.

~~(b)~~B. The ~~c~~County ~~b~~Board shall not increase or decrease any salaries of individual members of the competitive service but shall act solely with respect to approving both the pay plan and pay system. The ~~c~~County may, however, enter into salary reduction agreements with employees pursuant to a duly enacted employee flexible benefits plan under Internal Revenue Code, ~~Section~~ § 125. The amount of salary reduction required for each benefit option offered under such plan shall be determined before entering into the salary reduction agreement as to each such benefit and shall be set forth in a table which shall be a part of the compensation plan.

~~(c)~~C. Local government officers and employees may receive a monetary bonus otherwise known as merit awards for exceptional services rendered. Such awards shall be made under procedures in the meritorious service pay section of the personnel rules adopted by the ~~c~~County ~~m~~Manager.

~~(d)~~D. *Definitions.*~~:~~ The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

~~(1)~~1. "Pay system" ~~shall~~ means the methodology, rules and procedures for determining and setting pay rates, and the pay plan.

~~(2)~~2. "Pay plan" ~~shall~~ means the pay structure designated by grades with specific pay rates, pay ranges, steps or other increments, which shall be set forth in a document linking each class of position authorized under the classification plan of a specific grade.

(6-15-51; 7-30-77; Ord. No. 87-27, 1-3-88)

§ 6-21. Promotions.

~~(a)~~A. Vacancies in higher positions in the competitive service shall be filled as far as practicable by promotion from lower classes. When the ~~c~~County ~~m~~Manager determines that there are an insufficient number of well-qualified eligibles within the service, he may direct that the competitive examination for such positions shall be open not only to members of the competitive service but also to all other qualified persons.

~~(b)~~B. All examinations for promotion shall be conducted by the ~~d~~Director of ~~p~~Personnel in accordance with the personnel rules, and the qualified candidates shall be certified to the appointing authority and all promotional appointments shall be made from among the persons so certified.

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(6-15-51; Ord. No. 87-27, 1-3-88)

§ 6-22. Prohibited ~~p~~Practices ~~g~~Generally.

~~(a)~~A. No person shall wilfully make any false statement, certificate, mark, rating or report in regard to any test, certification, promotion, reduction, removal or appointment held or made under the provisions of this ~~c~~Chapter, or in any manner commit or attempt to commit any fraud preventing the impartial execution thereof or of the personnel rules adopted pursuant to this ~~c~~Chapter.

~~(b)~~B. No person shall, either directly or indirectly, pay, render or give any money, service or other valuable thing to any person for, on account of or in connection with any test, appointment, promotion, reduction or removal in which he is concerned.

~~(c)~~C. No officer or employee of the ~~c~~County shall knowingly defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this ~~c~~Chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the competitive service.

~~(d)~~D. *Prohibition of discrimination*. Discrimination against any person in any practice or procedure in advertising, recruitment, referrals, testing, hiring, assignment, transfer, promotion, training, apprenticeship, disciplinary action, layoff and recall, termination, compensation, benefits or any other term, condition or privilege of employment which limits or adversely affects employment opportunities because of political or religious opinions or affiliations or because of race, color, sex, national origin, marital status, parenthood, age, or disability which is unrelated to the person's occupational qualifications or any other nonmerit factor which is not a bona fide occupational qualification, is prohibited; provided that nothing in this section is intended to prohibit the ~~c~~County from taking reasonable affirmative action to eliminate the effect of discrimination.

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~~(e)~~E. *Appeal from discrimination*. Any applicant or employee who has reason to believe that he/she has been discriminated against because of any factor prohibited by ~~section~~ § 6-22.D~~(d)~~ in any personnel action may appeal to the ~~c~~Civil ~~s~~Service ~~c~~Commission as provided herein.

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If the appellant is an employee, the procedure for appeal shall be in conformance with the administrative regulations of the ~~c~~County ~~m~~Manager provided that such regulations shall provide for a right of appeal to the ~~c~~Civil ~~s~~Service ~~c~~Commission.

If the appellant is an applicant, the appellant shall be afforded an opportunity to be heard by the ~~c~~Civil ~~s~~Service ~~c~~Commission after filing a written request for a hearing with the ~~c~~Commission. The appellant and the person responsible for the alleged discriminatory action shall have the right to be heard and present evidence. If the ~~c~~Commission finds that there was discrimination because of any factor prohibited by ~~section~~§ 6-22, it shall order appropriate corrective action.
(6-15-51; 12-18-76; 4-25-81; Ord. No. 84-19, 6-16-84; Ord. No. 85-2, 1-5-85; Ord. No. 96-8, 6-29-96)

§ 6-23. Political ~~a~~Activities.*

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*Employees whose positions are funded in whole or in part by loans or grants from a federal agency may be covered by the provisions of the Federal Hatch Act. Where County provisions are more restrictive, the County provisions shall take precedence over the federal provisions.

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~~(a)~~A. *Definitions*. ~~as used in this Section~~The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

~~(1)~~1. "Group 1 employee" means any person in the competitive service or executive management service who is not in Group 2 as defined in this section.

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~~(2)~~2. "Group 2 employee" means any person in the competitive service or executive management service who is in the ~~o~~Office of the ~~c~~County ~~m~~Manager or ~~o~~Office of the ~~c~~County ~~a~~Attorney; or a

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department director or division chief other than those who are law enforcement officers, firefighters or emergency medical technicians as defined by Virginia Code § 15.2-1512.2, et seq., and any subsequent amendments thereto. The word employee standing alone means Group 1 and Group 2 employees, collectively.

~~(3)~~3. "County" means Arlington County, Virginia.

~~(4)~~4. "Election" ~~includes~~ means a primary, special and general election in which candidates are to be nominated or elected to a public office.

~~(5)~~5. "Local office" means the Arlington County Board seats, Arlington County constitutional offices (~~s~~Sheriff, ~~c~~Commonwealth ~~a~~Attorney, ~~c~~Commissioner of the ~~r~~Revenue, ~~t~~Treasurer, ~~c~~Clerk to the ~~c~~Circuit ~~c~~Court).

~~(6)~~6. "Official" means a person holding local office or the ~~c~~County ~~m~~Manager, or any employee who has the authority to make decisions or substantial recommendations in regard to the terms and conditions of employment for any Group 1 or Group 2 employee or applicant, including but not limited to hire, discipline, pay and/or promotion.

~~(7)~~7. "Political activities" includes, but is not limited to: soliciting votes or endorsements on behalf of a political candidate or political campaign; displaying a political picture, sign, sticker, badge or button while on duty or in uniform; participating in the activities of, or contributing financially to, a political party, candidate or campaign or an organization that supports a political candidate or campaign; attending or participating in a political convention, caucus, rally, or other political gathering; initiating, circulating or signing a political petition; engaging in fund-raising activities for any political party, candidate or campaign; acting as a recorder, watcher, challenger or similar officer at the polls on behalf of a political party, candidate or campaign; or becoming a political candidate; and includes the activities set forth in subsection A.8~~(a)(8)~~.

~~(8)~~8. "Political campaign" means activities engaged in for the purpose of influencing the outcome of an election for office.

~~(9)~~9. "Political candidate" means any person who has made known his intention to seek, or campaign for, office in a general, primary or special election.

~~(10)~~10. "Political party" means any political party, organization or group having as its purpose the promotion of political candidates or political campaigns.

~~(11)~~11. "State office" means the offices of delegates or senators representing Arlington in the Virginia General Assembly.

~~(b)~~B. *Prohibited practices generally.*

~~(1)~~1. No employee or official in the service of the ~~c~~County shall reward or discriminate against any applicant for a position or any employee because of that person's political affiliations or political activities as permitted by this section, except as such affiliation or activity may be established by law as disqualification for employment by the ~~c~~County.

~~(2)~~2. No employee or official shall be influenced by, or discriminate in providing services, responding to requests or making other decisions on the basis of, the political affiliations or political activities of the person or organization for which services are provided.

~~(3)~~3. No employee shall coerce or attempt to coerce any other employee to pay, lend or contribute anything of value to a political party candidate or campaign.

~~(4)~~4. No employee shall portray, suggest or imply in any manner, at any time, on or off duty, a ~~c~~County-related endorsement of a political affiliation, activity, party, or candidate for election to any public office.

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~~(5)~~5. No employee shall engage in political activities while on duty, or in a ~~c~~County uniform on or off duty, or in any ~~c~~County office or building during working hours applicable thereto. This section is not intended to prohibit employees from engaging in such activities on ~~c~~County premises as may be permitted for the public at large as stated in § 6-23.B.6~~(b)(6)~~ when the employees are off duty and out of uniform, and where such activities are not otherwise prohibited by law or this section. This section is not intended to prohibit employees from displaying bumper stickers on their personal vehicles while parked on ~~c~~County property if such vehicles are not regularly used in ~~c~~County business, and where such activities are not otherwise prohibited by law or this section.

~~(6)~~6. No person shall engage in political campaign activities in any ~~c~~County office or building during working hours applicable thereto. This section is not intended to prohibit political activities that are otherwise permitted for the public at large such as gatherings in ~~c~~County parks, or display of political badges.

~~(7)~~7. No employee shall use any ~~c~~County equipment, system, materials or resources in support of political activities.

~~(8)~~8. No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the competitive service or executive management service.

~~(c)~~C. *Prohibited activities regarding local offices.* In connection with local offices:

~~(1)~~1. Group 1 employees are not permitted to continue as an employee upon being elected. A Group 1 employee who is elected to such office must resign immediately upon taking office.

~~(2)~~2. Group 2 employees are not permitted to:

a. ~~c~~Continue as an employee upon becoming a candidate for election. A Group 2 employee who has become a candidate for such office must resign immediately upon becoming a candidate.

b. ~~e~~Engage in political activities except that they may register to vote, vote, express opinions on political candidates and issues privately, sign petitions, and contribute directly or indirectly to an organization that supports a political party or candidate for election unless the organization is identified as consisting of County employees and it supports candidates for local office.

~~(d)~~D. *Prohibited activities regarding ~~s~~State offices.* In connection with ~~s~~State offices:

~~(1)~~1. Group 1 employees who are department directors and divisions chiefs are not permitted to continue as an employee upon being elected. A department director or division chief who is a Group 1 employee who is elected to such office must resign immediately upon taking office.

~~(2)~~2. Group 2 employees are not permitted to:

a. ~~b~~Be a candidate for election. A Group 2 employee who has become a candidate for such office must resign immediately upon becoming a candidate.

b. ~~e~~Engage in political activities except that they may register to vote, vote, express opinions on political candidates and issues privately, sign petitions, and contribute directly or indirectly to an organization that supports a political party or candidate for election unless the organization is identified as consisting of ~~c~~County employees and it supports candidates for ~~s~~State office.

~~(e)~~E. *Permissible activities.* All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this section.

~~(f)~~F. The ~~c~~County ~~m~~Manager is hereby authorized and directed to acquaint ~~c~~County employees with the provisions of this ~~c~~Chapter.

~~(g)~~G. Any employee who feels intimidated into political activities or penalized because of failure to engage in such activities, in violation of this ~~c~~Chapter, may appeal such violation without jeopardizing future employment. The procedure for complaint or appeal shall be according to the ~~c~~County's grievance procedure with all the rights and limitations related thereto.
(6-15-51; Ord. No. 83-14, 5-21-83; Ord. No. 94-25, 10-22-94; Ord. No. 00-17, 6-10-00; Ord. No. 03-15, 6-14-03)

§ 6-24. Penalties.

Violation of the provisions of this ~~c~~Chapter shall constitute grounds for dismissal from the ~~c~~County competitive service or the executive management service; in the discretion of the ~~c~~County ~~m~~Manager, or for employees of the ~~c~~County ~~a~~Attorney, the ~~c~~County ~~a~~Attorney, a lesser penalty may be imposed under extenuating circumstances, but in no case shall the penalty for willfully engaging in prohibited political activities be established at less than thirty (30) days suspension from duty without pay.
(6-15-51; Ord. No. 94-25, 10-22-94; Ord. No. 00-17, 6-10-00; Ord. No. 03-15, 6-14-03)

§ 6-25. Suspension of ~~p~~Provisions.

Notwithstanding any other provision of this ~~c~~Chapter, the provisions of this ~~c~~Chapter, or the rules and regulations hereunder, shall be suspended automatically to the extent that they conflict with any federal or ~~s~~State laws, rules or regulations pertaining to an employment position for which the ~~c~~County ~~b~~Board has approved and accepted federal or ~~s~~State funds.
(2-22-75)

§ 6-26. Physical ~~e~~Examination of ~~p~~Policemen and ~~f~~Firemen.

~~(a)~~A. Physical examinations shall be made of all policemen and firemen as required by Chapter 272 of the 1975 Acts of Assembly, as amended, and ~~Sections~~ §§ 27-40.1 and 27-40.1:1 of the Code of Virginia, as amended, to determine if such policemen and firemen are free from respiratory diseases, hypertension and heart disease. The physical examination shall be conducted by any doctor licensed to practice medicine in the Commonwealth of Virginia who is retained by the Arlington County Department of Human Resources.

~~(b)~~B. The following diagnostic tests shall be performed in addition to the physical examination:

~~(1)~~1. Chest X-ray.

~~(2)~~2. Electrocardiogram.

~~(3)~~3. Complete blood count.

~~(4)~~4. Blood cholesterol.

~~(5)~~5. Triglyceride level.

~~(6)~~6. Urinalysis.

~~(7)~~7. Pulmonary function tests.
(12-18-76)

§ 6-27. Employment of ~~o~~Off-~~d~~Duty ~~o~~Officers.

Police officers and deputy sheriffs shall be permitted to engage in off-duty employment which may occasionally require the use of their police powers in the performance of such employment. The ~~c~~Chief of ~~p~~Police and Sheriff shall promulgate reasonable rules and regulations to apply to such off-duty employment.
(4-25-81; Ord. No. 07-15, 10-13-07, Effective 11-01-07)

§ 6-28. Employee ~~b~~Benefits: ~~h~~Housing ~~a~~Assistance.

Subject to appropriation of funds by the County Board, the County Manager shall establish a program to provide grants to employees of the County, the Constitutional Officers, and the School Board for purchase or rental assistance of a primary residence within the County. The County Manager is authorized to take all actions the Manager deems necessary or appropriate to establish and administer the program, including the establishment of terms and conditions, and to ensure that the program meets any applicable requirements of the law.
(Ord. No. 02-18, 6-22-02; Ord. No. 04-17, 06-26-04, effective 7-1-04)

§ 6-29. Employee ~~b~~Benefits: Retiree Medical and Dental Plan.

~~(a)~~A. The County will, subject to appropriation of funds by the County Board, provide a monetary subsidy for employees who retire pursuant to § 21-41, § 21-43, § 21-45, § 35-36, § 35-38, § 46-37, § 46-39, or § 46-41.

The minimum subsidy towards the cost of medical coverage, which is not supplemental to Medicare, and dental coverage for an employee retiring with a full career of twenty-five (25) years of service (twenty (20) years of service for members of Chapter 21 or 35) will be eighty percent (80%) of the self-insured HMO health plan premium for single coverage and seventy-eight percent (78%) of the self-insured HMO health plan premium for other levels of coverage, and eighty percent (80%) of the dental premium for all levels of coverage, but shall not exceed the following:

~~i.~~1. Nine hundred sixty dollars ($960.00) per month for members retiring prior to January 15, 2012,

~~ii.~~2. Six hundred dollars ($600.00) for employees hired before July 1, 2008 and retiring on or after January 15, 2012, and

~~iii.~~3. Three hundred dollars ($300.00) for employees hired on or after July 1, 2008.

Specific plan design, prorated benefits for employees with less than a full career, supplemental Medicare coverage and other terms and conditions shall be established by the County Manager. For supplemental Medicare coverage, the monetary caps set forth in sections 1, 2, and 3~~i, ii, and iii~~ above shall be applicable.

~~(b)~~B. Subject to appropriation of funds by the Arlington County Board, employees who retired prior July 1, 2008 and elected to continue their health and/or dental plan benefits into retirement may cancel their health and/or dental coverage and opt to re-enroll in the County-sponsored health and/or dental plans within sixty (60) days from the date of termination of their alternative coverage.

~~(c)~~C. Subject to appropriation of funds by the Arlington County Board, employees who retire on or after July 1, 2008, elect to receive their retirement allowance immediately, and are eligible for the health and/or dental plan benefits may either:

~~(1)~~1. ~~e~~Elect to continue their health and/or dental coverage into retirement, cancel their health and/or dental coverage at any time after retirement provided the retiree obtains alternate health and/or dental insurance coverage from a company or program other than that which Arlington County provides, and re-enroll upon termination of alternate coverage, or

~~(2)~~2. ~~o~~Opt to enroll in the County-sponsored health and/or dental plan within sixty (60) days from the date of termination of coverage elsewhere.

Procedures and other terms for cancelling and re-entering the health and/or dental plans shall be established by the Human Resources Director.
(Ord. No. 08-17, 09-13-08; Ord. No. 08-19, 10-18-08)

ARLINGTON COUNTY CODE

Chapter 7

ELECTRICAL CODE*

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***Editor's note:** Ordinance No. 09-11, adopted April 28, 2009, amended Chapter 7, in its entirety, to read as herein set out.

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§ 7-1. Title and ~~s~~Scope.
§ 7-2. Definitions.
§ 7-3. Availability of ~~e~~Codes.
§ 7-4. Administration and ~~e~~Enforcement.
§ 7-5. Reserved.
§ 7-6. Permits and ~~f~~Fees.
§ 7-7. General ~~p~~Provisions.

§ 7-1. Title and ~~s~~Scope.

~~(a)~~A. *Title*. This chapter shall be known as the "Arlington County Electrical Code" and may be so cited.

~~(b)~~B. *Scope--New electrical systems.* This ~~e~~Code shall apply to electrical systems and to parts thereto which are hereafter installed in buildings of the occupancy classifications enumerated in the Virginia Uniform ~~s~~Statewide Building Code.
(Ord. No. 89-25, 9-23-89); Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 4-28-09)

§ 7-2. Definitions.

The following words~~,~~ and terms, ~~and phrases,~~ when used in this chapter, shall have the following meanings ~~ascribed to them in this section, except where~~unless the context clearly indicates otherwise~~a different meaning~~:

"Building Official"~~,~~ means ~~T~~the ~~i~~Inspection ~~s~~Services ~~d~~Division ~~c~~Chief of Arlington County~~, his agent~~ or his designee.

"Construction ~~c~~Code ~~i~~Inspector"~~,~~ means ~~The~~a qualified person charged with the inspections of all electrical systems and electrical work performed in the ~~c~~County.
(Ord. No. 89-25, 9-23-89; Ord. No. 95-14, 8-8-95; Ord. No. 97-7, 4-12-97; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 4-28-09)

§ 7-3. Availability of ~~e~~Codes.

There is hereby made available by the ~~c~~County ~~b~~Board of the County of Arlington, the Virginia Uniform Statewide Building Code, latest edition, of which copies of each are on file in the office of the Inspection Services Division, 2100 Clarendon Boulevard, Suite 1000, and may be examined during the hours ~~between~~ of 8:00 a.m. and 5:00 p.m. on regular business days.
(Ord. No. 89-25, 9-23-89; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, enacted 04-19-08, effective 07-01-08; Ord. No. 09-11, 4-28-09)

§ 7-4. Administration and ~~e~~Enforcement.

~~(a)~~A. *Administrator--Designated.* The administration and enforcement of this ~~c~~Code shall be the duty of the ~~b~~Building ~~o~~Official who is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be reasonably necessary to enforce the provisions of this ~~c~~Code. The ~~b~~Building ~~o~~Official may appoint assistants or agents as are necessary to carry out the provisions of this ~~c~~Code.

~~(b)~~B. *Same--Powers and duties*:

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~~(1)~~1. The ~~b~~Building ~~o~~Official or his ~~agent~~ designee shall have the right and power and it shall be their duty to cause all electrical equipment in or on any building in the ~~c~~County to be inspected from time to time in order to ascertain whether, due to the construction, installation or the condition thereof, such electrical equipment is dangerous to life or property.

~~(2)~~2. When the use of any electrical work shall be found dangerous to health and safety, the ~~b~~Building ~~o~~Official or ~~a duly authorized agent~~his designee is hereby authorized to order it removed or made safe as may be deemed necessary.

~~(c)~~C. *Responsibilities of owner or occupant*:

~~(1)~~1. Every building, structure or part thereof shall be kept in good electrical repair by the owner.

~~(2)~~2. No person shall knowingly have any electrical work done on premises under his control or on the premises owned by him, except in accordance with the provisions of this ~~c~~Code.

~~(d)~~D. *Compliance required.* No person shall install, alter, maintain, service or repair, or cause or permit the installation, altering, maintaining, servicing or repairing of electrical equipment in or on any building, except in accordance with the provisions of this ~~c~~Code.

~~(e)~~E. *Inspections--Request for registered electrical contractor's representative to be present.* The ~~i~~Inspection ~~s~~Services ~~d~~Division may require a representative of the registered electrical contractor to be on the job when inspection is made.

~~(f)~~F. *Same--Notice of defect; failure to comply*. When any electrical equipment is found, upon inspection by a ~~c~~Construction ~~c~~Code ~~i~~Inspector, to be dangerous to life or property because it is defective or defectively installed, the person responsible for the electrical equipment shall be notified in writing and shall make any changes or repairs necessary in the judgment of the ~~b~~Building ~~o~~Official or ~~a duly authorized agent~~his designee to place such equipment in safe condition. If any person fails to comply with a notice issued by the ~~b~~Building ~~o~~Official or ~~a duly authorized agent~~his designee to correct the violation within a reasonable period stated in the notice, the ~~b~~Building ~~o~~Official shall order the electric company to disconnect its supply of electricity and such electric company shall thereupon disconnect its lines and discontinue the supply of electricity.

In such cases, the notice to the electric company shall state the reason for the service being ordered disconnected and the party responsible for the violation, if such party is known. Any person failing to make corrections of a violation within the time specified in the notice shall be refused any further permits to do electrical work within the ~~c~~County until such corrections are made.

~~(g)~~G. *Interference with ~~b~~Building ~~o~~Official.* The occupant or owner of property or premises where any electrical equipment is used or is to be used shall not refuse to allow, interfere with or prevent the discharge of duties hereunder by the ~~b~~Building ~~o~~Official hereunder, or withhold or refuse to divulge, on request of the ~~b~~Building ~~o~~Official, the name of the person responsible for doing such work herein or thereon.

~~(h)~~H. *Approval of installation*. No person shall use current in the wiring, fixtures or other electrical lines or equipment falling within the scope of this chapter until approval has been granted by a representative of the ~~i~~Inspection ~~s~~Services ~~d~~Division who shall notify the utility that will supply electrical service to the premises when an installation has been approved and grant it permission to energize its service connection and supply the premises with electric service. Written confirmation of such approval shall be furnished to the utility supplying the electric service by the ~~i~~Inspection ~~s~~Services ~~d~~Division.

~~(i)~~I. *Appeals*. The owner of a building or structure, registered electrical contractor or master electrician may appeal from a decision of the ~~b~~Building ~~o~~Official on his or her interpretation and enforcement of the provisions of this chapter to the ~~b~~Building ~~c~~Code ~~b~~Board of ~~a~~Appeals.
(Ord. No. 89-25, 9-23-89; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, enacted 04-19-08, effective 07-01-08; Ord. No. 09-11, 4-28-09)

§ 7-5. Reserved.

Editors Note: Former § 7-5, which pertained to registration of contractor and certification of worker, was repealed by Ord. No. 95-14, enacted Aug. 8, 1995.

§ 7-6. Permits and ~~f~~Fees.

~~(a)~~A. *Permit required.* No electrical work, except minor repair work, shall be performed by any registered electrical contractor, or master electrician, or any owner, owner's agent, architect or engineer until such person has applied for and received a permit from the ~~i~~Inspection ~~s~~Services ~~d~~Division.

~~(b)~~B. *Work in single-family dwellings and townhouses.* Any permit required by this section may be issued to a person, whether registered or not, to do any work regulated by this chapter in a single-family dwelling or townhouse used exclusively for residence purposes, including the usual accessory buildings and quarters in connection with such building, provided that the person is the bona fide owner or agent of the owner of such dwelling.

~~(c)~~C. *Plans required.* Before permits required in this ~~article~~ chapter shall be issued for any electrical work involving a new or renovated commercial or high-rise or multifamily residential building, the prescribed sets of plans must have been submitted to and approved by the ~~i~~Inspection ~~s~~Services ~~d~~Division. Before permits will be issued for major electrical repairs in existing buildings, the registered electrical contractor, owner, owner's agent, architect, engineer or master electrician shall file with the ~~i~~Inspection ~~s~~Services ~~d~~Division detailed sketches of the work proposed to be done. The permit shall not be issued until the plan or sketches have been approved by the ~~c~~Construction ~~p~~Plan ~~e~~Examiner.

~~(d)~~D. *Permit fees.* There shall be no fees assessed for a permit required by this section to do electrical work by or for: the Washington Metropolitan Area Transit Authority in connection with the construction, alteration, repair or maintenance of bus and rapid rail system~~;~~ or the Northern Virginia Regional Park Authority.

Nothing in this section shall be construed to alter, amend or modify any rule, regulation, standard or requirement of the National Electrical Code, as adopted by the Virginia Uniform Statewide Building Code, Code of Virginia, 1950, as amended, including standards and amendments previously or subsequently adopted.

All fees shall be paid prior to release of the permit and in accordance with the fee schedule adopted by the Board.

~~(e)~~E. *Temporary Electrical Permits:*

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Temporary electrical permits will be issued for sixty (60) days. A temporary permit may be renewed for an additional thirty~~-~~ (30) day period, if necessary. Applications for temporary permits must be filed under any of the following conditions:

a. For connection to temporary service drop and for equipment to be used for construction of circuits to be used or number of power units to be installed.

b. For connection to permanent service or for installation of temporary lighting or power equipment not included in original permit, a separate permit based on the permit fee schedule is required.

c. For connection to permanent service of heating equipment, a temporary permit will be issued if a regular permit for permanent connection of the heating equipment is issued or is on file at the time the temporary connection is requested.

~~(f)~~F. Procedures Where Work Continued was started by Another Permittee:

Before proceeding with any electrical equipment installation which has been started by any other permit grantee, an owner shall request the electrical section of the ~~i~~Inspection ~~s~~Services ~~d~~Division to inspect the installation for which a permit was granted and also to inspect any work performed, and shall also obtain an owner's permit for the remaining part of the installation.

(Ord. No. 89-25, 9-23-89; Ord. No. 90-6, 7-1-90; Ord. No. 91-17, 7-1-91; Ord. No. 92-1, 2-1-92; Ord. No. 93-4, 7-

1-93; Ord. No. 95-8, 4-29-95; Ord. No. 97-7, 4-12-97; Ord. No. 98-10, 4-18-98; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 4-28-09; Ord. No. 10-11, 4-24-10)

§ 7-7. General ~~p~~Provisions.

~~(a)~~A. *Preventive maintenance for 1,000 amperes equipment*. It shall be unlawful to perform any work on service equipment, any compartment of a switchboard, a motor control center, a transformer, or a panel for which the ampacity is one thousand (1,000) amperes or larger, or [which has a] voltage rating over two hundred fifty (250) volts regardless of ampacity, without first completely disengaging the electrical power within that piece of equipment or compartment.

Pursuant to the Virginia Uniform Statewide Building Code, Volume II, Building Maintenance Code, it shall be the responsibility of the owner, or his responsible agent, of a switchboard having a capacity of one thousand (1,000) amperes or larger, to have a master electrician disconnect said equipment once every five (5) years or less to perform normal preventive maintenance. The preventive maintenance shall consist of all maintenance normally performed by electrical contractors including by way of illustration:

~~(1)~~1. Vacuum entire interior of switchboard.

~~(2)~~2. Clean bus and contacts with a suitable nonconductive solvent.

~~(3)~~3. Lubricate all moving mechanisms.

~~(4)~~4. Check all conductors for abrasions.

~~(5)~~5. Torque bus and conductors' connections to manufacturers' recommended specifications.

~~(6)~~6. Check calibration of overcurrent trip units and protective devices.

~~(7)~~7. Megger board to manufacturers' specifications before re-energizing.

~~(8)~~8. Replace worn, damaged or deteriorating components.

~~(9)~~9. Submit report of preventive maintenance performed to ~~i~~Inspection ~~s~~Services ~~d~~Division within thirty (30) days.

~~(b)~~B. *Fees:*

Two (2) hour minimum $109.00

Each additional hour, per hour, per inspector $54.00

(Ord. No. 89-25, 9-23-89; Ord. No. 92-1, 2-1-92; Ord. No. 07-13, 09-18-07, effective 10-01-07; Ord. No. 08-08, 04-19-08, effective 07-01-08; Ord. No. 09-11, 4-28-09)

ARLINGTON COUNTY CODE

Chapter 8

RESERVED*

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* **Editors Note:** Ord. No. 09-03, adopted April 28, 2009, repealed former Ch. 8, relative to fire prevention, in its entirety, and enacted Ch. 8.1 of this Code.

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ARLINGTON COUNTY CODE

Chapter 8.1

FIRE PREVENTION CODE*

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* **Editors Note:** Ord. No. 09-03, adopted April 28, 2009, repealed former Ch. 8, relative to fire prevention, in its entirety, and enacted Ch. 8.1 of this Code to read as herein set out.

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Article I. General Provisions

§ 8.1-1. Title.
§ 8.1-2. Administration and ~~e~~Enforcement of the Virginia Statewide Fire Prevention Code and the Arlington County Fire Prevention ~~e~~Code~~s~~.
§ 8.1-2.1. Invalidity; ~~s~~Severability; ~~e~~Coded ~~i~~Indicators.
§ 8.1-2.2. Acts by ~~d~~Deputy or ~~d~~Designee.
§ 8.1-3. Establishment of the Arlington County Fire Department.
§ 8.1-4. Response of Equipment.
§ 8.1-5. Fire and ~~m~~Medical ~~i~~Incident ~~c~~Command.
§ 8.1-6. Establishment of ~~f~~Fire ~~d~~Department ~~s~~Standards ~~g~~Governing ~~p~~Participation.
§ 8.1-6.1. Criminal ~~b~~Background ~~c~~Check ~~r~~Required for ~~e~~Employment ~~e~~Eligibility.
§ 8.1-7. Chief ~~f~~Fire ~~m~~Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal(s) and ~~d~~Deputy ~~f~~Fire ~~m~~Marshal(s) – Creation of ~~o~~Offices.
§ 8.1-7.1. Same – Oath of ~~o~~Office.
§ 8.1-7.2. Delegation of ~~d~~Duties and ~~p~~Powers in the City of Falls Church, Virginia.
§ 8.1-8. Notification of ~~f~~Fire ~~d~~Department.
§ 8.1-9. Investigation.
§ 8.1-9.1. Powers, ~~i~~Including ~~p~~Powers of ~~a~~Arrest.
§ 8.1-9.2. Summoning a ~~f~~Fire ~~m~~Marshal.
§ 8.1-10. Effect of ~~r~~Repeal of ~~c~~Chapter; ~~r~~Revival.
§ 8.1-11. Penalty; ~~c~~Continuing ~~v~~Violation.
§ 8.1 -12. Fines and ~~c~~Costs.
§ 8.1-13. Reserved.
§ 8.1-14. Unlawful or ~~p~~Prohibited ~~a~~Acts ~~i~~Include ~~c~~Causing, ~~p~~Permitting, ~~c~~Concealing
§ 8.1-15. Damage or ~~i~~Injury to ~~f~~Fire ~~d~~Department ~~v~~Vehicles, ~~e~~Equipment or ~~p~~Personnel.
§ 8.1-16. Unlawful ~~b~~Boarding or ~~t~~Tampering with ~~f~~Fire ~~d~~Department ~~v~~Vehicles.
§ 8.1-17. Impersonation and ~~s~~Solicitation by ~~u~~Use of the Arlington County Fire Department's ~~n~~Name.
§ 8.1-18. Unlawful to ~~c~~Cross ~~f~~Fire ~~l~~Line.
§ 8.1-19. Reserved.

Article II. Fire Prevention Code

§ 8.1-20. Inspection by ~~o~~Others.
§ 8.1-21. Enforcement.
§ 8.1-22. Amendments, ~~a~~Additions and ~~d~~Deletions to the Virginia Statewide Fire Prevention Code.

ARTICLE I.

GENERAL PROVISIONS

§ 8.1-1. Title.

This ~~c~~Code shall be known and may be cited as the Arlington County Fire Prevention Code and is referred herein as such, as "Ordinance" or as "this ~~c~~Code."

§ 8.1-2. Administration and ~~e~~Enforcement of the Virginia Statewide Fire Prevention Code and the Arlington County Fire Prevention ~~c~~Code~~s~~.

The County of Arlington, referred to herein as such or as "County", shall enforce the Virginia Statewide Fire Prevention Code promulgated by the Board of Housing and Community Development of the Commonwealth of Virginia pursuant to § 27-98 of the Code of Virginia (1950, as amended). The provisions of the Virginia Statewide Fire Prevention Code and the Fire Prevention Code of the County of Arlington, Virginia, to include those buildings constructed under specific editions of the regional model codes, shall be enforced by the County Fire Marshal and, under the authority of the Chief Fire Marshal, by the Assistant Fire Marshal(s) and Deputy Fire Marshal(s) and such authorized representatives as designated by the Fire Marshal. The Fire Marshal, the Assistant Fire Marshals, and Deputy Fire Marshals shall have all of the powers of the local fire official, the local arson investigator and the local fire marshal and assistants set forth in Title 27 of the Code of Virginia. Each shall also have all of the powers of the fire official and the enforcing agency set forth in the Virginia Statewide Fire Prevention Code and the Fire Prevention Code of the County of Arlington, Virginia.

§ 8.1-2.1. Invalidity; ~~s~~Severability; ~~c~~Coded ~~i~~Indicators.

~~(a)~~A. If any part, section, subsection, clause, or phrase of this Ordinance is, for any reason, declared unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portion of this ~~C~~chapter which shall remain in effect as if this ~~C~~chapter had been passed without the unconstitutional or otherwise invalid part, section, or subsection, sentence, clause, or phrase.

~~(b)~~B. Coded indicators of words, sections or phrases to be added, deleted, or revised, and the indicator "* * *" are solely for convenience of those using this Code and shall not be considered to constitute a part of the Ordinance as adopted.

§ 8.1-2.2. Acts by ~~d~~Deputy or ~~d~~Designee.

Whenever a power is granted to or a duty is imposed upon a public officer or employee, the power may be performed by any authorized deputy or designee or by any other person duly authorized, unless this ~~c~~Code expressly provides otherwise.

§ 8.1-3. Establishment of the Arlington County Fire Department.

The County Board of Arlington County hereby establishes pursuant to ~~Section~~ § 27-6.1 of the Virginia Code (1950, as amended), a fire department known as the "Arlington County Fire Department" and referred to herein as such or as "~~f~~Fire ~~d~~Department." The head of the department shall be known as the "Fire Chief" or "County Fire Chief," who shall be appointed by the County Manager. This ~~f~~Fire ~~d~~Department shall be the only ~~f~~Fire ~~d~~Department officially recognized and authorized to operate within Arlington County, Virginia. Where the ~~f~~Fire ~~d~~Department is referred to in this ~~C~~chapter, this reference shall include the volunteer fire departments of the Arlington County Fireman's Association sanctioned by the Fire Chief.

§ 8.1-4. Response of ~~e~~Equipment.

A. All fire apparatus and emergency medical equipment responding within Arlington County to a fire or emergency medical incident within the jurisdiction shall be under the control and direction of the Fire Chief or his/her designee.

B. **Exceptions**:

1. Any duly dispatched fire or emergency medical equipment from another city, town, or county that is:
   ~~(a)~~a. merely passing through Arlington County; or
   ~~(b)~~b. merely transporting a patient to receive medical services within Arlington County.

2. Any private ambulance service certified to do business within the Commonwealth of Virginia.

§ 8.1-5. Fire and ~~m~~Medical ~~i~~Incident ~~c~~Command.

All fire and medical emergencies occurring in Arlington County shall be the responsibility of the ranking officer of the Arlington County Fire Department and referred to herein as such or as "County."

§ 8.1-6. Establishment of ~~f~~Fire ~~d~~Department ~~s~~Standards ~~g~~Governing ~~p~~Participation.

The Fire Chief shall establish standards, rules and regulations to promote the objectives of the ~~f~~Fire ~~d~~Department, within the laws of the Commonwealth and County ordinances, which shall govern all County employees and other persons participating in firefighting activities and emergency medical operations.

§ 8.1-6.1. Criminal ~~b~~Background ~~c~~Check ~~r~~Required for ~~e~~Employment ~~e~~Eligibility.

~~(a)~~A. In order to determine whether, in the interest of public welfare and safety, an applicant for ~~f~~Fire ~~d~~Department employment may have a record of past criminal conduct that is incompatible with the nature of employment in the Arlington County Fire Department, the Fire Chief or his/her designee shall request from the Virginia Central Criminal Record Exchange a criminal record check of each applicant for employment whose anticipated duties or responsibilities will involve:

~~(i)~~1. access to public records, Protected Health Information or to personal information,
~~(ii)~~2. accountability for public funds,
~~(iii)~~3. entry into secured areas outside of working hours,
~~(iv)~~4. law enforcement and investigations conducted under the color of law,
~~(v)~~5. right of entry onto private property, or
~~(vi)~~6. assistance to the elderly or disabled.

Such applicant shall submit to fingerprinting by the Arlington County Fire Marshal's Office, Arlington County Sheriff or other agency designated by the Fire Chief and provide descriptive information as may be required by the Sheriff or other agency to conduct such background check.

~~(b)~~B. The Fire Chief or his/her designee shall review the applicant's criminal history record to determine, in his/her sole discretion, whether the conviction record, if any, of the applicant is compatible with the nature of employment. Such criminal history record information obtained shall be considered confidential, shall be used solely to assess eligibility for public employment and shall not be disseminated to any person not involved in the assessment process or as authorized by the Fire Chief.

§ 8.1-7. Chief ~~f~~Fire ~~m~~Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal(s) and ~~d~~Deputy ~~f~~Fire ~~m~~Marshal(s) -- Creation of ~~o~~Offices.

The Arlington County Fire Prevention Office is hereby established and whose duties and powers are set forth herein. The County Fire Chief is authorized to and shall appoint a ~~c~~Chief ~~f~~Fire ~~m~~Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal(s) and such ~~d~~Deputy ~~f~~Fire ~~m~~Marshal(s), as he/she may deem necessary. For purposes of this Fire Prevention Code, the terms "~~c~~Chief ~~f~~Fire ~~m~~Marshal", "~~c~~County ~~f~~Fire ~~m~~Marshal" and "Fire Marshal" shall have the same meaning as "~~c~~Code ~~o~~Official," "~~f~~Fire ~~o~~Official" and "~~f~~Fire ~~c~~Code ~~o~~Official" as defined in the Virginia Statewide Fire Prevention Code and each are used interchangeably herein.

§ 8.1-7.1. Same -- Oath of ~~o~~Office.

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The ~~c~~Chief ~~f~~Fire ~~m~~Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal(s) and ~~d~~Deputy ~~f~~Fire ~~m~~Marshal(s) shall respectively, before entering upon their duties, take an oath before any officer authorized to administer oaths to faithfully discharge the duties of their office.

§ 8.1-7.2. Delegation of ~~d~~Duties and ~~p~~Powers in the City of Falls Church, Virginia.

The Fire Marshal of Arlington County shall have concurrent authority in the City of Falls Church, Virginia to the extent permitted by the City of Falls Church and by agreement between the City of Falls Church and the Arlington County Fire Department. The County Fire Chief shall have the authority to agree to the terms and conditions under which the County Fire Marshal shall perform any functions in the City of Falls Church.

§ 8.1-8. Notification of the ~~f~~Fire ~~d~~Department.

In any building, structure, or premise subject to inspection under any provision of this ~~c~~Code, when a fire, or evidence of there having been a fire, is discovered that has resulted in property damage or is of a suspicious nature indicating the possibility of an act of suspected terrorism, arson, or of recurrence, even though it has apparently been extinguished, it shall immediately be reported to the Fire Chief or his/her designee. This notification shall be the duty of the owner, manager, or other person in control (as defined herein) of such building, structure, or premises at the time of discovery. This requirement shall not be construed to forbid the owner, manager, or other person in control from using all diligence necessary to extinguish such fire prior to the arrival of the Arlington County Fire Department.

§ 8.1-9. Investigation.

The County Fire Marshal shall investigate, or cause to be investigated, every fire or explosion occurring within the County that is of a suspicious nature or which involves the loss of life, causes injury to persons, or causes destruction of or damage to property. Such investigation shall be made at the time of the fire or at a subsequent time, depending on the nature and circumstances of the fire. The Fire Marshal shall also investigate, or cause to be investigated, the possession or manufacture of explosive devices, substances, and fire bombs within the County, attempts or threats to commit such offenses, and false alarms relating to such offenses or to fires or explosions. The Fire Marshal shall take charge immediately of the physical evidence and, in order to preserve that evidence relating to the cause or origin, take means to prevent access by any person to such building, structure, or premises until such evidence has been properly processed. The Arlington County Police Department, upon request of the Fire Marshal, shall assist in the investigation as needed. The results of any investigation shall be forwarded by the Fire Marshal to the Commonwealth's Attorney for proper disposition.

§ 8.1-9.1. Powers, ~~i~~Including ~~p~~Powers of ~~a~~Arrest.

~~(a)~~A. The County Fire Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal~~/~~(s) and authorized ~~d~~Deputy ~~f~~Fire ~~m~~Marshal~~/~~(s), appointed pursuant to or permitted by Title 27 of the Code of Virginia (1950, as amended) shall have the same police powers as a member of the Arlington County Police Department, any sheriff or any other law-enforcement officer authorized by general law in the investigation and prosecution of all violations and offenses. The County Fire Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal~~/~~(s) and authorized ~~d~~Deputy ~~f~~Fire ~~m~~Marshal(s) are responsible for the investigation and prosecution of all offenses involving fires, arson, fire bombings, bombings, attempts, or threats to commit such offenses, false alarms relating to such offenses, possession and manufacture of explosive devices, substances, and fire bombs, the storage, use and transportation of hazardous materials and hazardous waste, environmental crimes,~~;~~ and any other offenses involving fire or fire safety or the calling, causing to dispatch, or summoning of fire or rescue equipment without just cause, in violation of the Code of Virginia (1950, as amended) or the Code of Arlington County, Virginia, 1957 as amended and any regulations under these ~~c~~Codes, and other criminal or civil offenses arising out of, or incidental, to the investigation of the enumerated offenses.

~~(b)~~B. The County Fire Marshal, ~~a~~Assistant ~~f~~Fire ~~m~~Marshal~~/~~(s) and authorized ~~d~~Deputy ~~f~~Fire ~~m~~Marshal~~/~~(s) or designee~~/~~s shall have the authority to exercise all those powers described in ~~Sections~~ §§ 27-34.2 and 27-34.2:1 of the Code of Virginia (1950, as amended).

~~(c)~~C. The police powers granted in this section shall not be exercised by any ~~f~~Fire ~~m~~Marshal until such

person has met the requirements of ~~Sections~~ §§ 27-34.2 and 27-34.2:1 of the Code of Virginia (1950, as amended) and has been designated by the Chief Fire Marshal to exercise such powers.

§ 8.1-9.2. Summoning a ~~f~~Fire ~~m~~Marshal.

The Arlington County Fire Department officer-in-charge of any fire, explosion or incident scene shall immediately summon or cause to be dispatched the Fire Marshal or his/her ~~designated representative~~designee to such scene to investigate the circumstances involved.

§ 8.1–10. Effect of ~~r~~Repeal of ~~c~~Chapter; ~~r~~Revival.

Neither the adoption of this ~~c~~Code nor the repeal hereby of the prior fire codes or ordinances shall in any manner affect the prosecution for violations of this ~~c~~Code, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any permit, fees or penalty at the effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ~~c~~Code relating to the collection of any such permit, fees or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereof appertaining shall continue in full force and effect. Any repeal of the ~~f~~Fire ~~p~~Prevention ~~c~~Code shall not be construed as reviving such former ordinance, clause or provision, unless expressly provided therein.

§ 8.1-11. Penalty and ~~c~~Continuing ~~v~~Violation.

~~(a)~~A. Any person, owner, firm, entity, or corporation who violates any section of this Ordinance, fails to comply with any provisions of the Arlington County Fire Prevention Code or of the Virginia Statewide Fire Prevention Code , or violates or fails to comply with any order made there under, or who fails to comply with such an order within the time fixed therein, shall separately, for each and every such violation and noncompliance respectively, be guilty of a violation of this Ordinance and shall, upon conviction, be punishable as a Class 1 misdemeanor in accordance with Virginia law, including by imprisonment for not more than twelve (12) months and/or a fine of not more than two thousand five hundred dollars ($2,500.00)~~.~~. Each day that a violation continues after service of notice, as provided for in the Virginia Statewide Fire Prevention Code, shall be deemed a separate offense.

~~(b)~~B. The imposition of the criminal penalties herein prescribed shall not preclude the County from enforcing any administrative remedies set forth elsewhere in this ~~c~~Code or the Code of Arlington County, Virginia, 1957 as amended or preclude the County from instituting appropriate civil action, including but not limited to injunction, to restrain, correct or otherwise abate a violation of this Ordinance. The suspension or revocation of any license, permit, certificate or other privilege conferred by the County shall not be regarded as a penalty.

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§ 8.1-12. Fines and ~~c~~Costs.

~~(a)~~A. Other than those occurring within the jurisdiction of the City of Falls Church pursuant to this ~~c~~Code or as otherwise provided for in any agreement between the two jurisdictions, all fees, cost recovery, fines and costs collected under the terms of this Ordinance shall be paid over to the Treasurer, Arlington County and credited by him/her to the General County Fund. Costs shall be taxed in prosecutions under this ~~c~~Code in the same amounts and in the same manner as prescribed by law in misdemeanor cases under state statutes.

~~(b)~~B. The ~~f~~Fire ~~d~~Department shall recover or impose fees and penalties for ~~f~~Fire ~~d~~Department response to the location of a false, faulty, or nuisance alarm. The fees imposed shall be identical to those set forth in Chapter 33 and § 33-14 and § 33-15 of the Code of Arlington County, 1957, as amended. As used herein, the term "false alarm" also means a faulty or nuisance alarm.

§ 8.1-13. Authority to ~~a~~Adopt, ~~s~~Set and ~~m~~Modify ~~f~~Fees by County Board ~~r~~Resolution.

The County Manager, in consultation with the Fire Chief, shall recommend and the County Board shall adopt a schedule of fees to be paid for each application, permit, inspection/reinspection, testing and other specified

acts required by this Ordinance. Any fee authorized or referenced herein, other than fees for false alarm response, shall be established in this manner.

§ 8.1-14. Unlawful or ~~p~~Prohibited ~~a~~Acts ~~i~~Include ~~c~~Causing, ~~p~~Permitting, ~~c~~Concealing.

Whenever in this Ordinance any act or omission is made unlawful or prohibited, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

§ 8.1-15. Damage or ~~i~~Injury to ~~f~~Fire ~~d~~Department ~~v~~Vehicles, ~~e~~Equipment or ~~p~~Personnel.

It shall be unlawful for any person to damage, deface, attempt, or conspire to damage or deface any ~~f~~Fire ~~d~~Department vehicle or equipment at anytime, or to injure, or attempt or conspire to injure any ~~f~~Fire ~~d~~Department personnel while such personnel are in performance of their departmental duties.

§ 8.1-16. Unlawful ~~b~~Boarding or ~~t~~Tampering with ~~f~~Fire ~~d~~Department ~~v~~Vehicles.

It shall be unlawful for any person, without proper authorization from the officer in charge of the vehicle, to attempt or to cling to, attach oneself to, climb upon or into, board or swing upon any ~~f~~Fire ~~d~~Department vehicle whether such vehicle is in motion or at rest, or to sound any warning device thereon, or to manipulate, tamper with, remove or destroy any lever, valve, switch, starting device, brake, pump or any equipment, protective clothing, tool or any part of such ~~f~~Fire ~~d~~Department vehicle and/or property.

§ 8.1-17. Impersonation and ~~s~~Solicitation by ~~u~~Use of the Arlington County Fire Department's ~~n~~Name.

It shall be unlawful for any unauthorized person to use a badge, uniform, or any other credentials so as to gain access to any building, marine vessel, vehicle, or premises or to otherwise falsely identify himself as the ~~f~~Fire ~~m~~Marshal, ~~c~~Code ~~o~~Official, ~~f~~Fire ~~o~~Official or ~~f~~Fire ~~c~~Code ~~o~~Official or his/her ~~designated representative~~designee. The use of the name of the Arlington County Fire Department for any purpose of solicitation or to imply that any solicited funds will be used for the Arlington County Fire Department is prohibited and shall be subject to the penalties of this ~~c~~Code.

§ 8.1-18. Unlawful to ~~c~~Cross ~~f~~Fire ~~l~~Line.

It shall be unlawful for any person to cross or to remain within designated fire lines or barricades, which have been established to prevent public access to the scene of fire~~/~~(s), wreck~~/~~(s), explosion~~/~~(s), crime~~/~~(s) and/or emergency situations where life, limb or property may be endangered.

§ 8.1-19. Reserved.

ARTICLE II.

FIRE PREVENTION CODE

§ 8.1-20. Inspection by ~~o~~Others.

The Fire Chief may designate such other persons, as he/she deems necessary, to make fire safety inspections. Such persons shall use this ~~c~~Code and the Virginia Statewide Fire Prevention Code as the basis for such inspections.

§ 8.1-21. Enforcement of the Virginia Statewide Fire Protection Code and the Arlington County Fire Prevention Code.

This ~~c~~Code shall be enforced by the Arlington County Fire Prevention Office, also herein referred to as the Fire Marshal's Office, the Fire Marshal, members of the Fire Marshal's staff, the Fire Prevention Division, ~~c~~Code ~~o~~Official or the ~~f~~Fire ~~o~~Official. The term "~~c~~Code ~~o~~Official" as used herein means only those designated employees of the Arlington County Fire Department such as the Fire Marshal.

§ 8.1-22. Incorporation ~~a~~Amendments, ~~a~~Additions and ~~d~~Deletions to the Virginia Statewide Fire Prevention Code.

~~(a)~~A. The Virginia Statewide Fire Prevention Code, referred to herein as such or as "SFPC" is hereby incorporated herein as if set forth herein in full text. The SFPC is amended, revised and changed as noted hereinafter pursuant to ~~Section~~ § 27-97 of the Code of Virginia (1950, as amended). Nothing in these provisions is meant to reduce the powers or authority conferred upon the ~~f~~Fire ~~o~~Official, enforcing agency or the County by the statutes and regulations of the Commonwealth of Virginia.

~~(b)~~B. The 2006 edition of the SFPC is hereby amended and changed in the following respects. The model code numbering system is utilized.

103.1.2. Appendices. The following revisions are made to this section. IFC Appendices A shall be deleted and replaced with Appendix A, Fire Watch. The following appendices are hereby incorporated herein as fully enforceable provisions of this code and relabeled as follows:

Appendix A – Requirements For a Fire Watch
Appendix B – Flow Requirements for Buildings (~~-~~IFC Appendix B)
Appendix C – Fire Hydrant Locations and Distribution (IFC Appendix C)
Appendix D – Fire Apparatus Access Roads (IFC Appendix D)
Appendix E – Hazard Categories (IFC Appendix E)
Appendix F – Hazard Ranking (IFC Appendix F)
Appendix G - Cryogenic Fluids (IFC Appendix G)

106.1. General. Add the following 106.1.1.
106.1.1. Impersonation. See §8.1-17. It shall be unlawful for any unauthorized person to use a badge, uniform, or any other credentials so as to gain access to any building, marine vessel, vehicle, or premises or to otherwise falsely identify himself as the fire official or his/her designated representative.

106.3. Inspection by others. Add the following 106.3.2.
106.3.2. Inspection by others. See §8.1-19. The Fire Chief may designate such other persons as he/she deems necessary, to make fire safety inspections. Such persons shall use the Virginia Statewide Fire Prevention Code and this code as the basis for such inspections.

106.5. Modifications. Delete and substitute 106.5 as follows. Subsections 106.5.1, 106.5.2 are retained and incorporated in full without revision.
106.5. Modifications. The fire official shall have the power and authority to modify any provision or requirement of this Code, upon written application by the owner, lessee, occupant, or their legal representative. However, in all cases of modification, the spirit and intent of this code shall be met to ensure that the health, safety and welfare of persons are protected.

106. Duties and powers of the fire official. After 106.7, add the following 106.8, 106.9, 106.9.1, 106.9.2, 106.9.3**.**
106.8. Cost recovery. Fees will be charged and collected from the proper individual(s) or entities by the Arlington County Fire Department in order to defray the cost of code enforcement and appeals under the SFPC. The fees will be assessed for permits in Sections 107.2 and 108. In addition, fees shall be assessed for witnessing fire protection systems test, monitoring the removal of hazardous materials and storage containers, ~~-~~for responding to and/or inspecting false, faulty, or nuisance alarms, and other fire prevention services that provide safety against conditions hazardous to life or property as well as cost recovery from the owner or person in control for impound, towing, recovery and/or disposal as appropriate. All fire department service fees established by the Fire Prevention Office shall be first submitted to the County Board for approval. An amendment to this Ordinance is not required to change any fee, cost recovery~~-~~, or permit.
106.9. Notification. The County Fire Prevention Office shall be notified of all incidents involving fire, explosion/s, misfires, and/or spills, leaks, discharge, or other releases of materials as described in SFPC Chapter 27.
106.9.1. Responsibility. It shall be the responsibility of the Arlington County Fire Department officer-in-charge, or his/her designee, to file with the Fire Chief, in such form as he/she shall prescribe, a report of every fire, explosion,

or incident to which fire department apparatus or equipment responds. Such reports shall be filed at such time and location prescribed by the Fire Chief.

106.9.2. Summonsing or dispatching the Fire Marshal. The Arlington County Fire Department officer-in-charge of any fire, explosion, or incident scene shall immediately summons or cause to be dispatched the Fire Marshal to such scene to investigate the circumstances involved where such circumstances require investigation.

106.9.3. Notification of fire department. In any building, structure, or premises subject to inspection under any provision of this code, when a fire or evidence of there having been a fire is discovered, even though it has apparently been extinguished, it shall be immediately reported to the Arlington County Emergency Communications Center. This shall be the duty of the owner, manager, or person in control (as defined herein) of such building, structure, or premises at the time of discovery. This requirement shall not be construed to forbid or otherwise restrict the owner, manager, or person in control of said building, structure, or premises from using all diligence necessary to extinguish such fire prior to the arrival of the Arlington County Fire Department.

107.2. Permits and fees. Add the following 107.2.1.

107.2.1. Permit classes. Permits classes required by this code or by the SFPC shall be set forth in Table 107.2 . No permit required by this code shall be valid until the prescribed fee, as approved from time to time by the County Board of Arlington County, Virginia, has been paid to the Treasurer, of Arlington County, Virginia.

Field Code Changed

Table 107.2. Fire Prevention Code Permit Requirement. Insert the Table as follows. Fees for each of the categories listed therein shall be established pursuant to § 8.1-13 herein.

Table 107.2 Fire Prevention Code Permit Requirements

	Code Reference	**Table 107.2 FIRE PREVENTION CODE PERMIT REQUIREMENTS**
		Section 1 – Detailed Operational Permit Requirements
1	108.1.1	Aerosol Products, Level 2 or 3: Manufacture, store or handle an aggregate quantity in excess of 500 pounds net weight
2	108.1.1	Special Amusement Buildings
3	108.1.1	Aviation Facilities (Groups H or S occupancies): Aircraft Servicing / or Repair and Aircraft Fuel Servicing Vehicles
4	108.1.1	Carnivals, Fairs, Festivals, and Outdoor Public Assemblages (30 Day Permit)
5	108.1.1	Battery Systems: Stationary Lead Acid to install a system with a liquid capacity of more than 50 gallons
6	108.1.1	Cellulose Nitrate (pyroxylin plastic): Assembly or Manufacturing of Articles Involving Any Amount
7	108.1.1	Cellulose Nitrate (pyroxylin plastic): Storage & Handling more than 25 Pounds
8	108.1.1	Cellulose Nitrate Film: Store, Handle or Use in a Group A occupancy
9	108.1.1	**Combustible Dust-Producing Operations**
10	108.1.1	Combustible Fibers: Storage & Handling of greater than 100 cubic feet Exception: agricultural storage
11	108.1.1	Compressed Gas: - Corrosive: Storage, Use or Handling, excess of 200 cubic feet at normal temperature and pressure Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle
12	108.1.1	Compressed Gas: - Flammable: Storage, Use or Handling, in excess of 200 cubic feet at normal temperature and pressure Exceptions: 1. Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle. 2. Cryogenic fluids and liquefied petroleum gases

	Code Reference	**Table 107.2** **FIRE PREVENTION CODE PERMIT REQUIREMENTS**
13	108.1.1	Compressed Gas~~:~~ - Toxic or Highly Toxic: Storage, Use or Handling, Any amount
14	108.1.1	Compressed Gas~~:~~ - Inert or simple asphyxiant**:** Storage, Use ~~&~~ or Handling in excess of 6000 cubic feet at normal temperature and pressure Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle
15	108.1.1	Compressed Gas~~:~~ - Oxidizing (including oxygen): Storage, Use or Handling in excess of 504 cubic feet at normal temperature and pressure Exception: Vehicles equipped for and using compressed gas as a fuel for propelling the vehicle
16	108.1.1	Compressed Gas – Pyrophoric: Storage, use and handling of any amount
17	108.1.1	Cryogenic Fluids~~:~~ - Flammable: Produce, Store, transport on site, Use, handle or Dispense~~,~~ more than 1 gallon inside a building or more than 60 gallons outside a building Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading
18	108.1.1	Cryogenic Fluids Inert: Produce, store, transport on site, use, handle or dispense more than 60 gallons inside a building or more than 500 gallons outside a building Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading
19	108.1.1	Cryogenic Fluids- Oxidizing (includes oxygen): Produce, store, transport on site, use, handle or dispense more than 10 gallons inside a building or more than 50 gallons outside a building Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading
20	108.1.1	Cryogenic Fluids-Physical or health hazard not otherwise specified: Produce, store, transport on site, use, handle or dispense any amount inside a building or any amount outside a building Exception: Operational permits are not required for vehicles equipped for and using cryogenic fluids as a fuel for propelling the vehicle or for refrigerating the lading
21	108.1.1	Commercial Kitchen Operation requiring a type I hood
22	108.1.1	Dry Cleaning – Any Type Plant using Any Class of Solvent or a change to a more hazardous cleaning solvent used in existing equipment
23	108.1.1	Explosives: Explosives use, Each Site or Location (6 Month Permit)
24	108.1.1	Explosives: Transportation, Each Vehicle (6 Month Permit)
25	108.1.1	Explosives: Firm or Company License
26	108.1.1	Explosives: Storage & Display of Black Powder or Smokeless Propellant Indoors
27	108.1.1	Explosives: Approved Overnight Storage, Any Quantity (1 Day Permit)
28	108.1.1	Explosives: Laboratory Use~~,~~ (6 Month Permit)
29	108.1.1	Flammable Liquids Class I: Store, handle or use in excess of 5 gallons in a building or in excess of 10 gallons outside a building Exceptions: 1. Storage or use in the fuel tank of a motor vehicle, aircraft, motorboat, or mobile power plant, or mobile heating plant, unless such storage, in the opinion of the fire official, would cause an unsafe condition. 2. Storage or use of paints, oils, varnishes or similar flammable mixtures when such liquids are stored for maintenance, painting or similar purposes for a period of not more than 30 days
30	108.1.1	Combustible Liquids Class II or IIIA: Store, handle or use in excess of 25 gallons in a building or in excess of 60 gallons outside a building Exception: Fuel oil used in connection with oil-burning equipment

	Code Reference	**Table 107.2** **FIRE PREVENTION CODE PERMIT REQUIREMENTS**
31	108.1.1	Flammable/Combustible Liquid Tank - Underground Storage Only
32	108.1.1	Flammable/Combustible Liquid Tank - Underground Storage Utilizing Dispensing Equipment
33	108.1.1	Flammable/Combustible Liquid Tank - Above-ground Storage Only
34	108.1.1	Flammable/Combustible Liquid Tank - Above-ground Storage Utilizing Dispensing Equipment
35	108.1.1	Flammable/Combustible Liquids: Bulk Storage Facility – in excess of 100,000+ Gallons
36	108.1.1	Flammable/Combustible Liquid Tank - Installation, Above- or Below-ground Tank (90 Day Permit)
37	108.1.1	Flammable/Combustible Liquid Tank - Alter or Relocate an Existing Tank (90 Day Permit)
38	108.1.1	Flammable/Combustible Liquid Tank - Placed Temporarily Out of Service
39	108.1.1	Flammable/Combustible Liquid Tank - Underground Abandonment (90 Day Permit)
40	108.1.1	Flammable/Combustible Liquid Tank - Underground Removal (Commercial - 90 Day Permit)
41	108.1.1	Flammable/Combustible Liquid Tank - Underground Removal (Residential -90 Day Permit)
42	108.1.1	Flammable/Combustible Liquid Tank - Above-ground Removal (Commercial - 90 Day Permit)
43	108.1.1	Flammable/Combustible Liquid Tank - Install Product Lines/Dispensing Equipment (90 Day Permit)
44	108.1.1	Flammable/Combustible Liquids: Manufacture, process, blend or refine
45	108.1.1	Flammable/Combustible Liquid Tank: Change the contents stored to a greater hazard
46	108.1.1	Floor Finishing or surfacing exceeding 350 square feet using Class I or Class II liquids (30 Day Permit)
47	108.1.1	Fruit- & Crop-Ripening Facility or process Using Ethylene Gas
48	108.1.1	Fumigation ~~&~~ or Thermal Insecticidal Fogging or maintaining a room, vault or chamber in which a toxic or flammable fumigant is used (15 Day Permit)
49	108.1.1	Corrosive Liquids: Store, transport on site, dispense, Use or Handle in excess of 55+ Gallons
50	108.1.1	Corrosive Solids: Store, transport on site, dispense, Use or Handle in excess of 1000+ Pounds
51	108.1.1	Flammable Solids: Store, transport on site, dispense, Use or Handle in excess of 100 ~~11~~+ Pounds
52	108.1.1	Highly Toxic Liquids: Store, transport on site, dispense, Use or Handle Any
53	108.1.1	Highly Toxic Solids: Store, transport on site, dispense, Use or Handle Any Amount
54	108.1.1	Oxidizing Liquids, Class 4: Store, transport on site, dispense, Use or Handle Any Amount
55	108.1.1	Oxidizing Liquids, Class 3: Store, transport on site, dispense, Use or Handle in excess of 1+ Gallons
56	108.1.1	Oxidizing Liquids, Class 2: Store, transport on site, dispense, Use or Handle in excess of 10+ Gallons
57	108.1.1	Oxidizing Liquids, Class 1: Store, transport on site, dispense, Use or Handle in excess of 55+ Gallons
58	108.1.1	Oxidizing Solids, Class 4: Store, transport on site, dispense, Use or Handle Any Amount
59	108.1.1	Oxidizing Solids, Class 3: Store, transport on site, dispense, Use or Handle in excess of 10+ Pounds
60	108.1.1	Oxidizing Solids, Class 2: Store, transport on site, dispense, Use or Handle in excess of 100+ Pounds
61	108.1.1	Oxidizing Solids, Class 1: Store, transport on site, dispense, Use or Handle in excess of 500+ Pounds
62	108.1.1	Organic Peroxides, Liquid, Class I: Store, transport on site, dispense, Use or Handle Any Amount
63	108.1.1	Organic Peroxides, Liquid, Class II: Store, transport on site, dispense, Use or Handle Any Amount

	Code Reference	**Table 107.2 FIRE PREVENTION CODE PERMIT REQUIREMENTS**
64	108.1.1	Organic Peroxides, Liquid, Class III: Store, transport on site, dispense, Use or Handle in excess of 1+ Gallons
65	108.1.1	Organic Peroxides, Liquid, Class IV: Store, transport on site, dispense, Use or Handle in excess of 2+ Gallons
66	108.1.1	Organic Peroxides, Solid, Class I: Store, transport on site, dispense, Use or Handle Any Amount
67	108.1.1	Organic Peroxides, Solid, Class II: Store, transport on site, dispense, Use or Handle Any Amount
68	108.1.1	Organic Peroxides, Solid, Class III: Store, transport on site, dispense, Use or Handle in excess of 10+ Pounds
69	108.1.1	Organic Peroxides, Solid, Class IV: Store, transport on site, dispense, Use or Handle in excess of 20+ Pounds
70	108.1.1	Pyrophoric Material, Liquid: Store, transport on site, dispense, Use or Handle Any Amount
71	108.1.1	Pyrophoric Material, Solid: Store, transport on site, dispense, Use or Handle Any Amount
72	108.1.1	Hazardous Production Facilities (HPM): Store, handle or use hazardous production materials
73	108.1.1	High Piled Storage: Use a building or portion thereof as a high-piled storage area exceeding 500 square feet.
74	108.1.1	Hot Work & Welding: Public Exhibitions & Demonstrations (Each Exhibitor/Demo. - 10 Day Permit)
75	108.1.1	Hot Work & Welding: Small Scale Hot Work
76	108.1.1	Hot Work & Welding: Fixed-Site Hot Work Equipment (example: Welding Booth)
77	108.1.1	Hot Work & Welding: Cutting & Welding, All Locations
78	108.1.1	Hot Work & Welding: Open Flame Device Roofing Operation (Each Site/Location - 90 Day Permit)
79	108.1.1	Hot Work & Welding: Paint Removal With a Torch or Open-Flame (Each Site/Location - 30 Day permit)
80	108.1.1	Industrial Ovens
81	108.1.1	Lumber Yards & Woodworking Plants: Storage or Processing of Lumber exceeding 100,000 board feet
82	108.1.1	Liquid- or Gas-Fueled Vehicles: Display Inside Any Building (Each Event – 6 month permit)
83	108.1.1	LP-Gas: Storage and use Inside Any Structure Exception: Individual containers with a 500-gallon water capacity or less serving R-3 occupancies
84	108.1.1	LP-Gas: Storage and use Outside, Portable installation, per event - Any Amount (Other Than Cylinder Exchange/Refill)
85	108.1.1	LP-Gas: Storage and use Outside, Stationary installation, per year - Any Amount (Other Than Cylinder Exchange/Refill)
86	108.1.1	LP-Gas: Dispensing & Cylinder Refill Location
87	108.1.1	LP-Gas: Retail Cylinder Exchange Location
88	108.1.1	Combustible Storage: Storage Inside any building or Upon Any Premises - in excess of 2500 Cubic Feet
89	108.1.1	Open Burning: Bonfire (10 Day Permit)
90	108.1.1	Open Burning: Silvicultural / Controlled Burning (90 Day Permit)
91	108.1.1	Open Flame & Candles: Public Meetings/Gatherings in A & E use Groups (Each Event)
92	108.1.1	Open Flame & Candles: Restaurants & Drinking Establishments, Assembly & Dining Areas
93	108.1.1	Organic Coatings: Manufacturing Operation Producing more than 1+ Gallons in 1 Day
94	108.1.1	Place of Assembly/Education - Occupant Load 50 or greater
95	108.1.1	Pyrotechnics & Fireworks: Retail Sales of Permissible Fireworks - Any Amount (45 Day Permit)
96	108.1.1	Pyrotechnics & Fireworks: Wholesale of Permissible Fireworks - Any Amount (45 Day Permit)
97	108.1.1	Pyrotechnics & Fireworks: Outdoor Fireworks Display (Aerial/Proximate Audience) (1 Day Permit)

	Code Reference	**Table 107.2 FIRE PREVENTION CODE PERMIT REQUIREMENTS**
98	108.1.1	Refrigeration Equipment and systems having a refrigerant circuit containing more than 220 pounds of Group A1 or 30 pounds of any other group refrigerant
99	180.1.1	Pesticides storage of 300 lbs or greater
100	108.1.1	Repair Garages & Service Stations: Automotive Repair Garage Only
101	108.1.1	Repair Garages & Service Stations: Automotive Service Station Only
102	108.1.1	Repair Garages & Service Stations: Automotive Repair Garage & Service Station
103	108.1.1	Repair Garages & Service Stations: LP-Gas Motor-Vehicle Fuel-Dispensing
104	108.1.1	Repair Garages & Service Stations: Compressed Natural Gas Motor-Vehicle Fuel-Dispensing
105	108.1.1	Repair Garages & Service Stations: Hydrogen Motor Fuel Dispensing & Generation Station
106	108.1.1	Repair Garages & Service Stations: Marine & Watercraft Service Station
107	108.1.1	Repair Garages & Service Stations: Unattended Vehicle Service Station
108	108.1.1	Rooftop Heliports
109	108.1.1	Spraying or Dipping Operations: Flammable/Combustible Spray Finishing Operation
110	108.1.1	Spraying or Dipping Operations: Flammable/Combustible Dip-Tank Operation
111	108.1.1	Spraying or Dipping Operations: Application of Combustible Powders/Spray/Fluidized
112	108.1.1	Spraying or Dipping Operations: Dual-Component Coatings With Organic Peroxides
113	108.1.1	Swimming Pool Chemical Dispensing Operation
114	108.1.1	Temporary Membrane structures and Tents (6 month permit) Exceptions: 1. Tents used exclusively for recreational camping purposes 2. Tents and air-supported structures that cover an area of 900 square feet or less, including all connecting areas or spaces with a common means of egress and with an occupant load of 50 or less persons
115	108.1.1	Tire Rebuilding Plants
116	108.1.1	Tire Storage: Establish, conduct or maintain storage of scrap tires and tire byproducts that exceeds 2500 cubic feet of total volume of scrap tires and for indoor storage of tires and tire byproducts
117	108.1.1	Toxic Materials Liquids - Store, transport on site, dispense, Use or Handle in excess of 10 gallons
118	108.1.1	Toxic Materials Solids - Store, transport on site, dispense, Use or Handle in excess of 100 pounds
119	108.1.1	Unstable (reactive) Materials: Liquids, Class 1 – Store, transport on site, dispense in excess of 10 gallons
120	108.1.1	Unstable (reactive) Materials: Liquids, Class 2 – Store, transport on site, dispense, use or handle in excess of 5 gallons
121	108.1.1	Unstable (reactive) Materials: Liquids, Class 3 – Store, transport on site, dispense, use or handle any amount

	Code Reference	**Table 107.2 FIRE PREVENTION CODE PERMIT REQUIREMENTS**
122	108.1.1	Unstable (reactive) Materials: Liquids, Class 4 – Store, transport on site, dispense, use or handle any amount
123	108.1.1	Unstable (reactive) Materials: Solids, Class 1 – Store, transport on site, dispense, use or handle in excess of 100 pounds
124	108.1.1	Unstable (reactive) Materials: Solids, Class 2 – Store, transport on site, dispense, use or handle in excess of 50 pounds
125	108.1.1	Unstable (reactive) Materials: Solids, Class 3 – Store, transport on site, dispense, use or handle any amount
126	108.1.1	Unstable (reactive) Materials: Solids, Class 4 – Store, transport on site, dispense, use or handle any amount
127	108.1.1	Water-reactive Materials: Liquids, Class 1 – Store, transport on site, dispense, use or handle in excess of 55 gallons
128	108.1.1	Water-reactive Materials: Liquids, Class 2 – Store, transport on site, dispense, use or handle in excess of 5 gallons
129	108.1.1	Water-reactive Materials: Liquids, Class 3 – Store, transport on site, dispense, use or handle any amount
130	108.1.1	Water-reactive Materials: Solids, Class 1 – Store, transport on site, dispense, use or handle in excess of 500 pounds
131	108.1.1	Water-reactive Materials: Solids, Class 2 – Store, transport on site, dispense, use or handle in excess of 50 pounds
132	108.1.1	Water-reactive Materials: Solids, Class 3 – Store, transport on site, dispense, use or handle any amount
133	108.1.1	Waste Handling: Wrecking Yard or Junk Yard
134	108.1.1	Waste Handling: Waste Material Handling Facility
135	108.1.1	Wood Products: Storage of Chips, hogged Material, Lumber or Plywood - in excess of 200 Cubic Feet
136	2207.1	Calcium Carbide, Use or Handle any amount
137	2208.1	Use of Acetylene Generators
138	2601.2	Acetylene Cylinder Storage
139	3601.2	LPG any quantity for exhibits, demonstrations, bulk installation, construction site use
		Section 2 - Plan Review Fees
140	404. 3.1	Fire Safety & Evacuation Plans review
141	2301.4	Fire Safety & Evacuation Plans review: High-Piled Combustible Storage Areas in excess of 500 square feet.
142	2701.5.1	Hazard Communication: Hazardous Material Management Plan review
143	2701.6.3	Hazardous Material Facility Closure Plan review
144	901.2	Fire Protection Systems Review

	Code Reference	**Table 107.2 FIRE PREVENTION CODE PERMIT REQUIREMENTS**
145	408.1.1	Occupant Load: Plan Review
146	403. 2	Special Events Public Safety Plan review, Indoor or Outdoor Assemblages
147	3801.3	Site and Installation Plan review: LP-gas Cylinder Exchange Program
		Section 3 - Inspection And Testing Fees
148	107.12	Assembly & Educational Occupancies Inspections
149	107.12	Child daycare facilities Inspection
150	109.1	Inspections Resulting From Non-Compliance
151	107.12	Technical Inspection Not otherwise specified
152	901.6.3.1	Testing and re-inspection of Existing Fire Protection Systems (Each Inspector)
153		Cancelation of scheduled test
154		Flammable and combustible liquids, storage tanks and equipment
155		Special Events Indoor or Outdoor Assemblages

107.4. Issuance of permits. Add the following 107.4.1.
107.4.1. Duration of permit. Permits shall remain in effect for twelve (12) months from the date issued unless otherwise specified in Table 107.2, specified on the permit or unless suspended or revoked in accordance with this code.

107.5. Conditions of permit. This section is incorporated in full with the following revision.
After the words, "Permits are not transferable" insert "*from one person, business, location, or address to another*." Insert at the end of the section, "All persons or entities issued a permit shall comply with the provisions of the permit and this code." The revised section follows.
107.5. Conditions of permit. A permit shall constitute permission to store or handle materials or to conduct processes in accordance with the SFPC, and shall not be construed as authority to omit or amend any of the provisions of this code. Permits shall remain in effect until revoked or for such period as specified on the permit. Permits are not transferable from one person, business, location, or address to another. All persons or entities issued a permit shall comply with the provisions of the permit and this code.

108.5. Required construction permits. Add the following 108.5.13.
108.5.13. Special locking arrangements. A construction permit is required for installation or modification of delayed egress locks, access-controlled egress locks, interior means of egress stairway door locks, and special locking arrangements in occupancies with areas in which the clinical needs of patients require restraint of movement. Maintenance performed to ensure compliant operation of approved special locking arrangements is not a modification and does not require a permit.

109. Inspection. Add the following 109.4, 109.5.
109.4. Approvals. Approvals made as the result of an inspection shall not be construed to be an approval or ratification of a violation of the provisions of this code or of any other County or state ordinances, laws, or regulations. Inspections or permits by any other entity or department presuming to give authority to violate, modify

or cancel provisions of this code shall not be valid and are void. Any modification to this code must be by written variance or modification issued by the Fire Marshal.
109.5. Follow-up inspection/s resulting from noncompliance. Where one (1) or more follow-up inspections are required as a result of noncompliance with this code, fees for each reinspection/s shall be assessed and paid in full.

110.1. General. Add item number 11 as follows.
[Item number] **11.** Excavations and/or demolitions that are in violation of the Virginia State Corporation Commission's Chapter 10.3, *Underground Utility Damage Prevention Act*, and involve hazardous materials pipeline, including natural gas transmission and distribution lines, and petroleum pipelines.

110.2. Maintenance. Add the following 110.2.1.
110.2.1. Compliance with this code. A person, firm, owner, person in control (as defined herein) or corporation in charge of or responsible for any building, structure, premises, vehicle, device, other property, substance, material, gas, liquid, chemical, or condition, place, material, or substance regulated either by this code or by an ordinance under the Fire Marshal's jurisdiction shall be responsible for compliance with all such code and ordinance provisions and regulations relating thereto.

110.5. Evacuation. Add the following 105.1.
110.5.1. Imminent threat to human health or safety or to property. If the fire official determines, in his/her professional judgment, that a violation/s creates an imminent threat to human health or safety or to property, the fire official may cause to restrain, correct, or abate such violation and institute appropriate legal proceeding to collect the full cost of such response from the owner, the tenant, or other person in control (as defined herein) of the premises.

112.1. Local Board of Fire Prevention Code Appeals (BFPCA). Delete, rename, and substitute as follows.
112.1. Local Board of Appeals. The Arlington County Local Board of Appeals (also referred to as BFPCA) is hereby established. Any person or entity cited for violation, when aggrieved by a decision or interpretation by the Fire Marshal made under the provisions of either the Arlington County Fire Prevention Code or the Virginia Statewide Fire Prevention Code, may appeal to the local board of appeals upon the grounds and in the manner set forth in the SFPC. An appeal case decided by the BFPCA shall be final unless appealed to the State Building Code Technical Review Board (TRB).

112.2. Membership. Delete, rename, and substitute as follows. Subsections 112.2.1 and 112.2.2 are retained and incorporated in full without revision.
112.2. Members of the local board of appeals. In accordance with the SFPC, the BFPCA (Local Board of Appeals) shall consist of at least five (5) members who are qualified by experience and training to rule on matters pertaining to the SFPC, building construction and fire prevention. All appointments to the local board of appeals shall be made by the Arlington County Board. The members of the local board of appeals shall be appointed to serve four (4) year terms. The local board of appeals shall elect its own officers, including a chair, secretary, and vice chair. Alternate members may be appointed to serve in the absence of any regular members and as such, shall have the full power and authority of regular members. Regular and alternate members may be reappointed at the discretion of the County Board. Written records of current membership, including a record of the current chair and secretary shall be maintained in the County Board Office. In order to provide continuity, the terms of the members may be different lengths so that less than half will expire in any one-year period. * * *

202. Definitions. Add or amend the following words, terms, and meanings.

ATTACHED SINGLE-FAMILY DWELLING – Any building containing exactly two (2) dwelling units. Most commonly refers to the units which are side by side, with a common wall and roof or an apartment on two (2) floors or levels, including duplex or semidetached dwelling.

BUILDING - the term "building" also includes the term "structure" and "premises" and any portion thereof.

BUSINESS DAY – Such day and time when the government offices of Arlington County, Virginia are open for business.

CODE OFFICIAL **–** Add the following sentence to the existing definition: and shall have the same meaning and authority as Fire Marshal and fire code official. "Code official" does not include any building or zoning official and only means those persons employed by or designated by the Arlington County Fire Department as having life and safety fire prevention duties.

DESIGNEE – Add the following sentence to the existing definition: and, for purposes of accepting notice and causing to dispatch the Fire Marshal or designee, shall also include the Arlington County Emergency Communications Center (ECC) at (703) 558-2222.

DWELLING – A structure, building or portion thereof designed for residential occupancy,

DWELLING UNIT **-** A room or group of rooms within a dwelling, forming a single habitable unit.

THE FIRE CHIEF OR CHIEF OF THE FIRE DEPARTMENT - The head of the Arlington County Fire Department, Arlington County Virginia, also referred to as the "Fire Chief" or "Chief of the Fire Department", "County Fire Chief" or "County Chief of the Fire Department."

FIRE CODE OFFICIAL – Add the following sentence to the existing definition: and shall have the same meaning and authority as the Fire Marshal and as defined in Article I herein.

FIRE PREVENTION OFFICE - The County Fire Marshal, and, under the authority of the Fire Marshal, the Deputy Fire Marshal and members of the Fire Marshal's staff, also referred to as the "Fire Prevention Office" or the "fire official."

FIRE OFFICIAL – Add the following sentence to the existing definition: and shall have the same meaning and authority as the Fire Marshal. See Section 8.1-7 herein.

FLOOR REFINISHING OPERATIONS **–** Add the following sentence to the existing definition: and are those in which a finish is to be applied using a flammable or combustible liquid.

IMMEDIATELY- The term "immediately" means without delay.

METAL REFINISHING OPERATIONS **-** Those operations performed in or around occupied structures involving the stripping of an old finish and applying a new finish using a flammable or combustible liquid.

OCCUPANCY **-** The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANCY CLASSIFICATION - Amend this definition to include the following instruction: Occupancy groups as listed in the SFPC and herein may be referred to by their group letter or designation only but shall include all classifications unless otherwise noted e.g., "Group A" includes Assembly Group A, A-1, A-2, A-3, A-4, and A-5.

OCCUPANT - A person who occupies or is physically located in or on a place, structure or a position; an owner or tenant of a property; a person located in or on a car or other vehicle.

OPERATIONS PROCEDURE MANUAL **-** A manual, as approved by the fire code official, that describes the various components and procedures for operating all fire protection equipment and/or systems in a building, structure, or premises.

PERSON IN CONTROL **-** Any entity, firm, corporation, or person, even a person of low rank or authority, who is solely or jointly in control of all or any portion of the premises, facility, structure, vehicle, device, other property, substance, material, gas, liquid, chemical, or condition regulated by this code. A "person in control" includes an owner, lessee, operator, permit holder, tenant, occupant, manager, employee, agent, contractor, attendant, or other person.

STACKED UNIT **-** Any type of R-3 or R-5 structure (one and two family dwelling units) containing two (2) or more dwelling units where each dwelling unit has an independent means of egress and the dwelling units are arranged one above the other, either partially or totally.

SUBSURFACE STRUCTURE **–** Add the following sentence to the existing definition: and shall include, but is not limited to, structures such as subway stations, railroad tunnels including rapid rail transit tunnels, and highway tunnels.

TOWNHOUSE/S – One (1) of a series of three (3) or more attached similar dwelling units or structures, generally having two (2) or more floors, separated by common party walls without openings extending from basement to roof.

302. Definitions. Add or amend the following words, terms, and meanings.

OUTDOOR WARMING FIRES – An outdoor fire, burning materials other than rubbish, where the fuel being burned is contained in a container such as a chimineas, outdoor fire place, barbeque grill, fire pit, fire bowl or fire house or other similar portable devices designed for outdoor fuel burning. Only seasoned dry firewood or similar clean burning materials shall be used as fuel for warming fires.

301.2. Permits. Delete and substitute as follows.
301.2. Permits. Permits shall be required as set forth in Section 107.2 for the activities or uses regulated by Sections 306, 307, 308.3, 308.4, 308.5, and 315.

304.2. Storage. Add the following 304.2.1, 304.2.1.1.
304.2.1. Handling readily combustible materials. No person producing, using, storing, or having charge of or under their control any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw, or other combustible waste material, shall fail or neglect at the close of each day to cause all such material which is not compactly baled and stacked in an orderly manner to be removed from the building or stored in suitable vaults or in metal, metal-lined or other approved noncombustible and covered, receptacles, or bins.
304.2.1.1. Baling equipment. Baling equipment deemed suitable by the fire official, in his/her professional judgment, shall be installed and used in stores, apartment buildings, factories, and other buildings where accumulations of paper and waste materials are not removed from the building or structure at least once every day.

304.3.3. Containers. Add the following 304.3.4.
304.3.3.4. Identification and contact information. All containers exceeding one point five (1.5) cubic yards used for the disposal of waste or trash shall be marked with the name of the owner and a twenty-four (24) hour contact number in the event that emergency removal is required.

307. Open burning and recreational fires. Delete and rename as follows.
307. Open burning, recreational fires, and outdoor warming fires.

307.1. General. Add the following 307.1.2.
307.1.2. Burning of leaves and yard waste. The open burning of leaves and yard waste is prohibited.

307.2. Permit required. This section and 307.2.1 are incorporated in full with the following revision. Insert the following before the first sentence: "*A permit is required for bonfires or other controlled burning approved by the code official. This permit requirement does not apply to outdoor warming fires or recreational fires used solely for the cooking of food for human consumption.*" The revised section follows.
307.2. Permit required. A permit is required for bonfires or other controlled burning approved by the code official. This permit requirement does not apply to recreational fires used solely for the cooking of food for human consumption. A permit shall be obtained from the fire code official in accordance with Section 107.2 prior to kindling a fire for recognized silvicultural, range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be made by, and permits issued to, the owner of the land upon which the fire is to be kindled.

307.4 Location. Add the following 307.4.3.

307.4.3. Outdoor warming fires. Outdoor warming fire containers such as chimineas, outdoor fire places, barbeque grills, fire pits, fire bowls or fire houses, and other similar portable devices designed for outdoor use fueled by seasoned dry firewood or similar clean burning materials, combustible or flammable gases, liquids, or solids shall not be operated or stored on a rooftop patio, balcony, or deck of any structure or within fifteen (15) feet of combustible construction or a residential occupancy.

Exceptions:
1. Detached one- and two-family dwellings, attached single-family dwellings and townhouse/s.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.

307.4.2. Recreational fires. Add the following 307.4.2.1.
307.4.2.1. Allowable fuels. Only seasoned dry firewood or similar clean burning materials shall be permitted as fuel for outdoor warming fires, and recreational fires. Land clearing waste, leaves, yard waste, rubbish, or refuse shall not be used as fuel.

307.5. Attendance. Add the following 307.5.1.
307.5.1. Endangering other persons or property. No person shall kindle, authorize to be kindled or maintain any permitted fire in such a manner that could endanger the person or property of another.

307. Open burning, recreational fires and outdoor warming fires. After 307.5, add the following 307.6.
307.6. Prohibited conduct. Any person who carelessly or negligently sets fire to, burns, or causes to be burned any property, either real or personal, whether the property of himself or of another, shall be subject to the penalties of this code.

308.3.1. Open-flame cooking devices. Delete and substitute as follows.
308.3.1. Open-flame cooking devices. No charcoal burners and other open-flame cooking devices fueled by combustible or flammable gases, liquids, or solids shall be used, operated or stored on any balcony, rooftop, or deck of any building or within fifteen (15) feet of combustible construction or residential occupancy.

Exceptions:
1. Detached one- and two-family dwellings, attached single-family dwellings and townhouse/s.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
3. Cooking devices using electricity as the heating source and listed by a recognized testing authority.
4. Cooking devices using natural gas as the heating source and which are listed by a nationally recognized testing authority may be operated on non-combustible rooftop, patios, terraces, balconies, and/or decks.

308.3.1. Open-flame cooking devices. Add the following 308.3.1.1.
308.3.1.1. Notification of tenants. The person in control or management agent of multi-family residential occupancies which have balconies, patios, ~~balconies,~~ terraces, and/ or decks shall notify their tenants in writing of the prohibitions outlined in Section 308.3.1 of this code when the tenant or occupant initially occupies the building, renews a lease, and periodically thereafter as may be necessary to ensure compliance.
308.4. Torches for the removing of paint. Delete, rename, and amend to include "*removal of paint or for sweating pipe joints*" and "*a reliable water supply*."
308.4. Torches for the removal of paint or for sweating pipe joints. Persons utilizing a torch or other flame-producing device for the removal of paint from any building or structure or for sweating pipe joints in any building or structure shall provide a minimum of one (1) portable fire extinguisher complying with Section 906 and with a minimum 4-A rating, two (2) portable fire extinguishers, each with a minimum of 2-A rating, or a water hose connected to a reliable water supply on the premises where such burning or sweating pipe joints is done. The person doing the burning shall remain on the premises one (1) hour after the torch or flame-producing device is utilized.

308.4.1. Permit. Delete and substitute as follows.
308.4.1. Permit. A permit in accordance with Section107.2 shall be secured from the fire official prior to the utilization of a torch or flame-producing device for the removal of paint from a building or structure or for sweating pipe joints in any building or structure.

308.4. Torches for the removal of paint or for sweating pipe joints. Add the following 308.4.2
308.4.2. Sweating pipe joints. Any person using a torch or other flame producing device for sweating pipe joints in any building or structure shall have available in the immediate vicinity where the sweating is done an approved fire extinguisher or water hose connected to a reliable water supply. Combustible material in close proximity to the work shall be protected against ignition by shielding, wetting or other approved means. In all cases, a fire watch shall remain in the vicinity of the sweating operation for one (1) hour after the torch or flame-producing device has been used.

308. Open flames. After 308.6, add the following 308.7, 308.7.1, 308.7.2, 308.8, 308.8.1.

308.7.1. Attendance and monitoring. Outdoor solid fuel burning devices such as patio heaters shall adhere to the requirements set forth at 307.5.
308.7.2. Objectionable smoke, odor or hazard. Burning in these devices that produce offensive or objectionable smoke or odor emissions, or when atmospheric or local circumstances make such fires hazardous, shall be prohibited.
308.8. Torches or other flame or heat-producing devices used in roofing applications. Any person using a torch or other flame or heat-producing device in roofing applications on any buildings or structures shall have available, in the immediate vicinity where the roofing application is done, one (1) approved fire extinguisher or water hose connected to a reliable water supply. Combustible material in the close proximity of the work shall be protected against ignition by shielding, wetting or other approved means. In all cases, a fire watch shall remain in the vicinity of the roofing operation for one (1) hour after the torch or flame or heat-producing device had been used.
308.8.1. Permit Required. A permit shall be secured from the code official prior to utilization of any torch or other flame or heat-producing device used in roofing applications.

310.2. Smoking. Add the following 310.2.1.
310.2.1. Restricted smoking area. No smoking shall be allowed in below grade parking garages

310.3. "No Smoking" signs. Add the following 310.3.1.
310.3.1. "No Smoking" signs. "No Smoking" signs required by this, or any other code or ordinance, shall not include references to the fire chief, code official, fire code official, fire marshal, fire official, fire department or similar wording.

401. General. After 401.5, add the following 401.6, 401.6.1, 401.6.2, 401.6.3. 401.6.4
401.6. Promulgation of fire safety instructions. The owner, lessee, or management agent of buildings shall post signs where, in the professional judgment of the fire official, such signs are deemed to be effective in minimizing the danger to persons and property in case of fire.
401.6.1. Elevator warning signs. Elevator lobby call stations on each floor and on all elevator cars shall be marked with approved signs reading as follows: "USE STAIRWAYS IN CASE OF FIRE - DO NOT USE ELEVATOR."

> **Exception**: The requirements of this section shall apply to all buildings.
> Elevators installed in use group R-5 shall be exempt from this subsection.

401.6.2. Minimum signage requirements. At a minimum, signs shall be visibly posted near all stairwells, elevator cars, elevator lobbies, and means of egress. Such signs shall graphically depict the location of the nearest approved escape route.
401.6.3. Maintenance. All signs shall comply with the maintenance requirements of Section 503.3.
401.6.4. Posting of signs. It shall be unlawful for the owner of any building, which is leased to another, the lessee or management agent of any such building, to fail to post or maintain the signs required by the preceding subsections.
402. Definition. Add the following words, terms, and meanings.

HIGH-RISE – Buildings with one (1) or more occupied floor/s located seventy-five (75) feet or more above the lowest level of fire department access.

SPECIAL EVENT – An event in the community that is focused on a specific purpose such as a street fair, celebration, grand opening, or other significant occasion

403.1. Fire watch personnel. This section is incorporated in full with the following revisions. Insert the following at the beginning of the Section: "*A permit shall be required for all events, both indoor and outdoor that, in the professional judgment of the fire code official, requires an inspection by the fire marshal to ensure all fire and life safety concerns are addressed*." 403.1.1 is incorporated herein in full without revision. The revised section follows.
403.1. Fire watch personnel for special events. A permit shall be required for all events, both indoor and outdoor that, in the professional judgment of the fire code official, requires an inspection by the fire marshal to ensure all fire and life safety concerns are addressed. When, in the professional judgment of the fire code official, it is essential for public safety in a place of assembly or any other place where people congregate, because of the number of persons, or the nature of the performance, exhibition, display, contest, or activity, the owner, agent or lessee shall provide one (1) or more fire watch personnel, as required and approved by the fire code official, to remain on duty during the times such places are open to the public or while such activity is being conducted. * * *

403. Public assemblages and events. Add the following 403.3, 403.4.
403.3. Notification. Prior to the holding of a public assemblage or event, including holiday or inaugural event/s and indoor or outdoor event/s, the owner, lessee or management agent shall notify the Fire Marshal of the event and request an inspection of the premises.
403.4. Permit required. A permit shall be required for all events, both indoor and outdoor, that in the professional judgment of the code official requires inspection by the Fire Marshal to ensure that all fire and life safety concerns are met.

404.2. Where Required. Add the following 404.2.1, 404.2.1.1, 404.6.
404.2.1. Emergency plan for use group R-1 hotels and motels. In all occupancies of Use Group R-1 (hotels/motels) there shall be in effect and provided to all on-site supervisory personnel written copies of an approved plan for the protection of all persons in the event of a fire or other life safety emergency. All employees shall be periodically instructed and drilled with respect to their duties under the plan. The plan shall be coordinated with, and reviewed by, the code official and readily available at all times within the facility.
404.2.1.1. Standby power, light and emergency systems backup. Included in the plan shall be approved procedures to be followed in the event that the standby power, light, and/or emergency systems fail to function. These procedures shall include means to provide portable lighting and sufficient staffing to assist the occupants of each floor.
404.6. Fire safety instructions. The code official may require the owner, lessee or management agent of buildings to post such signs which the code official, in his/her professional judgment, deems to be effective in helping to minimize the danger to persons and property or to aid the fire department in case of fire or other emergency.

405.2.1. High-rise buildings. Delete, rename, and substitute as follows. Table 405.2 retained and incorporated in full with the noted revisions.
405.2.1. Emergency evacuation drills in high-rise buildings. Emergency evacuation drills, in accordance with the fire safety plan, shall be conducted by the owner or building staff at least twice (2) annually in all high-rise office or commercial buildings and at least once (1) annually in all high-rise residential buildings. Emergency evacuation drills shall include the transmission of a fire alarm signal and simulation of emergency fire conditions to familiarize occupants of the building with signals and emergency actions required under varied conditions. * * *

405.2.1. Emergency evacuation drills in high-rise buildings. Add the following 405.2.1.1, 405.2.1.2.
405.2.1.1. Evacuation. All emergency evacuation drills in high-rise office or commercial buildings shall include complete evacuation of all persons from the building**.**

Exceptions:
1. In buildings requiring partial evacuation, all persons in the alarmed area must evacuate.
2. Such exemptions as approved by the code official.

405.2.1.2. Evacuations due to false, faulty or nuisance alarms. Evacuations due to false, faulty, or nuisance alarms shall not be considered an emergency evacuation drill under this Chapter.
Table 405.2. Amend the Table to add the following row:

[Group]	[Frequency]	[Participation]
High-rise buildings, office or commercial	Two (2) annually	Employees

405.5. Records. This section is incorporated in full with the following revisions. Insert the following before the first numbered item: *"A record of all emergency evacuation drills for the current and previous year shall be kept on the premises and the person in control of such buildings shall file written reports with the code official after each required emergency evacuation drill.*" The revised section follows.
405.5. Records. Written records shall be maintained of required emergency evacuation drills and include the following information. A record of all emergency evacuation for the current and previous year shall be kept on the premises and the person in control of such buildings shall file written reports with the code official after each required emergency evacuation drill.

1. Identity of the person conducting the drill.
2. Date and time of the drill.
3. Notification method used.
4. Staff members on duty and participating.
5. Number of occupants evacuated.
6. Special conditions simulated.
7. Problems encountered.
8. Weather conditions when occupants were evacuated.
9. Time required to accomplish complete evacuation.

501.2. Permits. Delete and substitute as follows.
501.2. Permits. A permit shall be required as set forth in Sections 107.2 and 108.

502.1. Definitions. Add the following words, terms, and meanings.

FIRE COMMAND CENTER - also means fire control room.

FIRE LANES - An area designated by clearly visible signs in which parking shall be prohibited, whether on public or private property, to ensure ready access for and to fire fighting and rescue apparatus, equipment, and facilities.

503.1.1. Buildings and facilities. Delete, rename, and substitute as follows.
503.1.1. Fire lanes. The fire official shall designate fire lanes on public streets and on private property where necessary for the purpose of preventing parking in front of or adjacent to fire hydrants and fire department connections and to ensure access to buildings and structures for fire fighting and rescue apparatus. Fire lanes shall have a minimum width of twenty (20) feet (5486mm).

503.3. Marking. Add the following 503.3.1.
503.3.1. Existing signs. It shall be unlawful for any person to deface, injure, tamper with, remove, destroy or impair the usefulness of any posted fire lane sign installed under the provisions of this code without the permission of the code official.

503.4. Obstruction of fire apparatus access roads. Add the following 503.4.1, 503.4.2.
503.4.1. Obstructions and unlawful activities.

1. It shall be unlawful for any person to park, stop, stand or otherwise obstruct an area designated and marked as a fire lane.

2. In any prosecution under this section, proof that the vehicle described in the complaint, summons or warrant was parked in violation of this code, together with proof that the defendant was at the time of such parking the registered owner of the vehicle, shall constitute a prima facie evidentiary presumption that such registered owner of the vehicle was the person who parked the vehicle at the place, in the manner and at the time such violation occurred.

3. In addition, any vehicle parked in violation of this section may be towed or impounded by the Arlington County Police Department and held until the penalty provided and the towing and storage charges incurred are paid in full to the Treasurer, Arlington County.

4. In addition, the vehicle parked in violation of this section may be removed in accordance with the provisions of County Code §14-3 and applicable provisions of the Code of Virginia (1950, as amended).

5. This section shall be enforced by the Fire Prevention Office and the Arlington County Police Department.

6. Any violation of this section shall be punishable as a traffic infraction.

503.4.2. Temporary stopping. Fire lanes within residential, educational, industrial and commercial areas may be used for temporary stopping to pick up or discharge passengers or supplies provided that such vehicles be stopped parallel and immediately adjacent to the curb. The licensed operator of such a vehicle shall occupy and be in control of the vehicle while it is so stopped.

503.5.2. Emergency operation for gates and barricades. Add the following 503.5.2.1.
503.5.2. Emergency operation for gates and barricades. Gates and barricades that are installed across a fire apparatus access road normally intended for vehicular traffic shall be installed with a fire department access system including an emergency override fire department master key switch as approved by the fire official. Gates and barricades shall be maintained operational at all times.

503.7.1. Fire lanes for existing buildings. Add the following 503.7.1.1, 503.7.1.2, 503.7.1.3**.**
503.7.1.1. Signs and Markings. The property owner or designee shall supply and install signs and other required markings to delineate fire lanes as directed by the code official. These signs and markings shall be installed and maintained by the owner in a manner approved by the code official.
503.7.1.2. Specifications. Fire lanes shall conform to the following specifications:

1. Approved fire lane signs must meet the following specifications:

   (a) Metal construction, dimensions twelve (12) inches wide by fifteen (18) inches high.

   (b) Red letters on a reflective white background with three-eighths (3/8) inch red trim strip around the entire outer edge of the sign.

   (c) Wording and lettering size as follows, spacing between words to be uniform:

NO PARKING	[two (2) inches, capitalized]
OR	[one (1) inch, capitalized]
STANDING	[two and a half (2 1/2) inches, capitalized]

← → [arrows as appropriate in one (1) inch thick solid graphic depiction]

(d) Other signs or markings as approved by the fire official.

2. Signs shall be posted at intervals and at a height above the finished grade as directed by the fire official.

3. Curbing shall be painted solid yellow within the limits of the fire lane.

4. Signs and markings shall be maintained in accordance with Section 503.3.

503.7.1.3. Location. Signs or markings shall be placed as follows.

1. Where fire lanes run through parking areas where there is no adjacent curbing and posting of an approved metal sign is not practical, "NO PARKING FIRE LANE" may be required to be painted on the pavement in letters at least two (2) feet high.

2. Signs shall be posted at intervals of seventy-five (75) feet with the bottom of the sign no less than seven (7) feet from the ground unless otherwise directed by the code official. The signs shall be installed so that the front of the sign is at an angle of thirty (30) to forty-five (45) degrees to the curb, facing toward the direction from which traffic would normally be approaching.

3. Curbing shall be required to be painted solid yellow within the limits of the fire lane.

4. When curbing is not provided, a yellow line may be required to be painted on the pavement along the perimeter and within the limits of the fire lane.

503. Fire apparatus access roads. After 503.7, add the following 503.8.
503.8. Carnival, fair, festival, and circus access. It shall be the responsibility of the owner, operator or other person in control of the establishment, erection or operation of any carnival, fair, festival, or circus to establish, erect and operate such carnival, fair, festival, or circus so that there is provided and maintained an access lane, not less than twenty (20) feet in width and capable of supporting fire and rescue apparatus in all weather conditions and so arranged as to afford access to within fifty (50) feet of all booths, tents, rides, and other equipment, buildings, and structures used as part of, or in conjunction, with the carnival, fair, festival, or circus.

504.2. Maintenance of exterior doors and openings. Add the following 504.2.1.
504.2.1. Showcases or temporary displays. Showcases or temporary displays placed, piled, or installed so as to obstruct any exterior door shall be prohibited unless approved, in advance, by the fire official.

505.1. Address numbers. Delete and substitute as follows.
505.1. Address numbers. Every owner of a dwelling unit or building shall display the County assigned street address identification on each front entrance to the dwelling unit or building. These numbers shall be in Arabic numerals or Roman alphabet letters. Numbers or letters shall be a minimum of four (4) inches (102 mm) high with a minimum stroke with of 0.5 inches (12.7 mm). The assigned street address identification shall be displayed in a manner so as to be visible and distinguishable from the curb line or pavement edge of the opposite side of the street on which the dwelling unit or building is located. If a dwelling unit or building is located on a parcel of land whose street frontage is at the end of a street such that there is no opposite side of the street, the street address identification number shall be clearly visible and distinguishable from a distance of thirty (30) feet into the street from the curb line or pavement edge of the street adjacent to the property line on which the dwelling unit or building is situated. In the event the location of the dwelling unit or building or other factors preclude compliance with the above requirements, an additional address identification number shall be displayed on, or in the vicinity of, the dwelling unit or building in such a manner as to be visible and distinguishable as provided above. Street address

identification shall be maintained in a clean and plainly legible condition at all times and replaced or repaired when necessary to ensure clear visibility. Vegetation or ornamentation shall not obscure the street address identification.

506.1. Where required. Delete and substitute as follows.
506.1. Where required. For the purpose of fire department entry, all buildings shall provide a key box to be installed on the exterior of the building in an approved location by a fire official.

Exception: Buildings on properties located in County designated R-5 zoning districts.

506.1. Where required. Add the following 506.1.1.1.
506.1.1.1. Emergency operations for gates and barricades. Gates and barriers shall be installed in accordance with Section 503.6.1.

506.2. Key box maintenance. Add the following 506.2.1, 506.2.2, 506.2.3.
506.2.1. Maintenance. The owner, or designee, of the building shall be responsible to ensure that all locks and keyways are lubricated and maintained in proper working order at all times.
506.2.2. Key box number and labeling of required keys. In buildings with fire command centers, the person in control shall provide fifteen (15) sets of common keys, which shall be located in a key box in the fire control room. The keys are required for access to building services and systems regulated by Section 601 of this code; and to all storage, trash, and utility rooms, roof access doors, and doors to other secured areas. In all other buildings without fire command centers, the person in control shall provide seven (7) sets of common keys to be located in a key box. The seven sets of common keys, which shall be placed in an interior location of the building as approved by the fire official. . Individual keys shall be clearly labeled as to function and each set of keys shall be individually tagged in a manner approved by the fire official.
506.2.3. Non-required (voluntary) fire department access boxes. Voluntarily provided fire department key access boxes shall contain one (1) key to access the premises served, and other keys as determined necessary by the owner or occupant. All keys shall be clearly labeled as to function and individually tagged.

507. Hazard to fire fighters and other fire department personnel. Add the following 507.4, 507.4.1.
507.4. Obstacles. No accumulation or concentration of materials or objects shall be placed and/or located inside a structure, dwelling or unit in such a manner or circumstance that, in the professional opinion of the fire official, an obstacle or hindrance to fire and emergency personnel or to fire fighting and/or EMS operations is created.
507.4.1. Biohazards. No biohazards shall be accumulated or stored in a structure, dwelling or unit such that, in the professional judgment of the fire official, such storage or accumulation may create a risk to the health or safety of fire and/or emergency personnel.

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508.5.5. Clear space around hydrants. Delete, rename, and substitute as follows.
508.5.5. Clear space around hydrants and fire department connections. Clear space shall be maintained around the circumference of any fire hydrant or fire department connection. No person shall plant anything or erect any obstruction within four (4) feet of any fire hydrant or ten (10) feet of any fire department connection and shall not be obstructed by trees, shrubs, plants, structures or any other object.

509. Fire command center. After 509.1, add the following 509.2.
509.2. Fire command center. All buildings equipped with a fire command center shall contain an Operations Procedure Manual. The contents of the manual shall be approved by the fire official. The manual shall be placed in the fire command center in a manner and location approved by the fire official. The owner or person in control shall maintain the manual and update it whenever necessary.

601.2. Permits. Delete and substitute as follows.
601.2. Permits. Permits shall be obtained for refrigeration systems, battery systems, and kitchen hood as set forth in Section 107.2.

806. Decorative vegetation in new and existing buildings. After 806.5, add the following 806.6
806.6. Decorations. Flammable materials such as decorative vegetation, paper, cotton batting, straw, cut or dry vines, leaves, trees, artificial flowers, or shrubbery, and foam plastic materials, where allowed by this section, shall not be used for decorative purposes in show windows, building lobbies, means of egress, exits or exit access, other

parts of buildings, or any area of public use in such a quantity as to constitute, in the professional judgment of the code official, a fire hazard.

806.6. Restricted occupancies. Add the following 806.6.1.
806.6.1. Restricted occupancies. These items shall be prohibited in Group A, E, I-1, I-2, I-3, I-4, M, R-1, R-2, and R-4 occupancies.

> **Exception:** These items located in areas protected by an approved automatic sprinkler system installed in accordance with Sections 903.1.1 or 903.1.2 shall not be prohibited in Groups A, E, M, R-1, and R-2.

807.4.3. Group E. Add the following 807.4.3.3.
807.4.3.3. Furniture, furnishings and displays. Furniture, furnishings, displays, or other objects shall be prohibited in exit corridors serving Group E occupancies.

> **Exception**: Furniture, furnishings, displays and other objects may be permitted in exit corridors when secured in place and not located in any portion of the required seventy-two (72) inch exit corridor width or other required element of the means of egress. Upholstered furniture shall meet the requirements for Class I when tested in accordance with NFPA 260.

901.3. Permits. Delete and substitute as follows.
901.3. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

901.6. Inspection, testing and maintenance. This section is incorporated in full with the following revision. Following the first sentence, after the word "constructed," add "*or voluntarily installed.*" Subsections 901.6.1, 901.6.2, 901.6.2.1 are retained and incorporated in full without revision. The revised section follows.
901.6. Inspection, testing and maintenance. To the extent that equipment, systems devices, and safeguards, such as fire detection, alarm, and extinguishing systems, which were provided and approved by the building code official when constructed and/or which were voluntarily installed, shall be maintained in an operative condition at all times. Moreover, were such equipment, systems, devices, and safeguards are found not to be in operative condition, the fire official shall order such equipment to be rendered safe in accordance with the USBS. * * *

901.6.2. Records. This section is incorporated in full with the following revision. Add the following sentence at the beginning of the section: "*A complete written record of each required test of any fire protection system shall be forwarded to the code official within thirty (30) calendar days of completion of said test.*" Subsection 901.6.2.1 is retained and incorporated in full without revision. The revised section follows.
901.6.2. Records. A complete written record of each required test of any fire protection system shall be forwarded to the code official within thirty (30) calendar days of completion of said test. Records of all system inspections, tests and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three (3) years and shall be copied to the fire code official upon request. * * *

901.6. Inspection, testing, maintenance. Add the following 901.6.3, 901.6.3.1, 901.6.4, and Table 906.3.1.
901.6.3. Periodic retests. Periodic inspections and tests of all fire protection systems shall be tested in accordance with the respective NFPA standards and other codes as required under this Chapter. The test shall be witnessed by the fire official. The fire official shall collect fees from the building owner or tenant for the witnessing of tests required under this section.
901.6.3.1. Testing and inspection/reinspection fees. Fees for witnessing the testing and for inspection/reinspection of existing fire protection equipment and systems shall be assessed. Fees shall be based on the hours reserved by the Fire Prevention Office to perform the inspection/reinspection or witnessing. The following matrix is to serve as a guideline in determining when such a fee is required. The Fire Prevention Office must be notified of a cancellation of a scheduled inspection/reinspection or site visit. To avoid the imposition of a fee due to a cancellation, a minimum notice of ten (10) full business days is required. Notice received in less than ten (10) full business days, or if no notice is provided to the Fire Prevention Office, the full fee shall be assessed and paid. Fees are established pursuant to §8.1-13 herein.

901.6.4. Notification. The code official or his/her designee shall be notified before any routine test, repair, alteration or change to any fire protection system is started, regardless of whether such system is required by the building code, this code or other law or ordinance.

Table 901.6.3.1 TESTING AND REINSPECTION

Inspection Activity	Condition	Inspected?	Reinspection fee assessed?
Cancelled off site > ten (10) full business days prior to appointment.	N/A	No	No
Cancelled off site < ten (10) full business days prior to appointment.	N/A	No	Yes
Inspectors arrive, All required parties not on site.	Cannot test	No	Yes
Cancelled while inspectors on site, test not started.	No test performed	No	Yes
Regular inspection, test started, but not completed.	Substantial deficiencies	Yes	Yes
Regular inspection, test completed.	No punch list or substantially ready but minor deficiencies	Yes	Yes

901.7. Systems out of service. Delete and substitute as follows. Subsections 901.7.1 through 901.7.6 are retained and incorporated in full without revision.
901.7. Systems out of service. Where a fire protection system is out of service, the Arlington County Fire Department and the fire official shall be notified immediately and, where required by the fire official, the building shall either be evacuated or an approved fire watch shall be provided for all premises left unprotected by the shut down until the fire protection system has been returned to service. Where utilized, fire watches shall be provided with at least one (1) approved means for notification of the Arlington County Fire Department. The only duty of fire watch personnel -shall be to perform constant patrols of the protected premises and keep watch for fires. Fire watches shall be established and operate in accordance with Appendix A -- Requirements for a Fire Watch. * * *

901.7. Systems out of service. Add the following 901.7.7, 901.7.7.1.
901.7.7 Contact information. All premises or buildings without on-site property management shall have property emergency contact information posted in an area as approved by the fire official.
901.7.7.1 Response. Within ninety (90) minutes of notifying the ECC that a system/s is out of service, the owner or the designated agent of the owner of such ~~a~~ premises shall be on-site to meet or assist fire officials.

901.8. Removal of or tampering with equipment. Delete and substitute as follows. 901.8.1 is retained and incorporated in full without revision.
901.8. Removal of or tampering with equipment. It shall be unlawful for any person to silence, reset, remove, tamper with, damage, destroy, use without just cause or authorization, or otherwise disturb any fire detection and alarm system, fire suppression system, or other fire appliance required by this code or installed in any building or structure within the County except for the purpose of extinguishing fire, training purposes, recharging, making necessary repairs, or when approved by the fire official. * * *

901.8. Removal of or tampering with equipment. Add the following 901.8.2.
901.8.2. Fire hydrants, fire department connections and water mains. It shall be unlawful for any person to open, use, tamper with, damage or destroy any fire hydrant, valve, fire department connection or water main within

the County limits, except that fire departments may use such hydrants for fire fighting or training purposes. Such hydrants may be used by a person who has obtained a permit for such use from the public authority or utility having jurisdiction over the fire hydrant or water line/s.

901. General. Following 901.10, add the following 901.11.
901.11. Obstruction of fire hydrants and fire department connections. Fire hydrants and fire department connections shall have a minimum of four (4) feet of clear space maintained in all directions and shall not be obstructed by trees, shrubs, plants, structures or any other objects.

901.1. Scope. Add the following 901.11, 901.12.
901.11. Operations procedure manual. All structures with a fire control room or other structures as required by the code official shall have an Operations Procedure Manual. The contents and location of the manual shall be approved by the code official. The owner shall maintain the manual and update it whenever necessary. The operation of fire control rooms shall comply with Section 509.2.
901.1.2. Fire department access. All structures as listed below, except detached one (1) family dwellings, shall provide the fire department with access as approved by the code official.

1. All structures more than three (3) stories in height.

2. All structures having a monitored fire protection system.

3. Structures containing both residential and commercial occupancies sharing a common fire protection system.

4. Other structures as deemed necessary in the professional judgment of the code official.

905. Standpipe Systems. After 905.11, add the following 905.12.
905.12. Testing. All standpipe systems in buildings and structures shall be tested in accordance with NFPA 25. Buildings with wet and dry pipe systems shall meet the flow demands required at the time of installation or as required by Section 905.2. At the time of the test, all control valves, including those inside hose cabinets, shall be operated and then reset in their proper positions to insure the workability of those valves. Buildings with wet and dry systems unable to meet the flow requirements established at the time of installation, or as required by this Chapter, shall be required to install automatic fire pumps or tanks if deemed necessary by the fire official.

907.2.10. Single- and multiple- station smoke alarms. Add the following 907.2.10.1.4, 907.2.10.1.4.1
907.2.10.1.4. Residential smoke alarms in existing structures. In accordance with the authority specified in Section 15.2-922 of the Code of Virginia (1950, as amended), smoke alarms shall be installed in the following structures as required by Chapter 45 of the Uniform Statewide Building Code.

1. All residential buildings containing one (1) or more dwelling units.

2. Hotels or motels regularly used, offered for, or intended to be used to provide overnight sleeping accommodations for one (1) or more persons.

3. Rooming houses regularly used, offered for, or intended to be used to provide overnight sleeping accommodations.

907.2.10.1.4.1. Responsibilities of owner, agent or tenants for smoke alarms.

1. The owner or management agent of a dwelling unit which is rented or leased in a residential building containing one (1) or more dwelling units, shall furnish the tenant at the beginning of each tenancy, at each renewal or extension of a tenancy or at least annually, with written certification that all smoke alarms required are present, have been inspected and are operational and in good working order.

2. The owner or agent of the owner shall submit an annual report to the Fire Marshal by October 15th each year that shall include an inventory of all smoke alarms in the building and shall indicate the location and working status and provide written certification that all smoke alarms are in good working order.

3. The person in control shall be responsible for interim testing, maintenance and reasonable care of the smoke detector, including installation of batteries if required.

4. In accordance with Section 55-248.16 of the Code of Virginia (1950, as amended), the owner or management agent shall repair any inoperative or malfunctioning smoke detector. Such service, repair or replacement and/or restoration of the detector to normal operative condition shall occur within five (5) days of receipt of written notice from a tenant or others that a smoke detector is in need of repair, inoperative or otherwise not properly functioning.

907.15. Monitoring. Add the following 907.15.1.
907.15.1. Posting of central station monitoring company information. The name, telephone number, and account number of the current central station monitoring company shall be posted and maintained inside the fire alarm control panel. If the fire alarm system is not monitored, that fact shall be posted and maintained inside the fire alarm control panel.

907.20. Inspection, testing and maintenance. Add the following 907.20.6.
907.20.6. False, faulty or nuisance alarms. Whenever false, faulty, or nuisance fire alarm activations occur in any occupancy and exceed three (3) in a twelve (12) ,month period, the fire official may require the owner or occupant to conduct a witnessed test of the fire protection system causing the false, faulty, or nuisance alarm. Witnessed testing shall be in accordance with901.6.3 and 901.6.3.1.

1. For the purpose of this section, a faulty or nuisance alarm is deemed to occur whenever the fire official or fire department officer in charge responding to a fire alarm call shall determine, after investigation, that faulty equipment initiated the alarm.

2. As soon as possible on the next normal workday following the false, faulty, or nuisance alarm determination, the responding officer in charge shall cause the Fire Prevention Office to be notified in writing of the facts and circumstances supporting the determination that faulty fire protection equipment initiated the alarm.

3. Whenever an owner or occupant is required by this section to conduct a test of the fire protection alarm or suppression systems. The fire official shall notify the owner or occupant in writing and prescribe a certified test consistent with standard procedures to be witnessed by the fire official or his/her designee.

4. Any faulty equipment or systems identified during the test which will reduce the effectiveness of the protection as specified herein shall be recorded and notice of violation prepared and served in accordance with the provisions of SFPC Section F-110.0. The notice of violation will require the repair, abatement, or correction of any noted defects, the restoration of the system to normal operative condition and compliance with any law, ordinance or order affecting such alarm system.

5. The notice of violation shall be enforced pursuant to the provisions of SFPC Section 111.0.

1002. Definitions. Add or amend the following words, terms, and meanings.

METAL REFINISHING OPERATIONS - Metal refinishing operations are those operations that are performed in or around occupied buildings involving the stripping of an old finish and applying a new finish using a flammable or combustible liquid, including resurfacing elevator hoist way doors.

OVERCROWDING - A condition in which the number of occupants exceeds the approved total number of persons permitted to occupy a structure at any one time.

1004.1. Design occupant load. Add the following 1004.1.2, 1004.1.3.
1004.1.2. Accountability. A person responsible for controlling the occupancy capacity shall develop a system to manage the occupancy capacity and avoid overcrowding as approved by the code official. This system shall be implemented outside the main entrance and consist of a mechanism to count persons as they enter the structure. Counting and/or ingress shall not restrict occupant egress. There shall be no overcrowding.
1004.1.3. Disclosure of number of occupants. The number of occupants, supported by the counting mechanism described above, shall be disclosed to the fire official at any time upon request.

1027. Means of egress for existing buildings. Add the following 1027.22, 1027.23.
1027.22. Exterior access. Exterior doors that are blocked by storage or other use inside shall have a sign on the exterior of such door with the words "NO ACCESS". The sign shall be constructed of durable materials, permanently installed and readily visible. Letters and numbers shall contrast with the sign background and have the appropriate width-to-height ratio to permit the sign to be read easily. This subsection shall not be construed to permit the blocking of any exit or egress door.
1027.23. Egress door security devices. Security devices on egress doors other than those approved by the Uniform Statewide Building Code listed in Chapter 45~~,~~ shall be approved by the code official. The use or storage of chains and padlocks on panic hardware shall be prohibited whenever a building or structure is occupied.

1028.3. Obstructions. This section is incorporated in full with the following revision. Add the following sentence at the end of the existing section. "*No person shall sit, stand or otherwise obstruct any means of egress or element of the egress system.*" The revised section follows.
1028.3. Obstructions. A means of egress shall be free from obstructions that would prevent its use, including the accumulation of snow and ice. No person shall sit, stand or otherwise obstruct any means of egress or element of the egress system.

1028.3. Obstructions. Add the following 1028.3.1.
1028.3.1. Hindrance. No accumulation or concentration of combustible materials shall be placed and/or located in such a manner or circumstance that, in the professional opinion of the fire official, a hindrance or impediment is created to occupant(s) or fire or emergency personnel ingress, egress and/or emergency escape from any window or door in the structure, dwelling or unit.

1028. Maintenance of the means of egress. Add the following 1028.8.
1028.8. Exterior door marking and access for mid level and high-rise buildings. All new and existing buildings over four (4) stories shall install signage on the outside of their exterior doors stating the stairway location, and all doors shall have door handles and keyed entry locks. The keys to these doors shall be kept on the existing key rings in the rapid entry key box , near the fire panel or fire control room as applicable.

1101.3. Permits. Delete and substitute as follows.
1101.3. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1106.11.5. Notification of the fire department. Delete and substitute as follows.
1106.11.5. Notification. The Fire Marshal and the Arlington County Emergency Communication Center shall be notified of all fuel spills which is considered a hazard to people or property or which meets one or more of the following criteria:

1. Any dimensions of the spill is greater than ten (ten) feet.
2. The spill is greater than twenty-five (25) square feet
3. The fuel flow is continuous in nature.

1201.2. Permits required. Delete, rename, and substitute as follows.
1201.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1301.2. Permits. Delete and substitute as follows.
1301.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1501.2. Permits. Delete and substitute as follows.
1501.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1503.2. Sources of ignition. Add the following 1503.2.9.
1503.2.9. Metal refinishing operations. Metal refinishing operations shall be conducted only after a permit has been obtained from the code official by the person doing the work.

1510. Floor Surfacing and finishing operations. After 1510.5, add the following 1510.6.
1510.6. Permit required. A permit shall be secured from the code official before applying a flammable or combustible liquid in floor ~~re~~finishing operations.

1512.2. Permit required. Delete and substitute as follows.
1512.2. Permit required. A permit shall be secured from the code official before applying inside occupied structures a flammable or combustible liquid in metal refinishing operations.

1601.2. Permits. Delete and substitute as follows.
1601.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1701.2. Permits. Delete and substitute as follows.
1701.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1801.5. Permits. Delete and substitute as follows.
1801.5. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

1901.2. Permits. Delete and substitute as follows.
1901.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2001.2. Permits. Delete and substitute as follows.
2001.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2101.2. Permits. Delete and substitute as follows.
2101.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2201.2. Permits. Delete and substitute as follows.
2201.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2204.1. Supervision of dispensing. This section is incorporated in full with the following revision. Delete the words "~~or shall be in accordance with Section 2204.3~~." The revised section follows.
2204.1. Supervision of dispensing. At all times, the dispensing of fuel at motor fuel-dispensing facilities shall be conducted by a qualified attendant or shall be conducted under the supervision of a qualified attendant.

2301.2. Permits. Delete and substitute as follows.
2301.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2403.4. Permits. Delete and substitute as follows.
2403.4. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2404.15.5. Cooking tents. Add the following 2404.15.5.1.
2404.15.5.1. Flame propagation performance treatment. All tents and membrane structures where cooking is performed shall be composed of material meeting the flame propagation performance criteria of NFPA 701 or shall be treated with a flame retardant in an approved manner and meet the flame propagation performance criteria of

NFPA 701. Such flame propagation performance criteria shall be effective for the entire period specified by the permit.

2501.2. Permit required. Delete, rename, and substitute as follows.
2501.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2601.2. Permits. Delete and substitute as follows.
2601.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2701.1. Scope. This section is incorporated in full with the following revision. In the second line of the first paragraph in this section, after the word "use" insert "*transportation*." The revised beginning of this section follows.
2701.1. Scope. Prevention, control, and mitigation of dangerous conditions related to storage, use, transportation, and handling of hazardous materials shall be in accordance with this Chapter. * * *

2701.1.1. Waiver. Renumber 2701.1.1 as follows.
2701.1.2. Waiver.

2701.1. General. Add the following 2701.1.1.
2701.1.1. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

2701.5. Permits. This section is incorporated in full with the following revision. Add the following sentence at the beginning of the existing section, "*Permits shall be required as set forth in Sections 107.2 and 108*." The revised section follows.
2701.5. Permits. Permits shall be required as set froth in Sections 107.2 and 108. When required by the fire code official, permittees shall apply for approval to permanently close a storage, use or handling facility. Such application shall be submitted at least thirty (30) days prior to the termination of the storage, use or handling of hazardous materials. The fire code official is authorized to require that the application be accompanied by an approved facility closure plan in accordance with Section 2701.6.3.

2701.5.1. Hazardous material management plan. This subsection is incorporated in full with the following revision. Insert the following at the end of the first sentence: "*that includes: a site plan; floor plan; information on hazardous material handling and chemical compatibility; monitoring methods; security precautions; hazard identification; inspection procedures; spill/release prevention measures, spill/release control and emergency response procedures; employee training; and available emergency equipment*." The revised section follows.
2701.5.1. Hazardous material management plan. Where required by the fire code official, each application for a permit shall include a Hazardous Material Management Plan (HMMP) that includes: a site plan; floor plan; information on hazardous material handling and chemical compatibility; monitoring methods; security precautions; hazard identification; inspection procedures; spill/release/discharge/leak prevention measures, spill/release/discharge/leak control and emergency response procedures; employee training; and available emergency equipment. The HMMP shall be maintained on-site for use by emergency responders and shall be updated not less than annually. The HMMP shall also include a facility site plan designating the following: *(remainder incorporated in full)* * * *

2701. General. After 2701.6.3, add the following 2701.7, 2701.8, 2701.9.
2701.7. Spills, leaks discharges, and releases of hazardous materials. Spills, leaks, discharges, and releases of hazardous materials shall be reported immediately to the Emergency Communications Center (ECC) and to the code official.
2701.8. Environmental assessment and remedial sites. A copy of all environmental assessments that are the result of a spill, leak, discharge, or release of hazardous materials shall be promptly forwarded to the code official. The following shall also apply to remedial sites:

1. Persons in control of any remedial site/s within Arlington County that are so categorized as the result of a spill, leak discharge, or release of hazardous materials shall be required to submit a copy of the quarterly monitoring report to the code official. Sites that are deemed by the code official to constitute an imminent threat to

human life, property, or the environment and shall be required to submit monitoring reports at a frequency to be determined by the code official, in his/her professional judgment.

2. Persons in control of any remedial site/s that remove and store on-site hazardous materials shall comply with the requirements for barrels, tanks, drums, container or other vessel storage as set forth by the Virginia Statewide Fire Prevention Code and the Code of the County of Arlington Virginia, 1957 as amended. No drum, container or other vessel that has been filled shall be stored longer than ninety (90) days within the County unless approved by the code official.

3. A written report shall be made by the owner to the code official giving the precise location, number of, and contents of all barrels, tanks, drums, containers, or other vessels.

4. All release or remedial sites within federal reservations adjacent to, or within Arlington County, that discharge treated water to storm or sanitary sewer, or stream systems that run through or into Arlington County facilities, or where the potential path of product migration may enter the County, shall be required to comply with all County regulations applying to remedial sites.

5. The persons in control of any remedial systems in Arlington County that discharge treated water to the storm or sanitary sewer systems shall be required to install systems that will prevent the accidental discharge of Free Phase Hydrocarbons or other hazardous materials in the event of equipment failure.

6. All remedial site installations shall display posted signs clearly identifying their purpose and emergency contact information.

7. Emergency power cutoffs located inside remedial site installations shall be clearly identified.

8. All signs shall be maintained in accordance with Section 503.3.

2701.9. Use of chemical dyes to detect leaks. Prior to the use of any type of chemical dyes for the purpose of detecting or locating leaks in underground piping systems, barrels, tanks, drums, containers or other vessels, Material Safety Data Sheets (MSDS) shall be provided to the code official.

2703. General requirements. Add the following 2701.13.
2703.13. Portable fire extinguisher. Any vehicle required to have a DOT HAZMAT placard shall be equipped with a portable fire extinguisher complying with Section 906 and having a minimum rating of 2-A:20-B:C. During the unloading of the tank vehicle, the portable fire extinguisher shall be out of the carrying device on the vehicle and shall be fifteen (15) feet or more from the unloading valves.

2703.3.1. Unauthorized discharges. Delete, rename, and substitute as follows.
2703.3.1. Notification of unauthorized discharges. Any person who witnesses, discovers, or otherwise has knowledge of a spill, leak, discharge, or release of a hazardous material or other material that may negatively impact the environment, regardless of quantity shall immediately report such spill, leak or release to the Arlington County Emergency Communications Center and the Fire Marshal. The owner and the tenant or other person in control of the premises when a spill, leak, discharge, or release occurs, or when a spill, leak, discharge, or release is discovered, shall be fully responsible for the containment and cleanup and disposal of the hazardous materials to the satisfaction of the fire official. The procedures as required in 2703.3.1.1 through 2703.3.1.4 shall also be completed.

2704. Storage. After 2704.13, add the following 2704.14.
2701.14. Storage of hazardous materials. The use of barrels, tanks, drums, containers, or other vessels to store hazardous materials, flammable or combustible liquids, or other environmentally hazardous materials, shall be

prohibited unless approved by the code official. Only approved vessels with release containment and equipped with the means to control spillage during product transfer shall be permitted. All barrels, tanks, drums, containers, or other vessels located outside of structures shall be equipped to prevent the intrusion of water.

1. All facilities temporarily storing combustible cooking oils awaiting disposal shall secure the storage unit so that it may not be spilled and will prevent any unlawful tampering. Each facility shall have a container and shall not share the storage unit with another facility or business.

2. Those facilities where permission has been granted by the code official to use barrels, drums, or other approved containers for the storage of hazardous waste, flammable or combustible liquids, or other environmentally hazardous materials, shall be approved by the U. S. Department of Transportation (DOT).

3. All barrels, tanks, drums, containers, or other vessels shall be protected from the intrusion of water and be stored within areas designed to contain and prevent an unauthorized discharge, or release to the environment. All barrels, tanks, drums, containers and other vessels shall be clearly stenciled with paint, or other method as approved by the fire official, with the following information:

   (a.) The full legal name and d.b.a. of the owner.
   (b.) Address of the business or person in control.
   (c.) Name or type of the product or materials contained in the vessel.
   (d.) Date the barrel, tank, drum, container or other vessel was filled.

2705. Use, dispensing and handling. Amend the title as follows by inserting "*transportation*." Revised title follows.
2705. Use, dispensing, transportation and handling.

2705.1. General. This section is incorporated in full with the following revision. After each use of the word "dispensing," add "*transportation*." All subsections are retained and incorporated in full without revision. The revised section follows.
2705.1. General. Use, dispensing, transportation and handling of hazardous materials in amounts exceeding the maximum allowable quantities per control area set forth in Section 2703.1 shall be in accordance with Sections 2701, 2703 and 2705. Use, dispensing, transportation, and handling of hazardous materials in amounts not exceeding the maximum allowable quantity per control area set forth in Section 2703.1 shall be in accordance with Sections 2701 and 2703. * * *

2705. General. Add the following 2705.5.
2705.5. Hazardous materials transportation. Hazardous materials transportation vehicles operating or housed within Arlington County shall be maintained in accordance with the federal regulations contained in 49 Code of Federal Regulations (49 CFR) and the Code of Virginia (1950, as amended). Any duly sworn law enforcement officer of Virginia, including the Fire Marshal, may halt any hazardous materials transportation vehicle that is observed to have a condition or characteristic that suggests, in the professional judgment of the officer or code official, that there exists a violation of County, state, or federal regulations governing the transportation of hazardous materials. The vehicle may be detained long enough to determine if the permits required for transporting hazardous materials have been obtained, if the cargo is secure, and if the observed condition, or characteristic, presents an immediate threat of a transportation related spill and/or a catastrophic event. The hazardous materials transportation vehicle may resume operation if it is found to be in good repair and free of leaks, in accordance with the SFPC and its referenced standards. If that finding is not made, the vehicle shall be detained until the proper repairs or adjustments are made where it is situated, or it is removed to a safe location, as determined by the code official, and repaired or adjusted, whichever is appropriate. Upon refusal of the operator or owner of the vehicle to make the repairs or adjustments required by the code official, the vehicle shall be impounded by the code official until all necessary repairs are made and all accrued impound and towing fees are remitted by the owner to the Treasurer, Arlington County

2801.2. Permit Required. Delete, rename, and substitute as follows.
2801.2. Permit. Permits shall be required as set forth in Sections 107.2 and 108.

2901.3. Permits. Delete and substitute as follows.
2901.3. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3001.2. Permits. Delete and substitute as follows.
3001.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3101.2. Permits. Delete and substitute as follows.
3101.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3201.2. Permits. Delete and substitute as follows.
3201.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3301.1. Scope. This section and all exceptions are incorporated in full with the following revisions. Insert the word "*transportation*" to the second line after the word "manufacture." The revised section follows.
3301.1. Scope. The provisions of this chapter shall govern the possession, manufacture, transportation, storage, handling, sale, and use of explosives, explosive materials, fireworks, and small arms ammunition. * * *

3301.1. Scope. Delete exception 8 in its entirety, "~~Exception 8. Transportation in accordance with DOTn 49 CFR Parts 100-178~~." Renumber current exception 9 as exception "8." Renumber current exception 10 as exception "9." Renumber current exception 11 as exception "10," Renumber current exception 12 as exception "11." The remainder of the section is retained and incorporated in full without revision. * * *

3301.1. Scope. Add the following 3301.1.6.
3301.1.6. Manufacturing. The manufacture of explosives, explosive materials, small arms ammunition, and blasting agents shall be prohibited.

> **Exception:** This shall not apply to the hand loading of small arms ammunition prepared for personal use and not offered for resale, to the assembly of two (2) component explosives for use on-site or to the mixing of blasting agents for use on-site.

3301.2.4. Financial responsibility. Delete, rename, and substitute as follows.
3301.2.4. Insurance required. Before a permit is issued for the storage, transportation, disposal, or use of explosives, explosive materials or blasting agents, the applicant shall file with the Fire Prevention Office a certificate of insurance which shows that the applicant has general liability insurance in the amount of at least five million dollars ($5,000,000) combined single limit for bodily injury and property damage. This insurance policy shall provide coverage for any damage to person or property arising from or caused by the acts or omissions of the applicant, his/her agents or employees in connection with the storage, transportation, disposal, or use of explosives, explosive materials, blasting agents or other permitted activities. The applicant shall ensure that the insurance policy is in effect at the time of the commencement of the operations or activities authorized by the permit, and remains continuously in effect until all permitted and related operations or activities are completed.

3301.2. Permit Required. Add the following 3301.2.5.
3301.2.5. Vehicle permits. Any vehicle transporting explosive materials, explosives, or blasting agents within the County shall be required to obtain a vehicle permit from the fire official. The permit shall be valid for six (6) months and shall be revoked for failure to maintain the vehicle in a safe operating condition compliant with DOTn 49 CFR. Permits required shall be as listed in Section 107.2.

3301.4. Qualifications. Add the following 3301.4.6.
3301.4.6. Certification of contractors. Permits for the storage, handling, transportation, or use of explosives, explosive materials, or fireworks shall only be issued to those entities that are licensed in Arlington County by the Fire Prevention Office.

3301.7. Seizure. Delete and substitute as follows.

3301.7. Seizure. The fire official is authorized to remove or cause to be removed or disposed of in an approved manner, at the sole expense of the owner, explosives, explosive materials, or fireworks offered or exposed for sale, stored, possessed, or otherwise used in violation of this chapter.

3302.1. Definitions. Add the following words, terms, and meanings.

APPROVED - Approved by the County Fire Prevention Office.

BLAST AREA - The area of a blast, including the blast site and adjacent areas that could reasonably be expected to be within the influence of flying material, fumes, and/or concussion as a result of a normal blasting operation.

BLAST SITE - The area in which explosive materials are being handled and which includes all holes to be loaded for a blast and a distance of fifty (50) feet in all directions, as measured from the perimeter formed by boreholes to be loaded.

BLASTING - The process of moving, heaving, breaking, or shattering soils or rocks, or doing other work such as the demolition of structures or research and testing that generates seismic waves through the use of energetic materials in chemical reactions, explosions, or other detonations or deflagrations.

FLYROCK - Any dirt, mud, stone, fragmented rock, or other material that is displaced from the blast area in an uncontrolled or unplanned manner by the effects of a blast.

LABORATORY - A facility that provides controlled conditions in which scientific research, experiments, and measurement may be performed.

PERMISSIBLE FIREWORKS: Add to the existing definition: Permissible fireworks shall have a hard-coated or slow burning fuse at least one and one half (1.5) inches long with a burning rate of not less than four (4) seconds. Fireworks which explode or emit flames or sparks to a distance greater than twelve (12) feet or which are projectiles are prohibited. Quick match fuses are prohibited.

RETAILER - Any persons selling or offering fireworks for sale at retail.

WHOLESALER - A person, entity, firm, or corporation offering fireworks for sale or selling fireworks to a retailer. Such term also includes a manufacturer of fireworks, a representative of any such manufacturer, a distributor, a jobber, or a middleman of any description dealing in fireworks that sell or offer to sell fireworks within the County.

3303.3. Loss, theft or unauthorized removal. This section is incorporated in full with the following revision. Insert the following before the first sentence: "*The Fire Marshal shall be immediately notified by telephone of the loss, unauthorized removal or theft of any explosives, explosive materials, or fireworks. The verbal notification shall be immediately followed by a letter to the Fire Prevention Office giving complete details as to type, amounts, manufacturer and all other relevant facts.*" Delete "fire code official" from the last sentence of this section. The revised section follows.

3303.3. Loss, theft or unauthorized removal. The Fire Marshal shall be immediately notified by telephone of the loss, unauthorized removal or theft of any explosives, explosive materials, or fireworks. The verbal notification shall be immediately followed by a letter to the Fire Prevention Office giving complete details as to type, amounts, manufacturer, and all other relevant facts. The loss, unauthorized removal or theft of explosive materials from a magazine or permitted facility shall be reported to local law enforcement authorities and the U.S. Department of Treasury, Bureau of Alcohol, Tobacco and Firearms within twenty-four (24) hours.

> **Exception:** Loss of Division 1.4G (consumer fireworks) need not be reported to the Bureau of Alcohol, Tobacco and Firearms.

3303.4. Accidents. Delete and substitute as follows.

3303.4. Accidents. Any blasting misfires, malfunctions, injuries or other unintended blasting related events or accidents involving the use of explosives, explosive materials, or fireworks shall be reported to the fire official immediately.

3303. Record keeping and reporting. After 3303.7.16, add the following 3303.8, 3303.9.
3303.8. Improper storage. If at any time Division 1.3G fireworks, explosives, or explosive materials are found not properly stored in a magazine, it shall immediately be reported to the Fire Prevention Office, which will take possession thereof for the purpose of safeguarding or disposal.
3303.9. Complaints. All complaints received by a blaster, blasting company, agency, person in control or other responsible party shall be immediately reported by telephone to the fire official and the Arlington Emergency Communications Center

3304.1. General. This section is incorporated in full with the following revisions.
Insert the words "*and transportation*" to the first line after the word "storage." Add to the existing subsection: "*The storage of explosives and blasting agents and Division 1.3G fireworks is prohibited within Arlington County. The overnight storage of explosives or blasting agents shall be prohibited. Exceptions: 1. The temporary storage for use in connection with approved blasting operations, wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive activated power tools in quantities involving less than five hundred (500) pounds (227 Kg) of explosive material. Exceptions: 2. Storage of fireworks at display sites in accordance with 3308.5 and NFPA 1123 or NFPA 1126.* 3. *Explosive materials used for laboratory testing purposes, up to one (1) pound total in storage of which no more than one-fourth (¼) pound is in use at any time, as approved by the fire official.*" The revised section follows.
3304.1. General. Storage and transportation of explosives and explosive materials, small arms ammunition, small arms primer, propellant-actuated cartridges and smokeless propellants in magazines, shall comply with the provisions of this section. The storage of explosives and blasting agents and Division 1.3G fireworks is prohibited within Arlington County. The overnight storage of explosives or blasting agents shall be prohibited.

Exceptions:
1. The temporary storage for use in connection with approved blasting operations, wholesale and retail stocks of small arms ammunition, explosive bolts, explosive rivets or cartridges for explosive activated power tools in quantities involving less than five hundred (500) pounds (227 Kg) of explosive material.
2. The storage of fireworks at display sites in accordance with Section 3308.5 and NFPA 1123 or NFPA 1126.
3. Explosive materials used for laboratory testing purposes, up to one (1) pound total in storage of which no more than one-fourth (¼) pound is in use at any time, as approved by the fire official.

3304.1. General. Add the following 3304.1.1, 3304.1.1.1, 3304.1.2.
3304.1.1. Enforcement. The Arlington County Fire Marshal shall enforce the regulations contained herein pertaining to the intra-county transportation of explosives.
3304.1.1.1. Notification. Operators of vehicles transporting explosives within Arlington County shall immediately notify the Fire Official upon experiencing a mechanical breakdown, accident, or being otherwise unable to move the vehicle.
3304.1.2. Driver qualifications. Vehicles transporting blasting explosives shall be in the custody of drivers who are physically fit, careful, capable, reliable, and able to read and write the English language, not addicted to the use or under the influence of intoxicants, narcotics, illegal drugs, physically or mentally impairing prescription drugs or any other medications. Such drivers shall be familiar with state and County traffic regulations, and the provisions of this Chapter governing the transportation of explosives. The driver shall possess a valid Commercial Drivers License (CDL) with the proper endorsements. and other qualifications as proscribed by US DOT 49 CFR Part 383. All vehicles permitted to transport explosives or blasting agents within Arlington County shall have a person who has completed approved specialized training present in the vehicle. If a CDL is required, the CDL and CDL medical certificate shall be current.

3304.2. Magazine required. Add the following 3304.2.1.
3304.2.1. Control in wholesale and retail stores. The storage or display of explosives and blasting agents in wholesale and retail facilities is prohibited unless in a magazine.

3304.3. Magazines. This section is incorporated in full with the following revisions. Add the following at the end

of the subsection: "*A Type I magazine: shall be used for the overnight storage of explosives regardless of quantity*." The revised section follows.
3304.3. Magazines. The storage of explosives and explosive materials in magazines shall comply with Table 3304.3. A Type I magazine shall be used for the overnight storage of explosives regardless of quantity.

Table 3304.2. STORAGE AMOUNTS AND MAGAZINE REQUIRMENTS FOR EXPLOSIVES, EXPLOSIVE MATERIALS, AND FIREWORKS, 1.3G MAXIMUM ALLOWABLE QUANTITY PER CONTROL AREA is incorporated in full with the following revision. Amend Table 3304.3 to include "*Type 1 magazine shall be used for the overnight storage of explosives regardless of quantity*."

3305.1. General. This section is incorporated in full with the following revisions. Delete the word "~~fireworks~~" from the first sentence; add, "*(as amended)"* after code citations and add to the end of the first paragraph the following sentence: "*The manufacture of fireworks within Arlington County is prohibited. Anyone who displays, sells, or discharges fireworks shall comply with the requirements of this section and with all other laws*." The revised section follows.
3305.1. General. The manufacture, assembly and testing of explosives, ammunition and blasting agents shall comply with the requirements of this section, Title 59.1 of the Code of Virginia (as amended) and NFPA 495 or NFPA 1125 (as amended). The manufacture of fireworks within Arlington County is prohibited. Anyone who displays, sells, or discharges fireworks shall comply with the requirements of this section and with all other laws. * * *

Exceptions:
1. The hand loading of small arms ammunition prepared for personal use and not offered for resale.
2. The mixing and loading of blasting agents at blasting sites in accordance with NFPA 495.
3. The use of binary explosives or plosorphoric materials in blasting or pyrotechnic special effects applications in accordance with NFPA 495 or NFPA 1126.

3307.3. Blasting in congested areas. Add the following 3307.3.1, 3307.3.2.
3307.3.1. Pre-blast surveys. A pre-blast survey shall be performed on each structure located within a minimum of one hundred and fifty (150) feet and any well located within a minimum of two hundred and fifty (250) feet of the blast site. Written confirmation that the pre-blast survey has been done shall be maintained by the blasting contractor. Documentation consisting of a written acknowledgement that the survey has been performed (or declined by any adjacent property owner) and a map depicting the above referenced one hundred and fifty (150) and two hundred and fifty (250) feet radius, shall be provided to the Fire Marshal at the time of the Explosive Use Site Permit Inspection meeting. Requests for access to structures for pre-blast surveys shall be made by certified mail to the last known address of the owner(s) of any structures located within the aforesaid ranges. If permitted by the owner(s), said surveys shall be conducted to determine the pre-blast conditions of these structures. A minimum of fourteen (14) days notice shall be provided for the scheduling of the pre-blast survey.
3307.3.2. Pre-blast notification. All structures located within a minimum of three hundred (300) feet of the blast site shall be notified of the upcoming blasting ten (10) days prior to blasting and no blasting shall occur until such notice has been given. Such notification shall be made by certified mail to the last known address of the owner(s) of any structures located within the aforesaid range.

3307. Blasting. After 3307.16, add the following 3307.17.
3307.17. Blasting in asbestos or other rocks and soils. Blasting operations conducted in rock or soils that present a hazard to public health through dust generation or other effects of drilling and blasting must be reported as such to the Fire Marshal and the blaster-in-charge must obtain and maintain all necessary health, safety, and environmental permits or approvals.

3308. Fireworks Display. Amend title as follows.
3308. Fireworks and Model Rockets.

3308.1. General. This section is incorporated in full with the following revision**.** Add the following at the end of

the first sentence, "*The manufacture of fireworks is prohibited in Arlington County. The display, sale, or discharge of fireworks shall comply with the requirements of this Chapter. This Chapter shall also govern the design, construction, and use of model rockets.*" The revised section follows.
3308.1. General. The display of fireworks, including proximate audience displays and pyrotechnic special effects in motion picture, television, theatrical, and group entertainment productions, shall comply with this chapter and NFPA 1123 or NFPA 1126. This Chapter shall also govern the design, construction, and use of model rockets.

3308.1. General. Add the following 3308.1.1, 3308.1.2.
3308.1.1. Prohibited activities. Except as hereinafter provided, it shall be unlawful for any person, firm, or corporation to transport, manufacture, store, possess, sell, offer for sale, expose for sale or to buy, use, ignite, or explode any fireworks. Fireworks which explode or emit flames or sparks to a distance greater than twelve (12) feet or which are projectiles are prohibited. Quick match fuses are prohibited.
3308.1.2. Permissible fireworks. Permissible fireworks shall have a hard-coated or slow burning fuse at least one and one half (1.5) inches long with a burning rate of not less than four (4) seconds and which only explode or emit flame or sparks to a distance of less than twelve (12) feet. The provisions of Section 3308.1.1 shall not apply to fireworks that have been approved by the Fire Prevention Office. The sale or storage of any fireworks shall be prohibited on the property of another without the express written permission of the owner. The use of permissible fireworks on private property shall only be with the express approval of the property owner.

3308.2. Permit application. Add the following 3308.2.1.1, 3308.2.3.
3308.2.1.1. Permit and insurance required for display of aerial fireworks. The Fire Prevention Office may issue permits, upon written application, for the display of aerial fireworks, commonly known as pyrotechnic displays, for fair associations, amusement parks or by any organization, individual, or group of individuals; provided such display is in general accord with the applicable sections of NFPA 1123 and NFPA 1126 1124, as listed in Chapter 45 of this code. After such permit has been issued, the association, organization, group or individual to whom it is issued may make use of such fireworks under the terms and conditions of such permit. No permit shall be issued until the applicant files with the Fire Prevention Office a certificate of insurance which shows that the applicant has general liability insurance in the amount of at least five million dollars ($5,000,000) combined single limit for bodily injury and property damage. This insurance policy shall provide coverage for any damage to person or property arising from or caused by the acts or omissions of the applicant, his/her agents or employees in connection with the display of aerial fireworks or other permitted activities. The applicant shall ensure that this insurance policy is in effect at the time of the commencement of the activities authorized by the permit and remains continuously in effect until all permitted and related operations or activities are completed. A certificate of insurance shall be filed with the code official's office forty-eight (48) hours prior to aerial display or use of such named fireworks.
3308.2.3. Permit and insurance required for sale of fireworks. It shall be unlawful for any person, firm or corporation, wholesaler or retailer to sell, offer for sale, or expose for sale any fireworks within the County without a permit from the Fire Prevention Office. This permit shall be valid for the period June 1 to July 15 of each year. Such permit shall be issued only after the applicant files with the Fire Marshal's Office a certificate of insurance, which shows that the applicant has liability insurance in the amount of at least five million dollars ($5,000,000) combined single limit for bodily injury and property damage. This insurance policy shall become available for the payment of any damage arising from the acts or omissions of the applicant, his/her agents or employees in connection with the activities authorized by the permit. The applicant shall ensure that the insurance policy is in effect at the time of the commencement of the activities authorized by the permit, and remains continuously in effect until such activities are completed.

3308. Fireworks and Model Rockets. After 3308.10, add the following 3308.11, 3308.11.1, 3308.11.2, 3308.11.3, 3308.12, 3308.13, 3308.13.1.
3308.11. Retail display and sale. In addition to the restrictions set forth in Section 3301.2.2, retail sales of permissible fireworks shall be only be conducted from approved fixed locations. Such locations shall comply with all Arlington County rules and regulations applicable to such sites. The sale or storage of any fireworks shall be prohibited on the property of another without the express written permission of the owner.
3308.11.1. Precautions. Fireworks displayed for retail sale shall not be made readily accessible to the public. A minimum of one (1) pressurized water fire extinguisher complying with Section 906 shall be located not more than fifteen (15) feet and not less than ten (10) feet from the hazard. “No Smoking” signs complying with Section 310 shall be conspicuously posted in areas where fireworks are stored or displayed for retail sale.

3308.11.2. Sales to minors prohibited. The sale of permissible fireworks to persons under the age of eighteen (18) shall be prohibited unless the person is accompanied by a parent or legal guardian.
3308.11.3. Records to be kept by wholesaler and retailer. In addition to the requirements set forth at Section 3303, wholesalers and retailers shall maintain full and complete records of all purchases and sales of fireworks sold or distributed in the County. The Fire Marshal or designated agent is authorized to examine the books and records of any wholesaler or retailer as they relate to the purchases and sales of fireworks within the County.
3308.12. Approval of permissible fireworks. Persons and entities engaged in selling, distributing, or offering to sell fireworks at wholesale shall submit to the County Fire Marshal a list of fireworks for approval. Such persons or entities may also be required to submit to the County Fire Prevention Office at least five (5) samples of each listed firework , together with complete specifications including the manufacturer and trade name of such fireworks and a chemical analysis of each such fireworks so submitted. Said samples, specifications, and chemical analysis shall be submitted to the County Fire Prevention Office no later than one hundred and twenty (120) days prior to the proposed sale, offering or delivery date in the County. No wholesaler or retailer shall sell, offer to sell, display, or deliver in the County any fireworks other than those so approved by the Arlington County Fire Marshal. Approval for sale in another jurisdiction is not a substitute for approval by the Arlington County Fire Marshal.
3308.13. Seizure and destruction of certain fireworks. Any Fire Marshal or law enforcement officer encountering fireworks in violation of this code shall seize such fireworks and shall hold such until final disposition of any criminal procedures related to the violation. If any person is judgment of conviction be entered against such person for violation/s of this code, then the court shall order destruction of such articles upon expiration of the time allowed for appeal for such conviction.
3308.13.1. Destruction of other seized fireworks. Where no criminal proceedings can be instituted due to lack of knowledge as to who owns or is responsible for the fireworks, the fireworks in question shall be destroyed after thirty (30) days.

3401.4. Permits. Delete and substitute as follows.
3401.4. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3402.1. Definitions. Add the following words, terms, and meanings.

SUBSURFACE STRUCTURE - A subsurface structure shall include, but not be limited to, structures such as subway stations, railroad tunnels including rail rapid transit tunnels, and highway tunnels.

3404.1. General. Add the following 3401.1.1, 3404.1.2.
3404.1.1. Tank design, installation, maintenance and testing. The design, installation, maintenance, testing and operation of all flammable and combustible liquid storage tanks shall comply with the current requirements of State Water Control Board, 9 VAC 25-91, 9 VAC 25-580, SFPC, and the Uniform Statewide Building Code prior to any testing of underground storage tanks as required by the above referenced codes, standards, and regulations, a permit shall be obtained from the code official.
3404.1.2. Containers, tanks, equipment and apparatus. All storage facilities comprised of any number of tanks above or below ground with a total capacity of six hundred sixty (660) gallons or more shall maintain on-site a Spill Prevention Control and Hazardous Materials Management Plan (HMMP) as required in Section 2701.5.1. Preparation of the HMMP shall be the responsibility of the operator of the facility and the HMMP shall be certified by a licensed professional engineer and approved by the code official.

3404.2.7.10. Leak Reporting. Delete, rename, and substitute as follows. Subsection 3404.2.7.10.1 is retained and incorporated in full without revision.
3404.2.7.10. Spills, leaks, discharges and other releases. Any person who witnesses, discovers, or otherwise has knowledge of a spill, leak, discharge or other release of flammable or combustible liquid/s shall immediately report such spill, leak or release to the code official and the Arlington County Emergency Communications Center. When a spill, leak, discharge, or other release occurs, or when a spill, leak, discharge, or other release is discovered, the owner and the tenant or other person in control of the premises shall be fully responsible for the containment and cleanup of the flammable or combustible liquid/s, the containment of the vapors released there from, and for the disposal of waste. The cost of such containment, cleanup and waste disposal and any other related activities shall be at the sole expense of the owner or his/her authorized agent. The cleanup, containment and disposal shall be to the satisfaction of the fire code official. * * *

3404.2.7.10. Spills and leaks. Add the following 3404.2.7.10.2, 3404.2.7.10.3.
3404.2.7.10.2. Attendant. Each motor fuel-dispensing facility open to the public shall have an attendant on duty who is familiar with the location of pump controls and operation of safety equipment.
3404.2.7.10.3. Reporting. Any person who witnesses, discovers, or otherwise has knowledge of a spill, leak, discharge, or other release of flammable or combustible liquid/s shall immediately report by telephone such spill, leak, discharge, or release to the code official and the Emergency Communications Center (ECC).

3404.2.9. Above-ground tanks. This section is incorporated in full with the following revision. After the first sentence add the following "*All temporary and permanent above-ground storage tank installations shall have a means of release containment as specified in 9 VAC 25 NFPA 30 and 31, and the Virginia Statewide Fire Prevention Code. All temporary and permanent above ground storage tank installations used for the dispensing of product into vehicles, other equipment fuel tanks, or portable containers shall be equipped with anti-siphoning dispensing equipment.*" The revised section follows.
3404.2.9. Above-ground tanks. Above-ground storage of flammable or combustible liquids in tanks shall comply with Section 3404.2 and Sections 3404.2.9.1 through 3404.2.9.6.10 All temporary and permanent above-ground storage tank installations shall have a means of release containment as specified in 9 VAC 25 NFPA 30 and 31, the SFPC. All temporary and permanent above-ground storage tank installations used for the dispensing of product into vehicles, other equipment fuel tanks, or portable containers shall be equipped with anti-siphoning dispensing equipment.

> **Exception:** Residential homes located on properties in County designated R-6, R-8, R-10 one-family residential zoning districts shall be exempt from tightness testing except upon installation or repair to the tank. This does not exempt such residential tanks when, in the professional judgment of the code official, there is reason to believe that the tank may have leaked or is in danger of leaking.

3404.2.11. Underground tanks. This section is incorporated in full with the following revision. Delete the reference to "~~3404.2.11.5.2~~" and change the end of the sentence as follows: "and Sections 3404.2.11.1 through 3404.2.11.5.4." The revised section follows.
3404.2.11. Underground tanks. Underground storage of flammable and combustible liquids in tanks shall comply with Section 3404.2 and Sections 3404.2.11.1 through 3404.2.11.5.4.

3404.2.11.2. Location. Add the following 3404.2.11.2.1.
3404.2.11.2.1. Motor fuel-dispensing facilities in proximity of subsurface structures. Motor fuel-dispensing facilities dispensing Class I flammable liquids or Class II or III combustible liquids that are located within the distance of twenty-five (25) to one hundred (100) feet (measured horizontally from the outside wall of a subsurface structure) shall comply with the following:

1. Dispensing pumps for Class I flammable liquids, Class II or III combustible liquids shall not be located less than twenty-five (25) feet from the nearest subsurface structure opening (measured from the pump to the nearest point of any subsurface structure opening).

2. The finished grade around pump islands and the surrounding surface shall be graded in a manner to divert possible spills away from any opening to any subsurface structure.

3. Appropriate continuous drains across driveways, ramps, and/or curbs of at least six (6) inches in height shall separate the motor fuel-dispensing facility property from adjacent subsurface structure properties.

4. There shall be no connection (such as venting or drainage) between any storage tank or related piping for Class I flammable liquids or Class II or III combustible liquids and any subsurface structure.

3404.2.11.5. Leak prevention. Add the following 3404.2.11.5.3, 3404.2.11.5.4, 3404.2.11.5.5.
3404.2.11.5.3. Storage and handling of flammable or combustible liquids in proximity of subsurface structures. Underground storage tanks for Class I flammable liquids or Class II or III combustible liquids and related piping shall not be permitted directly over a subsurface structure as defined in Section 3402 or within

twenty-five (25) feet measured horizontally from the outside wall of such subsurface structure. Underground storage tanks and other related containers for Class I flammable liquids or Class II or III combustible liquids located in the area between twenty-five (25) and one hundred (100) feet (measured horizontally from the outside wall of the subsurface structure) and where tops of tanks and piping are not two (2) feet or more below the lowest point of excavation shall be installed in accordance with the following:

1. Constructed in a cast-in-place, liquid tight, reinforced concrete vault.

2. The walls, top and bottom of the vault shall be a minimum of six (6) inches thick and large enough to hold and retain the entire contents of the tank.

3. Access shall be provided in the vault top for inspection, monitoring, and servicing of the vault and tank.

3404.2.11.5.4. Motor fuel-dispensing facilities. Motor fuel-dispensing facilities dispensing Class I flammable liquids or Class II or III combustible liquids that are located within the distance of twenty-five (25) to one hundred (100) feet (measured horizontally from the outside wall of a subsurface structure) shall comply with the following:

1. Dispensing pumps for flammable liquids, or combustible liquids shall not be located less than twenty-five (25) feet from the nearest subsurface structure opening (measured from the pump to the nearest point of any subsurface structure opening).

2. The finished grade around pump islands and surrounding surface shall be graded in a manner to divert possible spills away from any opening to any subsurface structure.

3. Appropriate continuous drains across driveway ramps and/or curbs of at least six (6) inches in height shall separate the motor fuel-dispensing facility property from adjacent subsurface structure properties.

4. There shall be no connection, such as venting or drainage, between any storage tank or related piping for flammable liquids or combustible liquids and any subsurface structure.

3404.2.11.5.5. Driver responsibility. The driver, operator, or attendant of any tank vehicle shall not cause an overflow of any tank. The driver, operator, or attendant of any tank vehicle shall take all necessary and/or prudent precautions before discharging liquid from such vehicle in order to prevent the overflow of any tank into which it is discharging flammable or combustible liquids. Any discharge or overflow of more than a negligible amount, should one occur, shall be immediately reported by the driver, operator, or attendant to the Arlington County Emergency Communications Center.

3402.12. Testing. Add the following 3404.2.12.3, 3404.2.12.3.1.
3404.2.12.3. Leak detection. tightness test and other tests for storage tanks.

1. The owner or authorized operator of all buried tanks installed after the effective date of this code shall have the ability or mechanism to take direct measurement readings of the content level by the stick method. At least once during each day of operation, the liquid level of storage tank/s shall be measured by the owner or operator and compared with pump meter reading/s taken upon receipt of the product. Loss of product above normal evaporation, determined as a loss exceeding one (1) percent of flow through plus one hundred and thirty (130) gallons, shall be reported immediately to the code official. High liquid level gauges or alarm systems as well as pump cut-off devices shall be installed by the owner or the authorized operator in all petroleum storage tanks whenever, in the professional judgment of the code official, there is a possibility that product may be lost by overflowing. These emergency devices shall be considered only as auxiliary and supplementary to the use of personnel engaged in a transfer or fill operation.

2. When the owner or authorized operator's log book and inventory records indicate a loss of product exceeding one percent (1 %) of flow through plus one hundred and thirty (130) gallons, a test for tightness

on the underground tank shall be performed in accordance with the standards set forth in NFPA 329. The code official shall order a test for tightness when, in the professional judgment of the code official, there is reason or evidence to suspect a loss of product.

3. A test for tightness shall be conducted on all storage systems prior to change in ownership.

4. When leakage is indicated from a storage system during any test for tightness, the operator and/or person in control and the person conducting the test shall immediately report the test results to the code official.

5. Non-corrosive storage systems approved by Underwriters Laboratories, Inc., and the Steel Tank Institute P-3 systems shall be tested for tightness at the end of their warranty period to standards set forth in NFPA 329. The test shall be repeated at intervals no greater than once every three (3) years. When a test for tightness is performed, the following information shall be kept on file at the facility until such time as another test is performed. The following information shall be made available for inspection by the code official:

   (a) Commercial name of the test equipment.
   (b) The name of the testing company.
   (c) The name of the test operator.
   (d) The data accumulated by the test.
   (e) The results of the tightness test.

6. All storage systems, including heating oil and generator fuel storage systems, that do not have an automatic means of leak detection as defined in 9 VAC 25-580 shall be required to conduct a tightness test at intervals no greater than once every three (3) years. Storage systems that have an automatic means of leak detection as defined in 9 VAC 25-580 shall be required to test the leak detection system annually. This requirement shall apply to all structures with underground heating oil tanks and generator fuel tanks, including multi-family residential structures. Copies of leak detection system testing and tightness testing reports shall be forwarded to the code official upon completion.

   Exception: One-family residential homes located on properties in County designated R-5, R-6, R-8, R-10 zoning districts shall be exempt from tightness testing except upon installation or repairs to the tank. This does not exempt a one-family residential tank when, in the professional judgment of the code official, there is reason to believe that the tank may have leaked.

7. Before each filling of existing petroleum storage tanks that have provisions for measurement of contents and all petroleum storage tanks installed after the effective date of this code, the liquid level shall be gauged and the measurement shall be recorded as noted in Section 3304.2.12.3.1.

3304.2.12.3.1. Recordkeeping. These records, testing, and test results (collectively "records") shall be kept, in writing, in a logbook and in inventory records. All records shall be made available for inspection by the code official at anytime upon reasonable request. All records shall be retained for two (2) years. This period may be extended upon order of the code official.

3404.2.13.1.2. Out of service for 90 days. This section is incorporated in full with the following revision. Add item number 4 as follows.
[Item number] **4.** Underground storage tanks for flammable liquids or combustible liquids and related piping shall not be permitted directly over a subsurface structure, or within twenty-five (25) feet of a subsurface structure, as measured horizontally from the outside wall of such subsurface structure. Underground storage tanks and/or related piping for flammable liquids or combustible liquids located in the area between twenty-five (25) and one hundred (100) feet (measured horizontally from the outside wall of the subsurface structure), and where the tops of such tanks and/or piping are not two (2) feet or more below the lowest point of excavation shall be installed in a cast-in-place, liquid tight, reinforced concrete vault; the walls, top and bottom of shall be a minimum of six (6) inches thick

and large enough to hold and retain the entire contents of the tank. Access shall be provided in the vault top for inspection, monitoring and servicing of the vault and tank.

3404.2.13.1.4. Tanks abandoned in place. This section is incorporated in full with the following revision. Delete the exception to item #3. ~~Residential heating oil tanks of 1,100 gallons (4164L) or less, provided the fill line is permanently removed to a point below grade to prevent refilling of tank. The revised section follows.~~ Renumber the items. Revise current item #5 as follows "*A record of tank size, location, and date of abandonment shall be promptly filed by the property owner with the Fire Prevention Office, and shall be retained by both parties for the duration of the abandonment or, in the case of the owner, for the duration of his/her ownership interest in the property*." The revised section follows.
3404.2.13.1.4. Tanks abandoned in place. Tanks abandoned in place shall comply with the following: 1. Flammable and combustible liquids shall be removed form the tank and connecting piping. 2. The suction, inlet, gauge, vapor return, and vapor lines shall be disconnected. 3. The tank shall be filled completely with an approved inert solid material. 4. Remaining underground piping shall be capped or plugged. 5. A record of tank size, location, and date of abandonment shall be promptly filed by the property owner with the Fire Prevention Office, and shall be retained by both parties for the duration of the abandonment or, in the case of the owner, for the duration of his/her ownership interest in the property. 6. All exterior above-grade fill piping shall be permanently removed when tanks are abandoned or removed.

3406.4.6. Overfill protection of Class I and II liquids. Add the following 3406.4.5.1.
3406.4.6.1. Safety attendant.

1. Each bulk plant and terminal, as defined in NFPA 30, shall have a designated trained and competent safety attendant present on-site and on-duty at all times when flammable or combustible liquids are received, transferred, dispensed, or loaded from a pipeline, tank, container, vehicle, or other vessel. Individuals receiving, transferring, dispensing, or loading such liquids to or from tank vehicles shall not be designated as safety attendants.

2. The safety attendant shall observe and monitor the receipt, transfer, dispensing, and loading of such liquids. The safety attendant shall assure compliance with all federal, state and local laws, ordinances, and safety requirements including, but not limited to, the approved emergency plan of the plant or terminal. The safety attendant shall be knowledgeable about such laws, ordinances, requirements, and plan, including such requirements concerning fire safety, emergency response, and spill, leak, discharge, or release notification.

3. The safety attendant shall be familiar with the location and operation of all pump controls, emergency shutoff devices, and other safety equipment, and shall be responsible for using such equipment to detect, prevent, and abate or cause to be abated, any emergency situation.

4. At all times while on duty, the safety attendant shall be mentally and physically capable of immediately:

   (a) Taking all necessary, appropriate, and required action to detect and prevent a fire, explosion, spill, leak, discharge, or release;
   (b) Taking all necessary, appropriate, and required action in the event of a fire, explosion, spill, or leak; and
   (c) Performing the functions and assuming the responsibilities required by this section.

3406.6.1.5. Overfill protection. This subsection is incorporated in full with the following revision. Insert the following at the beginning of the paragraph "*The driver, operator, or attendant of any tank vehicle shall take all necessary precautions to prevent the overflow of any tank into which it is discharging flammable or combustible liquids, before he discharges any liquid from such tank vehicle*." The revised section follows.
3406.6.1.5. Overfill protection. The driver, operator, or attendant of any tank vehicle shall take all necessary precautions to prevent the overflow of any tank into which it is discharging flammable or combustible liquids, before he/she discharges any liquid from such tank vehicle. The driver, operator, or attendant of a tank vehicle shall, before making delivery to a tank, determine the unfilled capacity of such tank by a suitable gauging device. To prevent overfilling, the driver, operator, or attendant shall not deliver in excess of that capacity.

3406.6.1.9. Smoking. This subsection is incorporated in full with the following revisions. Rename the section "No smoking." Add the following at the end of the subsection, *"It shall be unlawful for any driver, operator, attendant, or passenger to smoke in, on or around any tank vehicle. It shall be unlawful to load or unload a tank vehicle wherever there is smoking, lighting of matches, the use of other flame or spark-producing devices, or the carrying of any flame or lighted cigar, pipe, or cigarette*." The revised subsection follows.
3406.6.1.9. No smoking. Smoking by tank vehicle drivers, helpers or other personnel is prohibited while they are driving, making deliveries, filling, or making repairs to tank vehicles. It shall be unlawful for any driver, operator, attendant, or passenger to smoke in, on or around any tank vehicle. It shall be unlawful to load or unload a tank vehicle wherever there is smoking, lighting of matches, the use of other flame or spark-producing devices, or the carrying of any flame or lighted cigar, pipe, or cigarette

3501.2. Permits. Delete and substitute as follows.
3501.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3601.2. Permits. Delete and substitute as follows.
3601.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3701 General. After 3701.2, add the following 3701.3, 3701.4
3701.3. Spills, leaks, discharges, and other releases. Any person who witnesses, discovers, or otherwise has knowledge of a spill, leak, discharge or other release of highly toxic or toxic material/s shall immediately report such spill, leak or release to the code official and the Emergency Communications Center (ECC). When a spill, leak, discharge, or other release occurs, or when a spill, leak, discharge, or other release is discovered, the owner and the tenant or other person in control of the premises shall be fully responsible for the containment and cleanup of the highly toxic or toxic materials, the containment of the vapors released there from, and for the disposal of waste. The cost of such containment, cleanup and waste disposal and any other related activities shall be at the sole expense of the owner or his/her authorized agent. The cleanup, containment and disposal shall be to the satisfaction of the fire code official.
3701.4 Reporting. Any person who witnesses, discovers, or otherwise has knowledge of a spill, leak, discharge, or other release of highly toxic or toxic material/s shall immediately report by telephone such spill, leak, discharge, or release to the code official and the Emergency Communications Center (ECC).

3701.2. Permits. Delete and substitute as follows.
3701.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3801.2. Permits. Delete and substitute as follows.
3801.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

3806. Dispensing and overfilling.. Add the following 3806.5.
3806.5. Remote control shutoff. When a tank vehicle is equipped with a remote control shutdown device, the driver shall have the remote control with him/her at all times.

3811.2. Unattended parking. This section is incorporated in full with the following revision. Delete the exception "~~The unattended outdoor parking of LP-gas tank vehicles may also be in accordance with Section 9.7.2 of NFPA 58~~." The revised section follows.
3811.2. Unattended parking. The unattended parking of L-P gas tank vehicle shall be in accordance with Sections 38112.1 and 3811.2.2.

3901.2. Permits. Delete and substitute as follows.
3901.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

4001.2. Permits. Delete and substitute as follows.
4001.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

4101.2. Permits. Delete and substitute as follows.
4101.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

4201.2. Permits. Delete and substitute as follows.
4201.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

4301.2. Permits. Delete and substitute as follows.
4301.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

4401.2. Permits. Delete and substitute as follows.
4401.2. Permits. Permits shall be required as set forth in Sections 107.2 and 108.

Chapter 45. Referenced Standards. This Chapter is incorporated in full with the following revisions. Add the following standards.

DOTn, 49 CFR, Parts 40, 100-185, 325, 350, and 355-399. March 2008

NFPA, Recommended Practice for Handling Releases of Flammable and Combustible Liquids and Gases, 329, 2005 Edition

NFPA, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 96, 2004 Edition

APPENDIX A

Field Code Changed

REQUIREMENTS FOR A FIRE WATCH

A101.1. Scope.

A fire watch is a temporary measure intended to ensure continuous and systematic surveillance of a building, structure or portion thereof by one (1) or more qualified individuals for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and immediately notifying the fire department and the Arlington County Emergency Communications Center.

A102.1. Initiation.

In the event that a fire protection system, sprinkler system, alarm, detection, or other suppression system is impaired or out of service, a fire watch shall be instituted by the person in control (as defined in Chapter 8.1 of the Arlington County Code, 1957 as amended).

A102.2. Procedures.

When the establishment of a fire watch is initiated by the person in control, or ordered by the fire department or fire official, the owner or the owner's representative shall implement the following procedures for the duration of the fire watch. The fire watch shall be maintained until such time the noted system(s) is returned to normal ready service and approved for use by the fire official.

1. A fire watch shall consist of the following:

    a) A designated number of staff (minimum of two personnel)performing fire watch duties at all times and until the fire protection system has been repaired, inspected, tested, and certified to be placed back in service. During the duration of a fire watch, the sole duty of such designated staff shall be the fire watch.

    b) Each participating staff member shall be equipped with reliable two-way system of

communications.

c) One (1) staff member shall always be stationed in an area or room equipped with a working telephone or cellular phone to report a fire, smoke or other hazardous situation by dialing 9-1-1.

NOTE: When dialing 9-1-1 from a cellular phone, some cellular phone systems may connect user with another jurisdiction's emergency communications center, therefore the caller should confirm they are speaking with the "Arlington County Emergency Communications Center."

d) At least one (1) staff member shall conduct a walking tour of all areas of the building no less than every fifteen (15) minutes to look for fire, smoke, or hazardous situations that require fire department response; or,

e) A complete tour of the facility within a time frame prescribed by the fire official or fire department and with the fire watch staffing level contingent upon the size of the facility and the type of occupancy.

NOTE: If the building or property is of such size that two (2) individuals cannot adequately perform the required fire watch, the fire department representative may require additional on-site personnel to participate in the fire watch. Upon request, the fire department representative may permit one (1) person to perform the fire watch if the building or property is size that one (1) person can adequately perform the required fire watch.

2. A legibly written log shall be kept on site at all times for review by any fire department employee documenting:

a) The reason the fire watch was implemented.

b) The date and time the fire department was notified the fire watch was initiated and concluded.

c) The start and stop time of each building or property tour.

d) The key locations visited in the building(s) requiring the fire watch.

e) Name(s) of personnel conducting the fire watch.

f) Name(s) of personnel recording the information.

g) Log entries shall be kept for a minimum of two (2) years.

3. Personnel conducting the fire watch shall be:

a) Capable of performing patrol duties.

b) Reliable and not under the influence of intoxicants or illegal substances.

c) Able to clearly and accurately converse with fire department personnel in English, in the event of an emergency.

d) Able to remain awake and alert at all times.

NOTE: In all cases, the sole duty of personnel assigned to the fire watch shall be to perform constant patrols of the protected premises, to keep watch for fires, and if necessary to summon the fire department.

4. In the event of a fire emergency:

a) The fire watch staff shall immediately call 9-1-1 and report the location of the fire within the building.

b) Activate the emergency alarm signal (if available).

c) Begin the evacuation of the building starting on the fire floor, then above the fire floor, then below the fire floor.

All questions concerning the implementation of the fire watch and requests for inspections to terminate the fire watch shall be directed to the Arlington County Emergency Communications Center (ECC) at 703-558-2222.

Chapter 9

RESERVED*

* **Editors Note:** Former Ch. 9, §§ 9-1--9-31, was repealed by Ord. No. 85-9, enacted Feb. 23, 1985, which also enacted, in lieu thereof, a new Ch. 9 as herein set forth. The repealed provisions, which pertained to food and food establishments, had been amended by Ordinances of April 7, 1962 and March 20, 1976. Subsequently, Ord. No. 98-2, adopted Jan. 17, 1998, repealed Ch. 9, in its entirety, which pertained to the food code. The user is directed to current Ch. 9.2 for provisions pertaining to food and food handling code.

ARLINGTON COUNTY CODE

Chapter 9.2

FOOD AND FOOD HANDLING CODE*

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* **Editors Note:** Ord. No. 06-09, adopted June 10, 2006, amended Ch. 9.2, in its entirety. Ord. No. 10-17, adopted June 15, 2010, amended Ch. 9.2 to read as herein set out.

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Article I. General Provisions

§ 9.2-1~~.1~~. Title.
§ 9.2-~~1.~~2. Purpose.
§ 9.2-~~1.~~3. Incorporation of Prevailing Federal Food Code.
§ 9.2-~~1.~~4. Definitions.
§ 9.2-~~1.~~5. Modifications to the Food Code.

Article II. Mobile Units

§ 9.2-6~~2.1~~. General.
§ 9.2-7~~2.2~~. Requirements for Types of Mobile Food Units.
§ 9.2-8~~2.3~~. Single-~~s~~Service Utensils.
§ 9.2-9~~2.4~~. Base of Operation.

Article III. Compliance Procedures

§ 9.2-10~~3.1~~. Licenses for Food Establishments.
§ 9.2-11~~3.2~~. Exemption.
§ 9.2-12~~3.3~~. Food Manager Certificate and Responsibility.
§ 9.2-13~~3.4~~. Issuance of Food Manager Certificate.
§ 9.2-14~~3.5~~. Suspension of License or Certificate in Emergencies.
§ 9.2-15~~3.6~~. Revocation of License or Certificate.
§ 9.2-16~~3.7~~. Service of Notices.
§ 9.2-17~~3.8~~. Closing of Food Establishments.
§ 9.2-18~~3.9~~. Hearings.
§ 9.2-19~~3.10~~. Application after Revocation.

Article IV. Penalties

§ 9.2-20~~4.1~~. Penalties, Injunction, Civil Penalties and Charges for Violations.

Article V. Review of Plans and Specifications

§ 9.2-21~~5.1~~. Submission of Plans, Specifications and ~~o~~Other ~~d~~Data; Inspection prior to Operation; Fees.
§ 9.2-22~~5.2~~. Effect of Repeal.
§ 9.2-23~~5.3~~. Validity of Chapter.

ARTICLE I.

GENERAL PROVISIONS

§ 9.2-1~~.1~~. Title.

This ~~C~~chapter shall be known as and may be cited as "The Food and Food Handling Code of Arlington County".
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-~~1.~~2. Purpose.

This ~~C~~chapter shall be liberally construed and applied to promote the purpose of safeguarding public health and ensuring that food is safe, unadulterated and properly presented when offered to the consumer.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06)

§ 9.2-~~1.~~3. Incorporation of Prevailing Federal Food Code.

All chapters, appendices and annexes of the current and prevailing United States Food Code ("Food Code"), as adopted and promulgated by the Food and Drug Administration and Centers for Disease Control and Prevention of the U.S. Department of Health and Human Services and the Food Safety and Inspection Service of the U.S. Department of Agriculture, including such chapters, appendices and annexes as may hereafter be added and/or amended from time to time, but excepting those sections of the Food Code identified in § 9.2-1.5., are hereby adopted and incorporated in their entirety into this ~~C~~chapter as if fully set forth herein. In the event of conflict or inconsistency between the provisions of this ~~C~~chapter and the Food Code, the provisions of this ~~C~~chapter shall prevail and control. When the provisions of the Food Code are applied through this ~~C~~chapter, the term "Health Authority" shall mean the County Manager.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-~~1.~~4. Definitions.

The following words and ~~phrases~~terms, when used in this ~~C~~chapter, including in the incorporated Food Code, shall have the following meanings ~~given below,~~ unless the context clearly indicates ~~a different intention or it is~~ otherwise ~~expressly provided~~:

"Base of Operation"~~:~~ means ~~A~~a licensed Food Establishment that contains all of the necessary equipment and storage facilities to support the operation of a Mobile Food Unit.

"Certificate"~~:~~ means ~~T~~the document issued by the County Manager, or the document issued by another jurisdiction or private vendor that is accepted by the County Manager, which demonstrates that the individual identified on the document has been determined to be a Certified Food Manager or a Certified Limited Food Manager.

"Certified Food Manager"~~:~~ means ~~A~~a person who has passed an examination approved by the County Manager, or an examination in another jurisdiction that is accepted by the County Manager, and has received a Certified Food Manager's Certificate issued or recognized by the County Manager.

"Certified Limited Food Manager"~~:~~ means ~~A~~a person who has passed an examination approved by the County Manager, or an examination in another jurisdiction that is accepted by the County Manager, and has received a Certified Limited Food Manager's Certificate issued or recognized by the County Manager.

"County Manager"~~:~~ means ~~T~~the County Manager of Arlington County, Virginia, or his designee ~~designated agent~~.

"Food Establishment"~~:~~ means ~~A~~a ~~Food Establishment is~~ an operation that:

1. stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and

2. relinquishes possession of food to a consumer directly, or indirectly through a delivery services such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

"License"~~:~~ means ~~T~~the document issued by the County Manager that authorizes a person to operate a Food Establishment.

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"Limited Food Establishment"~~:~~ means ~~A~~a Food Establishment that serves only foods that are not potentially hazardous, require no preparation, or utilize a preparation process that presents limited food safety risk, as determined by the County Manager.

"Limited Service Mobile Food Unit"~~:~~ means ~~A~~a Limited Food Establishment that is designed to be readily movable.

"Mobile Food Unit"~~:~~ means ~~A~~a Food Establishment that is designed to be readily movable.

"Person in Charge"~~:~~ means ~~T~~the individual present at a Food Establishment who is responsible for the Food Establishment's operation at the time of an inspection.

"Temporary Food Establishment"~~:~~ means ~~A~~a Food Establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-~~1.~~5. Modifications to the Food Code.

A. The following sections of the Food Code are expressly not incorporated into this ~~C~~chapter:

~~(1)~~1. ~~Section~~ § 8-802.10(A) of Annex 1 is amended to read as follows:

If admission to the premises of a food establishment is denied or other circumstances exist that would justify an inspection order under law, to make an inspection that includes the recordation of information by any means of audio-visual recordation including (but not limited to) photography, tape-recording and videotaping.

~~(2)~~2. [Reserved.]

~~(3)~~3. [Reserved.]

~~(4)~~4. [Reserved.]

~~(b)~~B. ~~Sections~~ §§ 2-102.11(B) and 2-102.20 are deleted ~~of~~ from the Food Code and are not adopted or incorporated into this ~~C~~chapter and shall be of no effect in Arlington County.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

ARTICLE II.

MOBILE UNITS

§ 9.2-~~6~~2.~~1~~. General.

Mobile Food Units and Limited Service Mobile Food Units shall comply with the requirements of this ~~C~~chapter.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-~~7~~2.~~2~~. Requirements for Types of Mobile Food Units.

~~(a)~~A. A Mobile Food Unit shall be equipped with a hand sink and a three (3) compartment sink. However, the County Manager may waive the requirement for a three (3) compartment sink if the menu items dispensed from the unit do not require extensive preparation and the unit has access to a three (3) compartment sink at the unit's Base of Operation.

~~(b)~~B. A Limited Service Mobile Food Unit shall be equipped with a hand sink and a three (3) compartment sink. However, the County Manager may waive the requirement for a hand sink if only prepackaged foods are to be dispensed or if an alternate method to hand washing, approved by the County Manager, is used. Such

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alternate methods may include, but are not limited to, use of disposable hand-washing towelettes, disposable gloves, sanitizing solutions that meet the specifications of 21 C.F.R. § 178.1010 or other techniques approved by the County Manager. The County Manager may waive the requirement for a three (3) compartment sink if the Limited Service Mobile Food Unit has access to a three (3) compartment sink at the unit's Base of Operation or only prepackaged foods are to be dispensed.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-8~~2.3~~. Single-~~s~~Service Utensils.

Mobile Food Units and Limited Service Mobile Food Units shall dispense only single-service utensils for use by customers.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-9~~2.4~~. Base of Operation.

Each Mobile Food Unit and Limited Service Mobile Food Unit shall operate from a Base of Operation that possesses a Food Establishment License issued in accordance with this ~~C~~chapter. The County Manager may allow a Mobile Food Unit or Limited Service Mobile Food Unit to operate from a Base of Operation located outside the County of Arlington if the Base of Operation meets basic sanitation requirements and is licensed by another jurisdiction.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

ARTICLE III.

COMPLIANCE PROCEDURES

§ 9.2-10~~3.1~~. Licenses for Food Establishments.

~~(a)~~A. No person shall operate a Food Establishment who does not have a valid License issued to him by the County Manager. Only a person who complies with the requirements of this ~~C~~chapter may be entitled to receive or retain a License. Licenses are not transferable.

~~(b)~~B. An annual application fee of two hundred eighty-five dollars ($285.00) shall be assessed for each licensed Food Establishment, Limited Food Establishment, Limited Service Mobile Food Unit, and Mobile Food Unit. A person who operates a Temporary Food Establishment at a local festival, fair, or other special event and who is not otherwise licensed to operate a Food Establishment, Limited Food Establishment, Limited Service Mobile Food Unit or Mobile Food Unit pursuant to this section shall be assessed an annual application fee of one hundred dollars ($100.00). Such fees shall not be applicable to Food Establishments, Limited Food Establishments, Limited Service Mobile Food Units, and Mobile Food Units operated by the Arlington County Public Schools; however, such fees shall apply to private vendors subcontracted by the County to operate Food Establishments, Limited Food Establishments, Limited Service Mobile Food Units, and Mobile Food Units. The annual fee shall be based on a calendar year and shall be due and payable in the month of December or upon initial application. The annual fee for Mobile Units and Limited Service Mobile Food Units shall be due and payable in the month of June or upon initial application. The application fee shall not be prorated. An additional fee of twenty-five dollars ($25.00) shall be assessed for Food Establishment, Limited Food Establishment, Limited Service Mobile Food Unit, and Mobile Food Unit renewal applications received after December 31, and for Mobile Unit and Limited Service Mobile Food Unit renewal applications received after June 30 of the then-current calendar year.

~~(c)~~C. Establishments that fail to file the required application for renewal of their respective licenses will be operating without a valid license and will be subject to immediate closure in accordance with § 9.2-17~~3.8~~.
(Ord. No. 02-16, 6-22-02; Ord. No. 03-11, 4-26-03; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 08-20, 10-18-08, effective 11-1-08; Ord. No. 10-17, 6-15-10, effective 7-1-10; Ord. No. 10-19, 10-23-10)

§ 9.2-11~~3.2~~. Exemption.

The County Manager may exempt coffee and related beverage service and service areas and such one-time events or affairs from such provisions or requirements of this ~~C~~chapter as the County Manager may deem advisable

upon determining that the operation of such service, service areas, events or affairs will not adversely affect the public health.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06)

§ 9.2-12~~3.3~~. Food Manager Certificate and Responsibility.

~~(a)~~A. It shall be unlawful to operate a Food Establishment unless it is under the immediate control of a Certified Food Manager; provided, however, that a Limited Food Establishment will not be in violation of this ~~S~~subsection if that Limited Food Establishment is under the immediate control of a Certified Limited Food Manager.

~~(b)~~B. The Certified Food Manager or Certified Limited Food Manager shall be responsible for training food service personnel in sanitary food-handling techniques and proper methods of food protection, and for ensuring that good public health and food protection practices and sanitary techniques in manufacturing, storing, serving and transporting food are used at all times on the premises under his control.

~~(c)~~C. Temporary Food Establishments shall not be required to be under the immediate control of a Certified Food Manager or Certified Limited Food Manager.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-13~~.4~~. Issuance of Food Manager Certificate.

~~(a)~~A. Any person desiring to obtain a Certificate required by § 9.2-12~~3.3.~~ shall apply in writing on forms provided or accepted by the County Manager. Such application shall include the name and address of the applicant, and the signature of the applicant.

The County Manager may, by a specific contract issued in accordance with appropriate administrative procedures, designate a private vendor to issue, on the County Manager's behalf, a food manager Certificate to any person who successfully complies with the provisions of this ~~C~~chapter.

~~(b)~~B. A food manager Certificate shall be issued only to a person who has passed a food manager certification examination from a food protection manager certification program that is evaluated and listed by an accrediting agency recognized by the Conference for Food Protection.

~~(c)~~C. A food manager Certificate shall be issued in the name of the individual applicant, shall not be assignable or transferable, shall be valid for a period of five (5) years from the date of notification of the successful completion of an approved exam and shall remain the property of the issuing authority.

~~(d)~~D. A food manager Certificate may be renewed for a five (5) year period upon the holder passing a food manager certification examination administered by a food protection manager certification program that is evaluated and listed by an accrediting agency recognized by the Conference for Food Protection.

~~(e)~~E. A limited food manager Certificate shall be issued only to a person who has passed a limited food manager certification examination approved by the County Manager.

~~(f)~~F. A limited food manager Certificate shall be issued in the name of an individual applicant, shall not be assignable or transferable, shall be valid only for a period of five (5) years from the date of notification of the successful completion of the approved exam and shall remain the property of the issuing authority.

~~(g)~~G. A limited food manager Certificate may be renewed for a five (5) year period upon the holder passing a limited food manager certification examination approved by the County Manager.

~~(h)~~H. If an applicant's Certificate has been revoked or suspended during the preceding five (5) years, the applicant shall retake and pass either a food manager certification examination from a food protection manager certification program that is evaluated and listed by an accrediting agency recognized by the Conference for Food Protection or a limited food manager certification examination approved by the County Manager, whichever is deemed appropriate by the County Manager.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-14~~3.5~~. Suspension of License or Certificate in Emergencies.

~~(a)~~A. If he deems an emergency to exist, the County Manager may, without warning, notice or hearing, order the suspension of any License or Certificate issued pursuant to this ~~C~~chapter if the holder of the License or Certificate does not comply with the requirements of this Chapter, or if the operation of the Food Establishment does not comply with the requirements of this ~~C~~chapter, or if the operation of the Food Establishment otherwise constitutes a substantial and imminent hazard to public health. Suspension shall be effective upon service of the notice required by subsection B~~(b)~~ of this section. When a license is suspended, all food-handling operations at the Food Establishment shall immediately cease. When a Certificate is suspended, food-handling operations shall immediately cease unless another Certified Food Manager or, where appropriate, Certified Limited Food Manager, is present and in control. If the reason for the suspension is eliminated prior to the suspension being sustained by the County Manager, the suspension shall be terminated.

~~(b)~~B. Whenever a License or Certificate has been suspended, the holder of the License or Certificate or the Person in Charge shall be notified in writing that the License or Certificate is suspended effective upon service of the notice and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the County Manager by the holder of the License or Certificate within ten (10) days of notice to the holder of the License or Certificate. The holder of the License or Certificate shall be afforded an opportunity for a hearing within twenty (20) days of receipt by the County Manager of a request for a hearing. If no written request for a hearing is filed within ten (10) days, the suspension shall be sustained. The County Manager may end a suspension at any time if the reason for the suspension no longer exists.

~~(c)~~C. The County Manager, in lieu of suspending a License, may suspend the applicability of the License to a specific commissary or specific products.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-15~~3.6~~. Revocation of License or Certificate.

~~(a)~~A. The County Manager may, after providing the opportunity for a hearing, order the revocation of a License or Certificate issued pursuant to this ~~C~~chapter for serious or repeated violations of any of the requirements of this ~~C~~chapter or for interference with the County Manager in the performance of his duty.

~~(b)~~B. Prior to ordering the revocation, the County Manager shall notify, in writing, the holder of the License or Certificate or the Person in Charge of the specific reasons for which the License or Certificate is to be revoked, and that the License or Certificate shall be revoked on the tenth (10th) day following service of the notice unless a written request for a hearing is filed with the County Manager by the holder of the License or Certificate within such ten (10) day period. If no request for a hearing is filed within the ten (10) day period, the License or Certificate shall be revoked by order of the County Manager and the revocation shall be final.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-16~~3.7~~. Service of Notices.

A notice required by this ~~C~~chapter is properly served when it is delivered to the holder of the License or Certificate or to the Person in Charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the License or Certificate. A copy of the notice shall be filed with the records of the Public Health Division of the Arlington County Department of Human Services.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-17~~3.8~~. Closing of Food Establishments.

The County Manager shall order the closure of ~~(i)~~ any Food Establishment which is operated without the License required by § 9.2-10~~3.1~~., or is operated without a Certified Food Manager being in control as required by § 9.2-12~~3.3~~. The closure order shall be in writing, shall specifically state the reason for the closure and shall clearly specify the compliance requirements necessary to have the order rescinded. The Sheriff of Arlington County shall enforce the closure order until it is rescinded by the County Manager in writing. Upon receipt of satisfactory proof of compliance with the written requirements set forth in the closure order, the County Manager shall immediately issue a written rescission of the order.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-18~~3.9~~. Hearings.

The hearings provided for in this ~~C~~chapter shall be conducted by the County Manager at a time and place designated by him. Any oral testimony given at a hearing shall be reported or recorded. The County Manager shall make a finding based upon the hearing record and shall issue, sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished by the County Manager to the holder of the License or Certificate.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

§ 9.2-19~~3.10~~. Application after Revocation.

Whenever a revocation of a License or Certificate has become final, the holder of the revoked License or Certificate may submit a written application for a new License or Certificate. The Food Establishment for which an application for a new License is submitted after revocation shall meet all applicable provisions of this ~~C~~chapter.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

ARTICLE IV.

PENALTIES

§ 9.2-20~~4.1~~. Penalties, Injunction, Civil Penalties and Charges for Violations.

~~(a)~~A. Any person willfully violating, or refusing, failing, or neglecting to comply with any provision of the Food Code, or order of the County Manager, or any provision of this ~~C~~chapter, shall be guilty of a Class 3 misdemeanor unless a different penalty is specified. Each day of violation shall constitute a separate offense.

~~(b)~~B. Any person violating, or failing, neglecting, or refusing to obey any provision of the Food Code, or any lawful order of the County Manager, or any provision of this ~~C~~chapter, may be compelled in a proceeding instituted in an appropriate court by the County Manager to obey and comply with such provisions of the Food Code, order of the County Manager, or provision of this ~~C~~chapter. The proceeding may be by injunction, mandamus, or other appropriate remedy.

~~(c)~~C. Without limiting the remedies which may be obtained pursuant to subsection B~~(b)~~ of this section, any person violating or failing, neglecting, or refusing to obey any injunction, writ of mandamus, or other remedy obtained pursuant to subsection B~~(b)~~ shall be subject, in the discretion of the court, to a civil penalty not to exceed ten thousand dollars ($10,000.00) for each violation. Each day of violation shall constitute a separate offense.

~~(d)~~D. With the consent of any person who has violated or failed, neglected, or refused to obey any provision of the Food Code, or order of the County Manager, or any provision of this ~~C~~chapter, the County Manager may provide, in an order issued by the County Manager against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit set forth in subsection C~~(c)~~ of this section. Such civil charges shall be in place of any appropriate civil penalty which could be imposed pursuant to subsection C~~(c)~~.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

ARTICLE V.

REVIEW OF PLANS AND SPECIFICATIONS

§ 9.2-21~~5.1~~. Submission of Plans, Specifications and ~~o~~Other ~~d~~Data; Inspection prior to Operation; Fees.

~~(a)~~A. Whenever a Food Establishment is constructed or remodeled or whenever an existing structure is converted to use as a Food Establishment, plans and specifications for such construction, remodeling, or conversion shall be submitted to the County Manager for his review prior to commencement of such construction, remodeling or conversion. The County Manager shall verify that the plans and specifications conform to the requirements of this ~~C~~chapter and the Food Code. The plans and specifications shall include the intended menu, anticipated volume of food to be stored, prepared, and sold or served, the proposed layout and arrangement of the facilities, plumbing

plans, mechanical plans, electrical plans, finish schedules, lighting schedules, and the types, model numbers, locations, dimensions, performance capacities and installation specifications of proposed fixed equipment and facilities. The County Manager may require additional plans or information, as needed, depending on the nature and extent of the proposed construction, remodeling or conversion. The County Manager shall approve the plans and specifications if they meet the requirements of this ~~C~~chapter and the Food Code. The County Manager's approval of any plans or specifications shall not constitute a determination that the plans or specifications are free from error. The owner shall have final responsibility for the accuracy and completeness of the plans and specifications, as well as for subsequent construction and installation. No Food Establishment shall be constructed, remodeled or converted except in accordance with plans and specifications approved by the County Manager.

~~(b)~~B. Whenever plans and specifications are required to be submitted and approved, the County Manager shall inspect the Food Establishment prior to it beginning operation in order to determine compliance with the approved plans and specifications and with the requirements contained in this ~~C~~chapter and the Food Code.

~~(c)~~C. A fee of two- hundred dollars ($200.00) shall be paid to the Treasurer of Arlington County upon submission of plans.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective7-1-10)

§ 9.2-22~~5.2~~. Effect of Repeal.

The repeal of Chapter 9.2 shall not affect any act, duty, penalty, requirement, right, obligation or offense established pursuant to Chapter 9.2 which was pending prior to the date of the repeal of Chapter 9.2.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective7-1-10)

§ 9.2-23~~5.3~~. Validity of Chapter.

The provisions of this ~~C~~chapter are severable, and if any provision of this ~~C~~chapter or any application thereof is held invalid by a court of competent jurisdiction, that invalidity shall not affect any other provision or application of this ~~C~~chapter which can be given effect without the invalid provision or application.
(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-17, 6-15-10, effective 7-1-10)

ARLINGTON COUNTY CODE

Chapter 10

GARBAGE, REFUSE AND WEEDS

Article I. Refuse

§ 10-1. Declaration of Policy.
§ 10-2. Definitions.
§ 10-3. Administration of ~~a~~Article.
§ 10-4. Deposit at ~~o~~Other ~~t~~Than ~~a~~Approved ~~p~~Place - ~~p~~Prohibited.
§ 10-5. Participation in the ~~c~~County ~~r~~Refuse ~~c~~Collection ~~s~~System.
§ 10-6. Storage, ~~r~~Removal, and ~~m~~Maintenance.
§ 10-7. Collecting, ~~t~~Transporting, and ~~d~~Disposing of ~~r~~Refuse and ~~r~~Recycling; Permits ~~r~~Required; Exemption from ~~r~~Requirements.
§ 10-8. Refuse ~~c~~Collection and ~~d~~Disposal ~~c~~Charges; ~~r~~Relief from ~~s~~Such ~~c~~Charges.
§ 10-9. Scavenging.
§ 10-10. Use of ~~p~~Public and ~~p~~Private ~~r~~Refuse ~~r~~Receptacles.
§ 10-11. Penalties.

Article II. Condition of Private Property

§ 10-12. Definitions.
§ 10-13. Duty of ~~p~~Property ~~o~~Owner to ~~c~~Cut ~~g~~Grass, ~~w~~Weeds, ~~m~~Maintain ~~l~~Lawns, ~~e~~Etc.
§ 10-14. Duty of ~~e~~Either the ~~p~~Property ~~o~~Owner, ~~o~~Occupant or ~~b~~Both to ~~p~~Properly ~~m~~Maintain ~~p~~Property.
§ 10-15. Duty of ~~e~~Each ~~p~~Property ~~o~~Owner or ~~o~~Occupant of ~~p~~Property to ~~c~~Cut ~~b~~Back ~~o~~Obstructing ~~v~~Vegetation.
§ 10-16. Duty of ~~e~~Either ~~p~~Property ~~o~~Owner, ~~o~~Occupant or ~~b~~Both to ~~k~~Keep the ~~p~~Property ~~f~~Free from ~~r~~Rat ~~h~~Harborage.
§ 10-17. Notice of ~~v~~Violation.
§ 10-18. Failure to ~~p~~Perform ~~d~~Duties ~~r~~Relating to ~~p~~Property upon ~~v~~Violation ~~n~~Notice from the County Manager.
§ 10-19. Right to ~~p~~Property ~~o~~Owner or ~~o~~Occupant to ~~a~~Appeal ~~v~~Violation ~~n~~Notice.
§ 10-20. Reserved.
§ 10-21. Penalties for ~~f~~Failure to ~~c~~Comply with this ~~a~~Article.
§ 10-22. Duty of ~~p~~Property ~~o~~Owner to ~~r~~Remove ~~s~~Stored, ~~w~~Wrecked, ~~a~~Abandoned or ~~i~~Inoperative ~~v~~Vehicles.

Article III. Litter

§ 10-23. Definitions.
§ 10-24. Littering ~~p~~Prohibited.
§ 10-25. Vehicles ~~d~~Dropping ~~c~~Contents on ~~s~~Street.
§ 10-26. Duty to ~~c~~Collect ~~l~~Litter ~~b~~Before it is ~~c~~Carried from the ~~p~~Premises.
§ 10-27. Litter ~~r~~Receptacles.
§ 10-28. Handbills.
§ 10-29. Penalties.

Article IV. Recycling

§ 10-30. Definitions.
§ 10-31. Requirements for ~~m~~Materials to be ~~c~~Collected.
§ 10-32. Reporting ~~r~~Requirements.
§ 10-33. Education ~~r~~Requirements.
§ 10-34. Exemption from ~~r~~Requirements.
§ 10-35. Penalties.
§ 10-36. Right to ~~a~~Appeal ~~n~~Notices and ~~f~~Fines.
§ 10-37. Recycling ~~s~~System ~~i~~Inspection ~~f~~Fee.

ARTICLE I.

REFUSE*

* **Editors Note:** Ordinance No. 83-22, adopted July 13, 1983, repealed former Art. I, §§ 10-1--10-11, and enacted, in lieu thereof, a new Art. I as herein set forth. The repealed provisions, which also pertained to refuse, had been amended by ordinances of June 28, 1975, June 25, 1977, May 31, 1980, May 21, 1981, and Ord. No. 82-16, enacted April 24, 1982, Ord. No. 83-11, enacted April 23, 1983 and effective July 1, 1983, and Ord. No. 83-19, enacted June 18, 1983 and effective July 1, 1983.

§ 10-1. Declaration of Policy.

It is the policy of the County Board to protect the health, safety, and welfare of the citizens and the environment by establishing minimum standards for the storage, collection, transportation, processing, and disposal of solid waste and the recovery of recyclable materials and other resources from solid waste within Arlington County.
(Ord. No. 83-22, 7-13-83; Ord. No. 93-22, 11-13-93)

§ 10-2. Definitions.

The following words and ~~phrases~~terms, when used in this ~~A~~article, shall have the following meanings ~~ascribed to them in this Section, except in those instances where~~unless the context clearly indicates ~~a different meaning~~otherwise:

"Bundled brush"~~,~~ Means ~~T~~tree branches, shrubbery trimmings, and similar plant items that are securely tied in bundles, each bundle not exceeding four (4) feet in length, twenty-four (24) inches in diameter and fifty (50) pounds in weight.

"Bundled material"~~,~~ means ~~L~~lumber, cardboard or carpet that is securely tied in bundles not exceeding four (4) feet in length, twenty-four (24) inches in diameter and fifty (50) pounds in weight.

"Cathode Ray Tube (CRT)"~~,~~ means ~~A~~a device for projecting images onto a leaded glass screen by means of electrons. The device is found in traditional televisions and computer monitors and is commonly referred to as a television tube or computer monitor display tube.

"Collection point"~~,~~ means ~~T~~the unpaved area between the street pavement and front property line of each dwelling which fronts on the public street. If none exists, the location shall be as near the edge of pavement as possible so as not to obstruct or impede the travel of pedestrians or vehicles or parking of cars. In those cases where service is provided along alleyways, the collection point shall be adjacent to the alley, outside of all private fences and placed so as not to impede vehicular travel.

"Collector"~~,~~ means ~~A~~any person, corporation, association, firm, partnership, company, or any other legal entity engaged in the regularly-scheduled commercial collection and/or transportation of refuse, recycling, food waste, or cooking oil and grease.

"Commercial establishment"~~,~~ means ~~A~~any nonresidential location including the nonresidential portion of mixed use buildings.

"Commercial container"~~,~~ means ~~A~~a metal container not larger than ten (10) cubic yards, made of watertight construction with doors opening on sides (self-closing) and/or top, and constructed so that it can be emptied mechanically by a specially equipped truck.

"Cooking oil and grease"~~,~~ means ~~R~~rendered animal fat or oily matter used in the cooking process.

"County Manager"~~,~~ means ~~T~~the County Manager of Arlington County, Virginia, or his ~~authorized~~

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~~agent~~designee.

"DES", means the Arlington County Department of Environmental Services.

"Electronics", means ~~H~~household batteries, televisions, computer equipment, radios, calculators, video and audio equipment, phones, cameras, peripheral equipment, and similar electronic devices which contain circuit boards. Electronics do not include small appliances or other such household products with an electrical cord.

"Food waste" means ~~A~~any food substance, raw or cooked, which is discarded, or intended or required to be discarded. Food wastes are the organic residues generated by the handling, storage, sale, preparation, cooking, and serving of foods.

"Front building line", means ~~The front building line is~~ a straight line running between the two (2) corners of a building side facing the street frontage or the two (2) extreme edges of the building profile visible from the street frontage and extending to the property line.

"Garbage", means ~~A~~animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

"Household appliance", means ~~R~~refrigerators, freezers, clothes washers, clothes dryers, dishwashers, trash compactors, air conditioners or any other heavy metal objects too large to entirely fit into a refuse cart.

"Household container", means ~~A~~a metal or sturdy plastic container of substantial construction which is watertight, equipped with a tightly fitting lid and carrying handles sufficient for safe and convenient handling. Such containers shall have a capacity of not less than twenty (20) gallons nor more than thirty-two (32) gallons.

"Household hazardous materials (HHM)", means ~~A~~any commercial product that contain hazardous ingredients used by residential as opposed to industrial consumers, which pose certain risks to human health and the environment when managed improperly. HHM have hazardous characteristics, such as being reactive, corrosive, ignitable, and/or toxic, that requires special handling and proper management to minimize risks when discarded by residents or is no longer usable for its intended purpose. Include but not limited to paints, stains, varnishes, solvents, pesticides, and other materials.

"Leaf collection season", means ~~T~~that time period specifically designated and promulgated by the Solid Waste Division for the collection of leaves.

"Mercury thermostats", means ~~A~~a device, as in a home heating system, a refrigerator, or an air conditioner, that automatically responds to temperature changes and activates switches controlling the equipment that contains mercury.

"Metal", means ~~D~~discarded metal suitable for reprocessing.

"Multi-family dwelling", means ~~A~~a building or portion thereof, designed for occupancy by three (3) or more families living independently of each other.

"Nonprofit organization", means ~~A~~an organization not conducted or maintained for the purpose of making a profit.

"Nonresidential", means ~~Refers to~~ property other than housing, such as office buildings, shopping centers, businesses, churches, hotels, hospitals, schools, or government buildings.

"Plastic bag", means ~~A~~a plastic container of at least thirteen (13) gallons capacity and not more than thirty-three (33) gallons capacity and made of plastic at least eighty-five hundredths (0.85) mils thick. Notwithstanding the foregoing sentence, in all events the bag must be sturdy enough to support the weight of the contents.

"Recyclable material", means ~~M~~material that can be recovered and reprocessed to be reused as a material to make new products, such as mixed paper, metal cans, aluminum, glass, plastic, and metal items, that are identified as recyclable materials pursuant to the list administered by the Department of Environmental Services Solid Waste

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Bureau and posted on the County website. The County Manager will announce 90 days prior to the addition of new materials to the list.

"Recycling", means Tthe act of disposing of recyclable materials.

"Recycling cart", means Aa wheeled container with a watertight lid provided by the County specifically for the collection of recyclables at curbside.

"Refuse", means Aall solid waste, including cold ashes, garbage, rubbish, bulky wastes, and construction and demolition wastes excluding hazardous and infectious materials and materials described in Section § 10-6(d) of this Chapter.

"Refuse cart", means Aa wheeled container with a watertight lid provided by the County for the collection of refuse at curbside.

"Refuse station", means Tthe facility designated by the County Manager for disposal of refuse. This facility may be a transfer station, waste-to-energy or other facility designed to process municipal waste(s).

"Solid Waste", means Aany garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

"Toxic and hazardous material", means Aall material, including herbicides and pesticides, defined as hazardous or toxic by Virginia statute or regulations adopted under Virginia state statute.

"Unbundled brush", means Ttrees, tree branches, shrubbery trimmings and similar plant material not exceeding ten (10) feet in length and eighteen (18) inches in diameter.

"Yard waste", means Tthe part of solid waste composed of grass clippings, leaves, twigs, branches, and other garden refuse.
(Ord. No. 83-22, 7-13-83; Ord. No. 92-19, 7-1-92; Ord. No. 96-9, 6-29-96; Ord. No. 03-07, 3-29-03; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-3. Administration of aArticle.

This article shall be administered by the County Manager.
(Ord. No. 83-22, 7-13-83)

§10-4. Deposit at oOther tThan aApproved pPlace - pProhibited.

It shall be unlawful for any person to dispose, dump, deposit, or leave any refuse within the County except at a place of final disposal approved under this article.
(Ord. No. 83-22, 7-13-83)

§ 10-5. Participation in the cCounty rRefuse cCollection sSystem.

(a)A. The owner or occupant of each one-family or two-family dwelling as defined in Section § 1 of the Arlington County Zoning Ordinance must participate in the Arlington County refuse collection system. The County shall collect the refuse and recycling from each dwelling participating in the Arlington County refuse collection system weekly. The owner or occupant of the dwelling shall pay the fees provided for in Section § 10-8 of this Cchapter. All participants in the Arlington County refuse collection system are eligible for one (1) refuse and one (1) recycling cart as part of the base residential refuse and recycling collection fee. Up to two (2) additional refuse or recycling carts (for a total of four (4)) may be requested at a charge as set forth in Section § 10-8.

(b)B. If County refuse truck enters a private street to collect refuse, the street must be constructed

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according to Arlington County Department of Environmental Services Standards and Specifications; and must be at least fourteen (14) feet wide excluding the space taken up by parked cars. Residents of lots on private streets that do not meet the County standards and specifications as of July 1, 1992, shall bring their refuse and recycling containers to the nearest designated collection point accessible to County refuse trucks to be eligible to continue to participate in the County refuse collection system.

~~(c)~~C. The owners of a development of town house dwellings, as defined in ~~Section~~ § 1 of the Arlington County Zoning Ordinance, constructed after July 1, 2003 will be required to participate as a group in the Arlington County refuse collection system, provided:

~~(1)~~1. Each dwelling is individually metered for water;

~~(2)~~2. There is adequate space so that the refuse and recycling truck can turn around without backing onto or off of a street;

~~(3)~~3. Parking is arranged so that refuse and recycling need not be carried between parked cars;

~~(4)~~4. If it is necessary for the refuse and recycling truck to enter a private street, the street is constructed according to Arlington County Standards and Specifications enforced by the Arlington County Department of Public Works;

~~(5)~~5. The street is at least fourteen (14) feet wide excluding the space taken up by parked cars; and

~~(6)~~6. The County Manager or his designee is authorized to establish reasonable procedures that allow for exceptions based on safety or health considerations or a determination that the use of refuse and recycling carts are not feasible or useable for the town house or town house development.

~~(d)~~D. Any nonprofit organization which places for collection six (6) or fewer household containers, or up to three (3) refuse carts and up to three (3) recycling carts, of trash and recycling per week, and not located in a multi-tenant building, may participate in the Arlington County refuse and recycling collection system. Nonprofit organizations are not eligible for special collections.
(Ord. No. 92-19, 7-1-92; Ord. No. 96-9, 6-29-96; Ord. No. 03-07, 3-29-03; Ord. No. 04-25, 10-2-04; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-6. Storage, ~~r~~Removal, and ~~m~~Maintenance.

~~(a)~~A. *Storage generally*. It shall be unlawful for any person to store any refuse or recycling within the County, except as provided in this ~~A~~article.

~~(b)~~B. *Responsibilities of owners and occupants of dwellings required to participate in the County refuse collection system:*

~~(1)~~1. It shall be the responsibility of the owner, or occupant if different from the owner, of each dwelling receiving County refuse and recycling service, to adhere to the following practices:

a. Refuse and recycling shall be placed at the collection point in refuse and recycling carts, well-labeled household containers, plastic bags or be bundled. All refuse and recycling stored outside the dwelling shall be in well-labeled household containers or refuse and recycling carts. Household containers shall be kept covered with tightly fitting lids at all times. Plastic bags shall be securely tied with the contents wrapped to prevent tearing or puncturing the bag:

(1)~~.~~ No amount of liquid in excess of one-half (1/2) gallon shall be placed in the refuse or recycling for any collection at any residential collection point.

(2)~~.~~ Ashes shall be cold to the touch prior to placement at collection point.

(3)~~.~~ Household containers, bundled material, bundled brush, or plastic bags shall not

exceed fifty (50) pounds gross weight.

(4). Tree branches and shrubbery trimmings, lumber, and carpeting shall be securely tied in bundles not to exceed four (4) feet in length, twenty-four (24) inches in diameter and fifty (50) pounds in weight.

(5). Unbundled brush, household appliances, electronics, and furniture shall be placed at curbside for pickup only where arrangements for their collection have been made with the Department of Environmental Services. Collection arrangements shall be made no later than the workday prior to the regularly scheduled collection day.

b. Place all refuse and recycling carts, household containers, bundled material, bundled brush, and plastic bags at the collection point no sooner than 5:00 p.m. the day prior to, nor later than 6:00 a.m. of the day of scheduled collection, and remove all household containers to their normal storage location within twenty-four (24) hours after emptying. Normal location shall mean a regular place of keeping not in front of the dwelling and/or behind the front building line that faces any County street, unless there is fencing or landscaping that screens or shields the containers from general view from the street.

c. Maintain household containers, refuse carts, and recycling carts in a serviceable and sanitary condition. These containers shall be cleaned prior to the next refuse service day upon the owner or occupant being informed by the refuse crews of the need for cleaning. If a household container is determined to be unserviceable (cracked, rusted, dented/damaged) by the County Manager or his designee, the County Manager or his designee will inform the owner or occupant by placing a decal on the refuse or recycling container. If the same container is used in the future as a refuse or recycling container, it shall be considered for disposal and collected with the regular refuse or recycling.

d. Store leaves in biodegradable paper bags or place loose leaves at curbside for collection during the designated leaf collection season. Biodegradable paper bags will be collected only during the leaf collection season, spring yard waste, and other yard waste collection programs designated by the County Manager or his designee.

e. At occupant's expense, privately dispose of:

(1). All items weighing more than five hundred (500) pounds.

(2). Building material such as brick, masonry block, rock, sod, earth, sheet rock, or sand.

(3). Building materials not prepared in accordance with this Code and any building materials resulting from work performed by a person in the course of business.

(4). Trees, tree branches, shrubbery, or other plant material that exceed ten (10) feet in length or eighteen (18) inches in diameter or that are the result of the clearing of multiple trees from a property.

f. Keep dogs tied up securely or in the dwelling on collection day when backdoor service (non-curbside) is provided.

g. Reserved.

h. Clean up any refuse, recycling, or litter remaining at the collection point which is not collected because of the failure to adhere to the above practices.

(c)C. *Responsibilities of owners of commercial establishments and multi-family dwellings.* It shall be the responsibility of the owners of commercial establishments, multi-family dwellings, and townhomes that

are not part of the County refuse collection system to provide for the private collection, and disposal of all refuse at least weekly, unless given written exemption by the County Manager or designee, and adhere to the following practices:

~~(1)~~1. Provide sufficient number of approved containers for the storage of refuse. Containers shall be kept covered with a tightly fitting lid at all times. All refuse containers shall be emptied frequently enough to prevent their contents from overflowing.

~~(2)~~2. Maintain all containers in a sanitary and serviceable condition.

~~(3)~~3. Place commercial containers on concrete, or other similar impervious surfaces.

~~(d)~~D. *Household hazardous and infectious materials*:

~~(1)~~1. Infectious material and dead animals shall not be put out for collection.

~~(2)~~2. Highly combustible material such as floor sandings, explosives, kerosene, gasoline, waste oil; any bottle, tank, or drum which previously contained or still contains any flammable, toxic, or other household hazardous material shall not be put out for collection, except that the above materials (excluding explosives) in quantities less than five (5) gallons and all containers may be disposed of by participants in the County refuse collection system by taking them to the plant chemist at the Arlington County Water Pollution Control Plant HHM Facility at 530 S. 31st Street, Arlington, Virginia 22202, for disposal.

~~(3)~~3. Animal feces shall be securely sealed or wrapped in plastic or paper bags before being placed in a household, commercial, or retail container.

~~(4)~~4. Effective January 1, 2011 there is hereby a ban on items containing cathode ray tubes (CRTs) and mercury thermostats from the waste stream.

~~(e)~~E. *Failure to adhere to the storage, removal, and maintenance provisions:*

~~(1)~~1. In addition to penalties provided by law, the County may, if the storage, removal, and maintenance provisions of ~~Section~~ § 10-6 are not adhered to, have such storage, removal, and maintenance provision violations corrected by the County's agents or employees and the cost thereof shall be charged to and paid by the owner or occupant of such property in the same manner as other refuse collection charges are imposed. A charge of fifty dollars ($50.00) will be assessed for the correction of minor violations. Minor violations are the collection of materials placed at the collection point weighing up to two hundred (200) pounds which are not eligible for collection or which are not properly prepared for collection. A charge of three hundred dollars ($300.00) will be assessed for the collection of materials placed at the collection point weighing more than two hundred (200) pounds which are not eligible for collection or which are not properly prepared for collection. The County will not take action until the County has (i) contacted the owner or occupant to explain the nature of the problem and the corrective action required, and (ii) provided the owner or occupant with a written notice of violation informing them of the violation and providing a period of seven (7) days in which to correct the problem. The seven (7) day notification period may be waived by the County Manager or his designee when household hazardous material is disposed of inappropriately, pedestrian or vehicular traffic is impeded on a public thoroughfare, wind blown litter or debris is created, or if required for public health or safety. In the event the seven (7) day period is waived, reasonable notice under the circumstances shall be given.

(Ord. No. 83-22, 7-13-83; Ord. No. 92-19, 7-1-92; Ord. No. 96-9, 6-29-96; Ord. No. 03-07, 3-29-03; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-7. Collecting, ~~t~~Transporting, and ~~d~~Disposing of ~~r~~Refuse and ~~r~~Recycling; Permits ~~r~~Required; Exemption from ~~r~~Requirements.

~~(a)~~A. No Collector shall commercially collect, transport, transfer, store, or dispose of any refuse,

recyclables, food waste, or cooking oil and grease without having paid required permit fees and obtained from the County Manager a refuse or recycling permit covering that activity and any related facility and each related refuse or recycling vehicle or container used to transport refuse or recycling. The permit shall be renewed annually.

~~(b)~~B. The County Manager shall establish reasonable regulations pursuant to this ~~S~~section of the County Code for the disposal of refuse that originates in Arlington County. The County Manager may designate a refuse station as the place for the disposal of refuse collected, transported or disposed of by holders of refuse permits by giving written notice to each holder of a refuse permit designating the refuse station to be used. The County Manager shall not designate any refuse station that is not owned or operated by the County unless the owner of the refuse station has contracted with the County to accept refuse that originates in the County and the tipping fee or other disposal charge payable by refuse permit holders at the refuse station has been approved by the County Board. The provisions of this paragraph shall not apply to:

~~(1)~~1. Refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or refuse-derived fuels for sale to a person other than an entity controlled by or under the same control as the manufacturer, miner, processor, refiner or converter of the energy or refuse-derived fuel;

~~(2)~~2. Recyclable materials, which are those materials that have been source-separated by any person, or materials that have been separated from refuse by any person for utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy;

~~(3)~~3. Construction debris to be disposed of in a landfill; or

~~(4)~~4. Waste oil.

~~(c)~~C. Any Collector desiring a permit to collect, transport, transfer, store, or dispose of any refuse or recycling shall make application to the County Manager. Each application shall contain the name, address, and telephone number of the applicant's place of business and shall include, without limitation, a complete description of the proposed facility and operations at the facility, including the number and description of vehicles and equipment to be used.

~~(1)~~1. The County Manager, before issuing any permit, shall cause an inspection to be made of the premises within the County and vehicles and equipment named and described in the application for a permit under this ~~A~~article for the purpose of determining whether the premises, vehicles, and equipment comply with the provisions of this ~~A~~article, including but not limited to the standards established in ~~Section~~ § 10-7.C.7~~(c)(7)~~ of this ~~A~~article. If the County Manager shall be satisfied from the inspection that the premises, vehicles, and equipment are in conformity with this ~~C~~chapter, the County Manager shall issue, or cause to be issued, upon payment by the applicant to the County of the fee established in this ~~A~~article, a permit authorizing the applicant to collect, transport, transfer, or dispose of refuse or recycling within the County, with such conditions as he may deem necessary to comply with this ~~A~~article.

If the County Manager shall not be so satisfied or if the applicant has refused the County Manager or designee the right to enter and inspect any premises, except the interior of any residence, and vehicles pursuant to ~~Section~~ § 10-7.C.3~~(c)(3)~~ for the purpose of enforcing the provisions of this ~~A~~article, the County Manager shall deny the application.

~~(2)~~2. Every permit issued pursuant to this ~~A~~article shall be renewed annually, unless sooner suspended. The permittee's premises and all vehicles and equipment shall be inspected each year and the permit shall be renewed if the premises, vehicles, and equipment are in conformity with this ~~A~~article. A permit shall not be transferrable to any other collector.

~~(3)~~3. The County Manager or designee is hereby authorized to enter and inspect any premises, except the interior of any residence, and vehicles in the County used by an applicant for a permit or a permittee in the business of collecting, transporting, transferring, storing, or disposing of refuse or recycling. Any inspection shall be made during business hours and only with the consent of such

applicant or permittee for the purpose of enforcing the provisions of this ~~A~~article and for no other purpose.

~~(4)~~4. If the County Manager finds that the premises, vehicles, and equipment for which the permit was issued do not conform to the provisions of this ~~A~~article, that a permittee has refused the County Manager or designee the right to enter and inspect such premises, except the interior of any residence, or vehicles pursuant to ~~Section~~ § 10-7.C.3~~(c)(3)~~ for the purposes of enforcing the provisions of this ~~A~~article, or that a permittee or an employee or agent of a permittee has failed or neglected to comply with any of the minimum standards set forth in ~~Section~~ § 10-7.C.7~~(c)(7)~~, the County Manager may enter an order for the suspension of the permit until such time as the County Manager finds the reason for the suspension no longer exists. A copy of the order shall be sent to the permittee at his place of business by certified mail, which order shall set forth the reasons for the suspension. The suspension shall be effective ten (10) calendar days after the date it is executed by the County Manager, and the order shall state this effective date; provided, however, that if the County Manager finds that an immediate suspension is necessary to protect the health or safety of County residents, the suspension shall be effective immediately and the order shall so state. Except in cases of an immediate suspension, the order shall inform the permittee that he may dispute the suspension by written submission to the County Manager, stating the reasons why the permit should not be suspended. The order shall also inform the permittee of the date and time by which such written submission must be submitted. If the permittee does not make a timely written submission to the County Manager, the suspension shall become effective and the order shall become final on the date set forth in the order. If the permittee does make a submission, the suspension shall be stayed pending the County Manager's consideration of the submission and the issuance of a final order affirming, amending, or rescinding the earlier order. This final order shall be effective on the date it is executed by the County Manager and shall be sent to the permittee at his place of business by certified mail. The failure of a permittee to make a written or personal submission to the County Manager shall not affect the County Manager's authority to reinstate a suspended permit, pursuant to ~~Section~~ § 10-7.C.5~~(c)(5)~~, or the permittee's right to appeal a final order of suspension, pursuant to ~~Section~~ § 10-7.C.6~~(c)(6)~~.

It shall be unlawful for any Collector to collect, transport, transfer, store, or dispose of any refuse or recycling within the County when subject to a final order of suspension.

~~(5)~~5. The County Manager may reinstate a suspended permit when no fact or condition exists which would otherwise warrant the County Manager to refuse to grant a permit under the terms of this ~~A~~article.

~~(6)~~6. Any applicant aggrieved by the denial of an application for a refuse permit under ~~Section~~ § 10-7.C.1~~(c)(1)~~ and any permittee aggrieved by a final suspension order under ~~Section~~ § 10-7.C.4~~(c)(4)~~ shall have the right to appeal the denial or order to the County Manager. The appeal shall be taken by filing with the County Manager, within ten (10) calendar days of the date on which the notice of the denial has been mailed to such person's place of business or of the effective date of the final order, a written statement setting forth fully the grounds for appeal. The County Manager shall schedule a hearing and shall give notice of the hearing to the appellant. The decision of the County Manager on appeal shall be final, but shall not preclude the issuance of a permit or the reinstatement of a suspended permit by the County Manager due to changed circumstances.

~~(7)~~7. Any Collector collecting, transporting, storing or disposing of refuse or recycling in the County who does not comply with the following minimum standards shall be subject to suspension of his permit, pursuant to the provisions of ~~Section~~ § 10-7(c)(4) of this article.

a. The premises where vehicles, equipment, and offices are maintained shall be kept in a clean and sanitary condition and any accumulation of refuse, ashes, yard debris, or recyclable material which tends to create a health problem or nuisance shall not be permitted on such premises.

b. The facility in which any transfer activity takes place ("facility") shall be designed and

operated in such a manner as to minimize the migration of odors outside of the building which could adversely affect public health and safety.

c. The facility shall be operated in compliance with all County pretreatment program requirements for the proper disposal of wastewater and floor wash water into the sanitary sewer system. No floor wash water shall at any time be pumped, conveyed, or allowed to drain into the County's stormwater drainage system.

d. All vehicles used in the collection, transport, transfer, or disposal of refuse or recycling shall be kept and maintained in a clean and sanitary condition and shall be so constructed and maintained as to prevent spillage of the type of material to be collected therein.

e. All vehicles hauling refuse or recycling shall be watertight and completely enclosed unless exempted in writing by the County Manager or his designee.

f. All vehicles shall be emptied before being placed on the permittee's premises for overnight parking, except for Sunday nights only.

g. No vehicle shall be parked on a County street overnight.

h. No vehicle shall be parked in violation of the County Code relating to parking of trucks and commercial vehicles in a residential district.

i. All vehicles shall transport refuse in such a manner as not to create a nuisance or adversely affect public health or safety.

j. The route to be traveled by vehicles utilizing such a facility and driven by customers as well as employees of the facility shall be approved in advance by the County Manager.

k. The facility shall accept no biomedical or infectious wastes.

l. The facility shall operate in accordance with all applicable federal, state, and local regulations governing the collection, transport, transfer, storage, and disposal of refuse or recycling.

m. All provisions of this ~~A~~article and all rules and regulations established by the County Manager pursuant to this ~~A~~article shall be complied with by every permittee and by all employees and agents of the permittee.

~~(d)~~D. It shall be unlawful for any Collector who holds a refuse permit to dispose of refuse that he or she collects, transports, or disposes of under the refuse permit at any place other than the refuse station designated by the County Manager in accordance with this ~~A~~article.

~~(e)~~E. No commercial motor vehicle used to transport municipal solid waste, recycling, food waste, or cooking oil and grease shall be parked on or adjacent to the highways or streets of the County.

~~(1)~~1. For the purposes of this ~~S~~section, "commercial motor vehicle" shall have the meaning prescribed in VA. Code § 46.2-341.4 and "municipal solid waste" shall have the meaning prescribed by the Virginia Waste Management Board by regulation at 9 VAC 20-80-10.

~~(2)~~2. This prohibition shall not apply to temporary stops during a collection route or to emergency stops, nor shall it apply to any vehicle owned or operated by persons transporting municipal solid waste from their residences to a permitted transfer or disposal facility.

~~(3)~~3. The County Police Department may direct the removal or towing of any such vehicle found parked in violation of this ~~S~~section. Violation of this ~~S~~section shall constitute a traffic infraction punishable by a fine of not more than two hundred dollars ($200.00), in addition to any towing and storage charges that may be assessed.

~~(f)~~F. *Collector reports*. Each Collector that collects or transports refuse in Arlington County is required to submit an annual report to DES documenting the tonnage of materials it collected from commercial establishments and multi-family dwellings in Arlington County, including a written explanation describing how the tonnage was calculated. This report must be submitted by February 1st of each year for materials collected during the preceding calendar year. Notice for this report will be sent by DES to each Collector annually.

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~~(g)~~G. Each Collector that collects or transports solid waste in Arlington County shall itemize invoices to their customers to include the following information: container capacity; frequency of pick-up; and monthly charge for trash collection separately from recycling collection services.

~~(h)~~H. *Exemption from requirements.*

~~(1)~~1. a. *Criteria.* Limited exemptions, as set forth below, may be approved by the County Manager or his designee. Applications for an exemption from the requirements of ~~Section~~ § 10-6.C~~(c)~~ and 10-7.C.7.e~~(c)((7)(c)~~ shall be submitted to the County Manager on County forms. An exemption may be allowed where compliance with the Ordinance would result in unnecessary hardship to the applicant and the need for an exemption would not be shared generally by other applicants, provided such an exemption is not contrary to the intended spirit and purpose of this ~~A~~article and would result in substantial justice being done. All exemptions are to be construed as temporary, for a period not to exceed one (1) year, and shall be considered withdrawn on the first to occur of (1~~a~~) a change in the condition(s) which prompted the exemption, or (2~~b~~) the expiration of the time period granted in the exemption. Should an exemption be withdrawn because the time period has expired, an applicant may apply for renewal of the exemption. Application forms are available from the Solid Waste Bureau of DES. Applications are evaluated against the criteria listed below.

b. Applications for an exemption from the requirements of ~~Section~~ § 10-6.C~~(c)~~ are as follows:

~~a.~~ (1) Incompatibility of compliance with the requirements of this Article and compliance with other Arlington County ordinances or other laws;

~~b.~~ (2) Sealed compactor;

~~c.~~ (3) Non-leaking container, air tight, with little to no odor; and

~~d.~~ (4) On-site evaluation by the Solid Waste Bureau of DES.

c. Applications for an exemption from the requirements of ~~Section~~ § 10-7.C.7.e~~(c)((7)(c)~~ are as follows:

~~a.~~ (1) Incompatibility of compliance with the requirements of this ~~A~~article and compliance with other Arlington County ordinances or other laws;

~~b.~~ (2) Sealed container;

~~c.~~ (3) All sides covered to not allow any spillage; and

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~~d.~~ (4) Evaluation by the Solid Waste Bureau of DES.

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d. The County Manager or his designee will consider these criteria in evaluating the application. The County Manager or his designee will direct a Solid Waste Bureau community inspector or member of the County recycling staff to make a site visit and prepare a report on the applicant's container.

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~~(2)~~2. *Actions.* After reviewing the information described in subsection 1~~(a)~~ above, the County Manager or his designee will take one (1) of the following actions:

a. Grant an exemption; or

b. Deny the request for an exemption.

(Ord. No. 83-22, 7-13-83; Ord. No. 85-3, 1-5-85; Ord. No. 92-19, 7-1-92; Ord. No. 94-6, 3-19-94; Ord. No. 03-17, 6-28-03; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-8. Refuse ~~c~~Collection and ~~d~~Disposal ~~c~~Charges; ~~r~~Relief from ~~s~~Such ~~c~~Charges.

~~(a)~~A. There is hereby imposed for each one-family residential dwelling, each unit–of a two-family residential dwelling, and each participating town house residential dwelling an annual charge of three hundred twenty-five dollars and seventy-two cents ($325.72) billed quarterly, beginning with the quarter of July 1, 2011, through September 30, 2011, for refuse, including recycling collection and disposal by Arlington County. This annual charge shall be assessed whether or not the dwelling is occupied.

~~(b)~~B. An additional charge of two dollars ($2.00) per month per additional refuse or recycling cart will be charged.

~~(c)~~C. The charges in ~~S~~subsection A~~(a)~~ and B~~(b)~~ shall be billed quarterly.

~~(1)~~1. The quarterly charges are imposed upon the owners of record of each one-family residential dwelling each two-family residential dwelling, and each town house residential dwelling as evidenced by the land records of the Office of the Clerk of the Circuit Court of Arlington County as of 12:00 p.m. (noon) local time on the first day of each quarter; however, if such record owner changes during the quarter, the charges shall be prorated as of the day of the change. Such refunds as are due as a result of the proration will be made by Arlington County.

~~(2)~~2. The owner or occupant, if different from owner shall be billed quarterly for the refuse collection and disposal charges and the recycling charges in the quarter to which the charges apply at the same time that billing for water and/or sewer service to the premises occurs.

~~(3)~~3. The County Manager is designated as the collection agent for the purposes of collecting the refuse and recycling collection and disposal charges.

~~(4)~~4. Charges are due and payable when the billing is rendered and charges are delinquent if payment is not received by Arlington County within thirty (30) days of the date of the billing.

~~(5)~~5. The owner of record of each dwelling, as evidenced by the land records of the Office of the Clerk of the Circuit Court of Arlington County, shall be responsible for all charges not paid by the occupant of the property, if different from the owner.

~~(6)~~6. Charges, if not paid before delinquency, shall become a lien against the real property in the manner provided by law.

~~(7)~~7. A late charge of six percent (6%) shall be imposed on the outstanding balance of refuse and recycling collection and disposal unpaid thirty (30) days after the billing date. In addition to all other enforcement procedures permitted by law, the water and/or sewer service to the premises may be terminated if the refuse and recycling collection and disposal charges are not paid when due.

~~(d)~~D. The County Board may from time to time appropriate money pursuant to ~~Section~~ § 58.1-3210 of the Virginia Code of 1950, as amended, for the purpose of granting relief from these charges to homeowners who have qualified for an exemption of all or any portion of their real estate tax under Chapter 43, Real Estate Tax Relief for the Elderly. Persons qualifying for a deferral only of real estate tax shall not be granted relief from this charge. Such appropriation shall be made to the credit of the County Manager in his capacity as the constituted local board of welfare of Arlington County, Virginia, and such appropriation shall be conditioned upon the County Manager making to these homeowners grants equal to the amount of this charge levied upon them; the grants shall be in addition to the relief which the recipients receive under Chapter 43. Grants shall be payable to qualified recipients in a single amount at the beginning of each fiscal year or, at the discretion of the County Manager, can be credited

quarterly during each fiscal year to the quarterly refuse and recycling collection and disposal charges made to qualified recipients.

~~(e)~~E. Applicants for a refuse or recycling permit, as provided in ~~Section~~ § 10-7, shall pay at the time of application for the permit an annual fee of seventy five dollars ($75.00) for each refuse vehicle and an additional seven dollars and fifty cents ($7.50) per permit for each container used to transport refuse. In addition, permit applicants for refuse transfer, storage, and similar facilities located in Arlington County shall pay an annual refuse permit fee of one thousand dollars ($1,000.00).

~~(f)~~F. Homeowners requesting pickup and disposal of household appliances shall be charged a fee of ten dollars ($10.00) for the first item and no charge for each additional item as part of the same service order at the same address, effective July 1, 2011. This fee shall be added to the owner or occupant's quarterly charges described in ~~S~~subsection A~~(a)~~ and shall be subject to all of the procedures, requirements and penalties for collection described in ~~S~~subsection C~~(c)~~.

~~(g)~~G. Effective April 30, 2005 there is hereby imposed a fee of twenty dollars ($20.00) for the disposal of televisions ~~($20.00)~~ and a fee of fifteen dollars ($15.00) for the disposal of computer monitors ~~($15.00)~~ which is payable at the time of service. Other electronics products (e.g., CPU's, peripherals, accessories, VCR's, stereos, etc.) will not incur a disposal fee.
(Ord. No. 83-22, 7-13-83; Ord. No. 84-10, 7-1-84; Ord. No. 84-34, 10-27-84; Ord. No. 85-17, 7-1-85; Ord. No. 86-8, 7-1-86; Ord. No. 87-2, 1-24-87; Ord. No. 88-3, 2-20-88; Ord. No. 88-9, 7-1-88; Ord. No. 89-6, 7-1-89; Ord. No. 90-4, 7-1-90; Ord. No. 90-8, 7-1-90; Ord. No. 92-19, 7-1-92; Ord. No. 92-20, 7-1-92; Ord. No. 93-3, 7-1-93; Ord. No. 94-6, 3-19-94; Ord. No. 95-20, 11-18-95; Ord. No. 96-9, 6-29-96; Ord. No. 97-4, 4-12-97; Ord. No. 98-7, 7-1-98; Ord. No. 98-20, 7-1-98; Ord. No. 99-11, 4-14-99; Ord. No. 00-8, 4-13-00; Ord. No. 02-7, 4-20-02; Ord. No. 03-07, 3-29-03; Ord. No. 03-08, 4-26-03; Ord. No. 04-06, 4-24-04; Ord. No.05-03, 4-16-05, Effective 7-1-05; Ord. No. 06-05, 4-22-06, Effective 7-1-06; Ord. No. 07-02, 4-21-07, effective 7-01-07; Ord. No. 08-02, 4-19-08, effective 7-01-08; Ord. No 09-05, 4-28-09, effective 7-1-09; Ord. No. 09-13, effective 7-1-09; Ord. No. 10-05, 4-24-10, effective 7-1-10; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-9. Scavenging.

It shall be unlawful for any person to remove any refuse or recyclable material placed by the occupant of a dwelling for disposal or collection other than his own unless permission has been obtained from the occupant of the dwelling for such removal.
(Ord. No. 83-22, 7-13-83; Ord. No. 87-2, 1-24-87)

§ 10-10. Use of ~~p~~Public and ~~p~~Private ~~r~~Refuse ~~r~~Receptacles.

It shall be unlawful for any person to dispose of any refuse produced in his dwelling in any household container, commercial or retail container on public property or private property of another unless authorized to do so by either the County Manager in case of County property or the property owner in case of private property.
(Ord. No. 83-22, 7-13-83)

§ 10-11. Penalties.

Unless otherwise provided herein, it shall be unlawful to violate any of the provisions of this ~~A~~article and any person who violates any of them shall, upon conviction, be subject to a fine not to exceed three hundred dollars ($300.00) for each violation.
(Ord. No. 83-22, 7-13-83; Ord. No. 87-2, 1-24-87; Ord. No. 10-21, 12-11-10, effective 1-1-11)

ARTICLE II.

CONDITION OF PRIVATE PROPERTY*

* **Editors Note:** Portions of Art II. were adopted or amended on May 27, 1950, June 17, 1961 and Sept. 21, 1968. See the County Board minutes for details.

§ 10-12. Definitions.

~~For the purpose of this article, t~~The following words and terms, when used in this article, shall have the following meanings ~~respectively ascribed~~unless the context clearly indicates otherwise:

"Danger or hazard to public health or safety" ~~shall~~ means a condition, as determined by the County Manager or his designee, in which it is reasonably certain or foreseeable that the healthful or sanitary condition or safety of the general body of people in the ~~c~~County is being or will be reduced or that the healthful or sanitary conditions or safety of persons whom it is in the general ~~c~~County interest to protect is being reduced. Dangers to health or safety may include, by way of illustration and not limitation, trees or parts thereof in danger of falling on the County right-of-way or other public lands, and conditions which may cause disease (including allergic reactions), harbor vermin and other animals, provide shelter or cover for unlawful activities, or be a source for the spread of litter or weeds to the property of others.

"Infestation" ~~shall~~ means the presence within or around property of any rats.

"Inoperative motor vehicle, trailer or semitrailer" ~~shall~~ means any motor vehicle which is not in operating condition or which, for a period of ninety (90) days or longer, has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle. An inoperative vehicle shall also be considered a vehicle with an observable condition which indicates a state such that it is economically impractical to make such vehicle operative within a reasonable period of time, or which constitutes a health, fire or safety hazard.

"Occupant" ~~shall~~ means any person who has possessory rights or exercises the right to possession of any dwelling unit or rooming unit and who has the right to control or exercises control over the physical conditions of such dwelling unit or rooming unit.

"Owner" ~~shall~~ means any person who, alone or jointly, or severally with others:

(1) Shall hold legal title to the property provided that each title may be less than a fee simple; or

(2) Shall have charge, care, or control of property, dwelling or dwelling unit, as owner, lessee, agent executor, administrator, trustee, or guardian.

"Property" ~~shall~~ means any land, whether unimproved or improved with buildings or other structures and whether unoccupied or occupied by any person.

"Rodent proofing" ~~shall~~ means a form of construction which will prevent the ingress or egress of rodents to or from a given building and their access to food, water, or harborage. It consists of the closing and keeping closed every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, attics, roofs, sidewalk gratings, sidewalk openings, and other places that may be reached and entered by rodents by climbing, burrowing or other methods, and by the use of materials impervious to rodent gnawing and other methods approved by the County Manager.

"Vacant property" ~~is~~means property, whether or not improved, which is not occupied by any person.
(2-21-81; 4-24-82; Ord. No. 85-43, 2-1-86; Ord. No. 96-7, 5-11-96)

§ 10-13. Duty of ~~p~~Property ~~o~~Owner to ~~c~~Cut ~~g~~Grass, ~~w~~Weeds, ~~m~~Maintain ~~l~~Lawns, ~~e~~Etc.

~~(a)~~A. It shall be the duty of each owner of vacant property to cut grass, weeds, and other foreign growth (which may include trees or parts thereof) on such property when such growth on such property creates a health or safety hazard.

~~(b)~~B. It shall be the duty of each owner of occupied residential real property to cut the grass or lawn area of less than one-half (1/2) acre on such property within ten (10) days after notice from the County Manager or designee when the growth on such grass or lawn area exceeds twelve (12) inches in height. The ~~c~~County may, if the grass or lawn is not cut, after thirty (30) days' notice, have such grass or lawn area cut by the ~~c~~County's agents or

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employees and the cost thereof shall be charged to and paid by the owner of such property and may be collected by the ~~c~~County as taxes and levies are collected.
(2-21-81; 4-24-82; Ord. No. 93-18, 9-22-93; Ord. No. 96-7, 5-11-96)

§ 10-14. Duty of ~~e~~Either the ~~p~~Property ~~o~~Owner, ~~o~~Occupant or ~~b~~Both to ~~p~~Properly ~~m~~Maintain ~~p~~Property.

It shall be the joint and several duty of the property owner and the occupant of each parcel of property in the ~~c~~County to keep such property free from all trash, garbage, refuse, litter, debris, or other substances which might endanger the health or safety of other residents of the ~~c~~County.
(2-21-81; 4-24-82)

§ 10-15. Duty of ~~e~~Each ~~p~~Property ~~o~~Owner or ~~o~~Occupant of ~~p~~Property to ~~c~~Cut ~~b~~Back ~~o~~Obstructing ~~v~~Vegetation.

It shall be the joint and several duty of each owner or occupant of property to cut back or remove trees or parts thereof, hedges, shrubs, vines and other vegetation which encroaches upon any sidewalk, alley, roadway, street or highway and which impairs or obstructs any pedestrian or vehicular traffic. Such growth higher than ten (10) feet above the surface of a walk or roadway need not be removed unless such growth creates a health or safety hazard.
(2-21-81; 4-24-82; Ord. No. 96-7, 5-11-96)

§ 10-16. Duty of ~~e~~Either ~~p~~Property ~~o~~Owner, ~~o~~Occupant or ~~b~~Both to ~~k~~Keep the ~~p~~Property ~~f~~Free from ~~r~~Rat ~~h~~Harborage.

It shall be the joint and several duty of the property owner and occupant of each parcel of property in the ~~c~~County to keep such property free from any condition that harbors or has the tendency to harbor rats.
(2-21-81; 4-24-82)

§ 10-17. Notice of ~~v~~Violation.

Whenever the County Manager determines that a property owner or occupant has violated this article, the ~~m~~Manager shall cause a notice of violation to be served on said owner or occupant. This notice is not a prerequisite for criminal prosecution under ~~section~~ § 10-21.
(2-21-81; 4-24-82; Ord. No. 85-43, 2-1-86)

§ 10-18. Failure to ~~p~~Perform ~~d~~Duties ~~r~~Relating to ~~p~~Property upon ~~v~~Violation ~~n~~Notice from the County Manager.

If a property owner or occupant fails to comply with the requirements of a notice issued under the provisions of ~~sections~~ §§ 10-13 and 10-14, the County Manager or designee shall be empowered to enter upon the property to correct the violation. The cost or expense thereto shall be charged to the owner of the property and shall be collected by the ~~c~~County in the same manner as taxes and levies are collected.
(2-21-81; 4-24-82)

§ 10-19. Right to ~~p~~Property ~~o~~Owner or ~~o~~Occupant to ~~a~~Appeal ~~v~~Violation ~~n~~Notice.

Upon service of a violation notice as provided in ~~section~~ § 10-17 above, any property owner or occupant shall have the right to appeal such violation notice or requirements specified therein and shall be granted a hearing before the County Manager or designee, provided that a written appeal and request for hearing is received by the County Manager within five (5) working days after service of the notice. Upon receipt of such an appeal or request, the County Manager shall advise the appellant of the time and place for the hearing, shall convene the hearing, shall consider the evidence and shall render a decision in writing and provide a copy to the appellant within five (5) working days following the hearing.
(2-21-81; 4-24-82)

§ 10-20. Reserved.

Editor's note--Former § 10-20 was repealed by Ord. No. 90-26, adopted Aug. 11, 1990. The repealed provisions pertained to the authority of the ~~c~~County to require removal, repair, etc., of dangerous structures and derived from legislation of Feb. 21, 1981 and April 24, 1982.

§ 10-21. Penalties for ~~f~~Failure to ~~c~~Comply with this ~~a~~Article.

Except as provided for below, violations of ~~sections~~ § 10-14 may be pursued as civil penalties. In case of the violation of any provisions of this ~~ordinance~~chapter, the owner, lessee, tenant or agent shall be subject to a civil penalty of one hundred dollars ($100.00) for the first violation. This penalty shall be imposed after a warning has been issued that gives the owner, lessee, tenant or agent a specified time within which to comply with the ~~ordinance~~chapter. Any person who continues to violate such provision of this ~~ordinance~~ chapter shall be subject to a civil penalty of one hundred fifty dollars ($150.00) for each subsequent violation. No person shall be cited for a violation more than once in any ten (10) day period, and no person shall be fined more than a total of three thousand dollars ($3,000.00) for all violations arising out of the same set of facts.

Civil penalties shall be imposed by the issuance of a civil summons by the Zoning Administrator or ~~d~~Deputy. Any person 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.
(2-21-81; 4-24-82; Ord. No. 98-12, 4-18-98)

§ 10-22. Duty of ~~p~~Property ~~o~~Owner to ~~r~~Remove ~~s~~Stored, ~~w~~Wrecked, ~~a~~Abandoned or ~~i~~Inoperative ~~v~~Vehicles.

~~(a)~~A. It shall be unlawful for any person, firm or corporation to keep, except within a fully enclosed building, on any property zoned for residential or commercial purposes, any motor vehicle, trailer or semitrailer, as such is defined in ~~Section~~ § 46.2-100 of the Virginia Code, whose condition makes them inoperative; provided, however, that the provisions of this section shall not apply to a licensed business which on June 26, 1970, was regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

~~(b)~~B. It is further provided:

~~(1)~~1. That the owners of property zoned for residential or commercial purposes shall remove therefrom any such inoperative motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building;

~~(2)~~2. That the County Manager or his designee shall remove any such inoperative motor vehicles, trailers or semitrailers, after the owner of the premises has been given notice, by service by the ~~s~~Sheriff or by certified mail, return receipt requested, which states that a violation exists, that it must be corrected within ten (10) days, and that a request for a hearing before the County Manager must be made in writing before the end of the ten~~-~~ (10) day period;

~~(3)~~3. That in the event the County Manager or his designee removes any such motor vehicles, trailers or semitrailers, the ~~c~~County may dispose of such motor vehicles, trailers or semitrailers after twenty-one (21) days' additional notice to the owner of the vehicle;

~~(4)~~4. That the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected as taxes and levies are collected; and

~~(5)~~5. That every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the ~~c~~County.
(2-21-81; 4-24-82; Ord. No. 85-43, 2-1-86; Ord. No. 91-18, 5-14-91)

ARTICLE III.

LITTER*

* **Editors Note:** Ordinance No. 85-41, adopted Nov. 16, 1985 and effective March 1, 1986, amended Ch. 10 by adding thereto a new Art. III as herein set forth.

~~Section~~ § 10-23. Definitions.~~:~~

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

"Commercial ~~H~~handbill"~~: Shall~~ means and include any handbill which:

(1) Advertises for sale or lease any merchandise, produce, commodity, service, or thing; or

(2) Directs attention to any business or other commercial activity for the purpose of either directly or indirectly promoting the interests thereof by sales or by other means; or

(3) Contains reading or pictorial matter other than advertising matter, but which is predominantly and essentially a commercial advertisement and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

"Construction ~~S~~site": means ~~A~~any private or public property upon which repairs to an existing building or structure are being made, or where the construction of new buildings or demolition of existing structures is taking place.

"Handbill": means ~~A~~any printed or written matter, any sample or device, circular, flyer, leaflet, pamphlet, paper, booklet, or any other printed matter or literature which is not delivered by U.S. mail, irrespective of content.

"Litter": means ~~A~~any man-made or man-used waste, or product which, if thrown or deposited as prohibited herein, tends to create a danger to public health, safety, and welfare or to degrade the environment of the people of the County. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, rubbish, grass clippings or other lawn or garden waste, earth or mud, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal, nauseous or offensive matter of any kind, or any object likely to injure any person, create a traffic hazard, or degrade the environment.

"Loading or ~~U~~unloading ~~A~~areas": means ~~A~~any dock space or area used for the purpose of receiving, shipping, and transporting goods, wares, commodities, or persons.

"Parking ~~L~~lots": means ~~A~~any private or public property with spaces provided for parking vehicles to which the public is invited or which the public is permitted to use for purposes of parking.

"Private ~~P~~property": ~~I~~includes, but is not limited to, exterior locations owned by private individuals, firms, corporations, institutions or organizations; yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreation facilities.

"Public ~~P~~property": ~~I~~includes, but is not limited to, the following exterior locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal (~~c~~County) housing project grounds, municipal (~~c~~County) vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal (~~c~~County) waterways and bodies of water, and any other land owned or leased by County, State, or Federal government.
(Ord. No. 85-41, 11-16-85)

~~Section~~ § 10-24. Littering Prohibited.~~:~~

It shall be unlawful for any person to drop, cast, deposit, discard, or otherwise dispose of litter in or upon any exterior public or exterior private property within Arlington County including but not restricted to any street, sidewalk, park, body of water, vacant or occupied lot, except by placement in a public litter receptacle (or private litter receptacle provided for public use) in such a manner as will prevent the litter from falling out of or being blown from the receptacle.
(Ord. No. 85-41, 11-16-85)

~~Section~~ § 10-25. Vehicles Dropping Contents on Street.~~:~~

Any person who transports in any vehicle or in any other manner upon any public place any loose material

or articles likely to sift, fall, spill or be blown upon the public way or place shall cover the contents thereof, or shall convey the contents in tightly secured and covered boxes or containers. If any of the contents shall be blown, spilled, fall or become scattered in or upon any public way or place, such person shall immediately cause such contents to be gathered up and removed.
(Ord. No. 85-41, 11-16-85)

~~Section~~ § 10-26. Duty to Collect Litter Before it is Carried from the Premises.~~:~~

A. The person owning, operating or in control of a loading or unloading area shall maintain the area free of litter at all times.

B. The owner, agent, or contractor in charge of a construction site, development site, or utility maintenance work area shall furnish litter receptacles and collect and dispose of litter in such a manner so as to prevent scattering.

C. The occupant, or in the occupant's absence, the owner of any property (including parking lots) within Arlington County, shall be responsible for removing litter accumulating on said property which might endanger the health or safety of others.
(Ord. No. 85-41, 11-16-85)

~~Section~~ § 10-27. Litter Receptacles.~~:~~

A. *Public places.~~:~~* Every owner, occupant, tenant, or lessee using or occupying any public place or places to which the public is invited shall provide adequate litter receptacles of sufficient number to contain all litter generated by those persons frequenting that public place.

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B. *Parking lots.~~:~~* Every owner, occupant, tenant, or lessee of all restaurants, food stores, public parking lots of all sizes, shopping centers, commercial establishments and office complexes of larger than ten thousand (10,000) square feet of gross floor area, is required to install and maintain a sufficient number of litter receptacles to contain all litter generated, and at least one (1) litter receptacle in all parking areas, to be placed at or within the pedestrian walking areas of each discrete block of the parking spaces of the restaurant, food store, public parking lot, shopping center, commercial establishment or office complex.

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C. *Specifications.~~:~~* Litter receptacles shall be of not less than ten (10) gallons capacity, clearly marked and designed to prevent the escape of litter.

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D. *Periodic emptying of receptacles.~~:~~* All litter shall be removed from litter receptacles as necessary, but not less frequently than weekly, and all litter receptacles are to be maintained in a sanitary and serviceable condition.

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E. *Upsetting or tampering with receptacles.~~:~~* No person shall cause the removal, upsetting, mutilation or defacing of, or tamper with any litter receptacle, cause the contents thereof to be spilled or to be strewn in or upon any public place or private premises, or use such receptacle for disposal of business or household refuse.

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F. *Litter receptacles obstructing traffic.~~:~~* Litter receptacles shall not be placed in any location where they may obstruct vehicular traffic or unreasonably interfere with pedestrian traffic.

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G. *Exterior of litter receptacles.~~:~~* Litter receptacles located on publicly-owned property shall be conspicuously identified as such and shall be free of advertising.
(Ord. No. 85-41, 11-16-85)

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~~Section~~ § 10-28. Handbills.~~:~~

Any person using public property for the sale or distribution of commercial handbills, or products packaged in immediately disposable wrappers or containers shall provide receptacles for the disposal of waste materials or other litter that may be created in the immediate vicinity by such sale or distribution, or shall not sell or distribute such items more than twenty-five (25) feet ~~(25 feet)~~ from a litter receptacle.
(Ord. No. 85-41, 11-16-85)

~~Section~~ § 10-29. Penalties.~~:~~

Any person who violates any of the~~se~~ provisions of this article shall, upon conviction, be subject to a fine not to exceed three hundred dollars ($300.00).
(Ord. No. 85-41, 11-16-85)

ARTICLE IV.

RECYCLING

§ 10-30. Definitions.

The following words and ~~phrases~~terms, when used in this ~~A~~article, shall have the following meanings ~~ascribed to them in this Section, except in those instances where~~ unless the context clearly indicates ~~a different meaning~~otherwise:

"Commercial establishment"~~,~~ means ~~A~~any nonresidential location including the nonresidential portion of mixed use buildings.

"Collection system, commercial establishment"~~.~~ means ~~A~~a system which includes the following components: (a) receptacles for individual employees or tenants and/or centrally located receptacles expressly for the collection and storage of recyclable materials separated by employees or tenants; (b) a contract with a Collector for collection of the recyclable materials and transport to a recycling processor or end-user, or proof of self-haul to a recycling facility; and (c) educational materials to inform employees or tenants of how to properly use the collection receptacles.

"Collection system, multi-family dwelling"~~,~~ means ~~A~~a system which includes the following components: (a) at-the-unit or centrally located receptacles expressly for the collection and storage of recyclable materials separated by tenants; (b) a contract with a Collector for collection of the recyclable materials and transport to a recycling processor or end-user, or proof of self-haul to a recycling facility; and (c) educational materials to inform tenants of how to properly use the collection receptacles.

"Collector"~~,~~ means ~~A~~any person, corporation, association, firm, partnership, company, or any other legal entity engaged in the regularly-scheduled commercial collection and/or transportation of refuse, recycling, food waste, or cooking oil and grease.~~.~~

"County Manager"~~,~~ means ~~T~~the County Manager of Arlington County, Virginia, or his ~~authorized agent~~designee.

"Curbside collection program participants"~~,~~ means ~~T~~the owner or occupant of each dwelling, as defined in ~~Section~~ § 10-5, that receives weekly refuse collection from the County. Home occupation permitted businesses operating from such dwellings are subject to the requirements of this article for such dwellings.

"DES"~~,~~ means the Arlington County Department of Environmental Services.

"Glass bottles and jars"~~,~~ means ~~B~~bottles and jars of any color, with caps and lids removed. Expressly excluded are any other glass products such as window glass, mirrors, drinking glasses, and others.

"Material Recovery Facility (MRF)"~~,~~ means ~~A~~a facility where source-separated recyclables are either stored until large enough volumes are collected to be shipped to a buyer or processor, or they are processed to meet the specifications of recycling markets.

"Metal"~~,~~ means ~~D~~discarded metal suitable for reprocessing.

"Metal food and beverage cans"~~,~~ means ~~B~~beverage cans made entirely of aluminum, bi-metal food and beverage cans made of steel and tin bodies and aluminum tops, and food and beverage cans made of steel with an interior and/or exterior coating of tin.

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"Mixed paper"~~,~~ means ~~R~~recovered paper not sorted into categories such as old magazines, old newspapers, old corrugated boxes, etc.

"Multi-family dwelling"~~,~~ means ~~A~~a building, or portion thereof, designed for occupancy by three (3) or more families living independently, or a townhouse development not part of the County curbside collection program. Home occupation permitted businesses operating from such dwellings are subject to the multi-family requirements of this ~~A~~article.

"Newspaper"~~,~~ means ~~N~~newsprint-grade paper which is printed and distributed daily or weekly that contains news. For participants in the County curbside collection program this is further defined to include all insert materials provided with the newspaper.

"Non-residential property"~~,~~ means ~~Refers to~~ property other than housing, such as office buildings, shopping centers, businesses, churches, hotels, hospitals, schools, or government buildings.

"Recyclable material"~~,~~ means ~~M~~material that can be recovered and reprocessed to be reused as a material to make new products, such as mixed paper, metal cans, aluminum, glass, plastic, and metal items, that are identified as recyclable materials pursuant to the list administered by the Department of Environmental Services Solid Waste Bureau and posted on the County website. The County Manager will announce ninety (90) days prior to the addition of new materials to the list.

"Recycling"~~.~~ means ~~T~~the act of disposing of recyclable materials.

"Recycling contract"~~,~~ means ~~A~~a contract that a commercial establishment or multi-family dwelling has with a private recycling company to collect the required recyclable material.

"Recycling plan"~~,~~ means ~~A~~a plan provided to the Department of Environmental Service Solid Waste Bureau by a multi-family or commercial establishment, which includes all the information pursuant to ~~Section~~ § 10~~.~~-32.A ~~(a)~~.

"Recycling system"~~,~~ refers to ~~T~~the means by which recyclable materials are separated from the waste stream at the point of generation, and may include the means of delivering source-separated materials to a recycling center or Material Recovery- Facility.

"Recycling cart"~~.~~ means ~~A~~a wheeled container with a watertight lid provided by the County specifically for the collection of recyclables at curbside.

"Responsible party"~~,~~ means, ~~F~~for dwellings eligible for participation in the County curbside collection program, ~~the term "responsible party" shall mean~~ the dwelling owner or dwelling occupant if different from the owner. For a multi-family dwelling, the term "responsible party" shall mean the owner, manager, or agent responsible for the management and disposal of solid waste generated at that property. For a commercial establishment, the term "responsible party" shall mean the business or property owner, manager or agent and, if different, the party responsible for the management and disposal of solid waste generated at that commercial establishment.
(Ord. No. 93-22, 11-13-93; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-31. Requirements for ~~m~~Materials to be ~~c~~Collected.

As of January 1, 2011:

~~(a)~~A. County curbside collection program participants: The responsible party of each dwelling that is eligible for the County curbside collection program must separate recyclable materials defined in ~~section~~ § 10-30 and shall be subject to the recycling requirements set forth in Article 1 of this ~~C~~chapter.

~~(b)~~B. Multi-family: Within ninety (90) days of the effective date of this section or within thirty (30) days of the recycling contract renewal date the responsible party of each multi-family dwelling shall provide a recycling system for its residents to separate refuse from the recyclable materials defined in ~~section~~ § 10-30. New

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multi-family dwelling properties are required to establish a collection system within ninety (90) days from the first date of occupancy by a tenant.

~~(c)~~C. Commercial establishment: Within ninety (90) days of the effective date of this section or within thirty (30) days of the recycling contract renewal date, the responsible party of each commercial establishment shall provide a recycling system for their tenants to separate refuse from the recyclable materials defined in ~~section~~ § 10-30. If the commercial establishment includes both multi-family units and nonresidential properties, the multi-family tenants shall have access to a recycling system required in ~~section~~ § 10-31.B~~(b)~~. Each new commercial establishment is required to establish a collection system within ninety (90) days after receiving an Arlington County Certificate of Occupancy.

~~(d)~~D. It shall be the responsibility of the owners or other responsible party of all commercial establishments and multi-family dwellings to provide for the private collection and disposal of all recycling at least weekly, unless given a written exemption by the County Manager, and adhere to the following practices:

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~~(1)~~1. Provide sufficient number of approved containers for the storage of recycling. Containers shall be kept covered with a tightly fitting lid at all times. All recycling containers shall be emptied frequently enough to prevent their contents from overflowing.

~~(2)~~2. Maintain all containers in a sanitary and serviceable condition.

~~(3)~~3. Place all containers on concrete, or other similar impervious surface.
(Ord. No. 93-22, 11-13-93; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-32. Reporting ~~r~~Requirements.

~~(a)~~A. *Initial recycling plans.* The responsible party for each multi-family dwelling and commercial establishment are required to submit a recycling plan to DES. Instructions for submitting this plan will be provided by DES to each multi-family dwelling and commercial establishment address. The responsible party for each new multi-family dwelling is required to submit this plan within thirty (30) days from the date of first occupancy by a tenant. The responsible party of each new commercial establishment is required to submit this plan within thirty (30) days after receipt of an Arlington County Certificate of Occupancy. The ~~I~~initial recycling plan must be approved by DES to comply with the terms of this ~~A~~article. If the initial recycling plan is rejected by DES, the submitting party has thirty (30) days from notification of the rejection to submit a revised plan for approval. The following information shall be included in the initial recycling plan:

~~(1)~~1. Name and address of reporting commercial establishment or multi-family property
~~(2)~~2. Name and contact information of responsible party
~~(3)~~3. Name and contact information of Collector servicing account for trash and recycling
~~(4)~~4. Name and address of processor or disposal site for trash and recycling
~~(5)~~5. Size of containers, frequency of pick-up, and cost of services with recycling costs listed separately from trash costs.
~~(6)~~6. Description of educational materials and outreach activities

~~(b)~~B. *Updated recycling plans.* The responsible party for each multi-family dwelling and the commercial establishment is required to submit an updated recycling plan to DES by February 1st of 2012 and every third (3) year thereafter as notified by the County. Instructions for submitting this report will be provided by DES to each multi-family dwelling and commercial establishment address. The updated recycling plan at a minimum shall include:

~~(1)~~1. Name and address of reporting commercial establishment or multifamily property
~~(2)~~2. Name and contact information of responsible party
~~(3)~~3. Name and contact information of Collector servicing account for trash and recycling
~~(4)~~4. Name and address of processor or disposal site for trash and recycling
~~(5)~~5. Size of containers, frequency of pick-up, and cost of services with recycling listed separately from trash
~~(6)~~6. Description of educational materials and outreach activities

~~(c)~~C. *Collector reports.* Each Collector that collects or transports recyclables in Arlington County is required to submit an annual report to DES documenting the tonnage of materials it collected from commercial establishments and multi-family dwellings in Arlington County, including a written explanation describing how the tonnage was calculated. This report must be submitted by February 1st of each year for materials collected during the preceding calendar year. Notice for this report will be sent by DES to each Collector annually.

~~(d)~~D. Each Collector that collects or transports recycling in Arlington County shall itemize invoices to their customers to include the following information: container capacity; frequency of pick-up; and monthly charge for trash collection separately from recycling collection services.
(Ord. No. 93-22, 11-13-93; Ord. No. 95-1, 1-7-95; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-33. Education ~~r~~Requirements.

~~(a)~~A. The responsible party of each multi-family dwelling shall provide each unit or tenant with written or electronic instructions regarding use and participation in the property or building's recycling system upon tenant occupancy and annually thereafter. These instructions are in addition to the collection system requirements in ~~Section~~ § 10-30. Instructions may include the following: community newsletters, flyers, distributed property websites, and posters. Copies of instructions shall be available to DES upon request.

~~(b)~~B. The responsible party of each commercial establishment shall provide employees, tenants, and/or system users with written or electronic instructions regarding use and participation in the recycling system upon occupancy and annually thereafter. In multi-tenant commercial establishments in which individual tenants do not manage their own solid waste and recyclables, the responsible party shall provide all tenants and/or system users with instructions regarding use and participation in the recycling system upon occupancy and at least once annually thereafter. Instructions are in addition to the collection system requirements in ~~Section~~ § 10-30. Instructions may include the following: building/property newsletters, flyers or, memos distributed to each tenant/employee, property/business websites, and other electronic media. Copies of instructions shall be made available to DES upon request.
(Ord. No. 93-22, 11-13-93; Ord. No. 10-21, 12-11-10, effective 1-1-11)

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§ 10-34. ~~–~~Exemption from ~~r~~Requirements.

~~(a)~~A. *Criteria.* Limited exemptions, as set forth below, may be approved by the County Manager or his designee. Applications for an exemption from the requirements of ~~Section~~ § 10-31 shall be submitted to the County Manager on County forms. An exemption may be allowed where compliance with the ~~Ordinance~~ chapter would result in unnecessary hardship to the applicant and the need for an exemption would not be shared generally by other applicants, provided such an exemption is not contrary to the intended spirit and purpose of this ~~A~~article and would result in substantial justice being done. All exemptions are to be construed as temporary, for a period not to exceed one (1) year, and shall be considered withdrawn on the first to occur of (a) a change in the condition(s) which prompted the exemption, or (b) the expiration of the time period granted in the exemption. Should an exemption be withdrawn because the time period has expired, an applicant may apply for renewal of the exemption. Application forms are available from the Solid Waste Bureau of DES. Applications are evaluated against the following criteria:

~~(1)~~1. Incompatibility of compliance with the requirements of this ~~A~~article and compliance with other Arlington County ordinances or other laws;

~~(2)~~2. Unavailability of collectors or acceptors (defined as licensed Collector of recyclable materials or intermediate or final processors of recyclable materials) for one (1) or more of the required recyclable materials;

~~(3)~~3. Unavailability of on-site space for the preparation and temporary storage of one (1) or more of the required recyclable materials;

~~(4)~~4. Extreme disparity between the applicant's costs of recycling one (1) or more of the required materials and the costs of disposal of the same material(s); or

~~(5)~~5. Negligible generation rates of one (1) or more of the required recyclable materials.

Applications for an exemption from the requirements of ~~Section~~ § 10-31.D~~(d)~~ are as follows:

a. Incompatibility of compliance with the requirements of this ~~A~~article and compliance with other Arlington County ordinances or other laws;

b. Sealed compactor;

c. Non-leaking container, air tight, with little to no odor; and

~~e.~~ d. On-site evaluation by the Solid Waste Bureau of DES.

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The County Manager or his designee will consider these criteria in evaluating the application and will consider the compliance rate, implementation plans, and recycling programs of similar businesses in Arlington County. The County Manager or his designee will direct a Solid Waste Bureau community inspector or member of the County recycling staff to make a site visit and prepare a report on the applicant's property.

~~(b)~~B. *Actions.* After reviewing the information described in subsection A~~(a)~~ above, the County Manager or his designee will take one ~~(1)~~ of the following actions:

~~(1)~~1. Grant an exemption that requires the applicant to recycle alternative materials identified by the DES director;

~~(2)~~2. Grant an exemption that reduces the number of types of materials required to be recycled; or

~~(3)~~3. Deny the request for an exemption.

(Ord. No. 93-22, 11-13-93; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-35. Penalties.

Any responsible party violating any provision of this ~~A~~article shall be issued a notice of violation and given thirty (30) days to correct the violation. If such violation has not been corrected within thirty (30) days the responsible party will be notified that it will be subject to a fine of up to three hundred dollars ($300.00), such fine to become effective no earlier than December 1, 1994, by the ~~s~~Solid ~~w~~Waste ~~d~~Division of the DES unless the identified violations are corrected within fifteen (15) days. If the responsible party fails to correct the violation within fifteen (15) days, the responsible party will be fined up to three hundred dollars ($300.00) for each day such violation continues.

(Ord. No. 93-22, 11-13-93; Ord. No. 10-21, 12-11-10, effective 1-1-11)

§ 10-36. Right to ~~a~~Appeal ~~n~~Notices and ~~f~~Fines.

Upon service of a notice of violation or fine as provided in ~~Section~~ § 10-35~~4~~, the responsible party shall have the right to appeal such notice or fine and shall be granted a hearing before the County Manager or ~~the County Manager's~~ his designee, provided that a written appeal and request for hearing is received by the County Manager within five (5) business days after service of the notice. Upon receipt of such an appeal or request, the County Manager or his designee shall advise the appellant of the time and place of the hearing, shall convene the hearing, shall consider the evidence, and shall render a decision in writing and provide a copy to the appellant within fifteen (15) business days following the hearing.

(Ord. No. 93-22, 11-13.93)

§ 10-37. Recycling ~~s~~System ~~i~~Inspection ~~f~~Fee.

Each responsible party which is required to establish a separate system from refuse for the collection of recyclable material as described in ~~Section~~ § 10-31.B~~(b)~~ or ~~Section~~ § 10-31.C~~(c)~~ and required to submit an "initial recycling plan" pursuant to ~~Section~~ § 10-32.A~~(a)~~, shall on a yearly basis pay a fee of sixty six dollars ($66.00) for each multi-family property or business location for which a plan has been submitted. Such fees shall be paid within thirty (30) days of the date of the bill for payment.

ARLINGTON COUNTY CODE

Chapter 11

LICENSES

Article I. Administration and Collection

§ 11-1. Definitions.
§ 11-2. Exemptions from ~~b~~Business ~~l~~License ~~t~~Tax and ~~f~~Fee.
§ 11-3. Limitations on ~~g~~Gross ~~r~~Receipts ~~s~~Subject to ~~b~~Business ~~l~~License ~~t~~Taxation.
§ 11-4. Levying of ~~b~~Business ~~l~~License ~~t~~Taxes and ~~f~~Fees.
§ 11-5. Procedure for ~~f~~Filing ~~b~~Business ~~l~~License ~~t~~Tax ~~r~~Returns; ~~r~~Reconciliation of ~~r~~Records and ~~m~~Monthly ~~r~~Reports.
§ 11-6. Applicants for ~~l~~Licenses to ~~g~~Give ~~c~~Certain ~~i~~Information.
§ 11-7. Business ~~l~~License ~~t~~Tax ~~s~~Situs; ~~l~~License for ~~e~~Each ~~b~~Business ~~s~~Site in ~~c~~County.
§ 11-8. Due ~~d~~Dates for ~~b~~Business ~~l~~License ~~t~~Tax/~~f~~Fee ~~r~~Returns and ~~p~~Payments; ~~i~~Installments; ~~e~~Extensions to ~~f~~File ~~r~~Returns.
§ 11-9. Business ~~l~~License ~~t~~Tax ~~r~~Records ~~r~~Required; ~~a~~Audit.
§ 11-10. License ~~t~~Taxes and ~~f~~Fees for ~~b~~Beginning ~~b~~Businesses.
§ 11-11. Payment of ~~l~~License ~~t~~Tax and ~~f~~Fee by ~~c~~Corporations, ~~p~~Partnerships, ~~e~~Etc.
§ 11-12. Proration of ~~f~~Flat-~~r~~Rate ~~t~~Tax for ~~c~~Certain ~~n~~New ~~b~~Businesses.
§ 11-13. Reserved.
§ 11-14. Compliance with ~~z~~Zoning ~~o~~Ordinance.
§ 11-15. Business ~~l~~License ~~f~~Fees in ~~l~~Lieu of ~~t~~Tax.
§ 11-16. Situs of ~~g~~Gross ~~r~~Receipts; ~~a~~Allocation and ~~a~~Apportionment; ~~i~~Inter-~~j~~Jurisdictional ~~a~~Agreements.
§ 11-17. Assessment of ~~a~~Additional or ~~o~~Omitted ~~l~~License ~~t~~Taxes and ~~f~~Fees: ~~s~~Statutes of ~~l~~Limitation for ~~a~~Assessment; ~~e~~Extension of ~~t~~Time to ~~a~~Assess.
§ 11-18. Certification of ~~e~~Erroneous ~~a~~Assessments; ~~r~~Refunds.
§ 11-19. Collection of ~~a~~Additional and ~~o~~Omitted ~~t~~Tax or ~~f~~Fee ~~a~~Assessments; ~~p~~Penalties.
§ 11-20. Abatement of ~~p~~Penalties for ~~l~~Late ~~f~~Filing or ~~p~~Payment.
§ 11-21. License as ~~p~~Personal ~~p~~Privilege.
§ 11-22. Criminal ~~p~~Penalties for ~~v~~Violation of ~~c~~Chapter.
§ 11-23. Enforcement of ~~c~~Chapter.
§ 11-23.1. Treasurer's ~~d~~Delinquent ~~l~~List to the ~~c~~County ~~b~~Board.
§ 11-23.2. Appeals after ~~a~~Audit.
§ 11-23.3. Local ~~t~~Tax ~~o~~Opinions.
§ 11-23.4. Publication of ~~t~~Tax ~~r~~Rulings.

Article II. Special Tax Provisions

§ 11-24. Reserved.
§ 11-25. In-~~h~~House ~~d~~Direct ~~s~~Sellers.
§ 11-26. Alcoholic ~~b~~Beverages.
§§ 11-27, 11-28. Reserved.
§ 11-28.1. Reserved.
§ 11-29. Reserved.
§ 11-30. Reserved.
§ 11-31. Reserved.
§ 11-32. Circuses, ~~s~~Shows, ~~e~~Etc.; ~~c~~Circus ~~s~~Street ~~p~~Parades.
§§ 11-33--11-35.1. Reserved.
§ 11-36. Fortunetellers, ~~a~~Astrologists, ~~e~~Etc.
§ 11-37. Reserved.
§ 11-38. Peddlers and ~~i~~Itinerant ~~m~~Merchants.

§ 11-38.1. Shows and ~~s~~Sales.
§ 11-38.2. Itinerant ~~m~~Merchants ~~l~~Located on ~~s~~Shopping ~~m~~Mall ~~p~~Property.
§§ 11-39--11-42. Reserved.
§ 11-42.1. Massage ~~p~~Parlors.
§§ 11-43--11-49. Reserved.
§ 11-50. Coin-~~o~~Operated ~~a~~Amusement ~~m~~Machines; ~~a~~Amusement ~~m~~Machine ~~o~~Operators.
§§ 11-51--11-56.1. Reserved.
§ 11-56.2. Mixed ~~b~~Beverage ~~r~~Restaurant ~~l~~License ~~t~~Tax.

Article III. Gross Receipts Business Tax

§ 11-57. Professional and ~~s~~Specialized ~~o~~Occupations.
§ 11-57.1. Real ~~e~~Estate ~~b~~Brokers and ~~s~~Salespersons.
§ 11-58. Personal ~~s~~Service ~~o~~Occupations.
§ 11-59. Business ~~s~~Service ~~o~~Occupations.
§ 11-59.1. Parking ~~g~~Garages or ~~l~~Lots.
§ 11-60. Repair ~~s~~Service ~~o~~Occupations.
§ 11-61. Retail ~~m~~Merchants.
§ 11-61.1. Restaurants, ~~e~~Eating ~~p~~Places, ~~n~~Nightclubs.
§ 11-61.2. Retail ~~m~~Merchant; ~~g~~Gas or ~~f~~Filling ~~s~~Station.
§ 11-61.3. School-~~r~~Related ~~r~~Retail ~~o~~Organizations.
§ 11-61.4. Short-~~t~~Term ~~r~~Rental ~~b~~Business.
§ 11-62. Wholesale ~~m~~Merchants.
§ 11-63. Licensing of ~~p~~Person ~~b~~Both ~~r~~Retail and ~~w~~Wholesale ~~m~~Merchant.
§ 11-64. Contractors and ~~c~~Contracting.
§ 11-65. Amusements.
§§ 11-66--11-67. Reserved.
§ 11-68. Licensing of ~~c~~Contractor/~~b~~Builder or ~~d~~Developer.
§ 11-69. Reserved.
§ 11-69.1. Coin ~~m~~Machines ~~g~~Generally.
§ 11-70. Public ~~s~~Service ~~c~~Companies.
§ 11-71. Renting ~~r~~Residential and ~~c~~Commercial ~~p~~Property.
§ 11-72. Lodging.
§§ 11-72.1--11-74. Reserved.
§ 11-75. Reserved.
§§ 11-76--11-80. Reserved.
§ 11-81. Builders and ~~d~~Developers.
§ 11-82. Reserved.
§ 11-83. Money ~~l~~Lenders; ~~f~~Financial ~~s~~Services.
§ 11-84. Reserved.
§ 11-85. Reserved.
§ 11-86. Qualified ~~t~~Technology ~~b~~Businesses.

ARTICLE I.

ADMINISTRATION AND COLLECTION

§ 11-1. Definitions.

~~Terms used in this chapter are defined as follows~~The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

~~(a)~~ "Affiliated group" is as defined in ~~Section~~ § 58.1-3700.1 of the Virginia Code.

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(b) "Amusement" includes personal service businesses listed in section § 11-65 of this chapter.

(c) "Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the cCommissioner of the rRevenue or an employee of the cCommissioner of the rRevenue, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed. A return filed or tax paid before the last day prescribed by this chapter for filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

(d) "Assessor or assessing official" means the Arlington County cCommissioner of the rRevenue.

(e) "Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of Section § 58.1-3715 of the Virginia Code and beginning businesses as provided in section § 11-10 of this chapter.

(f) "Builder or developer" means any business described in Section § 58.1-3714.B. of the Virginia Code or in section § 11-81.A(a) of this chapter, carried on in connection with the improvement or development for sale or rent of properties or structures in the cCounty owned or leased by or otherwise in the control of such builders or developers.

(g) "Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one (1) business. The following acts create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

(h) "Business service" includes every business listed in section § 11-59 of this chapter.

(i) "Contractor" is defined in section § 58.1-3714.B. of the Code of Virginia and includes businesses listed in section § 11-64 of this chapter whether done by day labor, general contract or subcontract.

(j) "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 on a temporary or seasonal basis and real property leased to another. A residence shall be deemed a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable under this chapter as a peddler, itinerant merchant, or public service corporation.

(k) "Financial Sservices" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities or other investments and includes businesses listed in section § 11-83 of this chapter.

(l) "Gross receipts" means the whole, entire, total receipts without deduction.

(m) "Hotels and motels" means any building or group of buildings containing guest rooms or dwelling units which are intended, used, or designed to be rented, let, or hired out for compensation to transients, whether such compensation is paid directly or indirectly. This includes motels, motor hotels, tourist courts, motor lodges, bed and breakfast operations, and the like. Daily or weekly rental of units or any sign on the premises making reference to other than monthly rates shall be considered prima facie evidence that a building is a hotel or motel.

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(n) "License fee" is means the fee authorized by Section § 58.1-3703.A. of the Virginia Code and imposed by section § 11-15 of this chapter.

(o) "License year" means the calendar year in which a license is issued or for which a tax is assessed under this chapter for engaging in business.

(p) "Person" includes individuals, sole proprietorships, businesses, limited liability companies, general and limited partnerships, firms, corporations, companies, associations, enterprises, franchises, trusts, foundations or joint ventures and it shall include any trustee, receiver, assignee, or personal representative carrying on or continuing a business, profession, trade or occupation.

(q) "Personal service" includes every business listed in sections §§ 11-58, 11-65, and 11-69.1 of this chapter.

(r) "Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Department of Taxation may list in the Guidelines For Business, Professional and Occupational License Tax promulgated pursuant to Sections §§ 58.1-3701 and 58.1-3700.1 of the Virginia Code. Professional services include the businesses listed in section § 11-57.A(a) of this chapter.

(s) "Real Eestate services" means providing a service with respect to the purchase, sale, lease, rental or appraisal of real property, including every business listed in sections §§ 11-57.1 and 11-71 of this chapter.

(t) "Repair service" includes every business of repairing, renovating or servicing one (1) or more of those items or articles listed in section § 11-60 of this chapter.

(u) "Retailer or retail merchant" means any person who sells goods, wares and merchandise for use or consumption by the purchaser for any purpose other than resale by the purchaser including every business listed in sections §§ 11-61, 11-61.1, 11-61.2, 11-61.3, and 11-61.4 of this chapter, but not including a person who sells at wholesale to institutional, commercial or industrial users.

(v) "Services" means things purchased by a customer which do not have physical characteristics, or which are not goods, wares, or merchandise.

(w) "Wholesale merchant" includes every business listed in section § 11-62 of this chapter. The term "wholesale merchant" includes any person who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial and industrial users, which because of the quantity, price, or other terms of sale, indicate that they are consistent with sales at wholesale.

(Ord. No. 96-17, 12-7-96)

§ 11-2. Exemptions from bBusiness lLicense tTax and fFee.

(a)A. No business license tax or fee is imposed:

(1)1. For selling of farm, domestic, or nursery products, ornamental or otherwise, or the planting of nursery products, as an incident to their sale outside of regular, retail or wholesale stores in the eCounty, provided such products are grown or produced by the person offering such products for sale;

(2)2. Upon the privilege or right of printing or publishing of any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three (3) months,

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provided the publication's subscription sales are exempt from Virginia sales tax;

~~(3)~~3. For the privilege or right of operating or conducting any radio or television broadcasting station or service;

~~(4)~~4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;

~~(5)~~5. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the ~~c~~County. However, a peddler at wholesale is taxable under ~~section~~ § 11-38 of this chapter;

~~(6)~~6. On any insurance company subject to taxation under Virginia Code ~~Section~~ § 58.1-2500, et seq., or on any agents of such company;

~~(7)~~7. On any bank or trust company subject to taxation under Virginia Code ~~Section~~ § 58.1-1200 et seq.;

~~(8)~~8. Upon a taxicab driver operating for a taxicab company upon which the ~~c~~County has imposed a business license tax under this chapter;

~~(9)~~9. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped, or a nominee of the Department, as set forth in Virginia Code ~~Section~~ § ~~63.1-164~~51.5-98;

~~(10)~~10. Upon the court-ordered activities of a trustee, receiver or other representative duly appointed by a court to liquidate assets for immediate distribution, or a sergeant or sheriff, or on any deputy, selling under authority of process or writ of a court of justice;

~~(11)~~11. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings of such funds remain taxable by the ~~c~~County.

~~(12)~~12. On an airline federally certified under Chapter 411 of Title 49 of the United States Code.

~~(b)~~B. *Limitations on license taxation of nonprofits.* Except for gross receipts from unrelated trade or business activities defined by Internal Revenue Code ~~Section~~ § 501, et seq., which are subject to business license tax as provided in this chapter, nonprofit organizations are exempt from business license tax as follows:

~~(1)~~1. There is no business license tax on the federally tax-exempt gross receipts of nonprofit, charitable organizations, exempt from federal taxation as Internal Revenue Code ~~Section~~ § 501(c)(3) organizations and to which contributions are deductible by the contributor under Internal Revenue Code ~~Section~~ § 170, except that educational institutions under this subsection are limited to schools, colleges, and similar institutions of learning. Other educational institutions are exempt from business license taxation as provided in subsection ~~(~~3~~)~~ below;

~~(2)~~2. There is no business license tax on the federally tax-exempt gross receipts of trade associations, business leagues and other organizations exempt from federal taxation as Internal Revenue Code ~~Section~~ § 501(c)(6) organizations;

~~(3)~~3. All other nonprofit organizations exempt from federal taxation under Internal Revenue Code ~~Section~~ § 501 are liable for business license tax as otherwise provided in this chapter on their federally tax-exempt gross receipts in Arlington County exceeding two million five hundred thousand dollars ($2,500,000.00), or if they are under two million five hundred thousand dollars ($2,500,000.00) but arise from retail sales or rental of commercial real estate or property by the organization.

~~(4)~~4. For purposes of this subsection B~~(b)~~, gross receipts of organizations exempt from federal tax under U.S. Internal Revenue Code ~~Section~~ § 501 do not include donations, contributions, gifts, legacies, or membership dues to the extent such payments are made voluntarily and with no expectation of receiving goods, services or benefits in return.

(Ord. No. 97-21, 8-2-97)

Editors Note: Former § 11-2, which contained a statement of general policy, was repealed on Jan. 1, 1974. Subsequently, Ord. No. 96-17, added a new § 11-2.

§ 11-3. Limitations on ~~g~~Gross ~~r~~Receipts ~~s~~Subject to ~~b~~Business ~~l~~License ~~t~~Taxation.

Gross receipts include gross receipts from all sales made or services rendered or business activities conducted from a definite place of business in the ~~c~~County, both to persons within the ~~c~~County and to persons outside the ~~c~~County as set out in ~~section~~ § 11-16 of this chapter. However, the following limitations apply:

~~(a)~~A. The calculation of gross receipts for license tax purposes shall be on either a cash, modified accrual or accrual basis; provided, however, that the basis used must coincide with the system of accounts used by the taxpayer for federal and state income tax purposes. The calculation of gross receipts for a partnership shall be on the same basis as is used by the partnership on its federal and state partnership income tax report.

~~(b)~~B. The following items shall be deducted from taxable gross receipts:

~~(1)~~1. Amounts received and paid to the United States, the Commonwealth, or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, or for any federal or state excise taxes on motor fuels;

~~(2)~~2. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed, e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of the taxpayer's business;

~~(3)~~3. Any amount representing returns and allowances granted by the taxpayer to its customers;

~~(4)~~4. Receipts which are the proceeds of a loan transaction in which the taxpayer is the obligor;

~~(5)~~5. Receipts representing the return of principal of a loan transaction in which the taxpayer is the creditor, or the return of principal or basis upon the sale of a capital asset;

~~(6)~~6. Rebates and discounts taken or received on account of purchases by the taxpayer; except a rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the taxpayer in consideration of the sale of goods and services shall not be considered a rebate or discount to the taxpayer, but shall be included in the taxpayer's gross receipts together with any handling or other fees related to the incentive;

~~(7)~~7. Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received;

~~(8)~~8. Proceeds from the occasional sale or exchange of assets used in business, other than inventory whether or not a gain or loss is recognized for federal income tax purposes;

~~(9)~~9. Investment income not directly related to the privilege exercised by a taxpayer other than a business rendering financial services. This exclusion applies to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of a business' own funds in securities and other types of investments unrelated to the licensed privilege. This

exclusion does not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business;

(10)10. Receipts or purchases between qualifying affiliated corporations as described and excluded by Virginia Code Section § 58.1-3703.B.10.

(11)11. Any amount paid for computer hardware and software sold to a United States federal or state government entity, provided such property was purchased within two (2) years of the sale to said entity by the original purchaser who was contractually obligated at the time of purchase to resell such property to such government entity. This deduction from taxable gross receipts cannot be taken until the time of resale and applies to only the original cost of the property, not to its resale price, and the deduction does not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a federal or state government entity in accordance with the original contract obligation.

(12)12. Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

(Ord. No. 96-17, 12-7-96)

Editors Note: Former § 11-3, which pertained to business, trade, etc., subject to tax, was repealed by Ord. No. 95-19, enacted Nov. 18, 1995. Subsequently, Ord. No. 96-17, added a new § 11-3.

§ 11-4. Levying of bBusiness lLicense tTaxes and fFees.

Every year, beginning January 1 of each year and ending on the following December 31, there are hereby levied and there shall be assessed and collected the annual business license taxes and fees set forth in this chapter, except as otherwise specifically provided in this chapter, on persons engaged in any business in the cCounty, which license taxes and fees shall be for the support of the cCounty government, the payment of the cCounty debt, and for other cCounty purposes.

Each and all of the taxes and fees hereinafter imposed are in all cases imposed upon engaging in business, including exercising a profession, trade or occupation in the cCounty, and including all phases of the business, profession, trade or occupation conducted in or from the cCounty.

(Ord. No. 96-17, 12-7-96)

§ 11-5. Procedure for fFiling bBusiness lLicense tTax rReturns; rReconciliation of rRecords and mMonthly rReports.

(a)A. Except as provided by subsection B(b) below, every person engaging in business under the provisions of this chapter shall file an annual business license tax return with the cCommissioner of the rRevenue as prescribed in sections §§ 11-8 and 11-10 of this chapter. The cCommissioner of the rRevenue shall furnish business license tax return forms which shall be properly and fully executed by the taxpayer and contain such information as may be required by the cCommissioner of the rRevenue. The cCommissioner of the rRevenue shall assess the license taxes and fees required by this chapter.

(b)B. Notwithstanding the provisions of this Aarticle, a person shall not be required to file a business license application for a license year when the gross receipts attributed to the person's definite place of business are ten thousand dollars ($10,000.00) or less unless the business is also subject to taxation of business tangibles personal property taxation in an amount greater than fifteen dollars ($15.00). In cases where a person engaged in a business, profession or occupation grosses ten thousand dollars ($10,000.00) or less but is subject to business tangibles taxation of greater than fifteen dollars ($15.00), said person shall file a return even if the gross receipts do not exceed ten thousand dollars ($10,000.00).

(c)C. No business license under this chapter shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to Arlington County have been paid which have been properly assessed

against the applicant by Arlington County.

~~(d)~~D. The ~~c~~Commissioner of the ~~r~~Revenue and the ~~c~~County ~~t~~Treasurer shall reconcile monthly their records with respect to license tax returns filed with the ~~c~~Commissioner of the ~~r~~Revenue and license tax and fee payments received by the ~~c~~Commissioner of the ~~r~~Revenue and the ~~c~~County ~~t~~Treasurer, and a combined report thereon shall be submitted monthly to the ~~c~~County ~~m~~Manager or his designee.
(Ord. No. 96-17, 12-7-96; Ord. No. 04-17, 7-10-04; Ord. No. 09-09, 4-28-09)

§ 11-6. Applicants for ~~l~~Licenses to ~~g~~Give ~~c~~Certain ~~i~~Information.

~~(a)~~A. Every person filing a business license tax return under the provisions of this chapter shall furnish on the tax return or in writing with the return, the names, and trade names of the business and person or persons responsible for the business, the nature of the business, profession, trade or occupation, the address in the ~~c~~County where the business is being pursued, and its gross receipts for the base year.

~~(b)~~B. As to businesses for which a gross receipts tax or fee is levied on persons having a definite place of business in the ~~c~~County as provided in ~~section~~ § 11-16 of this chapter, it is the policy of the ~~c~~County to require that all gross receipts derived from the business be included in their license basis; provided, that in cases where their business requires the performance of certain activities outside the ~~c~~County, and they would be liable for a similar tax in another taxing jurisdiction based on gross receipts derived from activities conducted at a definite place of business in that other taxing jurisdiction as provided in ~~section~~ § 11-16 of this chapter, they shall deduct such gross receipts taxed or taxable by the other taxing jurisdiction in arriving at their ~~c~~County license tax basis.

~~(c)~~C. No business license under this chapter shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to Arlington County have been paid which have been properly assessed against the applicant by Arlington County.
(Ord. No. 96-17, 12-7-96; Ord. No. 04-17, 7-10-04)

§ 11-7. Business ~~l~~License ~~t~~Tax ~~s~~Situs; ~~l~~License for ~~e~~Each ~~b~~Business ~~S~~site in ~~c~~County.

~~(a)~~A. Every person shall apply for a license for each business or profession when engaging in a business in the ~~c~~County if:

~~(1)~~1. The person has a definite place of business in this ~~c~~County;

~~(2)~~2. The person maintains no definite place of business anywhere but resides in this ~~c~~County; or

~~(3)~~3. The person maintains no definite place of business in the ~~c~~County but operates amusement machines, is an itinerant merchant, peddler, carnival or circus, pursuant to the Virginia Code and this chapter, is a contractor pursuant to Virginia Code ~~Section~~ § 58.1-3715, or is a public service corporation under ~~Sections~~ §§ 58.1-3731 and 58.1-2690 or other applicable sections of the Virginia Code.

~~(b)~~B. A separate license is required for each definite place of business and for each business in the ~~c~~County, except that a person engaged in two (2) or more businesses or professions carried on at the same definite place of business may elect to obtain one (1) license for all such businesses and professions if all of the following criteria are satisfied:

~~(1)~~1. Each business or profession subject to licensure at the location has satisfied any requirements imposed by state law or other provisions of the Arlington County Code;

~~(2)~~2. All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the taxpayer agrees to be taxed on all businesses and professions at the highest applicable rate; and

(3)3. The taxpayer maintains and supplies such information as the cCommissioner of the rRevenue may require concerning the nature of each business and its gross receipts.
(Ord. No. 96-17, 12-7-96)

§ 11-8. Due dDates for bBusiness lLicense tTax/fFee rReturns and pPayments; iInstallments; eExtensions to fFile rReturns.

All business license tax returns, taxes and fees imposed by this chapter, except as otherwise provided in this section and in sections §§ 11-10.A(a) and 11-17 of this chapter, are due and payable on or before March 1 each year; provided, however, that:

(a)A. Any taxpayer who is required to pay a license tax based on gross receipts which exceeds one percent (1%) of the taxpayer's gross receipts may pay taxes equal to at least one percent (1%) of the gross receipts on or before March 1, and a second installment of the remaining tax due, on or before March 31; and

(b)B. Any taxpayer required to pay any license tax of more than one hundred dollars ($100.00) but no more than five thousand dollars ($5,000.00) may pay at least one-half (1/2) the total tax due on or before March 1 and the balance of the tax due on or before June 15.

(c)C. All license fees required by section § 11-15 of this chapter are due on March 1 of each year, except as provided in section § 11-10 of this chapter.

(d)D. *Extension of time to file*. The cCommissioner of the rRevenue may grant an extension of time beyond March 1 in which to file a business license tax return for reasonable cause. An extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax or fee, if due; the tax or fee are then subject to adjustment to the correct tax or fee at the end of the extension with interest from the original due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent (10%) of the portion of the tax or fee paid after March 1 of the license year shall be assessed.
(Ord. No. 96-17, 12-7-96; Ord. No. 01-1, 1-27-01)

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§ 11-9. Business lLicense tTax rRecords rRequired; aAudit.

(a)A. Every person who is liable for filing a business license tax return or paying a license tax or fee shall keep sufficient records to enable the cCommissioner of the rRevenue to verify the tax return filed and the tax and fee paid for the license years assessable and to enable the cCommissioner of the rRevenue to ascertain the correct amount of tax that was due for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the cCommissioner of the rRevenue or the cCommissioner's authorized representative in order to establish the correct tax and fee due and whether a particular receipt is directly attributable to the taxable business engaged in or from the cCounty. All such records and general books of account shall be maintained for four (4) years if the taxpayer has filed the tax returns required by this chapter and for seven (7) years if the business has failed to file such required tax returns.

(b)B. If any taxpayer fails to maintain the records required in this section, regularly supported by customary vouchers, the cCommissioner of the rRevenue shall estimate the taxpayer's gross receipts on the basis of the best evidence obtainable, and the cCommissioner of the rRevenue shall make an assessment on the basis of such evidence.

(c)C. The cCommissioner of the rRevenue may provide the taxpayer with the option to conduct a business tax audit in the taxpayer's office in the cCounty, if the records are maintained here. If the records are maintained outside the cCounty, copies of the appropriate books and records shall be sent to the cCommissioner of the rRevenue's office upon demand.
(Ord. No. 96-17, 12-7-96)

§ 11-10. License tTaxes and fFees for bBeginning bBusinesses.

~~(a)~~A. In all cases where a person begins a business upon which a license tax or fee is imposed under the provisions of this chapter at any time after January 1 of any year, such license tax and fee are due and payable when such person begins business. There is a grace period of seventy-five (75) days from the date of beginning a business for payment before a penalty is imposed on any business license tax or fee.

~~(b)~~B. Every person beginning a business is subject to a license tax or fee under the provisions of this chapter, based in whole or in part on gross receipts, shall estimate the amount of the gross receipts he will receive between the date of beginning business and the end of the then-current calendar year, and his license tax and fee for the then-current year shall be computed on such estimate.

~~(c)~~C. Whenever a license tax or fee is computed on estimated gross receipts, any erroneous estimates will be corrected and the ~~c~~Commissioner of the ~~r~~Revenue will assess such person any additional license tax or fee found to be due after the end of that license year, and at the same time correct the estimate for the then-current calendar year, until a full year of business is completed. In case of an overestimate, the taxpayer shall be credited the excess tax and fee on his license tax and fee due the following year.

~~(d)~~D. No interest shall accrue on an adjustment of estimated tax or fee liability to actual liability at the conclusion of a base year.

~~(e)~~E. Any person who has not previously been liable for a business license in the County shall be liable for no more than forty thousand dollars ($40,000.00) in business license tax for the tax year in which it begins business in the County.
(Ord. No. 96-17, 12-7-96; Ord. No. 00-3, 2-1-00)

§ 11-11. Payment of ~~l~~License ~~t~~Tax and ~~f~~Fee by ~~c~~Corporations, ~~p~~Partnerships, ~~e~~Etc.

When a business in the ~~c~~County is conducted by a corporation or partnership and the license tax or fee is imposed upon the gross receipts thereof, the license tax and fee shall be imposed upon the gross receipts of the corporation or partnership and paid by it. When so paid, and also when paid by an individual employing persons who would otherwise be liable for a license tax or fee, payment of the license tax and fee discharges the license tax and fee liability of the officers and employees of such corporation, or of the partners and employees of such partnership, and of such employees of an employer who would otherwise be liable for such license tax and fee, insofar as the business of such licensed corporation, partnership or employer is concerned.
(Ord. No. 96-17, 12-7-96)

§ 11-12. Proration of ~~f~~Flat-~~r~~Rate ~~t~~Tax for ~~c~~Certain ~~n~~New ~~b~~Businesses.

All flat-rate license taxes imposed under ~~a~~Article II of this chapter, except as otherwise provided, shall be prorated as follows: for businesses beginning on or after April 1 of any year, the tax is three-fourths (3/4) of the annual flat tax on such business; on businesses beginning on or after July 1 of any year, the tax is one-half (1/2) of the annual flat tax on such business; on businesses beginning on or after October 1, the tax is one-fourth (1/4) of the annual flat tax on such business.
(Ord. No. 96-17, 12-7-96)

§ 11-13. Reserved.
Editors Note: Former § 11-13, which pertained to transfer of licenses, was repealed by Ord. No. 95-19, enacted Nov. 18, 1995.

§ 11-14. Compliance with ~~z~~Zoning ~~o~~Ordinance.

~~(a)~~A. The ~~c~~Commissioner of the ~~r~~Revenue may issue a license for conducting any business at a location where the conduct of such business is not prohibited by the ~~z~~Zoning ~~o~~Ordinance of the ~~c~~County.

~~(b)~~B. All business licenses prior to being issued are subject to verification to ascertain compliance with the ~~z~~Zoning ~~o~~Ordinance of the ~~c~~County. Failure to comply is just cause for the ~~c~~Commissioner of the ~~r~~Revenue to refuse to issue a license, but any tax due shall be assessed and paid.

§ 11-15. Business ~~l~~License ~~f~~Fees in ~~l~~Lieu of ~~t~~Tax.

~~(a)~~A. A business listed for tax required to be licensed under Article III or under ~~sections~~ §§ 11-25 or 11-38.2 of this chapter with annual gross receipts of ten thousand dollars ($10,000.00) or less shall pay no license tax as provided in Article III of this chapter, and shall pay no license fee. However, such businesses shall file an annual business license tax return as required in ~~section~~ § 11-5.A~~(a)~~ of this chapter and shall be subject to all other provisions of this chapter.

~~(b)~~B. A business listed for tax under Article III or under ~~sections~~ §§ 11-25 or 11-38.2 of this chapter with annual gross receipts of more than ten thousand dollars ($10,000.00) but less than or equal to fifty thousand ($50,000.00) shall pay no license tax under Article III of this chapter, but shall pay a license fee of thirty dollars ($30.00) per each license in the ~~c~~County except as provided in subsection D~~(d)~~.

~~(c)~~C. A business listed for tax under Article III or under ~~sections~~ §§ 11-25 or 11-38.2 of this chapter with annual gross receipts above fifty thousand dollars ($50,000.00) and less than one hundred thousand dollars ($100,000.00) shall pay no license tax under Article III or under ~~sections~~ §§ 11-25 or 11-38.2 of this chapter, but shall pay a license fee of fifty dollars ($50.00) per each license in the ~~c~~County except as provided in subsection D~~(d)~~.

~~(d)~~D. Public service corporations subject to tax under ~~section~~ § 11-70 of this chapter with gross receipts over ten thousand dollars ($10,000.00) shall pay the business license tax at the rates provided in ~~section~~ § 11-70, but shall not pay the license fee required in subsections B~~(b)~~ or C~~(c)~~ above.

~~(e)~~E. Public service corporations subject to tax under ~~section~~ § 11-70 of this chapter with gross receipts over ten thousand dollars ($10,000.00) shall pay the business license tax at the rates provided in ~~section~~ § 11-70, but shall not pay the license fee required in subsections B~~(b)~~, C~~(c)~~ or D~~(d)~~ above.
(Ord. No. 96-17, 12-7-96; Ord. No. 98-13, 12-31-98)

§ 11-16. Situs of ~~g~~Gross ~~r~~Receipts; ~~a~~Allocation and ~~a~~Apportionment; ~~i~~Inter-~~j~~Jurisdictional ~~a~~Agreements.

~~(a)~~A. *General rule.* Whenever the tax or fee imposed by this chapter is measured by gross receipts, the gross receipts included in the taxable measure are only those gross receipts attributed to engaging in business at a definite place of business in the ~~c~~County. In the case of business activities conducted outside of a definite place of business in the ~~c~~County, such as during a visit to a customer location, gross receipts from such activities shall be attributed to the definite place of business from which such activities are initiated, directed or controlled. The situs of gross receipts for different license tax classifications of business shall be attributed to one (1) or more definite places of business or offices as follows:

~~(1)~~1. The gross receipts of a contractor shall be attributed to the definite place of business at which the contractor services are performed or, if the contractor services are not performed at any definite place of business, then the definite place of business from which the contractor services are directed or controlled, unless the contractor is subject to the provisions of ~~Section~~ § 58.1-3715 of the Virginia Code.

~~(2)~~2. The gross receipts of a retailer or wholesaler are attributed to the definite place of business at which sales solicitation activities occur or, if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled.

~~(3)~~3. The gross receipts of a business renting tangible personal property are attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business from which the rental of such property is managed.

~~(4)~~4. The gross receipts from the performance of personal services are attributed to the definite place of

business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.

~~(b)~~B. *Apportionment.* If the taxpayer has more than one (1) definite place of business, and it is impractical or impossible to determine the definite place of business to which gross receipts should be attributed under the general rule of this section, the gross receipts of the business shall be apportioned between the definite places of business on the basis of payroll paid to the taxpayer's employees working at each place of business. Gross receipts shall not be apportioned to a definite place of business under the applicable general rule unless some activities occurred at or were controlled from such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the ~~c~~County solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

~~(c)~~C. *Interjurisdictional agreements.* The ~~c~~Commissioner of the ~~r~~Revenue may enter into agreements with other political subdivisions of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business for particular businesses. However, the sum of the gross receipts apportioned by any such agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon notification by a taxpayer that the ~~c~~Commissioner's method of attributing gross receipts is fundamentally inconsistent with the method of one (1) or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has resulted, or is likely to result, in taxes on more than one hundred percent (100%) of its gross receipts from all locations in the affected jurisdictions, the ~~c~~Commissioner of the ~~r~~Revenue shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

~~(d)~~D. *Procedure when no agreement.* If an agreement as provided in subsection C~~(c)~~ above cannot be reached, either the ~~c~~Commissioner of the ~~r~~Revenue or the taxpayer may seek an advisory opinion from the Department of Taxation pursuant to ~~Section~~ § 58.1-3701 of the Virginia Code; notice of the request shall be given to the other party.

~~(e)~~E. *Procedure to prevent double assessment.* Notwithstanding the provisions of ~~Section~~ § 58.1-3993 of the Virginia Code, when a taxpayer has demonstrated to a court that two (2) or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of ~~Section~~ § 58.1-3986 of the Virginia Code, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which erroneous.
(Ord. No. 96-17, 12-7-96)

§ 11-17. Assessment of ~~a~~Additional or ~~o~~Omitted ~~l~~License ~~t~~Taxes and ~~f~~Fees: ~~s~~Statutes of ~~l~~Limitation for ~~a~~Assessment; ~~e~~Extension of ~~t~~Time to ~~a~~Assess.

~~(a)~~A. *Assessment of additional tax/fee.* If the ~~c~~Commissioner of the ~~r~~Revenue ascertains that any person has not been properly assessed with a license tax or fee due under this chapter for any license year of the three (3) preceding license years or the current license tax year, the ~~c~~Commissioner of the ~~r~~Revenue shall assess such person with the proper license tax and fee for those three (3) preceding years and the current year except as otherwise provided in this section. Every assessment pursuant to an audit shall be accompanied by a written statement of the taxpayer's right to seek correction and the specific procedure to be followed.

~~(b)~~B. *Assessment of omitted tax or fee.* If the ~~c~~Commissioner of the ~~r~~Revenue ascertains that any person has failed to pay the proper tax because of fraud or failed to file a business license tax return, the ~~c~~Commissioner shall assess the omitted license tax or fee for any of the six (6) preceding license years or for the then-current license year. Such omitted license taxes or fees shall be assessed with penalty and interest as provided in ~~section~~ § 11-19 of this chapter. This ~~S~~subsection applies only for taxes and fees due for license years 1997 and subsequent years.

~~(c)~~C. *Extension of time for assessment.* Where, before the expiration of the time prescribed for the assessment of any license tax or fee due under this chapter, both the ~~c~~Commissioner of the ~~r~~Revenue and the taxpayer consent in writing to its assessment after the expiration of the time to assess, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent

agreements in writing made before the expiration of the period previously agreed upon.
(Ord. No. 96-17, 12-7-96)

§ 11-18. Certification of ~~e~~Erroneous ~~a~~Assessments; ~~r~~Refunds.

~~(a)~~A. The ~~c~~Commissioner of the ~~r~~Revenue shall certify to the ~~t~~Treasurer any erroneous assessment of business license tax or fee. Upon receipt of such certificate, the ~~t~~Treasurer shall refund the erroneous tax or fee based upon the certificate of the ~~c~~Commissioner of the ~~r~~Revenue with interest as provided below.

~~(b)~~B. *Interest on refunds of business license tax assessments*. Except as provided in ~~section~~ § 11-10.D~~(d)~~, whenever a business license tax assessment made after January 1, 1997, by the ~~c~~Commissioner of the ~~r~~Revenue is found to be erroneous, all interest and penalty charged and collected on the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later, whether attributable to an amended return or other reason. Interest on refunds shall be paid as provided below. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later.

Between January 1, 1997 and June 30, 1999, interest on refunds shall accrue at ten percent (10%)~~ percent~~ per annum. On and after July 1, 1999, interest on any refund of an erroneously assessed license tax shall accrue at the rate prescribed in § 27-3, beginning from the later of (i) July 1, 1999, (ii) the date on which the license tax being refunded was required to be paid, or (iii) the date on which the license tax being refunded was paid. In the event that there is a refund of an erroneously assessed license tax that was paid before July 1, 1999, and a refund is made after July 1, 1999, then interest on the refund shall accrue at a rate provided in § 27-3 after July 1, 1999, and it shall accrue at a rate of ten percent (10%)~~ percent~~ per annum for the period of January 1, 1997, through June 30, 1999, beginning from the later of the date of payment or the due date. Interest on the refund of erroneously assessed license taxes levied shall not be paid or accrue for a period of time prior to January 1, 1997.

~~(c)~~C. License taxes paid under the provisions of Article III of this chapter measured by gross receipts are subject to refund when the taxpayer goes out of business before the end of the current license year, subject to all of the following qualifications:

~~(1)~~1. License tax for the current license year must be based on gross receipts obtained throughout the preceding calendar year;

~~(2)~~2. Repealed;

~~(3)~~3. The amount of refund shall be calculated pursuant to ~~Section~~ § 58.1-3710 of the Virginia Code;

~~(4)~~4. If any person seeking a refund is indebted to the ~~c~~County or any department or office thereof, or is indebted to any state constitutional office of the ~~c~~County for a local levy, tax, fee, or fine, the refund, or so much thereof as is necessary, shall first be applied to such indebtedness.

~~(d)~~D. Refunds based on the taxpayer going out of business shall be made in the same manner as provided for erroneous assessments in subsection A~~(a)~~.
(Ord. No. 96-17, 12-7-96; Ord. No. 98-13, 12-31-98; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99)

§ 11-19. Collection of ~~a~~Additional and ~~o~~Omitted ~~t~~Tax or ~~f~~Fee ~~a~~Assessments; ~~p~~Penalties.

~~(a)~~A. *Penalty on additional assessments.* In the case of an assessment of additional tax or fee under ~~Section~~ § 11-17.A~~(a)~~ of this ~~C~~chapter, if the original tax return was made in good faith and any understatement of tax or fee was not due to fraud or to reckless or intentional disregard of the law by the taxpayer, there shall be no late filing or payment penalty assessed with the additional tax or fee except as provided in ~~S~~subsection B~~(b)~~ below.

~~(b)~~B. *Penalty for late payment of additional assessments.* If an assessment of additional license tax or fee is not paid to the County Treasurer within thirty (30) days after written notice to the taxpayer of such additional

assessment, a penalty of ten percent (10%) ~~percent~~ of such tax or fee due shall be added to the assessment.

~~(c)~~C. *Late penalties on omitted assessments.* A ten percent (10%) ~~percent~~ penalty shall be imposed by the Commissioner of the Revenue if the tax payment is late.

~~(d)~~D. *Interest on additional and omitted assessments.* If an assessment made on or after July 1, 1999, is not paid on time, the ~~t~~Treasurer shall impose interest at the rate prescribed in § 27-3 on the unpaid tax and penalty from the first day of the month following the month in which payment is due without regard to fault or other reason for the late payment of the assessment.

~~(e)~~E. *Extension of time for collection of certain assessments.* The period for collecting a license tax or fee shall not expire prior to the period specified in ~~Section~~ § 58.1-3940 of the Virginia Code, two (2) years after the date of assessment if the period for assessment has been extended pursuant to ~~Section~~ § 11-17.C~~(c)~~ of this Chapter, two (2) years after the final determination of an appeal for which collection has been stayed pursuant to ~~Section~~ § 11-23.2 of this ~~C~~chapter, or two (2) years after the final decision in a court application pursuant to ~~Section~~ § 58.1-3984 of the Virginia Code or similar law for which collection has been stayed, whichever is later.

~~(f)~~F. *Collection.* The ~~c~~County ~~t~~Treasurer shall collect such penalty and interest in the same manner as the tax and fee may be collected. Any tax that was assessed and past due prior to July 1, 1999, shall accrue interest until paid, as specified below. The interest to be charged on any such delinquent tax payment shall be at the rate specified by the Arlington County Code at the time the tax was assessed, and the interest on any such delinquent tax payment shall accrue at that specified rate beginning from the date on which the tax was due and extending until the date on which the tax was paid or June 30, 1999, whichever is sooner. Interest shall accrue from July 1, 1999, as prescribed in § 27-3.
(Ord. No. 96-17, 12-7-96; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99)

§ 11-20. Abatement of ~~p~~Penalties for ~~l~~Late ~~f~~Filing or ~~p~~Payment.

If the failure to file or pay a business license tax or fee was not the fault of the taxpayer, penalties shall not be imposed or, if imposed, shall be abated by the tax official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

~~(a)~~A. "*Acted responsibly*" means that:

~~(1)~~1. The taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and

~~(2)~~2. The taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure was discovered.

~~(b)~~B. "*Events beyond the taxpayer's control*" include, but are not limited to:

~~(1)~~1. The unavailability of records due to fire or other casualty;

~~(2)~~2. The unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or

~~(3)~~3. The taxpayer's reasonable reliance in good faith upon erroneous written information from the ~~c~~Commissioner of the ~~r~~Revenue who was aware of the relevant facts relating to the taxpayer's business when the ~~c~~Commissioner of the ~~r~~Revenue provided the erroneous information.
(Ord. No. 96-17, 12-7-96)

§ 11-21. License as ~~p~~Personal ~~p~~Privilege.

Every license issued under this chapter confers a personal privilege to transact, carry on, or conduct the business, profession, trade or occupation which is the subject of the license and shall not be exercised except by the person licensed.
(Ord. No. 96-17, 12-7-96)

§ 11-22. Criminal ~~p~~Penalties for ~~v~~Violation of ~~c~~Chapter.

~~(a)~~A. It shall be unlawful and constitute a Class 2 misdemeanor for any person to engage in business without procuring a license as required by this chapter.

~~(b)~~B. It shall be unlawful to willfully fail or refuse to file a business license tax return required by this chapter at the time required or to make false statements in such returns with intent to defraud. The penalties for conviction of such acts are those prescribed by general law for:

~~(1)~~1. A Class 3 misdemeanor if the amount of the license tax or fee properly assessed or due is one thousand dollars ($1,000.00) or less; or

~~(2)~~2. A Class 2 misdemeanor if the amount of the license tax properly assessed or due is more than one thousand dollars ($1,000.00).

~~(c)~~C. Repealed.
(Ord. No. 96-17, 12-7-96)

§ 11-23. Enforcement of ~~c~~Chapter.

In the enforcement of this chapter, the ~~c~~Commissioner of the ~~r~~Revenue, in addition to the powers herein specifically granted, shall have all the enforcement authority that state law confers upon ~~c~~Commissioners of the ~~r~~Revenue generally.
(Ord. No. 96-17, 12-7-96)

§ 11-23.1. Treasurer's ~~d~~Delinquent ~~l~~List to the ~~c~~County ~~b~~Board.

The ~~t~~Treasurer, after ascertaining which of the license taxes and fees cannot be collected, may, at the time he makes out the list required by ~~Section~~ § 58.1-3921 of the Code of Virginia, include on the list such license taxes and fees as he is unable to collect. Such list shall be submitted to the County Board pursuant to Virginia Code ~~Section~~ § 58.1-3924.
(Ord. No. 96-17, 12-7-96)

§ 11-23.2. Appeals after ~~a~~Audit.

In addition to the application to the ~~c~~Commissioner of the ~~r~~Revenue for correction of a tax assessment within three (3) years authorized by ~~Section~~ § 58.1-3980 of the Virginia Code, there is the following appeal procedure applicable to a business license tax assessed as the result of an audit.

~~(a)~~A. Any person assessed with a license tax as a result of an audit may apply within ninety (90) days from the date of such assessment to the ~~c~~Commissioner of the ~~r~~Revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The ~~c~~Commissioner of the ~~r~~Revenue may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, a further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The ~~c~~Commissioner of the ~~r~~Revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth the Commissioner's position. Every assessment pursuant to an audit shall be accompanied by a written statement of the taxpayer's right to seek correction and the specific procedure to be followed.

~~(b)~~B. Provided a timely and complete application for correction is made within ninety (90) days of an assessment resulting from an audit, collection activity shall be suspended until thirty (30) days after a final determination is issued by the ~~c~~Commissioner of the ~~r~~Revenue, unless the ~~c~~Commissioner of the ~~r~~Revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time and the ~~c~~Commissioner so notifies the ~~t~~Treasurer. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to (i) depart quickly from the ~~c~~County, (ii) remove his property from the ~~c~~County, (iii) conceal himself or his property, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffective, proceedings to collect the tax for the period in question.

~~(c)~~C. Interest shall accrue in accordance with the provisions of ~~section~~ § 11-19.D~~(d)~~ of this chapter.

~~(d)~~D. If application for correction is made to the commissioner of the revenue within thirty (30) days of the assessment resulting from an audit, before the tax is delinquent, no penalty as provided in ~~section~~ § 11-19.B~~(b)~~ of this chapter shall be imposed on the tax due unless it remains unpaid thirty (30) days after the final determination from the ~~c~~Commissioner of the ~~r~~Revenue of the appeal.

~~(e)~~E. Any person assessed with a license tax as a result of an audit may apply to the Virginia Tax Commissioner for a correction of such assessment within ninety (90) days of the final determination by the ~~c~~Commissioner of the ~~r~~Revenue on an application for correction of an assessment resulting from audit pursuant to subsection A~~(a)~~ of this section. The Tax Commissioner shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the ~~c~~Commissioner of the ~~r~~Revenue are notified that a longer period is required. The application shall be treated as an application pursuant to ~~Section~~ § 58.1-1821 of the Virginia Code, and the Tax Commissioner may issue an order correcting such assessment pursuant to ~~Section~~ § 58.1-1822 of the Virginia Code. Following such an order, either the taxpayer or the ~~c~~Commissioner of the ~~r~~Revenue may apply to the appropriate circuit court pursuant to ~~Section~~ § 58.1-3984 of the Virginia Code. However, the burden is on the party making the application to show that the ruling of the Tax Commissioner is erroneous. Neither the Tax Commissioner nor the Department of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

~~(f)~~F. On receipt of a notice of intent to file an appeal to the Tax Commissioner under subsection E~~(e)~~ of this section, the ~~c~~Commissioner of the ~~r~~Revenue shall notify the ~~t~~Treasurer to further suspend collection activity until a final determination is issued by the Tax Commissioner, unless the ~~c~~Commissioner of the ~~r~~Revenue determines that collection would be jeopardized by delay or the taxpayer has not responded to a request for relevant information after a reasonable time and the ~~c~~Commissioner of the ~~r~~Revenue so notifies the ~~t~~Treasurer. Interest shall accrue in accordance with ~~section~~ § 11-19.D~~(d)~~ of this chapter, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection B~~(b)~~ above.
(Ord. No. 96-17, 12-7-96)

§ 11-23.3. Local ~~t~~Tax ~~o~~Opinions.

Any person may request a written opinion from the ~~c~~Commissioner of the ~~r~~Revenue regarding the application of the business license tax to a specific situation. Any person requesting such an opinion must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer.

Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based, or (ii) the ~~c~~Commissioner of the ~~r~~Revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.
(Ord. No. 96-17, 12-7-96)

§ 11-23.4. Publication of ~~t~~Tax ~~r~~Rulings.

The ~~c~~Commissioner of the ~~r~~Revenue may publish annually any opinions or other interpretations of local tax laws which the ~~c~~Commissioner of the ~~r~~Revenue believes may be of interest to taxpayers and practitioners in the ~~c~~County. The ~~c~~Commissioner of the ~~r~~Revenue shall publish the information described with such changes of name, alterations and deletions as deemed necessary to preserve the secrecy of taxpayer information as required by Virginia Code ~~Section~~ § 58.1-3.
(Ord. No. 96-17, 12-7-96)

ARTICLE II.

SPECIAL TAX PROVISIONS

§ 11-24. Reserved.

Editors Note: Former § 11-24, which pertained to aerated or drinking water has been repealed. See Code of Virginia, § 58-266.1(4).

§ 11-25. In-~~h~~House ~~d~~Direct ~~s~~Sellers.

~~(a)~~A. Direct sellers, as defined in ~~Section~~ § 58.1-3719.1 of the Virginia Code shall pay an annual business license tax of twenty cents ($0.20) per one hundred dollars ($100.00) of gross receipts from retail sales, and five cents ($0.05) per one hundred dollars ($100.00) of wholesale gross receipts; except that no annual business license tax shall be levied if the direct seller has annual gross receipts of ten thousand dollars ($10,000.00) or less.

~~(b)~~B. A direct seller must apply annually for a business license and provide copies of the signed, written contract covering the direct sales activities of the taxpayer for the current year.
(Ord. No. 96-17, 12-7-96)

Editors Note: Former § 11-25, which pertained to agricultural fairs and was adopted on Jan. 1, 1949, was repealed by Ord. No. 82-39, effective Jan. 1, 1983.

§ 11-26. Alcoholic ~~b~~Beverages.

The following local taxes are authorized by Virginia Code ~~Section~~ § 4.1-233.

~~(a) Repealed.~~

~~(a)~~A. For each license to sell beer at wholesale, the annual tax is seventy-five dollars ($75.00) plus gross receipts license taxes required by Article III of this chapter, provided the tax paid under this section is a credit on the license tax due under Article III.

~~(b)~~B. For each wholesale wine distributor's license, the annual tax is fifty dollars ($50.00), plus gross receipts license taxes required by Article III of this chapter, provided that the tax paid under this section is a credit on the license tax due under Article III.

~~(c)~~C. For each retail on-premises wine and beer license issued to a hotel, restaurant or club for the sale of wine and beer for consumption on premises, or both on and off premises, the annual tax is thirty-seven dollars and fifty cents ($37.50), plus the gross receipts license tax required by Article III of this chapter.

~~(d)~~D. For each license issued to a hotel, restaurant or club for the sale of beer for consumption on premises, or both on and off the premises, the annual tax is twenty-five dollars ($25.00), plus the gross receipts license tax under Article III of this chapter.

~~(e)~~E. "Beer" and "wine" have the meaning set out in ~~Section~~ § 4.1-100 of the Virginia Code.

~~(f)~~F. No license shall be issued to any person under the provisions of this section unless the taxpayer

holds at the same time, or simultaneously procures, a state license from the Alcoholic Beverage Control board.

~~(h) Deleted.~~

(Ord. No. 96-17, 12-7-96)

§§ 11-27, 11-28. Reserved.

Editors Note: Former § 11-27 was repealed and replaced by new § 11-84(A) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to bail bonds and were adopted on Jan. 1, 1949.

Former § 11-28 was repealed and replaced by new § 11-84(B) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to billposters or distributors and were adopted on Jan. 1, 1949.

§ 11-28.1. ~~Repealed~~Reserved.

Editors Note: Ordinance No. 96-17, adopted December 7, 1996, repealed § 11-28.1. Formerly, such section pertained to bingo games or raffles and derived from Ords. of 9-25-73, 12-19-73, 12-27-73, 1-1-74; Ord. No. 82-39, 1-1-83.

§ 11-29. Reserved.

Editors Note: Former § 11-29 was repealed and replaced by new § 11-72.1 by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to boardinghouses and lodging houses and was amended Dec. 19, 1973 and Dec. 27, 1973, effective Jan. 1, 1974 and June 4, 1977.

§ 11-30. ~~Repealed~~Reserved.

Editors Note: Ordinance No. 96-17, adopted December 7, 1996, repealed § 11-30. Formerly, such section pertained to buyers of gold and silver and derived from Ord. of 1-1-49; Ord. No. 82-39, 1-1-83.

§ 11-31. Reserved.

Editors Note: Former § 11-31 was repealed and replaced by new § 11-84(C) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to campsites, and trailer parks and were adopted Jan. 1, 1949.

§ 11-32. Circuses, ~~s~~Shows, ~~e~~Etc.; ~~c~~Circus ~~s~~Street ~~p~~Parades.

No license tax or fee is due from a circus or carnival performing on a temporary basis in the ~~c~~County, except if the streets and highways of the ~~c~~County are to be used for a circus street parade, in which case a license tax of one hundred dollars ($100.00) is due, and no such license shall be issued except after a permit for such parade has been obtained from the ~~c~~County ~~m~~Manager.
(Ord. No. 96-17, 12-7-96)

§§ 11-33--11-35.1. Reserved.

Editors Note: Former § 11-33 was repealed by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to dance halls and had been amended on Oct. 11, 1958, effective Jan. 1, 1959, and on Aug. 5, 1970, effective Jan. 1, 1971.

Former § 11-34 was repealed and replaced by new § 11-80(A) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to detectives and watchmen and were adopted Jan. 1, 1949.

Former § 11-35 was repealed and replaced by new § 11-84(D) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to dumps and landfills and were adopted Jan. 1, 1949.

Former § 11-35.1 was repealed by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The

repealed provisions pertained to the wholesale of fireworks and were adopted Nov. 22, 1958, effective Jan. 1, 1959.

§ 11-36. Fortunetellers, ~~a~~Astrologists, ~~e~~Etc.

Every person engaged in business as a fortuneteller, clairvoyant, phrenologist, spirit medium, astrologist, or palmist for compensation shall pay an annual license tax of five hundred dollars ($500.00), which license shall not be prorated. Any person who engages in any of the businesses listed in this section without the license required shall be guilty of a Class 3 Misdemeanor.
(Ord. No. 96-17, 12-7-96)

§ 11-37. Reserved.
Editors Note: Former § 11-37 was repealed and replaced by new § 11-84(E) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to hobbyhorse machines, merry-go-rounds, etc., and were adopted Jan. 1, 1949.

§ 11-38. Peddlers and ~~i~~Itinerant ~~m~~Merchants.

All peddlers and itinerant merchants doing business in the ~~e~~County shall pay a business license tax of five hundred dollars ($500.00) annually, as set forth below, prior to commencing business, unless otherwise provided in this chapter.

~~(a)~~A. Any person who carries from place to place any goods, wares or merchandise and offers to sell or actually sells and delivers at the same time is a peddler. Any person who does not keep a regular place of business, whether it be a house or a vacant lot or elsewhere, with regular business hours, but at that place offers to sell goods, wares and merchandise, is a peddler. Any person who keeps a regular place of business, with regular business hours at the same place, who other than at that regular place of business, personally or through agents offers for sale or sells and, at the time of such offering for sale, delivers goods, wares and merchandise is a peddler.

~~(b)~~B. An itinerant merchant is any person whether principal, agent or salesperson who engages in temporary or transient business in Virginia, either in one (1) locality or traveling from place to place for the sale of goods, wares and merchandise, and who for the purpose of carrying on such business hires, leases, uses or occupies any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or houses of private entertainment, or in any street, alley or public place in the county, for a period of less than one (1) year, for the exhibition of or sale of such goods, wares or merchandise.

~~(c)~~C. If sales are being made by a person traveling on foot, a license shall be procured for each person or agent. If sales are being made from one location, a license shall be procured for each location.

~~(d)~~D. Plates issued as licenses under this section shall be conspicuously displayed at all times.

~~(e)~~E. Nonprofit organizations engaged in activities covered by this section, which activities are conducted solely by volunteers who receive no remuneration and the proceeds of which go solely to the nonprofit organization, shall pay no tax, but the organization shall be issued a written permit from the commissioner for each volunteer engaged in activities covered by this section. Such written permit, upon issuance, shall be carried by the volunteer at all times he/she is operating in the ~~e~~County, and it shall be exhibited to any authorized enforcement officer.

~~(f)~~F. The tax under this section shall not be prorated.

~~(g)~~G. All peddlers, whether subject to taxation or exempt from taxation under this section, shall comply with the requirements of Chapter 30 of the Arlington County Code.

~~(h)~~H. No person exempt from the provisions of this section shall peddle or barter in this ~~e~~County without first obtaining a written permit from the ~~e~~Commissioner of the ~~r~~Revenue. Such written permit, upon issuance, shall be carried by the applicant at all times that he is operating in the ~~e~~County, and it shall be exhibited to any authorized enforcement officer. Failure to exhibit such written permit issued by the ~~e~~Commissioner of the

~~r~~Revenue is a violation of this section.
(Ord. No. 96-17, 12-7-96)

§ 11-38.1. Shows and ~~s~~Sales.

Any person may sponsor a show and sale by obtaining a license under this section. A tax of thirty dollars ($30.00) per year is due for any such show and sale license. Payment of this tax permits the taxpayer to conduct shows and sales in the ~~c~~County for a period not exceeding one (1) year from the date of such tax payment. A license issued under this section is in lieu of an itinerant vendor's or peddler's license otherwise required under ~~section~~ § 11-38 for any seller who participates in such shows and sales under the sponsorship of a person licensed under this section. The tax imposed by this section does not apply to any auction or sale if the only sales are made directly by a nonprofit organization. Nonprofit organizations which sponsor shows and sales are exempt from the thirty dollar ($30.00) tax for this license. The license tax under this section is not prorated.
(Ord. No. 96-17, 12-7-96)

§ 11-38.2. Itinerant ~~m~~Merchants ~~l~~Located on ~~s~~Shopping ~~m~~Mall ~~p~~Property.

~~(a)~~A. Itinerant merchants who sell on private property in a mall or shopping center managed from an office on the site under conditions which are permitted by the ~~z~~Zoning ~~o~~Ordinance and who have written agreements to use the area in which they carry on the activity signed by the property owner of record or his agent shall pay an annual license tax equivalent to the retail merchant rate under ~~section~~ § 11-61 of this chapter on gross receipts earned. The basis of the tax is the gross receipts earned in the calendar year for which the license is issued. The amount of tax paid shall not exceed five hundred dollars ($500.00).

~~(b)~~B. Itinerant merchants licensed under this section with annual gross receipts of fifty thousand dollars ($50,000.00) or less shall pay a minimum tax of thirty dollars ($30.00). Itinerant merchants licensed under this section with annual gross receipts above fifty thousand dollars ($50,000.00) and less than one hundred thousand dollars ($100,000.00) shall pay a minimum tax of fifty dollars ($50.00).

~~(c)~~C. Except as otherwise specifically provided in this section, all provisions of ~~section~~ § 11-38 except subsection D~~(d)~~ apply to itinerant merchants assessed a business license tax under this section.
(Ord. No. 96-17, 12-7-96)

§§ 11-39--11-42. Reserved.

Editors Note: Former § 11-39, which pertained to junk and secondhand dealers and canvassers and derived from an ordinance of Jan. 1, 1949, was repealed by Ord. No. 88-17, enacted Oct. 15, 1988 and effective Jan. 1, 1989. Former § 11-40 was repealed and replaced by new § 11-84(F) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to labor agents and were adopted Jan. 1, 1949. Former § 11-41 was repealed and replaced by new § 11-84(G) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to lightning rod agents and were adopted Jan. 1, 1949. Former § 11-41.1, which pertained to live model photographic studios, was repealed by Ord. No. 88-20, enacted Nov. 22, 1988 and effective Jan. 1, 1989. The repealed provisions derived from legislation of Dec. 19, 1973, Dec. 27, 1973 and Jan. 1, 1974. Former § 11-42 was repealed and replaced by new § 11-79(A) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to loan agencies and were adopted Jan. 1, 1949 and amended Aug. 5, 1970, effective Jan. 1, 1971.

§ 11-42.1. Massage ~~p~~Parlors.

~~(a)~~A. Every person operating a massage parlor shall pay an annual license tax of five thousand dollars ($5,000.00) which is not subject to proration.

~~(b)~~B. A massage parlor is defined as any place where manipulation of body tissues for remedial or hygienic purposes, or any other purpose, is conducted and the owners and employees individually do not hold a current valid massage therapist certification under ~~Section~~ § 54.1-3029 of the Virginia Code or under the County Code.
(Ord. No. 96-17, 12-7-96)

§§ 11-43--11-49. Reserved.

Editors Note: Former § 11-43 was repealed and replaced by new § 11-80(B) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provision pertained to pawnbrokers and was amended Jan. 1, 1949.

Former §§ 11-44 and 11-45 were repealed by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to peddlers. Section 11-44 was amended on Oct. 11, 1958, effective Jan. 1, 1959 and on Aug. 5, 1970, effective Jan. 1, 1971; and § 11-45 was adopted on Jan. 1, 1949 and Dec. 23, 1950 and amended Aug. 5, 1970, effective Jan. 1, 1971.

Former § 11-46 was repealed and replaced by new § 11-80(E) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to piano tuners and were adopted Jan. 1, 1949.

Former § 11-47, which pertained to pistol dealers and derived from an ordinance of Jan. 1, 1949, was repealed by Ord. No. 83-29, adopted Oct. 15, 1983.

Former § 11-48 was repealed and replaced by new § 11-84(I) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to rifle ranges, shooting galleries, etc., and were adopted Jan. 1, 1949.

Former § 11-48.1, which pertained to sightseeing carriers, was repealed by Ord. No. 88-20, enacted Nov. 22, 1988 and effective Jan. 1, 1989. The repealed provisions derived from legislation of Jan. 1, 1959 and Ord. No. 82-39, enacted Jan. 1, 1983.

Former § 11-48.2 was repealed and replaced by new § 11-84(J) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to skip tracing services and were adopted on Nov. 22, 1958, effective Jan. 1, 1959.

Former § 11-49, which pertained to vending and coin-operated machines, was repealed. See § 11-69.1 for similar provisions.

§ 11-50. Coin-~~o~~Operated ~~a~~Amusement ~~m~~Machines; ~~a~~Amusement ~~m~~Machine ~~o~~Operators.

~~(a)~~A. Every person selling, leasing, renting or otherwise furnishing or providing a coin-operated amusement machine or device is an amusement operator, except that a person owning less than three (3) machines and operating such machines on property owned or leased by such person is not an amusement operator.

~~(b)~~B. Every amusement machine operator shall pay an annual license tax as follows:

3 machines	$ 25.00
4 machines	$ 50.00
5 machines	$ 75.00
6 machines	$ 100.00
7 machines	$ 125.00
8 machines	$ 150.00
9 machines	$ 175.00
10 machines or more	$ 200.00

~~(c)~~C. The license tax under this section is in addition to all other license taxes and fees required by this chapter.

~~(d)~~D. Every amusement machine operator shall furnish to the ~~c~~Commissioner of the ~~r~~Revenue a complete list of all machines located in the ~~c~~County and the names and addresses of each location on or before

March 1 of each year.
(Ord. No. 01-1, 1-27-01)

§§ 11-51--11-56.1. Reserved.

Editors Note: Former § 11-51 was repealed and replaced by new § 11-84(K) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to sound trucks and were adopted Jan. 1, 1949.

Former § 11-53, which pertained to taxicab operators, was repealed. See § 11-59 requiring licenses measured by gross receipts.

Former § 11-54 was repealed and replaced by new § 11-80(C) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to ticket agencies and were adopted Jan. 1, 1949.

Former § 11-55 was repealed and replaced by new § 11-72.2 by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to tourist homes and tourist cabins and were amended on Dec. 19, 1973 and Dec. 27, 1973, effective Jan. 1, 1974, and on June 4, 1977.

Former § 11-56 was repealed and replaced by new § 11-80(D) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to wall signs and billboards and were adopted Jan. 1, 1949 and amended June 18, 1949.

Former § 11-56.1, which pertained to nonresident laundries and dry cleaners, was repealed on Dec. 21, 1974. Per state statute, see § 11-59.

§ 11-56.2. Mixed ~~b~~Beverage ~~r~~Restaurant ~~l~~License ~~t~~Tax.

Establishments holding a mixed beverage restaurant license issued by the Virginia Alcoholic Beverage Control Board shall pay a local license tax, in addition to all other taxes imposed, for doing business in the ~~c~~County as follows:

~~(a)~~A. Persons operating restaurants, including restaurants located at and operated by hotels or motels or other persons:

~~(1)~~1. Two hundred dollars ($200.00) per year for each restaurant with a table seating capacity of fifty (50) to one hundred (100) persons;

~~(2)~~2. Three hundred fifty dollars ($350.00) per year for each restaurant with a table seating capacity of more than one hundred (100) but not more than one hundred fifty (150) persons; and

~~(3)~~3. Five hundred dollars ($500.00) per year for each restaurant with a table seating capacity of more than one hundred fifty (150) persons.

~~(b)~~B. A private, nonprofit club operating a restaurant located on the premises of such club, three hundred fifty dollars ($350.00) per year.
(Ord. No. 96-17, 12-7-96)

ARTICLE III.

GROSS RECEIPTS BUSINESS TAX

§ 11-57. Professional and ~~s~~Specialized ~~o~~Occupations.

Professional and specialized occupations. Every person engaging in any of the following professional or specialized occupations shall pay an annual tax of thirty-six cents ($0.36) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year, except as provided in subsection D~~(d)~~ below.

~~(a)~~A. The professional occupations of:

Architect.
Attorney-at-law.
Ceramic engineer.
Certified public accountant.
Chemical engineer.
Chiropodist.
Chiropractor.
Civil engineer.
Clinical psychologist.
Coal mining engineer.
Dentist.
Doctor of internal medicine.
Electrical engineer.
Engineer.
Heat and ventilating engineer.
Highway engineer.
Homeopathist.
Industrial engineer.
Medical doctor.
Mechanical engineer.
Metallurgical engineer.
Mining engineer.
Neuropathist.
Neurologist.
Oculist.
Optometrist.
Patent attorney.
Physician.
Physiotherapist.
Psychiatrist.
Radio engineer.
Railway engineer.
Refrigerator engineer.
Sanitary engineer.
Steam power engineer.
Structural engineer.
Surgeon.
Surveyor.
Veterinarian.
Other professional occupations.

~~(b)~~B. The specialized occupations of:

Accountant, public.
Actuary.
Advertising agent or firm.
Appraiser or evaluator of personal property.
Appraiser or evaluator of real estate.
Artist.
Assayer.

Atomic energy consultant.
Auditing company or firm.
Automation consultant.
Broker, other than pawn, loan or real estate broker listed elsewhere.
Blueprinter.
Bookkeeper, public.
Building designer.
Building inspector.
Business chance broker.
Business consultant.
Business counselor.
Business operations manager.
Chemist.
Collection agent or agency.
Commercial inventory and valuation service.
Commission merchant.
Common crier.
Communications consultant.
Credit rating or reporting agent or firm.
Data software programming service.
Debt refinancing company or firm.
Economic or social science research service.
Editorial company or firm.
Electronic or physical science research service.
Furnisher of domestic or clerical help, labor or employment.
Insurance claims adjustor.
Interior decorating consultant.
Investment advisory service.
Labor relations consultant.
Land agent.
Landscape designer.
Legislative researcher.
Lumber measurer.
Management engineer.
Manufacturer's agent.
Marketing analyst.
Mercantile agent or agency.
Operations analyst.
Optician.
Patent agent.
Patent researcher.
Patent service.
Public stenographer.
Publicity service, booking agent, concert promoter.
Recorder of court, commission, or other organization proceedings.
Sales agent or agency.
Scientific research and development service.
Sculptor.
Tax consultant.
Title abstract company.
Transportation consultant.
Travel or tour agent or agency.
Urban or regional planner.

Other specialized occupations.

~~(c)~~C. Upon documentation to the ~~c~~Commissioner of the ~~r~~Revenue, persons designated as principals or prime contractors receiving identifiable federal appropriations for research and development services as defined in ~~Section~~ § 31.205-18(a) of the Federal Acquisition Regulations in the areas of (i) computer and electronic systems, (ii) computer software, (iii) applied sciences, (iv) economic and social services, or (v) electronic and physical sciences, are separately classified for license tax purposes under this section. However, all such persons' gross receipts, including gross receipts received for such research and development are taxable at the rate set out in subsections A~~(a)~~ or B~~(b)~~ above as if they had not been separately classified in this subsection.

~~(d)~~D. The gross receipts of advertising agencies or firms shall be taxed at twenty cents ($.20) for each one hundred dollars ($100.00) of gross receipts if fifty percent (50%) or more of that agency's or firm's gross receipts during the previous calendar year were used to buy media space for unaffiliated client(s).
(Ord. No. 96-17, 12-7-96; Ord. No. 04-08, 4-24-04)

§ 11-57.1. Real ~~e~~Estate ~~b~~Brokers and ~~s~~Salespersons.

~~(a)~~A. Every person engaged in the business of real estate broker shall pay a license tax of thirty-six cents ($0.36) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year.

~~(b)~~B. A real estate broker is any person who for compensation or valuable consideration, sells or offers for sale, buys or offers to buy or negotiates the purchase, sale, or exchange of real estate, or who leases or offers to lease or rents or offers to rent any real estate or the improvements thereon for others.

~~(c)~~C. The gross receipts of the broker include all the receipts produced by the broker, his salespersons and others employed by the broker unless the broker, or some of his salespersons are treated as independent contractors under federal Internal Revenue Service rules and regulations. In such event, each salesperson is required to obtain a license under this section for that part of the gross receipts attributable to the activity as an independent contractor which are not retained or received by the broker as the broker's share of the gross receipts produced by the salesperson. The salesperson's license tax shall be assessed at the same rate as for brokers.

~~(d)~~D. A salesperson is any person who, for compensation or valuable consideration, is employed by or serves as an independent contractor with a real estate broker, to see or offer to see, to buy or offer to buy, to negotiate the purchase, sale or exchange of real estate, lease or offer to lease, or rents or offers to rent any real estate or the improvements thereon to others.

~~(e)~~E. This section does not apply to court-appointed commissioners or receivers nor to administrators, executors, guardians, or trustees while acting in a fiduciary capacity.

~~(f)~~F. The broker shall attach to his business license tax return a form listing the name and home address of each salesperson, together with each salesperson's share of gross receipts.
(Ord. No. 96-17, 12-7-96)

§ 11-58. Personal ~~s~~Service ~~o~~Occupations.

Every person engaging in any of the following personal services shall pay an annual license tax of thirty-five cents ($0.35) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year.

~~(a)~~A. The business of operating a:

Barber shop.
Beauty parlor.
Chartered club.

Dance band, furnishing live music or entertainment.
Undertaker or embalmer.
Hairdressing establishment.
Physical fitness establishment.
Swimming pool (other than a cooperative).
Turkish, Roman or other bath or parlor.

~~(b)~~B. The business of:

Addressing letters or envelopes.
Bail bonding company.
Bottle exchange.
Cleaning chimneys, furnaces.
Clinical laboratory.
Computerized information retrieval service.
Correspondence establishment or bureau.
Day nursery (other than foster homes).
Escort service.
Exterminating rats, vermin, termites etc,.
Fumigating or disinfecting.
Furnishing ambulance service.
Furnishing janitor service.
Furnishing labor services.
Furnishing limousine service.
Furnishing messenger service, except services under ~~Section~~ § 11-70.B~~(b)~~ of this ~~C~~chapter.
Furnishing statistical services.
Labor agent.
Live model photographic studio.
Longterm vehicle leasing.
Management of garages, parking lots.
Massage establishments or massage therapists licensed under Chapter 49 of the County Code or ~~Section~~ § 54.1-3029 of the Virginia Code.
Nurses registry.
Nursing or convalescent home.
Operating a kennel or animal hospital.
Operating a scalp treatment or electrolysis establishment.
Pawnbroker.
Photographer.
Physicians registry.
Piano tuner.
Picture framing or gilding.
Press clipping service.
Private schools except gross receipts excluded from taxation in whole or in part under ~~Section~~ § 11-3 of this Chapter.
Renting tangible personal property.
Renting or furnishing self-service, automatic laundry or dry cleaning facilities.
Secretarial service.
Supplying clean linen, coats, aprons, towels.
Telecommunications services provided by companies not subject to tax under ~~section~~ § 11-70.B~~(b)~~ of this chapter.
Telephone answering service.

Vehicle title service.
Other personal service occupations.

(Ord. No. 96-17, 12-7-96)

§ 11-59. Business ~~s~~Service ~~o~~Occupations.

Every person engaging in any of the following business services shall pay an annual license tax of thirty-five cents ($0.35) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Airport.
Auto damage appraisal service.
Bid or building reporting service.
Bill posters or distributors.
Computer time sharing.
Detective or security guard.
Drafting service.
Dump.
Engraver.
Erecting, installing removing, storing awnings.
Freight, traffic bureau or agency.
Hauling or transfer, not in connection with taxicab business.
Impoundment lot.
Inventory service.
Job printer, printing shop, bookbinding, duplicating process.
Laundry, cleaning, pressing or dyeing establishment.
Leasing films.
Microfilming.
Motion picture film products and laboratories.
Packing, crating, shipping, hauling, or moving goods or chattels for others.
Photogrametric engineering.
Protective or security agent.
Real estate multiple listing service.
Renting airplanes.
Renting bicycles.
Sightseeing carriers.
Sign painting, window or vehicle lettering.
Skip tracing service.
Sound truck.
Storage.
Supplier of redeemable stamps.
Swimming pool management.
Tabulating or computer service bureau.
Taxicab operators except as provided in ~~section~~ § 11-2.A.8~~(a)(8)~~ of this chapter.
Tree surgery, trimming, removal.
U-drive-it business with daily or mileage charge.
Vehicular, electronic, or commercial advertising.
Wall sign or billboard.
Other business service occupations.

(Ord. No. 96-17, 12-7-96)

§ 11-59.1. Parking ~~g~~Garages or ~~l~~Lots.

Every person engaging in any of the following business services shall pay an annual license tax of thirty-six cents ($0.36) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Parking garage.
Parking lot.
U-Park-It lot.
Valet parking lot.
Other parking facilities.

(Ord. No. 96-17, 12-7-96)

§ 11-60. Repair ~~s~~Service ~~o~~Occupations.

Every person engaging in any of the following repair services shall pay an annual license tax of thirty-five cents ($0.35) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Airplane repair.
Auto or engine repair.
Bicycle repair.
Business or office machine repair.
Clothes, hats, carpet or rug repair.
Dressmaking, slip covers, drapery or curtain making (service only).
Furniture upholstery repair.
Gunsmith, gun repair.
Locksmith.
Machine or boiler shop.
Mattress repair.
Nickel or chrome plating.
Paint shop other than contractor.
Radio, refrigerator, electrical appliance, home appliance repair.
Reweaving.
Road or farm machinery repair.
Saw or tools repair.
Shades repair.
Shoe repair.
Tire repair.
Toy repair.
Umbrella, harness, leather good repair.
Washing, cleaning or detailing of vehicles.
Watch or clock repair.
Welding shop.
Other repair services not otherwise taxed.

(Ord. No. 96-17, 12-7-96)

§ 11-61. Retail ~~m~~Merchants.

Every person engaging in any of the following retail businesses shall pay an annual license tax of twenty cents ($0.20) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Auto accessory, tire, battery.
Aircraft or aircraft parts.
Antiques.
Auto or motor vehicle dealers.
Bakeries.
Bicycles.
Boats, motors.
Books, stationery.
Building materials.
Candy, nut store.
Cigar, tobacco stands, newsstands.
Confectionery.
Custom tailor.
Dairy products.
Delicatessens with no seating.
Department stores.
Drapery, curtain, upholstery fabric or goods.
Drug.
Dry goods stores.
Eggs or poultry.
Family clothing.
Farm equipment.
Fish, seafood market.
Floor covering.
Florists.
Fruit or vegetable stores.
Fuel for residential use or ice.
Furniture.
Furriers.
Garden supplies.
General stores.
Gifts, novelties, souvenirs.
Grocery.
Hardware.
Heating, plumbing, electrical equipment.
Hog grain, feed, seed.
Hosiery.
Household products.
Jewelry.
Junk dealers.
Livestock dealer.
Luggage.
Lumber goods.
Mail order.
Meat market.
Men's and boy's clothing.
Millinery.
Motorcycle.
Musical instrument.
Office or appliance supplies.
Optical.
Other clothing.
Paint, glass, wallpaper.

Pet shop.
Photographic supplies and equipment.
Radio or household appliances.
Secondhand stores.
Scientific medical supplies.
Shoes.
Sporting goods.
Ticket agency.
Used cars.
Variety stores.
Worker clothing.
Other retail stores and retail merchants.

(Ord. No. 96-17, 12-7-96)

§ 11-61.1. Restaurants, ~~e~~Eating ~~p~~Places, ~~n~~Nightclubs.

Every person engaging in any of the following businesses shall pay an annual license tax of twenty cents ($0.20) for each one hundred dollars ($100.00) of gross receipts during the preceding calendar year.

Carry-outs.
Caterers.
Delicatessens (with seating).
Lunch rooms.
Nightclubs.
Restaurants.
Snack bars.
Soda fountains.
Other eating places, etc.

(Ord. No. 96-17, 12-7-96)

§ 11-61.2. Retail ~~m~~Merchant; ~~g~~Gas or ~~f~~Filling ~~s~~Station.

Every person engaging in the retail business of operating a gas or filling station shall pay an annual license tax of ten cents ($0.10) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year. As used in this section, "operating a gas or filling station" shall include only the sale of fuel for motor vehicles. If a person is also selling other items, a license tax under ~~section~~ § 11-61 or other appropriate provision is required.
(Ord. No. 96-17, 12-7-96)

§ 11-61.3. School-~~r~~Related ~~r~~Retail ~~o~~Organizations.

Any organization whose retail sales activities are carried out by unpaid volunteers and whose primary purpose is to raise funds through sale of goods, including food and beverages, in support of the educational or extracurricular activities of public or private, elementary or secondary schools is classified in a separate category for purposes of the business license tax. Each such organization shall file for and obtain a business license but shall pay no retail business license tax.
(Ord. No. 96-17, 12-7-96)

§ 11-61.4. Short-~~t~~Term ~~r~~Rental ~~b~~Business.

Every person engaging in the short-term rental business as defined in ~~Section~~ § 58.1-3510 of the Code of Virginia and Chapter 64 of the Arlington County Code shall pay an annual business license tax of twenty cents ($0.20) for each one hundred dollars ($100.00) of gross receipts during the preceding calendar year. If a person's tax

certification as a short-term business is revoked or not be renewed, the tax rate mandated by this section does not apply for the year in which the certificate is revoked nor for any years in which the certificate is not renewed.
(Ord. No. 96-17, 12-7-96)

§ 11-62. Wholesale ~~m~~Merchants.

Every person engaging in any of the following wholesale merchant businesses shall pay an annual license tax of eight cents ($0.08) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Automotive.
Chemicals.
Clothing, furnishings.
Coal, coke.
Commission merchants, except brokers under ~~Section~~ § 11-57 of this ~~C~~chapter.
Drugs.
Dry goods.
Electrical, plumbing goods.
Farm products or supplies.
Furniture and house furnishings.
Groceries and foods.
Hardware.
Jewelry.
Junk dealers.
Lumber, paint and construction materials.
Machinery, equipment and supplies.
Metals and metal goods.
Other goods, ware, merchandise.
Paper and paper products.
Petroleum and petroleum products.
Seafood.
Soft drinks.
Sporting goods.
Tobacco and tobacco products (except leaf tobacco).
Waste materials.
Other wholesale merchants.

(Ord. No. 96-17, 12-7-96)

§ 11-63. Licensing of ~~p~~Person ~~b~~Both ~~r~~Retail and ~~w~~Wholesale ~~m~~Merchant.

Any person who is both a retail and wholesale merchant is required to obtain both licenses; provided, however, that any retail merchant who desires to do a wholesale business also, may elect to do so under his retailer's license by paying license taxes as a retailer on both his retail and wholesale gross receipts.
(Ord. No. 96-17, 12-7-96)

§ 11-64. Contractors and ~~c~~Contracting.

Every person engaging in any of the following contracting businesses shall pay an annual license tax of sixteen cents ($0.16) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Air conditioning.
Brick, stone and other masonry.

Building.
Cement.
Dredging, sand and gravel.
Electrical.
Floor scraping or finishing.
Foundations.
Interior decorating.
Paint, paper decorating.
Pile driving.
Plastering and dry wall.
Plumbing, heating, steamfitting, gasfitting.
Road, street, bridge, sidewalk, curb and gutter.
Sewer drilling or well digging.
Soil testing.
Structural metal.
Tile, glass, flooring, covering.
Tunneling.
Wrecking, moving, excavating; except sale of materials at job site, is taxed under ~~section~~ § 11-61 of this chapter.
Other contractors and contracting.

All contractors are required to submit to the Commissioner of the Revenue a roster of all subcontractors within thirty (30) days from date of issuance of building permit, listing name, address, amount of contract, and type of work to be performed.
(Ord. No. 96-17, 12-7-96)

§ 11-65. Amusements.

Every person engaging in any of the following amusement businesses shall pay an annual license tax of twenty-five cents ($0.25) for each one hundred dollars ($100.00) of gross receipts from the business during the proceeding calendar year, except gross receipts from the production of programming that is broadcast live by a nonprofit television broadcaster licensed by the FCC shall be taxable at the rate of eight cents ($0.08) per one hundred dollars ($100.00).

Amusement park.
Arcade, general amusement or entertainment system.
Auditorium.
Billiards or pool.
Bowling alley.
Coliseum.
Furnishing television entertainment.
Furnishing musical entertainment.
Gardens.
Golf driving range.
Hobby horse machines, etc.
Miniature golf.
Movie theaters.
Parks, athletic fields.
Riding academy.
Rifle ranges and shooting galleries.
Skating rink.
Theatres.
Other amusement occupation not specifically taxed under other provisions of this ~~C~~chapter.

(Ord. No. 96-17, 12-7-96; Ord. No. 04-08, 4-24-04)

§§ 11-66, 11-67. Reserved.

§ 11-68. Licensing of ~~c~~Contractor/~~b~~Builder or ~~d~~Developer.

Any person who is both a contractor and a builder/developer is required to obtain both licenses.
(Ord. No. 96-17, 12-7-96)

§ 11-69. Reserved.

Editors Note: Former § 11-69 was repealed by Ord. No. 82-39, adopted Sept. 25, 1983 and effective Jan. 1, 1983. The repealed provisions pertained to selling goods, wares and merchandise through coin-operated vending machines, and were amended on Dec. 17, 1960, effective Jan. 1, 1961; Aug. 5, 1970, effective Jan. 1, 1971; and Dec. 19, 1973, effective Jan. 1, 1974.

§ 11-69.1. Coin ~~m~~Machines ~~g~~Generally.

~~(a)~~A. Every person having anywhere in this ~~c~~County a coin-operated machine or device of any description into which are inserted coins or bills of any denomination shall pay an annual license tax of thirty-five cents ($0.35) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year.

~~(b)~~B. This section does not apply to persons selling goods, wares, or merchandise through use of coin-operated vending machines which are taxed under ~~section~~ § 11-61 of this chapter.

~~(c)~~C. Nothing in this section permits any person to keep, maintain, exhibit or operate any coin machine or other device which is prohibited by law.

~~(d)~~D. Persons liable under ~~section~~ § 11-50 of this chapter are also required to obtain licenses and pay taxes under subsection A~~(a)~~ above.
(Ord. No. 96-17, 12-7-96)

§ 11-70. Public ~~s~~Service ~~c~~Companies.

~~(a)~~A. Repealed.

~~(b)~~B. *Telephone companies.* All telephone companies subject to assessment under Chapters 26 and 37 of Virginia Code Title 58.1 and which provide telecommunications services in the County shall pay annual license taxes as follows:

~~(1)~~1. Fifty cents ($0.50) on each one hundred dollars ($100.00) of gross receipts from local telephone exchange service to the ultimate consumer in the County during the preceding calendar year; and

~~(2)~~2. Fifty cents ($0.50) on each one hundred dollars ($100.00) of gross receipts from sales to the ultimate consumer in the County of goods and services, other than local exchange, if any, during the preceding calendar year; excluding, however, from tax by the County all gross receipts from long distance telephone calls.

All sales of telecommunications services in the County by companies other than those subject to assessment under Chapters 26 and 37 of the Virginia Code are subject to business license tax under ~~section~~ § 11-58 of this ~~C~~chapter.

~~(c)~~C. *Telegraph companies.* All persons engaged in the business of sending telegraphic communications from the County to any point within the state shall pay an annual license tax of one percent (1%) ~~percent~~ of the gross receipts from the sending of such telegrams and telegraphic communications during the preceding calendar year;

excluding, however, business done between the County and points outside of the state.

~~(d)~~D. *Water, heat, light, power and gas companies.* All persons furnishing water, heat, light, power in the County, except electric suppliers, gas utilities and suppliers as defined in Va. Code § 58.1-400.2 and pipeline distribution companies as defined in Va. Code § 58.1-2600 shall pay an annual license tax of one-half ~~(1/2)~~ of one percent (0.5%)~~(1) percent~~ of the gross receipts from sales to the ultimate consumer in the County during the preceding calendar year. After December 31, 2000, the business license tax levied in this ~~S~~subsection shall not be imposed on pipeline distribution companies as defined in Va. Code § 58.1-2600 or on gas suppliers, gas utilities or electric suppliers as defined in Va. Code § 58.1-400.2, except as provide in Va. Code § 58.1-2901.D.
(Ord. No. 96-17, 12-7-96; Ord. No. 00-25, 10-21-00; Ord. No. 09-08, 4-28-09)

§ 11-71. Renting ~~r~~Residential and ~~c~~Commercial ~~p~~Property.

~~(a)~~A. Every person in the business of renting or leasing houses, apartments, or other types of dwelling units, or land on which dwelling units are or will be located, whether acting for himself or through an agent, shall pay an annual license tax of twenty-eight cents ($0.28) on each one hundred dollars ($100.00) of gross receipts during the preceding calendar year:

~~(1)~~1. The business of renting houses, apartments or other types of dwelling units means the renting of buildings or portions thereof, each of which is designed for residential occupancy as a single dwelling unit, but not including hotels or motels for which license taxes are otherwise required by this chapter.

~~(2)~~2. "Dwelling unit" means a room or rooms connected together, with independent kitchen and sleeping facilities, in a dwelling house or apartment or other type of residential building, designed for occupancy by one (1) family for living purposes.

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~~(b)~~B. Every person engaged in the business of renting or leasing land or buildings or other improvements to land which is or will be used for professional, office, store, shop, business, meeting or any other commercial purpose of any nature, whether he acts for himself or through an agent, shall pay an annual license tax of forty-three cents ($0.43) on each one hundred dollars ($100.00) of the gross receipts from such business during the preceding calendar year.

~~(c)~~C. This section applies to the renting or leasing of all or a portion of buildings or other improvements. It does not apply to the rental or leasing of hotels or motels, but it does apply to land on which such buildings or other improvements are located.
(Ord. No. 96-17, 12-7-96)

§ 11-72. Lodging.

Every person engaged in any of the following lodging businesses shall pay an annual license tax of thirty-six cents ($0.36) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year:

Boarding house.
Campsite.
Hotel.
Lodging house.
Motel.
Tourist home/~~-~~cabin.
Trailer park.
Travel trailer site.
Other lodging business.

(Ord. No. 96-17, 12-7-96; Ord. No. 09-10, 4-28-09, effective 1-1-10)

§§ 11-72.1--11-74. Reserved.

Editors Note: Former §§ 11-72.1 and 11-72.2 which pertained, respectively, to boarding and lodging houses and tourist homes and cabins, were repealed by Ord. No. 87-25, effective Jan. 1, 1988. The repealed provisions derived from Ord. Nos. 82-39, 83-29, 84-29, 84-33, 85-38 and 86-27.

Former § 11-73 was repealed and replaced by new § 11-79(B) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to money lenders and were amended on May 19, 1960, effective Jan. 1, 1961; June 3, 1967, effective Jan. 1, 1968; Dec. 19 and 27, 1973, effective Jan. 1, 1974.

Former § 11-74 was repealed and replaced by new § 11-84(L) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to suppliers of redeemable premium stamps and were amended on May 19, 1960, effective Jan. 1, 1961.

§ 11-75. Reserved.

Editors Note: Ord. No. 98-21, adopted June 20, 1998, repealed § 11-75, which pertained to CATV certificate holders.

§§ 11-76--11-80. Reserved.

Former § 11-76 was repealed and replaced by new § 11-84(M) by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The repealed provisions pertained to limits on travel campground taxes and were adopted on June 4, 1977.

Section 11-77 was added by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The Section was designated as § 11-77.A and pertained to builders and developers. These provisions were deemed repealed by Ord. No. 83-29, adopted Oct. 15, 1983 and effective Jan. 1, 1984. See § 11-81 for similar provisions.

Section 11-79 was added by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The Section was designated as § 11-79.A., B., and pertained to loan agencies and money lenders. These provisions were deemed repealed by Ord. No. 83-29, adopted Oct. 15, 1983 and effective Jan. 1, 1984. See § 11-83 for similar provisions.

Section 11-80 was added by Ord. No. 82-39, adopted Sept. 25, 1982 and effective Jan. 1, 1983. The Section was designated as § 11-80.A.--E., and pertained to detectives and watchmen, pawnbrokers, ticket agencies, wall signs and billboards, and piano tuners. These provisions were deemed repealed by Ord. No. 83-29, adopted Oct. 15, 1983 and effective Jan. 1, 1984. See § 11-84(N)--(R) for similar provisions.

§ 11-81. Builders and ~~d~~Developers.

~~(a)~~A. Every person engaging in any of the following business activities below on land or property owned, leased or otherwise controlled by such person, for purpose of eventual sale is a builder or developer:

~~(1)~~1. ~~w~~Work on or in any building or structure requiring the use of paint, stone, brick, mortar, cement, wood, wallpaper, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other building material;

~~(2)~~2. ~~e~~Electrical work on or in any building or structure;

~~(3)~~3. ~~p~~Paving or curbing on sidewalks or streets, public or private property requiring the use of asphalt, brick, stone, cement, wood or any composition;

~~(4)~~4. ~~e~~Excavating earth, rock or material for foundations or any other purposes;

~~(5)~~5. ~~s~~Subdividing tracts of land;

~~(6)~~6. ~~c~~Constructing any sewer of stone, brick, concrete, terra cotta or other material;

(7)7. bBuilding, wrecking, repairing, remodeling, razing or demolishing any structures;

(8)8. mMoving any building;

(9)9. dDrilling, boring or digging a well.

(b)B. Every builder or developer engaging in any of the activities listed above in subsection A(a) in the eCounty on land or property owned, leased or otherwise controlled by said person shall pay an annual license tax of sixteen cents ($0.16) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year.

(c)C. All builders and developers are required to submit to the eCommissioner of the rRevenue a roster of all subcontractors within thirty (30) days from date of issuance of building permit, listing name, address and type of work to be performed.
(Ord. No. 96-17, 12-7-96)

§ 11-82. Reserved.

§ 11-83. Money lLenders; fFinancial sServices.

Every person engaging in any of the following financial service businesses shall pay an annual license tax of thirty-six cents ($0.36) for each one hundred dollars ($100.00) of gross receipts from the business during the preceding calendar year. This section does not apply to banks and building and loan associations.

Money lender.
Industrial loan company.
Loan agency.
Loan or mortgage company.
Loan or mortgage broker.
Factor.
Financing accounts receivable.
Inventory financing.
Installment financing.
Chattel mortgage financing.
Consumer sales financing.
Buying installment receivables.
Other financial services.

(Ord. No. 96-17, 12-7-96)
Editors Note: Ordinance No. 87-25, effective Jan. 1, 1988, repealed former § 11-83 and enacted, in lieu thereof, a new § 11-83 as herein set forth. The repealed provisions pertained to small loan companies and other money lending occupations and derived from Ord. Nos. 83-29 and 85-38.

§ 11-84. Reserved.
Editors Note: Former § 11-84, which contained the general business license tax schedule, was repealed by Ord. No. 87-25, effective Jan. 1, 1988. The repealed provisions derived from Ord. Nos. 82-39, 83-29, 85-38 and 86-27.

§ 11-85. Reserved.

§ 11-86. Qualified tTechnology bBusinesses.

A. Every person engaged in a qualified technology business as defined by Chapter 66 of the Arlington County Code in the Shirlington and Columbia Pike Corridor Technology Zones shall pay an annual license tax of

eighteen cents ($0.18) on each one hundred dollars ($100.00) of its previous year's gross receipts derived from the business that enables it to qualify, under Chapter 66 of the Arlington County Code, as a qualified technology business, and from the retail sale, licensing or use by others of products or services that result from the qualified technology business.

B. Every person engaged in a qualified technology business as defined by Chapter 66 of the Arlington County Code in the Downtown Technology Zones shall pay an annual license tax based on the business size as follows derived from the business that enables it to qualify, under Chapter 66 of the Arlington County Code, as a qualified technology business, and from the retail sale, licensing or use by others of products or services that result from the qualified technology business.

C. ~~(a)~~ Qualified businesses with between two hundred (200) and four hundred ninety-nine (499) employees prior to October 1, 2007, and with between one hundred (100) and four hundred ninety-nine (499) after July 7, 2007, will pay eighteen cents ($0.18) on each one hundred dollars ($100.00) of its previous year's gross receipts.

D. ~~(b)~~ Qualified businesses with between five hundred (500) and nine hundred ninety-nine (999) employees will pay fourteen cents ($0.14) on each one hundred dollars ($100.00) of its previous year's gross receipts.

E. ~~(c)~~ Qualified businesses with more than one thousand (1,000) employees will pay ten cents ($0.10) on each one hundred dollars ($100.00) of its previous year's gross receipts.

F. The tax rate provided in this section shall apply to a taxpayer for no more than ten (10) calendar tax years, including any partial tax years.
(Ord. No. 00-2, 2-1-00, Ord. No. 06-01, 1-21-06; Ord. No. 07-11, 9-8-07)

ARLINGTON COUNTY CODE

Chapter 12

SMOKING

§ 12-1. Definitions.
§ 12-2. Smoking ~~p~~Prohibited in ~~c~~Certain ~~a~~Areas.
§ 12-3. Exceptions.
§ 12-4. Designated ~~s~~Smoking ~~a~~Areas.
§ 12-4.1. Designated ~~n~~No-~~s~~Smoking ~~a~~Areas in ~~r~~Restaurants.
§ 12-5. Posting of ~~s~~Signs.
§ 12-6. Penalty.

§ 12-1. Definitions.

~~For the purpose of this article, 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:

~~(1)~~ "Food store" ~~shall~~ means any supermarket, grocery store, or other retail food store which is designed and arranged to display and sell food products to the general public for consumption off the premises,~~;~~ or which derives a substantial proportion of its income therefrom.

~~(2)~~ "Health care facility" ~~shall~~ means any office or institution providing individual care or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions including but not limited to hospitals, clinics, nursing homes, homes for the aging or chronically ill, laboratories, offices of any physician, dentist, psychologist, psychiatrist, physiologist, podiatrist, optometrist or optician.

~~(3)~~ "Person" ~~shall~~ means any person, firm, partnership, association, corporation, company or organization of any kind.

~~(4)~~ "Public meeting" ~~shall~~ means any meeting or assembly held in a public building or building leased for a public purpose which is open to the public for the conduct of the affairs of, and the transaction of business by, any legislative or administrative body or agency of the county, including boards, commissions, authorities, councils, committees, subcommittees, and other subordinate groups thereof, receiving or expending and supported in whole or in part by public funds.

~~(5)~~ "Retail store" ~~shall~~ means any establishment whose primary purpose is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise, articles or other things and all activities, operations and services connected therewith or incidental thereto. "Retail store" shall not include food stores, hotels, motels, restaurants, and those restaurant facilities which are an integral part of a retail store, bars, lounges, catering establishments and other similar facilities.

~~(6)~~ "Smoking or to smoke" ~~shall~~ means the act of smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind or lighting a cigar, cigarette or pipe of any kind.

~~(7)~~ "Theat~~r~~er" ~~shall~~ means any indoor facility, open to the public, which is primarily used for or designed for the purpose of exhibiting any motion picture, stage drama, musical recital, dance, lecture or other similar performance.

(4-29-78)

§ 12-2. Smoking ~~p~~Prohibited in ~~c~~Certain ~~a~~Areas.

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It shall be unlawful for any person to smoke in any of the following areas:

~~(1)~~A. In an elevator, regardless of capacity, except in those elevators in single-family dwellings.

~~(2)~~B. In any retail store in which more than eight (8) persons are regularly employed at any one ~~(1)~~ time.

~~(3)~~C. In any food store in which more than eight (8) persons are regularly employed at any one ~~(1)~~ time.

~~(4)~~D. In any health care facility, regardless of capacity but with the exception of private rooms.

~~(5)~~E. In any public meeting attended by more than eight (8) persons.

~~(6)~~F. In any theater, except smoking by performers as part of the production.

~~(7)~~G. In any art gallery, library, museum, or similar cultural facility, supported in whole or in part with public funds.

~~(8)~~H. In any elementary or secondary school building, whether public or private.

~~(9)~~I. In any indoor facility used for recreational purposes, supported in whole or in part with public funds.

~~(10)~~J. In the designated no-smoking area of any restaurant that is subject to the provisions of ~~section~~ § 12-4.1 of this chapter.

~~(11)~~K. In any building in which a Juvenile and Domestic Relations, General District or Circuit Court is located.

(4-29-78; Ord. No. 87-7, 5-1-87; Ord. No. 89-22, 8-12-89)

§ 12-3. Exceptions.

The prohibitions of this chapter shall not apply to the following:

~~(1)~~A. In lawfully designated smoking areas.

~~(2)~~B. In those areas of enclosed shopping centers or malls that are external to the retail stores and are used by customers as a route of travel from one store to another, and that consist primarily of walkways and seating arrangements.

~~(3)~~C. In an area of a theater commonly referred to as a lobby if physically separated from the spectator area.

~~(4)~~D. In the offices or work area not entered by the public in the normal course of business or use of the premises.

~~(5)~~E. During the hours in which the particular business or institution is not open to the public.

~~(6)~~F. In any tobacco shop or store primarily concerned with selling tobacco and smoking implements.

~~(7)~~G. In the in-patient sleeping quarter of any health care facility, except hospitals. Each such facility shall make a reasonable effort to assign patients to sleeping rooms according to the patient's individual nonsmoking or smoking preference.

~~(8)~~H. The sleeping quarters of nonambulatory hospital patients, when the physician writes an order in the patient's record allowing the patient to smoke. Each such facility shall make a reasonable effort

to assign patients to sleeping rooms according to the patient's individual nonsmoking or smoking preference.

(4-29-78)

§ 12-4. Designated ~~s~~Smoking ~~a~~Areas.

The owner or person in charge of any building, structure, space, place or area in which smoking is prohibited may designate separate rooms or areas in which smoking is permitted, provided that:

~~(1)~~A. Designation of such rooms or areas shall be reasonably separate from those rooms or areas entered by the public in or normal course of use of the particular business or institution.

~~(2)~~B. In designated smoking areas, existing physical barriers and ventilation systems shall be used when possible to minimize the toxic effect of smoke in adjacent nonsmoking areas.

~~(3)~~C. The smoking area shall be no more than twenty-five percent (25%) ~~percent~~ of the entire area in which smoking is prohibited.

(4-29-78)

§ 12-4.1. Designated ~~n~~No-~~s~~Smoking ~~a~~Areas in ~~r~~Restaurants.

~~(a)~~A. Any restaurant having a seating capacity for fifty (50) or more persons shall have a designated no-smoking area comprised of at least twenty-five percent (25%) ~~percent~~ of the seating capacity of such restaurant. The designated no-smoking area shall be located in a separate room if one is available in the restaurant or, if no separate room is available, it shall be located in a compact and contiguous area as far removed from areas where smoking is permitted as is reasonably possible, using the seating capacity of the room permitted by the building code and fire regulations.

~~(b)~~B. In determining whether a restaurant is subject to the provisions of ~~paragraph~~ subsection A~~(a)~~ above, the following shall not be included:

~~(1)~~1. Seats in the bar or lounge area of a restaurant.

~~(2)~~2. Seats in any separate room of a restaurant which is used exclusively for private functions.

(Ord. No. 87-7, 5-1-87; Ord. No. 92-46, 9-12-92)

§ 12-5. Posting of ~~s~~Signs.

Any person who owns, manages or otherwise controls any building, facility, room, area, or place in which smoking is prohibited, is required to post or cause to be posted conspicuously, signs at least five (5) inches in height, which read:

NO SMOKING

County Ordinance

Prohibits the Carrying

of Lighted Tobacco

Products of Any Kind

$25 Fine

The letters in the words "No Smoking" shall be at least one and one-half (1 1/2) inches in height.

(4-29-78)

§ 12-6. Penalty.

Any person violating any of the provisions of this chapter shall be fined up to twenty-five dollars ($25.00). Each day a violation of this chapter shall continue constitutes a separate violation. Any law enforcement officer may issue a summons regarding a violation of this chapter.
(4-29-78; Ord. No. 92-39, 8-8-92)

ARLINGTON COUNTY CODE

Chapter 13

MISSILES

§ 13-1. Definitions.
§ 13-2. Dealer's ~~l~~License--Required.
§ 13-3. Same--Application; ~~f~~Fee.
§ 13-4. Same--Issuance; ~~d~~Duration.
§ 13-5. Same--Revocation.
§ 13-6. Minors--Dealers ~~n~~Not to ~~s~~Sell, ~~l~~Lend, ~~e~~Etc., to.
§ 13-7. Same--Persons ~~g~~Giving, ~~l~~Lending, ~~e~~Etc., to.
§ 13-8. Same--Carrying in ~~p~~Public ~~p~~Places.
§ 13-9. Discharging across ~~h~~Highways, ~~s~~Sidewalks, ~~e~~Etc.
§ 13-10. Penalties.

§ 13-1. Definitions.

The following words and ~~phrases~~terms, when used in this chapter, shall have the following meanings ~~respectively ascribed to them in this section~~unless the context clearly indicates otherwise:

"Air gun" means any gun, rifle or pistol, by whatever name known, which is designed to expel a projectile by the action of compressed air or gas, or by the action of a spring or elastic, but does not mean a firearm.

"Dealer" means any person engaged in the business of selling at retail or renting air guns or projectiles therefor.

"Licensed dealer" means any person licensed under the provisions of this chapter, or any person regularly licensed to sell firearms.

"Minors" means any person under the age of eighteen (18) years.
(6-27-51)

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§ 13-2. Dealer's ~~l~~License--Required.

It shall be unlawful for any dealer, except a licensed dealer, to sell, lend, rent or otherwise transfer any air gun or projectile therefor.
(6-21-51)

§ 13-3. Same--Application; ~~f~~Fee.

Any dealer, other than a licensed dealer, ~~licensed to sell firearms~~ desiring license to sell, lend, rent or otherwise transfer air guns or projectiles therefor shall make application to the ~~c~~County ~~m~~Manager or ~~duly authorized representative of the county~~his designee, who shall provide the necessary forms. The applicant for such dealer's license shall pay a fee of five dollars ($5.00) per annum.
(6-27-51)

§ 13-4. Same--Issuance; ~~d~~Duration.

Upon payment of the fee required by the preceding section, the ~~c~~County ~~m~~Manager or ~~duly authorized representative~~his designee shall issue to such applicant a license to sell, lend, rent or otherwise transfer air guns or projectiles therefor, which license shall remain in force subject to annual payment of the license fee, unless and until

revoked in accordance with the provisions of this chapter; provided, that no license shall be issued to any applicant within two (2) years after the revocation of a previous license.
(6-27-51)

§ 13-5. Same--Revocation.

~~(a)~~A. Violation by a dealer of any of the provisions of this chapter shall be sufficient cause for the revocation of a license hereunder, after written notice to the dealer by the ~~c~~County ~~m~~Manager or ~~duly authorized representative~~his designee and an opportunity to be heard. The dealer shall have the privilege of being represented by counsel at such hearing.

~~(b)~~B. Final conviction of a violation of any provision of this chapter shall automatically revoke and terminate any license issued hereunder. Upon a finding and judgment by a trial court against any dealer that he has been guilty of a violation of any provision of this chapter, the license of such dealer shall be automatically suspended pending the final disposition of any appeal from such finding and judgment.
(6-27-51)

§ 13-6. Minors--Dealers ~~n~~Not to ~~s~~Sell, ~~l~~Lend, ~~e~~Etc., to.

It shall be unlawful for any licensed dealer to sell, lend, rent or otherwise transfer an air gun or projectiles therefor to any person whom the dealer knows or has reasonable cause to believe to be a minor.
(6-27-51)

§ 13-7. Same--Persons ~~g~~Giving, ~~l~~Lending, ~~e~~Etc., to.

It shall be unlawful for any person to give, sell, rent, lend or otherwise transfer any air gun or projectiles therefor to a minor, except where the relationship of parent and child, guardian and ward or adult instructor and pupil exists between such person and the minor.
(6-27-51)

§ 13-8. Same--Carrying in ~~p~~Public ~~p~~Places.

It shall be unlawful for any minor to carry any air gun on the streets, alleys, public roads or public lands of the ~~c~~County unless accompanied by an adult.
(6-27-51)

§ 13-9. Discharging across ~~h~~Highways, ~~s~~Sidewalks, ~~e~~Etc.

It shall be unlawful for any person to discharge any air gun across any street, sidewalk, alley or public road or within one hundred (100) yards of any such street, alley, sidewalk or public road, or public building, private residence or property of another, or on or across any public land except as provided in ~~section~~ § 17-5 of this Code.
(6-27-51)

§ 13-10. Penalties.

Any person violating any of the provisions of this chapter or any rules and regulations promulgated hereunder, or who makes any statement in applying for the license provided for in this chapter, knowing such statement to be false, or who falsely represents himself as being over eighteen (18) years of age in order to purchase or otherwise obtain an air gun or projectiles therefor, shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100.00) or by imprisonment for not more than thirty (30) days, or both; in addition, in the case of a dealer, to the revocation or suspension or the license provided for herein.
(6-27-51)

ARLINGTON COUNTY CODE

Chapter 14

RESERVED*

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* **Editors Note:** Ord. No. 92-33, adopted July 11, 1992, amended former Ch. 14, relative to motor vehicles and traffic, in its entirety to read as set out in Ch. 14.2 of this Code.

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ARLINGTON COUNTY CODE

Chapter 41.2

CABLE TELEVISION COMMUNICATIONS

§ 41.2-1. General ~~p~~Provisions.
§ 41.2-2. Definitions.
§ 41.2-3. Grant of ~~f~~Franchise.
§ 41.2-4. Applications for ~~i~~Initial ~~g~~Grant, ~~r~~Renewal, ~~e~~Extension, or ~~m~~Modification of a ~~f~~Franchise.
§ 41.2-5. Filing ~~f~~Fees.
§ 41.2-6. Provision of ~~c~~Cable ~~s~~Service, ~~q~~Quality of ~~c~~Cable ~~s~~Service.
§ 41.2-7. Design and ~~c~~Construction.
§ 41.2-8. Channels and ~~f~~Facilities for ~~p~~Public, ~~e~~Educational and ~~g~~Governmental ~~u~~Use, ~~l~~Leased ~~a~~Access.
§ 41.2-9. Consumer ~~p~~Protection.
§ 41.2-10. Rate ~~r~~Regulation.
§ 41.2-11. Franchise ~~f~~Fee.
§ 41.2-12. Reports and ~~r~~Records.
§ 41.2-13. Indemnification of the ~~c~~County and ~~r~~Residents.
§ 41.2-14. Performance ~~b~~Bond, ~~s~~Security ~~f~~Fund, ~~r~~Revocation and ~~t~~Termination ~~d~~Due to ~~b~~Bankruptcy.
§ 41.2-15. Transfers.
§ 41.2-16. Open ~~v~~Video ~~s~~Systems.
§ 41.2-17. Rights of ~~i~~Individuals ~~p~~Protected.
§ 41.2-18. Administration.
§ 41.2-19. Miscellaneous ~~p~~Provisions.

§ 41.2-1. General Provisions.

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~~(a)~~A. *Title*. This ~~C~~chapter shall be known and may be cited as the "County Cable Television Ordinance."

~~(b)~~B. *Purpose.*

~~(~~1.~~)~~ It is the policy of the Board to provide for the adequate, economical, and efficient delivery of Cable Service to Subscribers, and to protect Subscribers from excessive prices and unfair competition. The following purposes, among others, underlie the provisions set forth in this ~~C~~chapter:

~~(A)~~a. Cable Service should be available to as many County residents as possible.

~~(B)~~b. A Cable System should be capable of accommodating both present and reasonably foreseeable future cable-related needs of the County and its residents.

~~(C)~~c. A Cable System should be constructed and maintained during a Franchise term so that changes in technology may be integrated to the maximum extent possible into existing System facilities.

~~(D)~~d. A Cable System should be responsive to the needs and interests of the local community, and should provide the widest possible diversity of information sources and service to the public.

~~(E)~~e. A cable operator should pay fair compensation to the County for the use of local public

rights-of-way, and reimburse the County for costs and expenses incurred as a result of actions requested by a Franchisee for the benefit of the Franchisee.

(2.) The County intends that all provisions set forth in this Cchapter be construed to serve the public interest and the foregoing public purposes, and that any Franchise issued pursuant to this Cchapter be construed to include the foregoing public purposes as integral parts thereof.

(c)C. *Delegation of powers.* To the extent permitted by law, the Board may delegate the performance of any act, duty, or obligation, or the exercise of any power, under this Cchapter or under any Certificate issued pursuant hereto, to any County employee, officer, department or agency.
(Ord. No. 98-21, 6-20-98)

§ 41.2-2. Definitions.

(a) *Definitions and Uusage--General.* For the purposes of this Cchapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated the context clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number, words in the singular number include the plural number; and the masculine gender includes the feminine gender. The words "shall" and "will" are mandatory. The word "may" is permissive. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Title 47 of the United States Code, as amended, and, if not defined therein, words shall be given their common and ordinary meaning.

(b) "Access Channel": means Aany Channel on a Cable System set aside by a Franchisee for public, educational, or governmental use.

(c) "Administrator": means Tthe County Manager of Arlington County or his duly appointed designee(s).

(d) "Affiliate": means Aany Person who owns or controls, is owned or controlled by, or is under common ownership or control with a Franchisee.

(e) "Basic Service": means Aany service tier that includes the retransmission of all signals of locally-received television broadcast stations provided to any Subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the Cable System), any public, educational and governmental access signals, and any additional video programming signals added to the basic tier by a Franchisee.

(f) "Board": means Tthe County Board of Arlington County, Virginia.

(g) "Cable Act": means Tthe Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended from time to time.

(h) "Cable Programming Service": means Aany video programming provided over a Cable System, other than Basic Service and video programming offered on a pay-per-channel or pay-per-program basis.

(i) "Cable Service": means:

(1) The one-way transmission to Subscribers of video programming or other programming services; and

(2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service, including but not limited to Internet access.

(j) "Cable System", or "System": means Aa facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple Subscribers within the County, but such term

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does not include (i~~1~~) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; (ii~~2~~) a facility that serves Subscribers without using any Public Rights-of-Way; (iii~~3~~) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a Cable System if such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; (iv~~4~~) an open video system that complies with 47 U.S.C. § 573; or (v~~5~~) any facilities of any electric utility used solely for operating its electric utility system. A reference to a Cable System in this ~~C~~chapter refers to any part of such System, including, without limitation, Converters. The foregoing definition of "Cable System" shall not be deemed to circumscribe or limit the authority of the County to regulate or ~~f~~Franchise the activities of any other communications system or provider of communications services to the full extent permitted by law. Any Certificate issued to a Franchisee shall define the services which the Franchisee is authorized to provide using the Public Rights-of-Way.

~~(k)~~ "Certificate"~~:~~ means ~~A~~a certificate of public convenience and necessity entered into pursuant to this ~~C~~chapter between the County or the Board and a Franchise holder that sets forth the terms and conditions under which a Franchise will be granted and exercised.

~~(l)~~ "Channel"~~:~~ means ~~A~~a band of frequencies six (6) megahertz wide in the electromagnetic spectrum, which is capable of carrying either one standard audio-video television signal, a number of audio, digital or other non-video signals, or some combination of such signals.

~~(m)~~ "Converter"~~:~~ means ~~A~~an electronic device which may serve as an interface between a System and a Subscriber's television receiver, and which may convert signals to a frequency not susceptible to interference within the television receiver of a Subscriber, permit a Subscriber to view all signals delivered at designated dial locations and perform a variety of functions, including signal security, descrambling, and electronic polling.

~~(n)~~ "County"~~:~~ means Arlington County, Virginia, and any agency or department thereof.

~~(o)~~ "County Manager"~~:~~ means ~~T~~the administrative head of the County government or his designee.

~~(p)~~ "Customer"~~:~~ means ~~S~~same as "Subscriber".

~~(q)~~ "Educational Access Channel" or "Educational Channel"~~:~~ means ~~A~~any Channel on a Cable System set aside by a Franchisee for Noncommercial educational use.

~~(r)~~ "Equitable Price"~~:~~ means Fair Market Value adjusted downward for any economic harm or property damage sustained by the County or Subscribers as a result of a Franchisee's breach of its Franchise or any violation of this ~~C~~chapter, and as further adjusted to account for other equitable factors that may be lawfully considered by the County.

~~(s)~~ "Fair Market Value"~~:~~ means ~~T~~the price for a Cable System valued as a going concern, but with no value allocated to the Franchise itself.

~~(t)~~ "FCC"~~:~~ means ~~T~~the Federal Communications Commission, its designee, or any successor governmental entity thereto.

~~(u)~~ "Franchise"~~:~~ means ~~A~~a non-exclusive authorization granted pursuant to this ~~C~~chapter and applicable law to construct, operate, and maintain a Cable System within the Public Rights-of-Way to provide Cable Service within all or a specified area of the County. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the County as required by State or County laws, ordinances or regulations, or for attaching devices to poles or other structures, whether owned by the County or a private entity, or for excavating or performing other work in or along Public Rights-of-Way.

~~(v)~~ "Franchise Area"~~:~~ means ~~T~~the area of the County that a Franchisee is authorized to serve by its Certificate.

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(w) "Franchisee": means Aa natural Person, partnership, domestic or foreign corporation, stock or non-stock corporation, joint stock company, association, joint venture, limited liability company, professional limited liability company, or organization of any kind that has been granted a Franchise by the Board in accordance with the provisions of applicable law.

(x) "Governmental Access Channel" or "Governmental Channel": means Aany Channel on a Cable System set aside by a Franchisee for Noncommercial government use.

(y) "Gross Revenues": means Aany and all revenues, including cash, credits, property or other consideration of any kind or nature arising from, attributable to, or in any way derived directly or indirectly by a Franchisee, or its Affiliates, or by any other entity that is a cable operator of a Cable System, from the operation of a Franchisee's System (including the studios and other facilities associated therewith) to provide Cable Services. Gross Revenues include, by way of illustration and not limitation, monthly fees charged to Subscribers for any basic, optional, premium, per-channel, per-program service, or other Cable Service; including, without limitation, Internet access fees charged to Subscribers; installation, disconnection, reconnection, and change-in-service fees; Leased Access Channel fees; late fees and administrative fees; fees, payments, or other consideration received from programmers for carriage of programming on the System and accounted for as revenue under GAAP; revenues from rentals or sales of Converters or other equipment; any studio rental, production equipment, and personnel fees; advertising revenues; barter; revenues from program guides; revenues from the sale or carriage of other cable-related services; and revenues from home shopping, bank-at-home Channels and other revenue sharing arrangements. Gross Revenues shall include revenues received by an entity other than the Certificate Holder, an Affiliate, or another entity that operates the System where necessary to prevent evasion or avoidance of the obligation under this Cchapter or a Franchise to pay the franchise fee. Gross Revenues shall not include: (i) to the extent consistent with generally accepted accounting principles, actual bad debt write-offs not to exceed two percent (2%) of annual revenues, provided, however, that all or part of any such actual bad debt that is written off but subsequently collected shall be included in Gross Revenues in the period collected; or (ii) any taxes on services furnished by a Franchisee which are imposed directly on any Subscriber or user by the Commonwealth of Virginia, the County, or other governmental unit and which are collected by the Franchisee on behalf of said governmental unit. A franchise fee is not such a tax.

(z) "Installation": means Tthe connection of System services to Subscribers' television receivers or other Subscriber-owned or Subscriber-provided terminal equipment.

(aa) "Leased Access Channel" or "Commercial Access Channel": means Aany channel on a Cable System designated or dedicated for use by a Person unaffiliated with a Franchisee pursuant to 47 U.S.C. § 532.

(bb) "Noncommercial": means Nnot engaged in the promotion of particular products and services. This term, however, shall not be interpreted to prohibit Public, Educational and Governmental Access Channel operators from soliciting and receiving financial support to produce and transmit video programming on a Public, Educational or Governmental Access Channel, or from acknowledging a contribution.

(cc) "Normal Business Hours": means Tthe hours from 8:00 a.m. to 8:00 p.m., Monday through Friday, and 12 p.m. to 6 p.m. on Saturday.

(dd) "Normal Operating Conditions": means Tthose service conditions that are within the control of a Franchisee. Conditions that are deemed to be within the control of a Franchisee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular or reasonable anticipatable peak or seasonal demand periods, and maintenance or upgrade of a Cable System. Conditions that are deemed not to be within the control of a Franchisee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions.

(ee) "Person": means Aan individual, partnership, association, joint stock company, joint venture, domestic or foreign corporation, stock or non-stock corporation, limited liability company, professional limited liability company, or organization of any kind, or any lawful successor thereto or transferee thereof. Such term does not include the County.

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(ff) "Programmer": means Aany Person or entity that produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded traces or other storage media, to Users or Subscribers by means of a Cable System.

(gg) "Public Access Channel": means Aany Channel on a Cable System set aside by a Franchisee for Noncommercial use by the general public, including groups and individuals, and which is available for such use on a non-discriminatory basis.

(hh) "Public Rights-of-Way": means Tthe surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, avenue, boulevard, drive, concourse, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, easement, or similar property or waters within the County in which the County now or hereafter holds any property interest, including, but not limited to, any riparian right, which, consistent with the purposes for which it was created, obtained or dedicated, may be used for the purpose of installing, operating and maintaining a Cable System. No reference herein, or in any Certificate, to a "Public Right-of-Way" shall be deemed to be a representation or guarantee by the County that its interest or other right to control the use of such property is sufficient to permit use of the property for the purpose of installing, operating and maintaining a Cable System. A Franchisee shall be deemed to gain only those rights to use the property as are properly in the County, in its sole determination, and as the County may have the right and power to give.

(ii) "Security Fund": means Aa performance bond, letter of credit, cash deposit, set aside letter, or other form of security acceptable to the Administrator.

(jj) "Service Interruption": means Lloss of picture or sound on one or more cable channels, or a reduction in the quality of sound or picture of one or more channels below the average level of over-the-air broadcasts received within a one mile radius of a Subscriber's location.

(kk) "State": means Tthe Commonwealth of Virginia, its agencies and departments.

(ll) "Subscriber": means Aany Person who legally receives any service delivered over a Cable System.

(mm) "System Outage": means Aa Service Interruption affecting more than ten (10) Subscribers.

(nn) "Transfer": means Aany transaction in which (i) an ownership or other interest in a Franchisee, its Cable System, or any Person that is a cable operator of the Cable System is transferred from one Person or group of Persons to another Person or group of Persons so that control of a Franchisee is transferred; or (ii) the rights or obligations held by a Franchisee under a Certificate are transferred or assigned to another Person or group of Persons. The term "control," as used in this definition, means working control, in whatever manner exercised. By way of illustration, and not limitation, the addition, deletion, or other change of any general partner of a Franchisee, any Person who owns or controls a Franchisee, or a cable operator of a Cable System is such a change of control.

(oo) "User": means Aa Person or organization using a Channel or equipment and facilities for purposes of producing or transmitting signals.
(Ord. No. 98-21, 6-20-98)

§ 41.2-3. Grant of Franchise.

(a)A. *Grant.*

(1.) The Board may grant one or more cable Franchises, and each such Franchise shall be awarded in accordance with and subject to the provisions of this Cchapter and applicable law.

(2.) No Person may construct or operate a Cable System within Arlington County without a Franchise. No Person may be granted a Franchise without having been issued a Certificate by the Board pursuant to this Cchapter.

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~~(~~3.~~)~~ This ~~C~~chapter may be amended from time to time, and in no event shall this ~~C~~chapter be considered a contract between the ~~C~~county and a Franchisee or the Board and a Franchisee, such that the Board would be prohibited from exercising its legislative discretion to amend any provision of this ~~C~~chapter.

~~(b)~~B. *Term of ~~F~~franchise.* No Franchise shall be granted for a period of more than fifteen (15) years, except that a Franchisee may apply at any time for renewal, extension, or modification pursuant to applicable law.

~~(c)~~C. *Franchise ~~C~~characteristics.*

~~(~~1.~~)~~ A Franchise authorizes use of Public Rights-of-Way for installing cables, wires, lines, optical fiber, underground conduit, and other devices necessary and appurtenant to the operation of a Cable System to provide Cable Service within a Franchise Area, but does not expressly or implicitly authorize a Franchisee to provide service to, or install a Cable System on, private property without the owner's consent (except for use of compatible easements pursuant to ~~Section~~ § 621 of the Cable Act, 47 U.S.C. § 541(a)(2)), or to use publicly or privately owned conduits or any other public property without a separate agreement with the owners thereof.

~~(~~2.~~)~~ A Franchise shall constitute both a right and an obligation to provide the Cable Services regulated by the provisions of this ~~C~~chapter and a Certificate.

~~(~~3.~~)~~ A Franchise is non-exclusive and will not: explicitly or implicitly preclude the issuance of other Franchises to operate Cable Systems within the County; affect the County's right to authorize use of Public Rights-of-Way by other Persons to operate Cable Systems or for other purposes as the County deems appropriate; or affect the County's right to itself construct, operate, or maintain a Cable System, with or without a Franchise.

~~(~~4.~~)~~ All privileges prescribed by a Franchise shall be subordinate to (without limitation) the County's use and any prior lawful occupancy of the Public Rights-of-Way.

~~(~~5.~~)~~ The County reserves the right to reasonably designate where a Franchisee's facilities are to be placed within the Public Rights-of-Way and to resolve any disputes among users of the Public Rights-of-Way.

~~(d)~~D. *Franchisee ~~S~~subject to ~~O~~other ~~L~~laws, ~~P~~police ~~P~~power.*

~~(~~1.~~)~~ A Franchisee at all times shall be subject to and shall comply with all applicable federal, State, and local laws. A Franchisee at all times shall be subject to all lawful exercise of the police power of the County, including but not limited to all rights the County may have under 47 U.S.C. § 552. Nothing in a Certificate shall be deemed to waive the requirements of the various codes, ordinances, policies, rules, regulations, and practices of the County and the Board.

~~(~~2.~~)~~ No course of dealing between a Franchisee and the County, or any delay on the part of the County in exercising any rights hereunder, or any acquiescence by the County in the actions of a Franchisee that contravene any of the County's rights (except to the extent such rights are expressly waived by the County in writing), shall operate as a waiver of any such rights of the County.

~~(~~3.~~)~~ The County shall have the maximum authority to regulate Cable Systems, Franchisees, and Franchises as may now or hereafter be lawfully permissible; unless rights are expressly waived in a Certificate, they are hereby reserved, whether expressly enumerated or not.

~~(~~4.~~)~~ The County and the Board may, from time to time, issue such rules and regulations concerning Cable Systems as are consistent with, or authorized by, applicable law.

(5.) The County and the Board may do all things which are necessary and convenient in the exercise of its jurisdiction under this Cchapter.

(e)E. *Interpretation of Ffranchise Tterms.*

(1.) The provisions of this Cchapter and any Certificate or Franchise shall be liberally construed to effectuate the purposes and objectives of this Cchapter and the Franchise or Certificate, consistent with the public interest.

(2.) The terms of a Franchise or Certificate shall be subject to this Cchapter. In the event of a clear conflict between this Cchapter and a Certificate or Franchise, the terms of this Cchapter shall control.

(3.) Subject to federal law or regulation, a Certificate will be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

(f)F. *Operation of a Ccable Ssystem Wwithout a Ffranchise.* Any Person occupying the Public Rights-of-Way of the County for the purpose of operating or constructing a Cable System, which Person does not hold a valid Franchise from the County, shall be subject to all provisions of this Cchapter, including, but not limited to, those provisions regarding construction, technical standards and Franchise fees. The County at any time may require such Person to obtain a Certificate within thirty (30) days of receipt of a written notice from the County that a Certificate is required; require such Person to remove its property from the Public Rights-of-Way, and, at such Person's sole expense, restore the area to a condition satisfactory to the County within a reasonable time period as the County shall determine; remove the property itself and restore the area to a satisfactory condition and charge the Person the costs therefor; and/or take any other action permitted by law, including, but not limited to, filing for and seeking damages for trespass. In no event shall a Franchise be created unless it is issued by action of the Board and the Franchise terms are set forth in a Certificate.

(g)G. *Acts at Ffranchisee's Eexpense.* Any act that a Franchisee is or may be required to perform under this Cchapter, a Certificate, or applicable law shall be performed at the Franchisee's expense, unless expressly provided to the contrary in this Cchapter, a Certificate, or applicable law.

(h)H. *Eminent Ddomain.* Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the County's rights of eminent domain to the extent to which such rights may apply to any Cable System.
(Ord. No. 98-21, 6-20-98)

§ 41.2-4. Applications for Initial Grant, Renewal, Extension, or Modification of a Franchise.

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(a)A. *Application Rrequired.*

(1.) A written application shall be filed with the Administrator for the grant of an initial Franchise or modification of a Certificate pursuant to 47 U.S.C. § 545.

(2.) To be considered accepted for filing, a fully completed, signed original application, in a form prepared by or acceptable to the Administrator, shall be submitted as provided in this Ssection together with twelve (12) copies. The application shall be accompanied by any required filing fee, conform to any applicable request for proposals, and contain all information required by the County. All applications shall include the names and addresses of persons authorized to act on behalf of all applicants with respect to the application.

(3.) To the extent permitted by law, all applications accepted for filing shall be made available by the County for public inspection.

(b)B. *Application for Ggrant of an Iinitial Ffranchise.*

(1.) A Person may apply for an initial Franchise by submitting an application containing the information required in Section § 41.2-4.C(c) to the Administrator. Upon receipt of such an application, the Administrator may either (i) evaluate the application pursuant to Section § 41.2-4.B.4(b)(4), conducting such investigations as deemed necessary; or (ii) issue a Request for Proposals ("RFP"), after conducting, if necessary, a proceeding to identify the future cable-related needs and interests of the community. Any such RFP shall be mailed to any Person requesting its issuance and made available to any other interested Person. The RFP may contain a proposed Certificate.

(2.) An applicant shall respond to a RFP by filing a proposal with the Administrator within the time directed by the County, providing the information and material set forth in Section § 41.2-4.C(c). The procedures, instructions, and requirements set forth in the RFP shall be followed by each applicant. Any applicant that has already filed materials pursuant to Section § 41.2-4.B.1(b)(1) herein need not refile the same materials with its proposal, but shall clearly identify each portion of the previously filed materials that are intended to satisfy the RFP requirements. The applicant shall further amplify its application to include any additional or different materials required by the RFP. The Administrator may seek additional information from any applicant and establish deadlines for the submission of such information.

(3.) Notwithstanding the provisions of Section §§ 41.2-4.B.1(b)(1) and 41.2-4.B.2(b)(2), a Person may apply for an Initial Franchise by submitting an unsolicited application containing the information required in Section § 41.2-4.C(c) and requesting an evaluation of that application pursuant to Section § 41.2-4.B.4(b)(4). Prior to evaluating that application, the Administrator may conduct, or cause to be conducted, such investigations as are necessary to determine whether the application satisfies the standards set forth in Section § 41.2-4.B.4(b)(4) and may seek additional applications by RFP or otherwise.

(4.) In evaluating an application for a Franchise, the Administrator shall consider, among other things, the following factors:

(A)a. The extent to which the applicant has substantially complied with applicable law and the material terms of any existing cable Franchise for the County;

(B)b. Whether the quality of the applicant's service under any existing Franchise or similar grant in the County, including signal quality, response to customer complaints, billing practices, and the like, has been reasonable in light of the needs and interests of the communities served;

(C)c. Whether the applicant has the financial, technical, and legal qualifications to provide Cable Service;

(D)d. Whether the application satisfies any minimum requirements established by the County and is otherwise reasonable to meet the future cable-related needs and interests of the community, taking into account the cost of meeting such needs and interests;

(E)e. Whether, to the extent not considered under Section § 41.2-4.B.4.d(b)(4)(D), the applicant will provide adequate Public, Educational, and Governmental Access Channel capacity, facilities, or financial support;

(F)F. Whether issuance of a Franchise is in the public interest considering the immediate and future effect on the Public Rights-of-Way and private property that would be used by the Cable System, including the extent to which installation or maintenance as planned would require replacement of property or involve disruption of property, public services, or use of the Public Rights-of-Way; the effect of granting a Franchise on the ability of cable to meet the cable-related needs and interests of the community; and the comparative superiority or inferiority of competing applications; and

~~(G)~~g. What effects a grant of the application may have on competition in the delivery of Cable Service in the County.

~~(~~5.~~)~~ After evaluating a fully-completed application, including all additional information requested by the County, the Administrator shall transmit recommendations to the Board.

~~(~~6.~~)~~ If the Board finds that it is in the public interest to issue a Franchise after considering the factors set forth in ~~Section~~ § 41.2-4.B.~~4(b)(4)~~ and any other relevant factors permitted by law to be considered, and subject to the applicant's agreement to the terms of an appropriate Certificate, the Board shall issue a Franchise, after complying with the public hearing requirements of § 41.2-4.G~~(g)~~. If the Board denies the request for a Franchise, then the Board will issue a written decision explaining why the Franchise was denied. Prior to deciding whether or not to issue a Franchise, the Board may hold one (1) or more public hearings or implement other procedures under which comments from the public on an application may be received. The Board also may grant or deny a request for a Franchise based on its review of an application without further proceedings and may reject any application that is incomplete or fails to respond to an RFP. This ~~C~~chapter is not intended and shall not be interpreted to grant any applicant or existing Franchisee standing to challenge the denial of its application or the issuance of a Franchise to another.

~~(c)~~C. *Contents of ~~A~~application.* An RFP for the grant of an initial Franchise shall require, and any such application shall contain, at a minimum, the following information:

~~(~~1.~~)~~ The name, address and form of business of the applicant, and an identification of the ownership and control of the applicant, including: the names and addresses of the ten (10) largest holders of an ownership interest in the applicant and Affiliates of the applicant, and all Persons with five percent (5%)~~ percent~~ or more ownership interest in the applicant and its Affiliates; the Persons who exercise working control over the applicant and its Affiliates, and the Persons who control those Persons, to the ultimate parent; all officers and directors of the applicant and its Affiliates; and any other business affiliation and Cable System ownership interest of each named Person.

~~(~~2.~~)~~ A demonstration of the applicant's technical ability to construct and/or operate the proposed Cable System, including identification of key personnel.

~~(~~3.~~)~~ A demonstration of the applicant's legal qualifications to construct and/or operate the proposed Cable System, including but not limited to a demonstration that the applicant meets the following criteria:

~~(A)~~a. If the Board has lawfully denied an applicant's previous request for an initial Franchise or a Franchise renewal, then that applicant may not apply for an initial or renewal Franchise again until at least three (3) years have elapsed since the date of such lawful denial;

~~(B)~~b. The applicant shall not have had any cable television Franchise validly revoked by any franchising authority within three (3) years preceding the date of the submission of the application;

~~(C)~~c. The applicant shall have the necessary authority under Virginia law to operate a Cable System;

~~(D)~~d. The applicant shall have the necessary authority under federal law to hold the Franchise and operate a Cable System. An applicant shall have, or show that it is qualified to obtain, any necessary federal licenses or waivers required to operate the System proposed;

~~(E)~~e. The applicant is willing to enter into a Franchise, to pay required compensation, and to abide by the provisions of applicable law, including those relating to the construction,

operation or repair of its facilities, and has not entered into any agreement which would prevent the applicant from doing so;

~~(F)~~f. The applicant shall not be issued a Franchise if, at any time during the ten (10) years preceding the date of submission of the application, the applicant was convicted of any act or omission of such character that, in the sole opinion of the County, the applicant cannot be relied upon to deal truthfully with the County and the Subscribers of the Cable System, or to substantially comply with its lawful obligations under applicable law, including acts of moral turpitude, and obligations under consumer protection laws and laws prohibiting anticompetitive acts, fraud, racketeering, or other similar conduct;

~~(G)~~g. The applicant shall not be issued a Franchise if it files materially misleading information in its application or intentionally withholds information that the applicant lawfully is required to provide; and

~~(H)~~h. The applicant shall not be issued a Franchise if an elected official of the County has a personal interest in the Franchise, unless otherwise permitted by the Virginia State and Local Government Conflict of Interests Act, Va. Code §§ ~~2.1-639.1~~2.2-3100 through ~~639.24~~2.2-3131, or holds a controlling interest in the applicant or an Affiliate of the applicant.

Notwithstanding the foregoing, and to the extent permitted by applicable law, the Board shall provide an applicant with an opportunity to show that it would be inappropriate to deny it a Franchise by virtue of the particular circumstances surrounding the matter and the steps taken by the applicant to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of the applicant's principals, or the remoteness of the matter from the operation of Cable Systems.

~~(~~4.~~)~~ A demonstration of the financial qualifications of the applicant, including at least the following:

~~(A)~~a. The applicant's proposed rate structure, including projected charges for each service tier, Installation, Converters, and all other proposed equipment or services for the ensuing five (5) years;

~~(B)~~b. A certified statement prepared by a certified public accountant regarding the applicant's financial ability to complete the construction proposed, to meet the time frame proposed and to operate the Cable System proposed. If an applicant is a joint venture or partnership, the same information shall be provided for each participant in the joint venture or partnership; and

~~(C)~~c. Pro Forma financial projections for the proposed franchise term, including a statement of projected income, and a schedule of planned capital additions, with all significant assumptions explained in notes or supporting schedules.

~~(~~5.~~)~~ A description of the applicant's prior experience in Cable System ownership, construction, and operation, and an identification of each locality in which the applicant or any of its principals have, or have had, a cable Franchise or any interest therein, including the name, address and phone number of each local franchising authority and references from each authority.

~~(~~6.~~)~~ A written description and a detailed map of the exact area or areas of the County to be served by the proposed Cable System, including a description of the proposed Franchise Area's boundaries.

~~(~~7.~~)~~ A detailed description of the physical facilities proposed to be provided within Arlington County, which description shall include at least the following:

~~(A)~~a. A description of the channel capacity, technical design, performance characteristics,

headend, access (and institutional network) facilities and equipment;

~~(B)~~b. The location of the proposed System and System design, including a description of the miles of plant to be installed, and a description of the size of equipment cabinets, shielding and electronics that will be installed along the plant route, the power sources that will be used and a description of the noise, exhaust and pollutants, if any that will be generated by the operation of the same;

~~(C)~~c. A map of the route the Cable System will follow; a designation of the portions of the System that will be placed above-ground and portions that will be placed underground, and the construction techniques that the operator proposes to use in installing the System above-ground and underground; where applicable, a schedule for construction of the System, describing when and where construction will begin, how it will proceed, and when it will be completed; and the expected effect on right-of-way usage, including information on the ability of the Public Rights-of-Way to accommodate the proposed System, an estimate of the availability of space in conduits, and an estimate of the cost of any necessary rearrangement of existing facilities; and

d. A description, where appropriate, of how services will be converted from existing facilities to new facilities, and what will be done with existing facilities.

~~(~~8.~~)~~ A demonstration of how and when the applicant will reasonably meet the future cable-related needs and interests of the community, including descriptions of how the applicant will meet the needs described in any recent community needs assessment conducted by or for the County, and how and when the applicant will provide adequate Public, Educational, and Governmental Access Channel capacity, facilities, or financial support to meet the community's needs and interests.

~~(~~9.~~)~~ Copies of any agreements which an applicant has entered into or proposes to enter into with any other Person relating to the proposed System.

~~(~~10.~~)~~ If the applicant proposes to provide Cable Service to an area already served by an existing Cable Franchisee, a written description and a detailed map of the area where the overbuild would occur and the ability of the Public Rights-of-Way and other property that would be used by the applicant to accommodate an additional System.

~~(~~11.~~)~~ To the extent an applicant is in any respect relying on the financial or technical resources of another Person, including an Affiliate, the proofs required under ~~Sections~~ §§ 41.2-4.C.2~~(c)(2)~~ and 41.2-4.C.4~~(c)(4)~~ shall be provided for that Person.

~~(~~12.~~)~~ Any other information that the Administrator determines is reasonably necessary to demonstrate compliance by the applicant with the requirements of this ~~C~~chapter.

~~(~~13.~~)~~ Any additional information that the Administrator or the Board may request of the applicant that is relevant to the County's consideration of the application.

~~(~~14.~~)~~ An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, acknowledging the enforceability of application commitments, and certifying that the application meets all federal and State law requirements.

~~(~~15.~~)~~ A declaration that no Person not shown in the application has, or without the prior written consent of the Board, will have, any equity interest in the Franchise exceeding five percent (5%) ~~percent~~.

~~(~~16.~~)~~ A declaration that the applicant agrees to comply with this ~~C~~chapter, and will abide by the Board's decision to grant or deny a Franchise.

~~(d)~~D. *Application for ~~G~~grant of a ~~R~~renewal ~~F~~franchise or ~~E~~extension.*

~~(~~1.~~)~~ If neither a renewal applicant nor the County activates in a timely manner or can activate the renewal process set forth in 47 U.S.C. § 546(a)-(g) (including, for example, if the provisions are amended or repealed), and except as to applications submitted pursuant to 47 U.S.C. § 546(h), the provisions of ~~Sections~~ ~~§§~~ 41.2-4.A~~(a)~~--C~~(c)~~ shall apply and a renewal request shall be evaluated using the same criteria as any other request for a Franchise. The following requirements shall apply to renewal requests properly submitted pursuant to the Cable Act and this ~~C~~chapter.

~~(~~2.~~)~~ If the provisions of 47 U.S.C. § 546(a)-(g) are properly invoked, the County shall issue an RFP after conducting a proceeding to: (i) review the renewal applicant's past performance; and (ii) identify the County's future cable-related community needs and interests. The Administrator shall establish deadlines and procedures for responding to the RFP, may seek additional information from the applicant, and shall establish deadlines for the submission of that additional information. Following receipt of the application responding to the RFP (and such additional information as may be provided in response to requests by the County), the Board shall determine that the Franchise should be renewed, or make a preliminary assessment that the Franchise should not be renewed. This determination shall be made in accordance with the time limits established by the Cable Act. The preliminary determination shall be made by Resolution. If the Board determines that the Franchise should not be renewed, and the applicant that submitted the renewal application notifies the County, either in its RFP response or within thirty (30) days of the preliminary assessment, that the applicant wishes to pursue any rights to an administrative proceeding it has under the Cable Act, then the County shall commence an administrative proceeding after providing prompt public notice thereof, in accordance with the Cable Act. If the Board decides preliminarily to grant renewal, the Administrator shall prepare a final Certificate that incorporates, as appropriate, the commitments made by the applicant in the renewal application. If the applicant accepts the Certificate, and the final Certificate is ratified by the Board in accordance with applicable laws and procedures including, but not limited to, the public hearing requirements of § 41.2-4.G~~(g)~~, the Franchise shall be renewed. If the Certificate is not so accepted and ratified within the time limits established by 47 U.S.C. § 546(c)(1), renewal shall be deemed preliminarily denied, and an administrative proceeding commenced, if the applicant that submitted the renewal application requests a proceeding within thirty (30) days of the expiration of the time limit established by 47 U.S.C. § 546(c)(1).

~~(~~3.~~)~~ If an administrative proceeding is commenced pursuant to 47 U.S.C. § 546(c), the applicant's renewal application shall be evaluated considering such matters as may be considered consistent with federal law. The following procedures shall apply:

~~(A)~~a. The Board shall, by Resolution, appoint an administrative hearing officer or officers (referred to hereafter as "hearing officer"). The Board may appoint itself as hearing officer. The hearing officer shall conduct a formal administrative hearing at which the County and the applicant shall have the right to present evidence.

~~(B)~~b. The hearing officer shall establish a schedule for the hearing which allows for documentary discovery and interrogatory responses, production of evidence, and cross-examination of witnesses. Depositions shall not be permitted unless the party requesting the deposition shows that documentary discovery and interrogatory responses will not provide it with an adequate opportunity to require the production of evidence necessary to present its case. The hearing officer shall have the authority to require the production of evidence as the interests of justice may require, including the right to require the production of evidence by the applicant that submitted the renewal application and any entity that owns or controls or is owned or controlled by, or under common control with, such applicant directly or indirectly. The hearing officer may issue protective orders, but shall not prohibit discovery on the ground that evidence sought is proprietary or involves business secrets. Any order may be enforced by a court of competent jurisdiction or by imposing appropriate sanctions in the administrative hearing.

~~(C)~~c. The hearing officer may conduct a prehearing conference and establish appropriate prehearing orders. Intervention by non-parties is not authorized, except to the extent required by the Cable Act.

~~(D)~~d. The hearing officer shall require the County and the applicant to submit prepared testimony prior to the hearing. Unless the parties agree otherwise, the applicant shall present evidence first, the County shall present evidence second, and the applicant shall then have an opportunity for rebuttal.

~~(E)~~e. Any reports or the transcript or summary of any proceedings conducted pursuant to 47 U.S.C. § 546(a) shall, for purposes of the administrative hearing, be regarded no differently than any other evidence. The County and the applicant shall be afforded full procedural protection regarding evidence related to these proceedings, including the right to refute any evidence introduced in these proceedings or sought to be introduced by the other party. Both parties shall have the opportunity to submit additional evidence related to issues raised in the proceeding conducted pursuant to 47 U.S.C. § 546(a).

~~(F)~~f. Following completion of any hearing, the hearing officer shall require the parties to submit proposed findings of fact with respect to the matters that the County is entitled to consider in determining whether renewal ought to be granted. Based on the record of the hearing, the hearing officer thereafter shall prepare written findings with respect to those matters the County may consider, and submit those findings to the Board and to the parties (unless the hearing officer is the Board, in which case the written findings shall constitute the final decision of the County).

~~(G)~~g. If the hearing officer is not the Board, the parties shall have thirty (30) days from the date the findings are submitted to the Board to file exceptions to those findings. The Board shall thereafter issue a written decision granting or denying the application for renewal, consistent with the requirements of the Cable Act and based on the record of the entire administrative proceeding, including, without limitation, the RFP, the response to the RFP, the formal hearing, the findings of fact, and any exceptions to the findings of fact. A copy of the final decision of the Board shall be provided to the applicant.

~~(H)~~h. In conducting the proceedings, the hearing officer will apply such procedures and requirements as may be necessary in the interest of justice.

~~(~~4.~~)~~ Notwithstanding the above, a cable operator may submit an application for renewal of a Franchise pursuant to 47 U.S.C. § 546(h). Such a proposal may be submitted at any time and the Board may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings have been commenced in accordance with 47 U.S.C. § 546(a)). An informal renewal application may be denied for any reason. If an informal renewal application is granted, then the steps specified in subsections D.2~~(d)(2)~~ and D.3.~~d(3)~~(a--g) of this ~~S~~section need not be taken, notwithstanding the provisions of those subsections.

~~(~~5.~~)~~ The provisions of this ~~Section~~ § 41.2-4.D~~(d)~~ shall be read and applied so that they are consistent with Section 626 of the Cable Act, 47 U.S.C. § 546.

~~(e)~~E. *Extension of a ~~F~~franchise*. If a Franchisee is requesting a Franchise extension of more than twelve (12) months, the Franchisee shall submit an application to the Administrator that contains all of the information required by § 41.2-4.C~~(e)~~ of this Chapter. If a Franchisee is requesting a Franchise extension of twelve (12) months or less, the foregoing application requirement shall not apply, and the Franchisee shall only file a written request with the Administrator that (i) explains the reason(s) for the proposed extension and (ii) describes any proposed terms and conditions.

~~(f)~~F. *Application for ~~M~~modification of a ~~F~~franchise*.

~~(~~1.~~)~~ An application for modification of a Certificate shall include, at minimum, the following information:

~~(A)~~a. The specific modification requested;

~~(B)~~b. The justification for the requested modification, including the impact of the requested modification on Subscribers and others, and the financial impact on the applicant if the modification is approved or disapproved, demonstrated through, inter alia, submission of pro forma financial statements;

~~(C)~~c. A statement indicating whether the modification is sought pursuant to ~~Section~~ § 625 of the Cable Act, 47 U.S.C. § 545, and, if so, a demonstration that the requested modification meets the standards set forth in 47 U.S.C. § 545;

~~(D)~~d. Any other information that the applicant believes is necessary for the County to make an informed determination on the application for modification; and

~~(E)~~e. An affidavit or declaration of the applicant or authorized officer certifying the truth and accuracy of the information in the application, and certifying that the application is consistent with the requirements of applicable law.

~~(~~2.~~)~~ A request for modification submitted pursuant to 47 U.S.C. § 545 shall be considered in accordance with the requirements of that section.

~~(g)~~G. *Public ~~H~~hearings.* An applicant for an initial Franchise, or modification or renewal of an existing Franchise, shall be notified of any public hearings held in connection with the evaluation of its application and shall be given an opportunity to be heard. In addition, prior to the issuance of a Franchise, the Board shall provide for the holding of a public hearing, following reasonable notice to the public, at which every applicant and its applications shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard.

~~(h)~~H. *Acceptance of ~~F~~franchise.* Following approval by the Board, any Franchise granted pursuant to this ~~C~~chapter, and the rights, privileges and authority granted by a Certificate, shall take effect and be in force from and after the first date on which both the Franchisee and the County have accepted and signed the Certificate.
(Ord. No. 98-21, 6-20-98)

§ 41.2-5. Filing ~~f~~Fees.

To be acceptable for filing, an application for an initial Franchise, a renewal Franchise, a Transfer, a Franchise modification or a Franchise extension shall be accompanied by a nonrefundable filing fee, payable to the Treasurer of Arlington County, Virginia, in the following amount or the maximum amount permitted by law, whichever is greater, to cover costs incidental to the award, renewal, modification, or extension of a ~~f~~Franchise, as appropriate:

~~(a)~~A. For an initial Franchise:

~~(i)~~1. A request for issuance of an RFP: five thousand dollars ($5,000.00)

~~(ii)~~2. A Response to an RFP or an unsolicited application: five thousand dollars ($5,000.00)

~~(b)~~B. For an existing Franchise:

~~(i)~~1. For renewal of a Franchise: ten thousand dollars ($10,000.00)

~~(ii)~~2. For modification of a Certificate: five thousand dollars ($5,000.00)

~~(iii)~~3. For review of a Transfer: five thousand dollars ($5,000.00)

~~(iv)~~4. For extension of a Franchise for a period greater than twelve (12) months: seven thousand and five hundred dollars ($7,500.00)

In addition to the foregoing initial filing fees, an applicant shall reimburse the County for the actual costs and expenses incurred by the County that are related to, or arise in the course of, reviewing and processing of each application described in subsections A~~(a)~~ and B~~(b)~~ above, including the costs of legal, engineering, accounting and other consultants retained by the County, or services obtained by the County, to assist in reviewing the application. The Franchisee shall reimburse the County for any such costs within thirty (30) days of receipt of an invoice from the County.
(Ord. No. 98-21, 6-20-98)

§ 41.2-6. Provision of Cable Service, Quality of Cable Service.

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~~(a)~~A. *Provision of ~~S~~service.* In addition to satisfying such requirements as may be established in a Franchise, every Franchisee shall operate its Cable System subject to the following conditions, except as prohibited by federal law:

~~(~~1.~~)~~ It is the policy of the County that every Franchisee shall provide service throughout its Franchise Area upon request to any Person. Service shall be provided within the time limits specified in ~~Section~~ § 41.2-6.A.2~~(a)(2)~~.

~~(~~2.~~)~~ Except as a Franchise otherwise provides, a Franchisee shall extend service to any Person or to any government building in the Franchise Area which requests it within seven (7) business days of the request.

~~(~~3.~~)~~ Upon the request of the County, every Franchisee shall provide the following, free of charge, to: (i) each floor of all buildings, or portions thereof, in its Franchise Area that are owned or leased by the County or the Arlington County Public Schools; (ii) all public institutions of higher education in the County; and (iii) all certified K--12 schools in the County:

~~(A)~~a. ~~a~~At least one (1) service drop and outlet;

~~(B)~~b. ~~a~~At least one (1) Converter, which shall be replaced with a digital Converter, as necessary, to receive Basic Service and Cable Programming Service; and

~~(C)~~c. ~~a~~Activated Basic Service and Cable Programming Service.

~~(b)~~B. *Quality of ~~S~~service.*

~~(~~1.~~)~~ To the extent permitted by law, a Franchisee's Cable System within the County shall meet or exceed the technical standards set forth in 47 C.F.R. § 76.601, et seq., and any other applicable technical standards.

~~(~~2.~~)~~ A Franchisee shall perform, at its sole cost, all tests necessary to demonstrate compliance with the requirements of a Certificate and other technical and performance standards established by applicable law. Unless a Certificate or applicable law provides otherwise, all tests shall be conducted in accordance with federal rules and in accordance with the most recent edition of the National Cable Television Association's "Recommended Practices for Measurements on Cable Television Systems," or such other manual as may be directed under FCC regulations. A written report of any test results shall be filed with the County within fourteen (14) days of a request by the Administrator. If a location fails to meet technical or performance specifications, the Franchisee, without requirement of additional notice or request from the County, shall promptly take corrective action, and retest the locations.

~~(c)~~C. *Interconnection.*

~~(~~1.~~)~~ A Franchisee shall design its Cable System so that it may be interconnected with other Cable Systems or similar communications systems in the area. Interconnection of systems may be made by direct cable connection, microwave link, satellite or other appropriate methods. A Franchisee shall cooperate with any interconnection corporation, regional interconnection authority, or state or federal regulatory agency which may be hereafter established for the purpose of regulating, facilitating, financing or otherwise providing for the interconnection of communications systems beyond the boundaries of the County.

~~(~~2.~~)~~ Upon receiving the directive of the County to interconnect, a Franchisee shall immediately initiate negotiations with the other affected system or systems. The County may grant reasonable extensions of time to interconnect or rescind its request to interconnect upon petition by a Franchisee to the County.

~~(~~3.~~)~~ No interconnection shall take place without notice to the County, and a demonstration that all signals to be interconnected will comply with applicable FCC technical standards for all classes of signals.

~~(d)~~D. *System ~~M~~maintenance*. Scheduled maintenance shall be performed by a Franchisee so as to minimize the effect of any necessary interruptions of Cable Service.

~~(e)~~E. *Continuity of ~~S~~service.*

~~(~~1.~~)~~ It is the right of all Subscribers in a Franchise Area to continuously receive all available services from a Franchisee as long as their financial and other obligations to the Franchisee are satisfied.

~~(~~2.~~)~~ A Franchisee shall ensure that all Subscribers receive continuous and uninterrupted service. At the County's request, a Franchisee shall, as trustee for its successor in interest, operate its System for a temporary period (the "Transition Period") following the termination or revocation of its Franchise, as necessary to maintain service to Subscribers, and shall cooperate with the County to assure an orderly transition from the existing Franchisee to the successor Franchisee.

~~(~~3.~~)~~ During such Transition Period, a Franchisee shall neither sell any of the System assets, nor make any physical, material, administrative or operational change that would tend to reduce the quality of service to Subscribers, decrease the System's income, or materially increase expenses, without the express written permission of the County.

~~(~~4.~~)~~ The County may seek legal and/or equitable relief to enforce the provisions of this ~~S~~section.

~~(~~5.~~)~~ The Transition Period shall be no longer than the reasonable period required to ensure that Cable Service will be available to Subscribers, and shall be no longer than thirty-six (36) months, unless extended by the Board for good cause. During the Transition Period, a Franchisee will continue to be obligated to comply with the terms and conditions of its Franchise, this ~~C~~chapter, and applicable laws and regulations.

~~(~~6.~~)~~ If a Franchisee abandons its System during the Franchise term, or fails to operate its System in accordance with the terms of its Franchise during any Transition Period, the County, at its option, may (i) operate the System, (ii) designate another entity to operate the System temporarily until the Franchisee restores service under conditions acceptable to the County or until the Franchise is revoked and a new Franchisee designated by the Board is providing service, or (iii) obtain an injunction requiring the Franchisee to continue operations. If the County is required to operate or designate another entity to operate the Cable System, the Franchisee shall promptly reimburse the County or its designee for all reasonable costs and damages incurred that are in excess of the revenues from the Cable System.

~~(~~7.~~)~~ The County shall be entitled to injunctive relief under the preceding paragraph if:

~~(A)~~a. The Franchisee fails to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area for ninety-six (96) consecutive hours, unless the County authorizes a longer interruption of service or the failure is due to force majeure, as characterized in a Franchise ; or

~~(B)~~b. The Franchisee, for any period, willfully, and without cause refuses to provide Cable Service in accordance with its Franchise over a substantial portion of the Franchise Area.

(Ord. No. 98-21, 6-20-98)

§ 41.2-7. Design and Construction.

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~~(a)~~A. *System ~~C~~construction ~~S~~schedule.* Every Certificate shall specify the construction schedule that will apply to any required construction, upgrade, or rebuild of the Cable System. The schedule shall provide for prompt completion of the construction, upgrade or rebuild, considering the amount and type of work required, and shall show areas of the County that will be affected.

~~(b)~~B. *Construction ~~P~~procedures.*

~~(~~1.~~)~~ The construction, operation and repair of Cable Systems are subject to, and shall be performed in strict compliance with, all federal, State and County laws, ordinances, rules and regulations, policies, and practices. In addition, the construction, operation and repair of Systems shall be performed in a manner consistent with high industry standards. Persons engaged in the construction, operation or repair of Cable Systems shall exercise reasonable care in the performance of all their activities, and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injury, or nuisance to the public or to property.

~~(~~2.~~)~~ Every System, and all parts thereof, shall be subject to the right of periodic inspection and testing by the County to determine compliance with the provisions of this ~~C~~chapter, a Certificate, and other applicable law. The County shall have the right, upon request, to be notified and to be present when a System is tested by a Franchisee. Each Franchisee shall respond to requests for information regarding its System and its plans for the System as the County may from time to time issue, including requests for information regarding its plans for construction, operation, and repair, and the purposes for which the plant is being constructed, operated or repaired.

~~(~~3.~~)~~ Construction, operation or repair of a Cable System shall not commence until written permits have been properly filed for and obtained from the proper County officials and required permit and associated fees are paid. In any permit so issued, the County may impose, as a condition of the granting of the permit, such conditions and regulations as may be necessary to the management of the Public Rights-of-Way, including, by way of example and not limitation, conditions and regulations for the purpose of protecting any structures in the Public Rights-of-Way, for the proper restoration of such Public Rights-of-Way and structures, and for the protection of the County, the public and the continuity of pedestrian and vehicular traffic. A Franchisee may immediately begin emergency repairs without a written permit; provided that the Franchisee notifies the County of such repairs no later than the next business day following the commencement of the repair work, and then applies for all necessary permits in accordance with applicable procedures. The notice provided to the County shall clearly identify the location of the emergency work, and explain why such work was necessary.

~~(~~4.~~)~~ Cable System operators shall follow County requirements for placement of facilities in Public Rights-of-Way, including the specific location of facilities in the Public Rights-of-Way, and shall in any event install facilities in a manner that minimizes interference with the use of the Public Rights-of-Way by others, including others that may be installing Cable Systems, other communications facilities, or utilities. With respect to a particular construction, repair or maintenance project, the County may establish conditions on the time, place, and manner in which

work is done; may deny access if the operator is not willing to comply with the County's requirements; may remove any facility that is not installed in compliance with the requirements established by the County, or which is installed without prior County approval of the time, place, or manner of installation, and charge the operator for all the costs associated with removal; and may require a Person using the Public Rights-of-Way to cooperate with others to minimize adverse impacts on the Public Rights-of-Way through joint trenching and other arrangements. The County shall have the right to inspect all facilities being placed underground. A Franchisee shall provide notice to the appropriate County official that construction of underground facilities has been completed at least forty-eight (48) hours before they are covered. It shall be the operator's responsibility to comply with the terms of any applicable permit. The County shall have the right to require an operator to reopen a trench or other underground installation if any facilities are covered before the County has inspected them.

(5.) Upon order of the Administrator, all work which does not comply with the permit, the approved plans or specifications for the work, or the requirements of this Cchapter, the Franchise, or other applicable law, shall be promptly removed by the Franchisee at its expense.

(6.) Every Franchisee shall make available to other Franchisees, at a reasonable, non-discriminatory rental rate, any conduit installed after the effective date of this Cchapter for which the Franchisee has no present or reasonably foreseeable use. Any conduit provided to other Franchisees pursuant to this provision may be reclaimed upon sixty (60) days' notice that the Franchisee has a need for the conduit. In a Certificate, the County may require as a condition of issuing any Public Right-of-Way permit for underground conduit, the installation of which requires excavation of or along any traveled way, that the Franchisee emplace conduit, in excess of its present and reasonably foreseeable requirements, for the purpose of accommodating other franchisees for a reasonable charge.

(7.) Each Franchisee that places facilities underground shall be a member of the One Call Notification System (otherwise known as "Miss Utility") and shall field mark the locations of its underground facilities upon request. Throughout the term of a Franchise, a Franchisee shall locate its facilities for the County at no charge to the County.

(8.) To the extent possible, a Franchisee shall use existing poles and conduit in installing its Cable System. In no case may additional poles or other structures be installed in the Public Rights-of-Way or on any public property without the prior permission of the County. Any Person who is permitted to install poles shall lease capacity on those poles to others, at a rate not higher than the rate that would be permitted if 47 U.S.C. § 224 applied.

(9.) No tree trimming shall be performed without the permission of the County and other affected authorities. Any tree trimming shall be performed in strict accordance with this Code and all County rules, regulations, policies and procedures.

(10.) At the expiration of the term for which a Franchise is granted, or upon the expiration of any renewal or extension period which may be granted, or upon the termination or revocation of a Certificate, the County will have the right to require a Franchisee, at its sole expense: (i) to remove all portions of its Cable System from all Public Rights-of-Way within the County; and (ii) to restore affected sites to their original condition. Should a Franchisee fail, refuse, or neglect to comply with the County's directive, all portions of the Franchisee's Cable System, or any part thereof, may be removed, altered or relocated by the County at the cost of the Franchisee. The County will not be liable to a Franchisee for damages resulting from such removal, alteration or relocation.

(11.) The County shall have the right to install and maintain, free of charge upon any poles or in any conduit or duct owned by a Franchisee, any wire and pole fixtures that do not unreasonably interfere with Cable System operations of a Franchisee. A Franchisee shall notify the County when the Franchisee enters into an agreement for the use of its poles, ducts and conduits. Such

notice shall specify the name, telephone number and address of the party that will be using the Franchisee's poles, ducts and conduits. Copies of agreements for the use of a Franchisee's conduits, ducts or poles in the Public Rights-of-Way or on other public property shall be available for review by the County upon request. A Franchisee shall not enter into such an agreement with a third party unless that person has represented that it has the requisite authority to occupy or otherwise use the affected Public Rights-of-Way or public property.

(12.) Work by or on behalf of a Franchisee concerning installation, replacement or removal of a Cable System, or any part thereof, shall be publicized by the Franchisee, at its cost, in the manner and at the times the Administrator periodically may direct.

(c)C. *Use of Ppublic and Pprivate Pproperty.*

(1.) Should the grades or lines of the Public Rights-of-Way that a Franchisee is authorized by a Franchise to use and occupy be changed at any time during the term of a Franchise, the Franchisee shall, if necessary, as determined by the County, relocate or change its System, at its own cost and expense, so as to conform with the new grades or lines.

(2.) Any alteration to any water and sewage mains or lines, to any drainage system or to any structures in the Public Rights-of-Way, on public property, or on private property, which alteration is required on account of the presence of a Franchisee's System in the Public Rights-of-Way or on such public property or private property, shall be made at the sole cost and expense of the Franchisee. During any work of constructing, operating or maintaining of a System, a Franchisee shall protect all existing structures belonging to the County and any other Person. The County may prescribe the manner in which a Franchisee shall perform any such work performed within the Public Rights-of-Way, on public property, or on private property.

(3.) Unless otherwise specified in a Franchise, all System facilities shall be constructed, installed, and located in accordance with all applicable laws, ordinances, regulations and policies, and in accordance with the following terms and conditions:

(A)a. Consistent with § 41.2-7.B.6(b)(6), System facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility.

(B)b. Poles, underground conduits, ducts or other wireholding structures shall not be installed in the Public Rights-of-Way or on other County property without the written permission of the County, or on the property of any third party without the written permission of the owner, except when a Franchisee has a legal right to place facilities on private property without permission of the owner.

(C)c. Whenever any existing telephone, electric utility, Cable System, or other similar facilities are located underground within a certain portion of the Public Rights-of-Way, a Person installing another Cable System also shall place its facilities in that portion of the Public Rights-of-Way underground.

(D)d. Whenever all existing telephone, electric utility, or communications facilities are to be located or relocated underground within a portion of the Public Rights-of-Way specified by the County, Franchisees that then occupy that portion of the Public Rights-of-Way shall concurrently relocate their respective facilities underground, at their own expense, and shall not assess their Subscribers any direct charges for the costs of required construction outside the approved rate structure. The expenses incurred by a franchisee pursuant to this provision may be considered external costs under the FCC's rate regulation rules.

(4.) All Public Rights-of-Way, public property, or private property that is disturbed or damaged during the construction, operation or repair of a Cable System shall be promptly repaired, at its own cost

and expense, by the franchisee that disturbed or damaged the Public Rights-of-Way, public property or private property.

(d)D. *Interference with Ppublic Pprojects; Rrelocation of Ffacilities.*

(1.) Nothing in this Cchapter or any Certificate shall be in preference to, or in hindrance of, the right of the County, the Board or any board, authority, commission or public service corporation to perform or carry on any public works or public improvements of any description. Should a Franchisee's System in any way interfere with the construction, maintenance or repair of any public works or public improvements, the Franchisee shall, at its sole cost and expense, protect or relocate its System, or part thereof, as directed by the County, the Board, the Administrator or any County official, board, authority, or commission.

(2.) If any Person that is authorized to place facilities in the Public Rights-of-Way requests a Franchisee to protect, support, temporarily disconnect, remove, or relocate its facilities to accommodate the construction, operation, or repair of the facilities of such other Person, the Franchisee shall, after thirty (30) days' advance written notice, take action to effect the necessary changes requested. If the requested action is necessary to address an emergency that, in the opinion of the County, might affect the public health, safety or welfare, then the Franchisee shall take immediate action upon receipt of notice of the request to complete the requested action. Unless the matter is governed by a valid contract, a local ordinance, regulation or policy, or a State or federal law or regulation, or in other cases where the System that is being requested to move was not properly installed, the reasonable cost of the same shall be borne by the party requesting the protection, support, temporary disconnection, removal, or relocation and performed at no charge to the County.

(3.) A Franchisee shall, at the request of any Person holding a valid permit issued by a governmental authority, temporarily raise or lower its wires to permit the temporary or permanent moving of buildings, structures, equipment of whatever nature, or other objects. With the exception of the County, the expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same. A Franchisee shall be given not less than forty-eight (48) hours' advance notice to arrange for such temporary wire changes.

(e)E. *Permits.* A Franchisee shall be required to obtain permits for the installation of its facilities in the Public Rights-of-Way, as required by any applicable provision of the County Code. A Franchisee shall also be required to obtain any other applicable permits that may be required by the County or any other entity having jurisdiction.
(Ord. No. 98-21, 6-20-98)

§ 41.2-8. Channels and Facilities for Public, Educational and Governmental Use, Leased Access.

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(a)A. *Management of Cchannels.* The Board may designate one (1) or more entities, including a non-profit community access corporation, to perform any or all of the following functions:

(1.) tTo manage any necessary scheduling or allocation of capacity on the institutional network; and/or

(2.) oOn the County's behalf, to program any public, educational or governmental Access Channel. Until such entities have been designated, the Administrator shall be responsible for these functions.

(b)B. *Public Aaccess Pprogramming Rrules.* For any Public Access Channel, the community access corporation managing such Channel shall prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); and lottery information, and shall establish rules to this effect as well as rules requiring first-come, nondiscriminatory access, and rules permitting the public inspection of the names and addresses of all persons and groups requesting access time. Records of such requests shall be retained by the entity managing the Public Access

Channel for a period of two (2) years.

~~(c)~~C. *Leased ~~A~~access.* A Franchisee shall provide Leased Access Channels as required by federal law. (Ord. No. 98-21, 6-20-98)

§ 41.2-9. Consumer Protection.

~~(a)~~A. *General ~~P~~provisions.*

~~(~~1.~~)~~ This ~~Section~~ § 41.2-9 sets forth customer service standards that a Franchisee shall satisfy. In addition, a Franchisee shall at all times satisfy any additional or stricter requirements established by a Certificate or other applicable federal, State, or local law or regulation, as the same may be amended from time to time, including, without limitation, consumer protection laws.

~~(~~2.~~)~~ Nothing in this ~~C~~chapter shall be construed to prevent or prohibit the Board from waiving the requirements established in this ~~Section~~ § 41.2-9, where such waiver is in the best interests of the County and its residents.

~~(~~3.~~)~~ Nothing in this ~~C~~chapter in any way relieves a Franchisee of its obligation to comply with other applicable consumer protection laws and its Certificate.

~~(b)~~B. *Telephone and ~~O~~office ~~A~~availability.*

~~(~~1.~~)~~ Each Franchisee shall maintain an office at a convenient location in the County that shall be open at least during Normal Business Hours to allow Subscribers to request service, pay bills, and conduct other business. Each Franchisee shall perform service calls, installations, and disconnects during at least the hours 8:00 a.m. to 8:00 p.m. Monday through Saturday, provided that a Franchisee shall respond to System Outages twenty-four (24) hours a day, seven (7) days a week. Each Franchisee shall establish a publicly listed, local toll free telephone number. The phone shall be answered by customer service representatives at least Monday through Saturday, 8:00 a.m. to 8:00 p.m., for the purpose of receiving requests for service, inquiries, and complaints from Subscribers; after those hours, a Franchisee shall arrange for the phone to be answered so that customers can register complaints and report service problems on a twenty-four (24) hour per day, seven (7) day per week basis, and so that the Franchisee can respond to Service Outages as required herein.

~~(~~2.~~)~~ Telephone answering time shall not exceed thirty (30) seconds, and the time to transfer the call to a customer service representative (including hold time) shall not exceed an additional thirty (30) seconds. This standard shall be met ninety-five percent (95%) ~~percent~~ of the time, measured quarterly. Under Normal Operating Conditions a Subscriber will receive a busy signal less than three percent (3%) of the time. When the business office is closed, an answering service capable of receiving and recording service complaints and inquiries shall be employed. The after-hours answering service shall comply with the same telephone answer time standard set forth in this Section. Thirty (30) days after the end of each calendar quarter, a Franchisee shall supply the County statistical data to verify it has met the standards set forth herein.

~~(~~3.~~)~~ A Franchisee shall hire sufficient staff so that it can adequately respond to Customer inquiries, complaints, and requests for service in its office, over the telephone, and at the Subscriber's residence.

~~(c)~~C. *Scheduling ~~W~~work.*

~~(~~1.~~)~~ All appointments for service, installation, or disconnection shall be specified by date. Each Franchisee shall specify a specific time at which the work shall be done, or offer a choice of time blocks, which shall not exceed four (4) hours in length. If at any time an installer or technician believes it impossible to make a scheduled appointment time, an attempt to contact the Customer

will be made prior to the time of appointment and the appointment scheduled at a specific time between 8:00 a.m. and 8:00 p.m., seven (7) days a week, that is convenient to the Customer, if rescheduling is necessary. It is a Franchisee's burden to prove it met an appointment.

(2.) With regard to mobility-limited Customers, upon a Subscriber's request, each Franchisee shall arrange for pickup and/or replacement of Converters or other Franchisee equipment at the Subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer).

(3.) Requests for service, repair, and maintenance shall be acknowledged by a trained customer service representative within twenty-four (24) hours, or prior to the end of the next business day, whichever is earlier. A Franchisee shall acknowledge all other inquiries (including billing inquiries) within five (5) business days of the inquiry or complaint.

(4.) Repairs and maintenance for outages or Service Interruptions and other repairs not requiring work within a Subscriber's premises shall be completed within twenty-four (24) hours of the time the Subscriber reports a problem. Work on all other requests for service shall be begun by the next business day after notification of the problem or at a later time mutually agreeable to a Franchisee and a Subscriber. A Franchisee shall exercise its best efforts to complete such work within three (3) days from the date of the initial request, except installation requests, provided that a Franchisee shall complete the work in the shortest time possible where, for reasons beyond the Franchisee's control, the work could not be completed in those time periods even with the exercise of all due diligence; the failure of a Franchisee to hire sufficient staff or to properly train its staff shall not justify a Franchisee's failure to comply with this provision.

(5.) A Franchisee shall not cancel a service or installation appointment with a Customer after the close of business on the business day preceding the appointment.

(6.) The standards of Sections §§ 41.2-9.C.4(c)(4) and 41.2-9.C.5(c)(5) shall be met at least ninety-five percent (95%) percent of the time, measured on a quarterly basis.

(7.) The installation time standard in Section § 41.2-6.A.2(a)(2), and below shall be met no less than ninety-five percent (95%) percent of the time, measured on a quarterly basis: requests for additional outlets, service upgrades or other connections (i.e., DMX, VCR, A/B Switch) separate from an initial installation shall be performed within seven (7) business days after an order has been placed.

(d)D. *Notice to Ssubscribers.*

(1.) A Franchisee shall provide each Subscriber at the time Cable Service is installed, and at least every twelve (12) months thereafter, the following materials:

(A)a. iInstructions on how to use the Cable Service;

(B)b. bBilling and complaint procedures, and written instructions for placing a service call, filing a complaint, or requesting an adjustment (including when a Subscriber is entitled to refunds for outages and how to obtain them);

(C)c. aA notice showing the telephone number of the County office responsible for receiving Customer complaints;

(D)d. aA schedule of rates and charges, channel positions, and a description of products and services offered;

(E)e. pPrices and options for programming services and conditions of subscription to programming and other services; and

~~(F)~~f. ~~A~~A description of the Franchisee's installation and service maintenance policies, delinquent Subscriber disconnect and reconnect procedures, and any other of its policies applicable to its Subscribers.

~~(~~2.~~)~~ Copies of all Subscriber notices and publications shall be provided to the County at least ten (10) days before they are scheduled to be published or otherwise generated. Except as applicable federal, State and local rate regulations may provide to the contrary, a Franchisee shall provide the Administrator and all Subscribers with at least thirty (30) days' prior notice of any significant changes in the information required to be provided by this ~~Section~~ § 41.2-9.D~~(d)~~. Such notice shall be in writing and by announcement on the System.

~~(~~3.~~)~~ All Franchisee promotional materials, announcements, and advertising of Cable Service to Subscribers and the general public, where price information is listed in any manner, shall clearly and accurately disclose price terms. In the case of pay-per-view or pay-per-event programming, all promotional materials shall clearly and accurately disclose price terms and in the case of telephone orders, a Franchisee shall take appropriate steps to ensure that customer service representatives clearly and accurately disclose price terms to potential Customers in advance of taking the order.

~~(~~4.~~)~~ Each Franchisee shall maintain a public file containing all notices provided to Subscribers under these customer service standards, as well as all promotional offers made to Subscribers. The notices and offers shall be kept in the file for at least one (1) year from the date of such notice or promotional offer.

~~(~~5.~~)~~ Upon request, a Franchisee shall work with Subscribers to provide the notices required by this § 41.2-9.D~~(d)~~ in formats accessible to disabled persons.

~~(e)~~E. *Interruptions of ~~S~~service.*

~~(~~1.~~)~~ A Franchisee shall schedule maintenance on its Cable System at times that will minimize the likelihood of interruptions in service to Subscribers. A Franchisee may intentionally interrupt service on the Cable System only for good cause and for the shortest time possible and, except in emergency situations, only after a minimum of forty-eight (48) hours' prior notice to Subscribers, the Administrator and Public Educational and Governmental Access Channel operators of the anticipated Service Interruptions; provided, however, that planned maintenance that does not require more than two (2) hours' interruption of service that occurs between the hours of 12:00 midnight and 6:00 a.m., shall not require such notice to Subscribers, but shall require notice to the County no less than twenty-four (24) hours prior to the anticipated Service Interruption. Brief interruptions of service of less than five (5) minutes which are necessary to conduct planned maintenance shall not require notice to Subscribers, the County, or Public, Educational and Governmental Access Channel operators.

~~(~~2.~~)~~ For any period in which a Subscriber suffers a Service Interruption for more than eight (8) hours in any twenty-four (24)- hour period, other than a planned interruption pursuant to ~~Section~~ § 41.2-9.E.1~~(e)(1)~~, a Franchisee shall credit against the Subscriber's next bill an amount equal to one-thirtieth (1/30) of the monthly charge for any service or service tier affected, and shall pay a direct refund to any Subscriber who terminates service before all credits owed are applied. The charge for any per-program selection that is materially affected by the outage shall also be refunded or credited. A Franchisee shall be responsible for making such refunds or credits upon receipt of a complaint of a Service Interruption from a Subscriber, unless the Franchisee can show that the Service Interruption was insufficient in length or character to require a credit, or that the Subscriber was responsible for the Service Interruption.

~~(f)~~F. *Billing.*

~~(~~1.~~)~~ A Franchisee's first billing statement after a new installation or service change shall be prorated as

appropriate and shall reflect any security deposit.

(2.) A Franchisee's billing statement shall be clear, concise and understandable, shall itemize each category of service and equipment provided to the subscriber and must state clearly the charge therefor.

(3.) A Franchisee's billing statement shall show a specific payment due date not earlier than twenty (20) days after the date the statement is mailed. Any balance not received by the due date may be assessed a late fee not exceeding a Franchisee's reasonable costs of collection or any other amount permitted by State law. The late fee shall appear on the following month's billing statement. Subscribers shall not be charged a late fee or otherwise penalized for any failure by a Franchisee, including failure to timely or correctly bill a Subscriber, or failure to properly credit a Subscriber for a payment timely made.

(4.) A Franchisee shall notify a Subscriber that he or she can remit payment in person at the Franchisee's office in the County and inform the Subscriber of the address of that office.

(5.) A Franchisee shall provide an initial response or acknowledgment to all written billing complaints from Subscribers within five (5) days of receipt of the complaint and a final written response within thirty (30) days of receipt of the complaint.

(6.) Refund checks to Subscribers shall be issued no later than the Subscriber's next billing cycle following resolution of the refund request, or thirty (30) days, whichever is later.

(7.) Credits for Cable Service shall be issued no later than the Subscriber's next billing cycle after the determination that the credit is warranted.

(8.) If a Subscriber terminates service before the end of a prepaid period, a pro rata portion of any prepaid service fee, using the actual number of days in the month as a basis, shall be refunded to the Subscriber.

(g)G. *Disconnection/Ddowngrades.*

(1.) A Subscriber may terminate service at any time.

(2.) A Franchisee shall promptly disconnect from its System or downgrade any Subscriber who so requests. No period of notice prior to voluntary termination or downgrade of service may be required of Subscribers by any Franchisee. No charge may be imposed for any voluntary disconnection or downgrade that does not require a service call, except to the extent that federal law specifically provides that the Franchisee shall be permitted to so charge a Subscriber. So long as a Subscriber returns any equipment necessary to receive a service within five (5) business days of the disconnection, no charge may be imposed by any Franchisee for any Cable Service delivered after the date of the disconnect request. However, if a Subscriber does not return, or permit a Franchisee to retrieve, such equipment within five (5) business days after disconnection, a Franchisee may charge a Subscriber for any Cable Service delivered until the equipment is returned.

(3.) A Subscriber may be asked, but not required, to disconnect a Franchisee's equipment and return it to the business office.

(4.) Any security deposit and/or other funds due a Subscriber that disconnects or downgrades service shall be returned to the Subscriber within thirty (30) days or in the next billing cycle, whichever is later, from the date the disconnection or the downgrade was requested, except in cases where the Subscriber does not permit a Franchisee to recover its equipment, in which case the amounts owed shall be paid to Subscribers within thirty (30) days of the date the equipment was recovered, or in the next billing cycle, whichever is later.

~~(~~5.~~)~~ If a Subscriber fails to pay a monthly Subscriber fee or other fee or charge, a Franchisee may disconnect the Subscriber's service; however, such disconnection shall not be effected until after forty-five (45) days from the due date of the monthly Subscriber fee or other charge, plus at least ten (10) days advance written notice to the Subscriber in question of intent to disconnect, given after the forty-five (45) days have elapsed. If the Subscriber pays all amounts due, including late charges, before the date scheduled for disconnection, the Franchisee shall not disconnect service. After disconnection, upon payment by the Subscriber in full of all proper fees or charges, including the payment of a reconnection charge, if any, the Franchisee shall promptly reinstate service.

~~(~~6.~~)~~ A Franchisee may immediately disconnect a Subscriber if (i) the Subscriber is damaging or destroying the Franchisee's Cable System or equipment; or (ii) the Subscriber is not authorized to receive Cable Service, or is facilitating, aiding or abetting the unauthorized reception of Cable Service by others. A Franchisee may pursue criminal or civil action against said Subscriber as appropriate. After disconnection, a Franchisee shall restore service if the Subscriber provides adequate assurances, including monetary or legal assurances, that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and amounts owed the Franchisee for damage to its Cable System or equipment.

~~(~~7.~~)~~ A Franchisee may disconnect a Subscriber without notice where signal leakage is detected originating from the Subscriber's premises in excess of federal limits, provided that the Franchisee shall immediately notify the Subscriber of the problem and, once the problem is corrected, reconnect the Subscriber without charge.

~~(~~8.~~)~~ With respect to home wiring, a Franchisee shall comply with 47 C.F.R. §§ 76.800-806 (Part 76, Subpart M of the FCC's rules), as amended from time to time, and any other applicable rules or requirements, or amendments thereto.

~~(h)~~H. *Deposits.* A Franchisee may require a reasonable, non-discriminatory deposit on equipment provided to Subscribers, in addition to any allowable monthly fees. All deposits shall be returned to a Subscriber as soon as the Subscriber's account has not been in arrears for a period of six (6) consecutive months, or when the Subscriber returns all equipment in a condition as good as that in which it was received (excepting reasonable wear and tear) at time of disconnection of reception of service, whichever is sooner.

~~(i)~~I. *Complaint ~~P~~procedures.*

~~(~~1.~~)~~ Each Franchisee shall establish a clear procedure for resolving complaints filed by any interested party, providing that complaints may be made orally or in writing, at the complainant's option, and identifying a person responsible for handling complaints that are not already being handled by a customer service representative.

~~(~~2.~~)~~ Each Franchisee shall provide an initial response to a complaint within five (5) days of its receipt and a final written response within thirty (30) days after the complaint is made. The final written response shall include a notice stating that, if the complaint has not been resolved to the complainant's satisfaction, the matter may be referred to the Administrator.

~~(j)~~J. *Parental ~~C~~control ~~O~~option.* A Franchisee shall make available to any Subscribers, upon request, the option of blocking the video and audio portion of any channel or channels of programming entering a Subscriber's home. This control option shall be provided at no charge, except to the extent that federal law specifically provides that a franchisee shall be permitted to so charge a Subscriber, provided that the Franchisee may require a reasonable deposit for the use of any customer premises device. The control option described herein shall be made available to all Subscribers requesting it when any Cable Service is provided, or within a reasonable time thereafter.

~~(k)~~K. *Enforcement.* Within forty-five (45) days of the end of each calendar quarter during the term of a

Franchise, or any extension(s) thereof, a Franchisee shall submit a quarterly written report to the County, in a form reasonably satisfactory to the County, that shows whether the Franchisee is meeting all applicable customer service standards, including, but not limited to: telephone answering and transfer time requirements; the minimum busy signal percentage; appointment scheduling and response requirements; Subscriber notice and billing requirements; and disconnection procedures. A Franchisee shall keep such records as are reasonably required to enable the County to determine whether the Franchisee is complying with all such customer service standards, and shall maintain adequate procedures to demonstrate such compliance.

(l)L. *Exclusive Ccontracts and Aanticompetitive Aacts Pprohibited.*

(1.) A Franchisee may not require a Subscriber or a building owner or manager to enter into an exclusive contract as a condition of providing or continuing Cable Service. However, nothing herein prevents a Franchisee from entering into an otherwise lawful, mutually desired exclusive arrangement with a building owner or manager of a multiple dwelling unit or commercial Subscriber.

(2.) No Franchisee shall engage in acts prohibited by federal or State law that have the purpose or effect of limiting competition for the provision of Cable Service or services similar to Cable Service in the County.

(Ord. No. 98-21, 6-20-98)

§ 41.2-10. Rate rRegulation.

(a)A. *Scope and applicability.*

(1.) *General authority.* The eCounty may regulate all rates and charges to the extent permitted by law.

(2.) *Applicability to franchisees.* The procedures in this chapter govern the regulation of rates within the eCounty for any fFranchisee subject to rate regulation by the eCounty pursuant to applicable law.

(3.) *Consistency with FCC regulations.* The provisions set forth herein are intended to be consistent with all FCC regulations governing the regulation of basic service rates and equipment. The county will regulate and interpret these provisions so that they are consistent with FCC regulations, as if those regulations were set forth in full herein.

(4.) *Extension of deadlines.* For good cause, the aAdministrator may extend any deadline for filing or response, except where such an extension would violate FCC regulations.

(5.) *Effect of delay or failure to enforce.* No delay or failure to enforce any provision in this section § 41.2-10 shall operate against the eCounty as an estoppel or waiver.

(6.) *Definitions.* For purposes of this section § 41.2-10, the term "basic service" or "basic cable service" has the same meaning as the term "basic service" as defined in 47 C.F.R. § 76.901, and the term "equipment" refers to all equipment and services subject to regulation under 47 C.F.R. § 76.923.

(b)B. *Rate filings.*

(1.) *Initial rate filings.* A fFranchisee that is notified that its basic service and equipment rates are subject to regulation shall file a submission ("initial rate filing") within thirty (30) days of the notification, except to the extent otherwise specifically provided by governing law. The initial rate filing shall justify the fFranchisee's basic service and equipment rates in accordance with FCC rules. All rates, for all customer classifications, shall be justified, except to the extent that such rates are specifically exempted from regulation by FCC regulations or other governing law.

(2.) *Subsequent rate filings.*

(A)a. Once a fFranchisee has been notified by the eCounty that its rates are subject to regulation, it may not thereafter increase its rates for basic service or equipment without making any rate filings required by applicable law and obtaining the prior approval of the eCounty, in accordance with this chapter. This requirement applies in all cases, including to increases in rates announced prior to the date the operator was notified its rates were subject to regulation where the increases were not implemented prior to the date of notice, except insofar as governing law specifically permits a fFranchisee to raise rates without prior approval.

(B)b. A fFranchisee shall submit a rate filing at any other time such a filing is required under FCC rules, or by the eCounty in accordance with such rules.

(C)c. For purposes of this section § 41.2-10.B(b), a "rate increase" occurs when there is either an increase in rates, a new basic service or equipment rate, or a reduction in program or customer services without a corresponding decrease in rates.

(D)d. Rate filings proposing and supporting rate increases shall be filed with the aAdministrator for review at least thirty (30) days in advance of the proposed effective date of the increase. This requirement does not alter or eliminate any other notice requirement.

(E)e. A fFranchisee shall provide at least thirty (30) days prior written notice (or such longer period as may be specified in FCC regulations) to subscribers and to the aAdministrator of any proposed changes in rates, programming services, or channel positions, whether or not the fFranchisee believes the affected rates are subject to regulation, except to the extent such notice requirement is specifically waived by governing law.

(3.) *Rate filings: Where and how made.*

(A)a. Every rate filing shall be submitted by the fFranchisee to the aAdministrator. A rate filing shall be considered filed for review on the date the rate filing and all required copies are received by the aAdministrator. Five (5) copies of each rate filing (including all supporting materials) shall be submitted.

(B)b. Information that the operator claims is proprietary under section § 41.2-10.F(f) herein shall be clearly identified and segregated from the remainder of the filing and clearly marked so that the eCounty may determine where and how the proprietary information was used to determine rates.

(4.) *Rate filings: contents.*

(A)a. Subject to any FCC regulations governing the burden of proof, a rate filing submitted by a fFranchisee shall show that the rates the fFranchisee proposes to charge for basic service and equipment are reasonable under applicable FCC regulations.

(B)b. The rate filing shall contain all applicable FCC forms and these forms shall be correctly and fully completed.

(C)c. The pages of each rate filing shall be numbered sequentially.

(D)d. Every rate filing shall clearly state in a cover letter:

(i)(1) Whether the rate filing justifies existing rates, or proposes an increase in rates;

(ii)(2) Any changes the rate filing proposes, in the form of a brief, narrative description

of any proposed changes in rates or in service;

~~(iii)~~(3) The method on which any service rate is based (e.g., benchmark or cost-of-service); and

~~(iv)~~(4) Whether any pages of the rate filing contain information that the ~~f~~Franchisee claims is proprietary, and so indicate clearly on each page or portion thereof.

~~(c)~~C. *Review of rate filings.*

~~(~~1.~~)~~ *Receipt and notice of rate filings.*

~~(A)~~a. After receiving a rate filing, the ~~a~~Administrator shall give notice that a rate filing has been received and that the filing is available for public review to the extent permitted by law. The notice shall state that interested parties may comment on the filing, and shall provide interested parties a reasonable time, in light of the dates by which the ~~a~~Administrator shall issue his/her orders, to submit written comments on the filing to the ~~a~~Administrator.

~~(B)~~b. A ~~f~~Franchisee shall notify the ~~a~~Administrator as soon as possible of any deficiencies it may discover in a rate filing, and shall submit an amended filing in accordance with the filing requirements of ~~section~~ § 41.2-10.B~~(b)~~ as soon as possible (and in any event within five (5) business days) to cure such deficiencies, together with a full explanation of the deficiencies and the correction. However, the provisions of ~~section~~ § 41.2-10.C.1.a~~(c)(1)(A)~~ shall not apply to any refilings or corrected filings made by a ~~f~~Franchisee to replace, amend, or supplement an initial rate filing. The ~~c~~County need not accept any amendment that is not filed in time for the ~~a~~Administrator to evaluate and consider in reaching a decision prior to the effective date of the rate. Any such amendment must be accompanied by an adequate explanation of the changes made to the rate filing.

~~(~~2.~~)~~ *Final rate order.*

~~(A)~~a. After completing its review of a ~~f~~Franchisee's rate filing and any additional information submitted in response to information requests, the ~~a~~Administrator shall make any comments received and recommendations the ~~a~~Administrator's proposed actions available for public inspection. When the comments and proposed actions are made available for public inspection, the ~~a~~Administrator shall set a reasonable deadline by which a ~~f~~Franchisee may submit a response to public comments or to the ~~a~~Administrator's proposed actions. A ~~f~~Franchisee's response shall be considered by the ~~a~~Administrator only if it is submitted in a timely fashion.

~~(B)~~b. After reviewing the ~~f~~Franchisee's response, if any, the ~~a~~Administrator shall issue a written order, which may be in any lawful form, approving the proposed rate in whole or in part, or denying the proposed rate in whole or in part and determining maximum permitted rates pursuant to applicable FCC regulations.

~~(C)~~c. The ~~a~~Administrator may issue partial orders setting particular rates and ordering refunds and other appropriate relief with regard to such rates, unless specifically prohibited by FCC regulations, without prejudice to their/his/her right to issue further orders in accordance with applicable FCC regulations.

~~(~~3.~~)~~ *Refunds.* If a rate order determines that refunds should be provided to subscribers, the ~~f~~Franchisee shall file with the ~~a~~Administrator, within thirty (30) days of the date of the ~~a~~Administrator's order, a detailed calculation of the appropriate refunds, including interest, to all relevant classes of subscribers, and a description of its proposed refund methodology, together with all supporting

materials necessary to allow the ~~a~~Administrator to verify the ~~f~~Franchisee's calculations. The ~~f~~Franchisee's calculations shall also show, in detail, how the ~~f~~Franchisee proposes to calculate any portion of the refund properly attributable to ~~f~~Franchise fees. The ~~a~~Administrator may require further supporting information with regard to the ~~f~~Franchisee's calculations, and the ~~f~~Franchisee shall provide all such information reasonably necessary to determine the refund and ~~f~~Franchise fee amounts.

~~(d)~~D. *Provisions generally applicable to rate orders.*

~~(~~1.~~)~~ *Form.* Orders relating to rate regulation ("rate orders") shall be written and may be issued in any lawful form.

~~(~~2.~~)~~ *Authority to issue rate orders.* The ~~a~~Administrator shall have the authority to issue rate orders taking any action that the County is permitted to take by this ~~Section~~ § 41.2-10 including, without limitation: (i~~1~~) rate orders that establish maximum permitted rates for basic cable service, equipment or installation, or require refunds to cable subscribers ("final rate orders"); (ii~~2~~) orders that toll deadlines for review and (2) review; and (iii~~3~~) orders that allow rates to take effect subject to refund and/or direct a cable operator to keep an accurate account of all amounts received and on whose behalf such amounts were paid, pursuant to 47 C.F.R. § 76.933(a)--(c).

~~(~~3.~~)~~ *Notice of final rate orders.* Any final rate order shall be served on a ~~f~~Franchisee no later than the next business day after date it is released to the public. Public notice shall be given of any final rate order, including releasing the text of any written decision to the public.

~~(~~4.~~)~~ *Actions regarding rates.* The ~~c~~County may take any actions that it is not prohibited by governing law from taking to protect the public interest as part of any rate order or by any other means. By way of illustration and not limitation, the ~~a~~Administrator may require refunds; set rates; impose forfeitures and penalties directly; enforce refund orders; apply to the FCC for determinations regarding the status of allegedly a la carte programming; investigate and respond to certifications by small systems; grant petitions for extension of time; participate in any appeals of rate decisions; seek clarification of FCC rules from the FCC, or by legal action; refer cost-of-service determinations to the FCC; issue default orders; reopen rate proceedings, or commence new proceedings, in the light of new information or new legal or administrative determinations (for example, modification of the FCC's regulations); or withdraw the ~~c~~County's certification to regulate rates. The ~~c~~County shall take such actions as are necessary or appropriate to achieve the goals of rate regulation and to serve the public interest, to the extent permitted by governing law, in accordance with any pertinent deadlines set by the FCC.

~~(~~5.~~)~~ *Notice and opportunity to comment.* Before prescribing a rate or ordering a refund to subscribers, the ~~a~~Administrator shall ensure the ~~f~~Franchisee has had notice and an opportunity to comment on the proposed rate or refunds. If the proposed actions of the ~~a~~Administrator propose a refund or a rate, then mailing a copy of the proposed actions to the ~~f~~Franchisee at the time it is submitted to the ~~a~~Administrator shall be deemed to provide the ~~f~~Franchisee this notice, and the ~~f~~Franchisee shall comment on the refund or rate in its response to the proposed actions.

~~(~~6.~~)~~ *Rate orders subject to amendment.* No order approving or setting a rate pursuant to FCC regulations shall be deemed to establish a just and reasonable rate to subscribers. Every such rate approved or established shall be subject to further reduction and refund to the extent permitted under applicable laws and regulations, as the same may be amended from time to time. By way of illustration and not limitation, should the FCC revise its rules for calculating maximum permitted rates, the ~~a~~Administrator shall have the right to reduce a ~~f~~Franchisee's rates and to require a ~~f~~Franchisee to refund any amounts collected above the benchmark, except to the extent prohibited by governing law.

~~(e)~~E. *Franchisees' duties.*

(1.) *Books and records.* It is each fFranchisee's responsibility at all times to keep accurate and complete books and records of account so that it can refund any amounts owed to subscribers.

(2.) *Completeness of filings.* It is each fFranchisee's duty to submit as complete a rate filing as possible. Knowingly withholding information or making a filing that is incomplete under applicable law shall be treated as a violation of this chapter, subject to any applicable sanctions and remedies under FCC regulations, section § 41.2-10.C.1.b(c)(1)(B) herein, and any other applicable law or contract.

(3.) *Continuing accuracy and completeness.* Each fFranchisee is responsible for the continuing accuracy and completeness of information furnished to the cCounty. Whenever information furnished by a fFranchisee is no longer accurate and complete in all significant respects, the fFranchisee shall correct such deficiencies as required in section § 41.2-10.C.1.b(c)(1)(B).

(4.) *Information requests.* A fFranchisee and any other entity that has records of revenues or expenses that are allocated to the fFranchisee's system shall respond to requests for information from the aAdministrator by deadlines established by the aAdministrator (including requests that specified information be submitted at the time of future rate filings). A fFranchisee is responsible for ensuring that such other entity responds to the aAdministrator's requests.

(5.) *Implementation.* A fFranchisee shall implement remedial requirements, including prospective rate reductions and refunds, as soon as possible after an order requiring such remedies is issued, but in any case within sixty (60) days of the date the aAdministrator issues an order mandating a remedy. However, if FCC regulations require the fFranchisee to implement a remedy more quickly, or require that the fFranchisee be allowed more time to implement a remedy, then the FCC requirement shall control.

(6.) *Certification of compliance.* Within thirty (30) days after implementing a remedy, but in no event more than ninety (90) days after the date an order mandating a remedy is issued, a fFranchisee shall file a certification, signed by an authorized representative of the fFranchisee:

(A)a. Stating whether the fFranchisee has complied fully with all provisions of the aAdministrator's order;

(B)b. Describing in detail the precise measures taken to implement the aAdministrator's order;

(C)c. Describing in detail any respects in which the fFranchisee has not complied fully with all provisions of the aAdministrator's order; and

(D)d. Showing how any applicable refunds (including interest) were calculated and distributed.

(f)F. *Proprietary information.*

(1.) *Submission of information deemed proprietary*. If these provisions, or any request for information, require the production of proprietary information, a fFranchisee shall produce the information. However, at the time the allegedly proprietary information is submitted, a fFranchisee may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request shall state the reason why the information should be treated as proprietary and the facts that support those reasons. Requests for confidential treatment, or for inspection of proprietary information, will be reviewed by the cCounty based on FCC regulations, and applicable state and local law, including the Virginia Freedom of Information Act.

(2.) *Identification of information deemed proprietary*. Information that the operator claims is proprietary shall be clearly identified. If it is part of a larger submission, such as a rate filing, the proprietary information shall be segregated from the remainder of the submission. It shall also be clearly marked so that the cCounty may determine where the proprietary information belongs

within the submission, how it relates to the remainder of the submission, and the basis for the ~~f~~Franchisee's claim that the marked material is proprietary.

~~(~~3.~~)~~ *Requests to inspect proprietary information.* Any request for public records containing information designated by the ~~f~~Franchisee as proprietary shall be governed by the Virginia Freedom of Information Act.

~~(g)~~G. *Nondiscrimination.* Nondiscriminatory rates. Subject to applicable law, a ~~f~~Franchisee shall establish rates that are nondiscriminatory within the same general class of subscribers and which shall be applied fairly and uniformly to all subscribers in the ~~f~~Franchise area for all services. Nothing contained herein shall prohibit a ~~f~~Franchisee from offering, by way of illustration and not limitation, (i) discounts to senior citizens or economically disadvantaged groups; (ii) discounts to commercial and multiple-family dwelling subscribers billed on a bulk basis; (iii) promotional discounts; or (iv) reduced installation rates for subscribers who have multiple services.
(Ord. No. 98-21, 6-20-98; Ord. No. 02-3, 3-9-02)

§ 41.2-11. Franchise Fee.

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~~(a)~~A. *Finding.* The Board finds that Public Rights-of-Way to be used by a Franchisee for the operation of a Cable System are valuable public property acquired and maintained by the State and County at great expense to the taxpayers. The Board further finds that the grant of a Franchise to use Public Rights-of-Way is a valuable property right without which a Franchisee would be required to invest substantial capital.

~~(b)~~B. *Payment of ~~F~~franchise ~~F~~fee.* Each Franchisee shall pay a Franchise fee of five percent (5%) of Gross Revenues, unless otherwise specified in a Certificate. Every Certificate shall reserve the right to increase this fee to the maximum that may be charged consistent with federal and State law.

~~(c)~~C. *Not a ~~T~~tax or in ~~L~~lieu of ~~A~~any ~~O~~other ~~T~~tax or ~~F~~fee.*

~~(~~1.~~)~~ Payment of the Franchise fee shall not be considered in the nature of a tax or in lieu of other taxes or fees imposed by the County.

~~(~~2.~~)~~ The Franchise fee is in addition to all other taxes, fees and payments that a Franchisee may be required to pay under its Certificate or under any federal, State, or local law, except to the extent that such fees, taxes, or assessments shall be treated as a Franchise fee under ~~Section~~ § 622 of the Cable Act, 47 U.S.C. § 542.

~~(~~3.~~)~~ A Franchisee shall not designate the Franchise fee as a tax in any communication to a Subscriber.

~~(d)~~D. *No ~~A~~accord or ~~S~~satisfaction.* No acceptance by or payment to the County of a franchise fee, or any portion thereof, shall be construed as a release or an accord and satisfaction of any claim the County may have for further or additional sums due or for the performance of any other obligation of a Franchisee, or as an acknowledgment that the amount paid is the correct amount due.
(Ord. No. 98-21, 6-20-98)

§ 41.2-12. Reports and Records.

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~~(a)~~A. *Access to ~~B~~books and ~~R~~records.*

~~(~~1.~~)~~ The County shall have the right, upon reasonable notice, to inspect and copy at any time during Normal Business Hours the documents, books, records, maps, plans, income tax returns, proof of performance tests, and other like materials of a Franchisee which the County deems appropriate in order to monitor compliance with a Franchise. Access to records and other materials shall not be denied by a Franchisee on the basis that said records and materials contain proprietary or confidential information. Documents, books, and records shall be maintained for a period of at least five (5) years, except that (i) any record that is a public record shall be maintained for the period required by State law; (ii) any contract shall be maintained until it expires; and (iii) a

Franchise may specify a shorter period for certain categories of voluminous documents, books and records where the information contained therein can be derived simply from other materials. Failure to provide any information required by this ~~C~~chapter shall be grounds for appropriate remedies. All such information received by the County shall remain confidential insofar as permitted by applicable law.

~~(~~2.~~)~~ For purposes of this ~~C~~chapter, the terms "records," "documents" and "books" shall be construed as such terms are defined in the Virginia Freedom of Information Act and shall be read expansively to include information in whatever format stored. Records, documents, and books requested shall be produced to the County at the Administrator's office, unless the County directs otherwise, or by agreement or pursuant to ~~Section~~ § 41.2-12.A.3~~(a)(3)~~.

~~(~~3.~~)~~ If any documents, books and records are too voluminous, or for security reasons cannot be copied and moved, then a Franchisee may request that the inspection take place at some other location mutually agreed to by the County and a Franchisee, provided that (i) the Franchisee shall make necessary arrangements for copying documents, books and records selected by the County after its review; and (ii) the Franchisee shall pay all travel and additional copying expenses incurred by the County (above those that would have been incurred had the documents, books and records been produced in the County) in inspecting those documents, books and records or having those documents, books and records inspected by its designee.

~~(~~4.~~)~~ Without limiting the foregoing, a Franchisee shall provide the County with the following in accordance with the deadlines specified in § 41-12.C~~(c)~~:

~~(A)~~a. ~~n~~Notices of deficiency or forfeiture related to the operation of the System; and

~~(B)~~b. ~~c~~Copies of any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy by a Franchisee, or by any partnership or corporation that owns or controls the Franchisee directly or indirectly.

~~(b)~~B. *Retention of ~~R~~records; ~~R~~relation to ~~P~~privacy ~~R~~rights.* Each Franchisee shall take all reasonable steps throughout the term of the Franchise to ensure that it is able to provide the County with all information which shall be provided or may be requested under this ~~C~~chapter, a Franchise or applicable law, including by providing appropriate Subscriber privacy notices. Each Franchisee shall be responsible for redacting any data that applicable law prevents it from providing to the County. Nothing in this ~~S~~section shall be read to require Franchisee to violate State or federal law protecting Subscriber privacy.

~~(c)~~C. *Communications with ~~R~~regulatory ~~A~~agencies.*

~~(~~1.~~)~~ A Franchisee shall file with the County all reports and materials submitted to or received from the FCC, the Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction over any matter pertaining to any aspect of operations hereunder or the financial arrangements therefor. For purposes of this ~~S~~subsection, reports and materials to be filed with the County include, by way of example and not limitation, proof of performance tests and results, Equal Employment Opportunity reports, and all petitions, applications and communications of all types regarding the Franchisee's Cable System, or a group of Cable Systems of which the Franchisee's System is a part, including any such material submitted by or received by a Franchisee, an Affiliate, or any other Person on behalf of the Franchisee.

~~(~~2.~~)~~ Materials filed with the County pursuant to ~~Section~~ § 41.1-12.C.1~~(c)(1)~~ shall be submitted as follows: (i) materials submitted by a Franchisee, an Affiliate, or any other Person on behalf of a Franchisee shall be filed with the County at the time they are submitted to the receiving agency; and (ii) materials received by a Franchisee shall be filed with the County within thirty (30) days of the date they are received by the Franchisee, except that if applicable law permits a response to such materials by the County and sets a deadline of sixty (60) or fewer days for the County's

response, they shall be filed with the County within five (5) days of the date they are received by the Franchisee.

~~(d)~~D. *Reports.*

~~(~~1.~~)~~ Within forty-five (45) days of the end of each calendar quarter, a Franchisee shall submit a report to the County containing the following information:

~~(A)~~a. ~~t~~The number of service calls (calls requiring a truck roll) received by type during the prior quarter, and the percentage of service calls compared to the Subscriber base by type of complaint; and

~~(B)~~b. ~~t~~The number and type of System Outages known by the Franchisee for the prior quarter, identifying separately the following:

~~(i)~~(1) ~~e~~Each planned System Outage, the time it occurred, its duration, and the estimated area and number of Subscribers affected;

~~(ii)~~(2) ~~e~~Each known unplanned System Outage, the time it occurred, its estimated duration and the estimated area and number of Subscribers affected, and if known, the cause; and

~~(iii)~~(3) ~~t~~The total estimated hours of known System Outages as a percentage of total hours of Cable System operation.

~~(~~2.~~)~~ No later than ninety (90) days after the end of its fiscal year, a Franchisee shall submit a written report to the Administrator containing such information as may be required from time to time by the County, and at least the following:

~~(A)~~a. ~~a~~A summary of the previous year's activities in the development of the Cable System, including descriptions of services begun or discontinued, and the number of Subscribers gained or lost for each category of Cable Service;

~~(B)~~b. ~~a~~A summary of complaints for which records are required under ~~Section~~ § 41.2-12.E.1~~(e)(1)~~, identifying both the number and nature of the complaints received and an explanation of their dispositions;

~~(C)~~c. ~~a~~A fully audited revenue report from the previous calendar year for the Cable System prepared according to Generally Accepted Auditing Standards by an independent certified public accountant;

~~(D)~~d. ~~a~~A statement of the Franchisee's financial operations for the immediately preceding year in such form and in such detail as will show the Franchisee's rate of return on investment, cash flow, and such other information as may be reported by the County;

~~(E)~~e. ~~a~~An ownership report, indicating all Persons who at the time of filing control or own an interest in the Franchisee of five percent (5%) or more;

~~(F)~~f. ~~a~~A list of officers and members of the Board of Directors of the Franchisee and any Affiliates directly involved in the operation or the maintenance of the Cable System;

~~(G)~~g. ~~a~~An organizational chart showing all Persons with more than a five percent (5%) ~~percent~~ ownership interest in the Franchisee, and the nature of that ownership interest (whether limited partner, general partner, preferred shareholder, or other Person); and showing the same information for each corporation or partnership that holds such an interest in the corporations or partnerships so identified, and so on, until the ultimate corporate and

partnership interests are identified;

(H)h. aAn annual report for each entity identified in Section § 41.2-12.D.2.g(d)(2)(G) which issues an annual report; and

(I)i. aA complete report on the Franchisee's plant. This plant report shall state the physical miles of plant construction and plant in operation during the prior calendar year (categorized as aerial and underground, and as fiber optic, including the fiber count, and coaxial); identify any cases where Subscribers contributed to plant extension; and report the results of appropriate electronic measurements to show conformity with FCC technical standards. Each Franchisee shall annually provide a Countywide map of cable facilities in the Public Rights-of-Way. The map shall be referenced to Virginia State Plane Coordinates, the Alexandria Drafting Company grid system, or any subsequent system adopted by the County, and shall be in both digital and paper formats. The annual map shall have an interlinked data base table of addresses of homes passed, which may be displayed upon the digital map.

(3.) Notwithstanding the above, once the information required by Sections § 41.2-12.D.2.e(d)(2)(E) —through 41.2-12.D.2.g(d)(2)(G) has been filed once, it need only be refiled if it changes.

(e)E. *Records Rrequired.* A Franchisee shall at all times maintain:

(1.) Records of all complaints received with information sufficient to allow a Franchisee to prepare the reports required in this Section § 41.2-12. The term "complaints" as used herein and throughout this Cchapter refers to written complaints, and written documentation of oral complaints that are not resolved in a Franchisee's initial conversation with a Subscriber, about any aspect of the Cable System or a Franchisee's operations, including, without limitation, complaints requiring service calls, and complaints about employee courtesy, billing, prices, programming, outages and signal quality;

(2.) Records of outages known to a Franchisee, with information sufficient to allow a Franchisee to prepare the reports required in this Section § 41.2-12;

(3.) Records of service calls for repairs and maintenance indicating the date and time service was requested, the date of acknowledgment and date and time service was scheduled (if it was scheduled), and the date and time service was provided, and (if different) the date and time the problem was solved; and

(4.) Records of installation/reconnection and requests for service extension, indicating the date of request, the date of acknowledgment, and the date and time service was extended.

(f)F. *Additional Rrecords and Rreports.* The County may require Franchisees to maintain records, and to prepare reports relevant to determining a Franchisee's compliance with the terms and conditions of this Cchapter and a Franchise.

(g)G. *Maps.*

(1.) Each Franchisee shall maintain accurate as built maps and improvement plans which show the location, size, and a general description of all facilities installed in the Public Rights-of-Way and any power supply sources (including voltages and connections). Maps shall be based upon post-construction inspection to verify location. Each Franchisee shall provide a map to the County showing the location of its facilities, in such detail and scale as may be directed by the Administrator. New as built maps shall be promptly submitted to the County when a Cable System expands or is relocated. Copies of maps shall be provided in digital format.

(2.) During specific project construction, each Franchisee shall submit permit plans in digital format,

along with fifty (50) scale paper copies.

(3.) All maps and permit plans shall be submitted in digital format, such as a DXF file, compatible with ESRI ArcInfo 8.0 software or other software as required by the County, and shall be tied to Virginia State Plane Coordinates or the Alexandria Drafting Company grid system.

(h)H. *Performance Eevaluation.*

(1.) The County may, at its discretion, hold performance evaluation sessions. All such evaluation sessions shall be open to the public. A Franchisee may be required by the County to notify Subscribers of all such evaluation sessions by announcement on a designated local channel on the System between the hours of 9:00 a.m. and 9:00 p.m. for five (5) consecutive days preceding each session.

(2.) Topics that may be discussed at any evaluation session may include, but not be limited to, System performance and construction, a Franchisee's compliance with this Cchapter and its Certificate, customer service and complaint response, Subscriber privacy, services provided, programming offered, service rate structures, Franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.

(3.) During the evaluation process, a Franchisee shall fully cooperate with the County and shall provide such information and documents as the County may need to reasonably perform its review, including information which may be deemed proprietary.

(i)I. *Waiver of Rreporting Rrequirements.* The Board may, at its discretion, waive in writing the requirement of any particular report specified in this Section § 41.2-12.

(j)J. *Office.* Every Franchisee shall maintain an office in the County at a place to be determined in the Certificate, for as long as the Franchisee continues to operate a System or any portion thereof.
(Ord. No. 98-21, 6-20-98)

§ 41.2-13. Indemnification of the County and Residents.

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(a)A. *Indemnification and Hhold Hharmless.*

(1.) No Franchise or other authorization to use the Public Rights-of-Way issued to a Franchisee shall be valid or effective until and unless the County obtains adequate indemnity from such Franchisee. The indemnity shall, at a minimum:

(A)a. rRelease, indemnify, hold harmless, and defend the County, its elected and appointed officials, officers, boards, commissions, commissioners, agents, and employees against any and all claims, suits, causes of action (whether frivolous or otherwise), proceedings, and judgments for damages or equitable relief arising out of the construction, maintenance, or operation of a Cable System; copyright infringements or a failure by a Franchisee, or its Affiliates to secure consents from the owners, authorized distributors, or franchisees of programs to be delivered by the Cable System, other than programs delivered on Public, Educational or Governmental Access Channels, Channels leased pursuant to 47 U.S.C. § 532, or an institutional network (excluding programming controlled by the Franchisee); the acts, errors, or omissions of a Franchisee or its agents, employees or independent contractors; the conduct or presence of a Franchisee's business in the County; or in any way arising out of a Franchisee's enjoyment or exercise of the privileges granted by a Franchise, regardless of whether the act or omission complained of is authorized, allowed, or prohibited by this Cchapter or a Franchise. Each Franchisee agrees not to sue or to seek any monetary damages from the County, including the Persons and entities described in this subparagraph, in connection with the above-mentioned matters. This indemnification does not extend to claims by a Franchisee

against the County for injunctive relief to enforce the terms of a Franchise;

(B)b. iIndemnify, defend, and hold harmless the County, and its elected and appointed officials, officers, boards, commissions, commissioners, employees, and agents from and against any and all claims, demands, suits, or causes of action of any kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, orders, decrees, liabilities, and judgments, whether for damages or otherwise, subject to 47 U.S.C. § 558, arising out of or alleged to arise out of any claim against a Franchisee for invasion of the right of privacy, defamation of any Person, or the violation or infringement of any copyright, trade mark, trade name, service mark, or patent, or of any other right of any Person. This indemnity does not apply to programming carried on Public, Educational or Governmental Access Channels, or Channels leased pursuant to 47 U.S.C. § 532, unless a Franchisee was in any respect engaged in determining the editorial content of the program, or adopts a policy of prescreening programming for the purported purpose of banning or regulating indecent or obscene programming;

(C)c. pProvide that the County shall give a Franchisee prompt notice of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this § 41.1-13.A(a). The Franchisee shall provide the defense of any claims brought against the County under this subsection of the Code or similar provisions in a Franchise, subject to the terms of any applicable insurance policy, by selecting and paying for counsel of the Franchisee's choice to defend the claim, subject to the consent of the County, which consent shall not be unreasonably withheld. Nothing herein shall be deemed to prevent the County from cooperating with a Franchisee and participating in the defense of any litigation by its own counsel at its own cost and expense; provided, however, that after consultation with the County, a Franchisee shall have the right to defend or settle any claim or action arising hereunder, and the Franchisee shall have the authority to decide the appropriateness and the amount of any such settlement. In the event that the County does not consent to the terms of any such settlement or compromise agreed to by the claimant or claimants, then a Franchisee shall not settle the claim or action, but its obligation to indemnify the County shall in no event exceed the amount of such otherwise agreed upon settlement.

(D)d. pProvide that the covenants and representations relating to the indemnification and hold harmless provisions shall survive the term of any Franchise for acts of a Franchisee committed while a Franchise was in effect or performed under color of a Franchise after the expiration, revocation, cancellation, termination or forfeiture of the Franchise; and

(E)e. pProvide that, to the extent permitted by applicable rules of civil, criminal and appellate procedure, a Franchisee shall not implead or join the Board, the County, its elected and appointed officers, officials, boards, commissions, commissioners, employees, and agents in any cause of action against the Franchisee arising out of the exercise of any rights the Franchisee has under its Franchise, unless a court of competent jurisdiction has determined that the County is a necessary party.

(2.) Nothing in this Chapter or a Franchise shall be construed to waive the tort or any other immunity or applicable defense of the County, and its elected and appointed officials, officers, Boards, commissions, commissioners, agents, and employees.

(3.) Neither the provisions of this Ssection nor any damages recovered by the County shall be construed to limit the liability of a Franchisee for damages to the County, its elected and appointed officers, officials, Boards, commissions, employees, and agents under the Franchise.

(b)B. *Insurance.* No Franchise to use the Public Rights-of-Way issued to a Franchisee shall be valid or effective until and unless the County obtains assurance that the Franchisee (and those acting on its behalf) have adequate insurance. At a minimum, the following insurance requirements shall be satisfied by a Franchisee:

(1.) A Franchisee shall not commence construction or operation of a Cable System without obtaining all insurance required under this Ssection and approval of such insurance by the County. The required insurance shall be obtained and maintained for the entire term of a Franchise, or any extension(s) thereof. If the Franchisee, its contractors or subcontractors do not have the required insurance, then the County may order such entities to stop operations until the insurance is obtained and approved.

(2.) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the County. For entities that are entering the market, the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of a lapse in coverage. For entities that have facilities in the Public Rights-of-Way as of the effective date of this Cchapter, the certificate shall be filed within sixty (60) days of the date of this Cchapter, annually thereafter, and as provided below in the event of a lapse in coverage, unless a pre-existing Certificate provides for filing of certificates in a different manner.

(3.) These certificates shall contain a provision that coverages afforded under these policies will not be canceled, suspended, or amended until at least sixty (60) days' prior written notice has been delivered to the Administrator. Policies shall be issued by companies authorized to do business under the laws of the Commonwealth of Virginia. Financial ratings shall be no less than "A-1" in the latest edition of "Best's Key Rating Guide," published by A.M. Best Guide.

(4.) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the term of a Franchise, then in that event, the Franchisee shall furnish, at least thirty (30) days' prior to the expiration of the date of such insurance, a renewed certificate of insurance as evidence that equal and like coverage will be in force for the balance of the period of the Franchise under which the Cable System operates. Certified copies of the required policies will be provided by the Franchisee to the County upon request.

(5.) A Franchisee and its contractors or subcontractors engaged in work on the Franchisee's behalf in, on, under or over Public Rights-of-Way, shall maintain the following minimum insurance:

(A)a. Commercial General Liability insurance with respect to the construction, operation, and maintenance of a Cable System, and the conduct of a Franchisee's business in the County, in a minimum amount of five million dollars ($5,000,000.00) per occurrence, combined single limit for property damage and bodily injury. The policy must include coverage for Contractual Liability, Premises and Operations, Independent Contractors, Broad Form Property Damage, Personal Injury, and Products and Completed Operations. The policy shall also include coverage for explosion, collapse and underground (XCU) hazard. The Completed Operations and Products liability insurance specified above shall cover all occurrences during the term of the policy, including any occurrence discovered within two (2) years after the termination of a Franchise (in the case of a System owner or operator) or completion of work for the System owner (in the case of a contractor or subcontractor).

(B)b. Automobile Liability Coverage, with a minimum limit of liability of two million dollars ($2,000,000.00), per occurrence, combined single limit for bodily injury and property damage coverage. The policy must include coverage for owned automobiles, leased or hired automobiles, and non-owned automobiles.

(C)c. Broadcasters' Liability Coverage, covering errors and omissions and negligent acts and other operations of a Franchisee, committed during the term of a Franchise, with a limit of liability of at least one million dollars ($1,000,000.00) per claim and aggregate and a maximum deductible of twenty-five thousand ($25,000.00).

(D)d. Workers' Compensation Coverage meeting all requirements of Virginia law and

Employers' Liability Coverage, with the following minimum limits: Bodily Injury by Accident ~~-~~ one hundred thousand dollars ($100,000.00) each accident, Bodily Injury by Disease ~~-~~ five hundred thousand dollars ($500,000.00) policy limits and Bodily Injury by Disease ~~-~~ one hundred thousand dollars ($100,000.00) each employee. Each Franchisee shall require its subcontractors similarly to provide workers' compensation insurance for all the latter's employees unless such employees are covered by the protection afforded by each Franchisee.

~~(~~6.~~)~~ All of the insurance policies providing the coverage required by this Section shall respond to valid claims occurring during the policy term on an occurrence basis. In the event that any of the occurrence policies above are replaced by a claims-made policy, such policy shall provide for a retroactive reporting date which coincides with the effective date of a Franchise, and shall include an extended reporting period of no less than~~t~~ one (1) year after its termination date. Such replacement shall be brought to the attention of the County, in writing, no later than fifteen (15) days before the replacement date.

~~(~~7.~~)~~ All liability insurance policies, excluding those specified in ~~Sections~~ § 41.2-13.B.5.b~~(b)(5)(B)~~ and 41.2-13.B.5.d~~(b)(5)(D)~~, shall name the County, its elected and appointed officers, officials, boards, commissions, employees, and agents as additional insureds. In the event of a claim under any of the above insurance policies, the Franchisee shall pay all deductibles.

~~(~~8.~~)~~ In every Certificate, the County shall reserve the right to: (i) review the insurance amounts and policy terms specified in paragraph ~~(~~5~~)~~ no more than once a year; and (ii) require reasonable adjustments to such amounts and policy terms, consistent with the public interest.

~~(~~9.~~)~~ Failure to comply with the insurance requirements set forth in this ~~S~~section shall constitute a material violation of a Franchise.

(Ord. No. 98-21, 6-20-98)

§ 41.2-14. Performance Bond, Security Fund, Revocation and Termination Due to Bankruptcy.

~~(a)~~A. *Performance ~~B~~bond.* Every certificate shall require the Franchisee to post a performance bond in an amount acceptable to the County to secure the performance of the Franchisee's obligations to repair and restore the Public Rights-of-Way in accordance with this Code.

~~(b)~~B. *Security ~~F~~fund.*

~~(~~1.~~)~~ Every Franchisee shall establish a Security Fund to secure the payment of fees owed, to secure any other performance promised in a Certificate or required by this Code, and to pay any taxes, fees or liens owed to the County. The Board, or its designee, shall set the amount of the Security Fund in a Certificate. Any letter of credit provided to satisfy this requirement shall be in a form acceptable to the County ~~a~~Attorney and with an institution acceptable to the Administrator. Should the County draw upon the Security Fund, it shall promptly notify the Franchisee, and the Franchisee shall promptly restore the Security Fund to the full required amount. This Security Fund may be reduced by the Board for a Franchisee where the Board determines, in its discretion, that a particular Franchisee's operations are sufficiently limited that a Security Fund is not necessary to secure the required performance. The Board may from time to time increase the amount of the required Security Fund to reflect increased risks to the County and to the public.

~~(~~2.~~)~~ The following procedures shall apply to drawing on the Security Fund:

~~(A)~~a. If a Franchisee fails to make timely payment to the County of any amount due under its Certificate, this Chapter, or other applicable law, or fails to compensate the County within ten (10) days of written notification that such compensation is due, for any damages, costs, or expenses the County suffers or incurs by reason of any act or omission of the Franchisee in connection with this Agreement or its enforcement, or fails, after ten

(10) days' written notice, to comply with any provision of its Certificate or this Chapter that the Administrator determines can be remedied by an expenditure of the security, the County may withdraw the amount thereof, with interest and any penalties, from the Security Fund.

~~(B)~~b. Within three (3) days of a withdrawal from the Security Fund, the County shall mail to a Franchisee, by certified mail, return receipt requested, written notification of the amount, date, and purpose of such withdrawal to the Franchisee.

~~(C)~~c. If at the time of a withdrawal from the Security Fund by the County, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the Franchisee to the County until it is paid.

~~(D)~~d. No later than thirty (30) days after mailing of notification to the Franchisee by certified mail, return receipt requested, of a withdrawal under the Security Fund, the Franchisee shall restore the Security Fund to the total amount specified herein.

~~(E)~~e. Upon termination of the Franchise under conditions other than those stipulating forfeiture of the Security Fund, the balance then remaining in the Security Fund shall be returned to the Franchisee within ninety (90) days of such termination, provided that there is then no outstanding default on the part of the Franchisee.

~~(c)~~C. *Failure ~~C~~constitutes ~~M~~material ~~V~~violation.* Failure to maintain or restore the Security Fund or a Performance Bond shall constitute a material violation of this ~~C~~chapter and a Certificate.

~~(d)~~D. *Revocation, or ~~R~~reduction of ~~F~~franchise ~~T~~term.*

~~(~~1.~~)~~ When, after notice and providing a Franchisee with an opportunity to be heard, the Board finds that a System is being maintained or operated in violation of this ~~C~~chapter or in substantial violation of the terms of a Franchise, the Board may make an appropriate reduction in the remaining term of a Franchise or revoke a Franchise. Before a Franchise is revoked or shortened, the Administrator shall establish and conduct a compliance proceeding that comports with the requirements of this ~~Section~~ § 41.2-14.C~~(c)~~. At the conclusion of the compliance proceeding, the Administrator shall transmit a recommended decision to the Board. A Franchisee may appeal the Administrator's recommendation to the Board, but any such appeal shall be filed within thirty (30) days of the receipt by the Franchisee of the written decision of the Administrator. If no appeal is filed, the Board may immediately determine whether to revoke or shorten the term of a Franchise in accordance with the requirements of this provision. However, if an appeal is filed by a Franchisee, the Board shall not revoke or shorten the term of the Franchise until the appeal has been decided. Notwithstanding the foregoing, a Franchise may not be revoked unless a Franchisee (i~~1~~) was given notice of the default; (ii~~2~~) was given thirty (30) days to cure the default; and (iii~~3~~) the Franchisee failed to cure the default, or to propose a schedule for curing the default that is acceptable to the County. The required notice may be given before the Administrator conducts the proceeding required by this paragraph. No opportunity to cure is required for repeated material violations or any Transfer without the prior consent of the County, and fraud may be deemed incurable.

~~(~~2.~~)~~ Upon termination of a Franchise, whether by action of the Board as provided above, or by passage of time, a Franchisee shall be obligated to cease using its System for the purposes authorized by the Franchise. The County may either take possession of some or all of the Franchisee's facilities in the Public Rights-of-Way or require the Franchisee or its surety to remove some or all of the Franchisee's facilities from the Public Rights-of-Way and to restore the Public Rights-of-Way to their proper condition. Notwithstanding anything in this ~~C~~chapter to the contrary, should a Franchisee fail, refuse, or neglect to remove such facility, the County may remove the facility at the expense of the Franchisee. Regardless of the existence or amount of any security fund or

performance bond, the obligation of a Franchisee to remove shall survive the termination of the Franchise. This provision, however, does not authorize the County to take possession of, or require a Franchisee to remove, any facilities that are used to provide another service for which the Franchisee holds a valid Franchise issued by the Board.

(e)E. *Termination Ddue to Bbankruptcy.*

(1.) Any Franchise may, at the option of the County following a public hearing, be revoked by the Board one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the Franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, unless within that one hundred twenty (120) day period:

(A)a. Such assignment, receivership, or trusteeship has been vacated; or

(B)b. Such assignee, receiver, or trustee has fully complied with the terms and conditions of this Cchapter and the applicable Certificate and has executed an agreement, approved by a court of competent jurisdiction, under which it assumes and agrees to be bound by the terms and conditions of this Cchapter and the applicable Certificate, and such other conditions as may be established or as are required under Section § 41.2-13 of this Cchapter.

(2.) Notwithstanding the foregoing, in the event of foreclosure or other judicial sale of any of the facilities, equipment, or property of a Franchisee, the Board may revoke the Franchise, following a public hearing, by serving notice on the Franchisee and the successful bidder, in which event the Franchise and all rights and privileges of the Franchise will be revoked and will terminate thirty (30) calendar days after serving such notice, unless:

(A)a. The Board has approved the Transfer of the Franchise to the successful bidder; and

(B)b. The successful bidder has covenanted and agreed with the County to assume and be bound by the terms and conditions of the Certificate and this Cchapter, and such other conditions as may be established or as are required pursuant to this Cchapter or a Certificate.

(f)F. *Penalties and Fforfeitures.* In addition to any other remedies available, a Franchisee may be subject to penalties and forfeitures for any violation of this Cchapter, unless prohibited by applicable law, including, without limitation:

(1.) aAny knowing submission of false or fraudulent information to the County;

(2.) aAny failure to comply with any lawful order of the County or request for information under this Cchapter; or

(3.) aAn evasion of any lawful order of the County, any provision of this Cchapter, or other applicable law.

(g)G. *Purchase or Ttransfer of a Ccable Ssystem by the County.*

(1.) If a Franchise granted under this Cchapter expires, the County may acquire ownership of the Cable System at Fair Market Value, subject to a Franchisee's rights under 47 U.S.C. § 546.

(2.) If the Board revokes or terminates a Franchise for cause, the County may acquire ownership of the Cable System at an Equitable Price.

(h)H. *Remedies Ccumulative.* All remedies under this Cchapter and any Certificate are cumulative

unless otherwise expressly stated. The exercise of one (1) remedy shall not foreclose use of another, nor shall the exercise of a remedy or the payment of liquidated damages or penalties relieve a Franchisee of its obligations to comply with its Franchise. Remedies may be used singly or in combination; in addition, the County may exercise any rights it has at law or equity.

~~(i)~~I. *Relation to ~~I~~insurance and ~~I~~indemnity ~~R~~requirements.* Recovery by the County of any amounts under insurance, a Security Fund, a performance bond, or otherwise does not limit a Franchisee's duty to indemnify and hold harmless the County and its elected and appointed officers, officials, Boards, commission, employees, agents and volunteers in any way; nor shall such recovery relieve a Franchisee of its obligations under a Franchise, limit the amounts owed to the County, or in any respect prevent the County from exercising any other right or remedy it may have. Nothing herein shall be construed to authorize the double-recovery of damages.

~~(j)~~J. *Effects of ~~L~~litigation.* Pending litigation or any appeal to any regulatory body or court having jurisdiction over a Franchisee shall not excuse the Franchisee from the performance of its obligations under this ~~C~~chapter or its Certificate unless a stay specifically applicable to the performance of the obligation is obtained from a court or regulatory body of competent jurisdiction. Failure of the Franchisee to perform such obligations because of pending litigation or a petition, in the absence of a stay issued by a court or regulatory body of competent jurisdiction, may result in forfeiture or revocation pursuant to the provisions of this ~~C~~chapter and/or a Certificate.
(Ord. No. 98-21, 6-20-98)

§ 41.2-15. Transfers.

~~(a)~~A. *Board approval ~~R~~required.*

~~(~~1.~~)~~ A Franchise shall be a privilege that is in the public trust and personal to the Franchisee. A Franchisee's obligations under its Franchise involve personal services whose performance involves personal credit, trust, and confidence in the Franchisee.

~~(~~2.~~)~~ No Transfer (including, but not limited to, Transfer as a result of forced or voluntary sale, merger, consolidation, receivership, or any other means) shall occur unless prior application is made by the Franchisee to the Board and the Board's prior written consent is obtained, pursuant to this ~~C~~chapter and a Certificate, and only then upon such terms and conditions as the Board deems necessary and proper. Any such Transfer without the prior written consent of the Board shall be considered to impair the County's assurance of due performance. The granting of approval for a Transfer in one instance shall not render unnecessary approval of any subsequent Transfer.

~~(~~3.~~)~~ Application.

~~(A)~~a. A Franchisee shall promptly notify the Administrator of any proposed Transfer. If any Transfer should take place without prior notice to the Administrator, the Franchisee will promptly notify the County that such a Transfer has occurred.

~~(B)~~b. At least one hundred~~-~~ twenty (120) calendar days prior to the contemplated effective date of a Transfer, the Franchisee shall submit to the Administrator an application for approval of the Transfer. Such an application shall provide complete information on the proposed transaction, including details on the legal, financial, technical, and other qualifications of the transferee, and on the potential impact of the Transfer on Subscriber rates and service. At a minimum, the following information shall be included in the application, provided that, a Franchisee is not required to duplicate information that it submits to the Administrator to comply with its obligations under federal or State law:

~~(i)~~(1) ~~a~~All information and forms required under federal law or the equivalent of such forms if no longer required by federal law;

~~(ii)~~(2) ~~a~~All information required in ~~Sections~~ §§ 41.2-4.C.1~~(e)(1)~~ to 41.2-4.C.5~~(e)(5)~~, 41.2-4.C.11~~(e)(11)~~ and 41.2-4.C.14~~(e)(14)~~ of this ~~C~~chapter, with respect to the

proposed transferee;

~~(iii)~~(3) ~~a~~Any contracts, financing documents, or other documents that relate to the proposed transaction, and all documents, schedules, exhibits, or the like referred to therein;

~~(iv)~~(4) ~~a~~Any documents related to the transaction that have been provided to any entity that has been asked to provide financing (debt, equity, or any other kind) for, or to underwrite any offering made in connection with, the proposed transaction;

~~(v)~~(5) ~~a~~Any shareholder reports or filings with the Securities and Exchange Commission or the Federal Trade Commission that discuss the transaction, and any filings required under federal or State law in connection with the proposed transaction;

~~(vi)~~(6) ~~c~~Complete financial statements for the transferor and the proposed transferee(s) for the last three (3) years, including balance sheets, income statements, profit and loss statements, and documents detailing capital investments and operating costs;

~~(vii)~~(7) ~~a~~A detailed description of the sources and amounts of funds to be used in the proposed transaction, indicating how the debt-to-equity ratio of the Cable System will change in the course of the transaction; what entities will be liable for repayment of any debt incurred; what interest, payment schedule, and other terms or conditions will apply to any debt financing; any debt coverages or financial ratios any potential transferee(s) will be required to maintain over the term of a Franchise if the proposed transaction is approved; what financial resources would be available to the System under the control of the proposed transferee; whether the proposed transferee can meet debt-to-equity or any other required ratios without increasing rates, with any assumptions underlying that conclusion, and if not, what increases would be required, at what specific dates, and why;

~~(viii)~~(8) ~~c~~Complete information regarding any potential impact of the Transfer on Subscriber rates and service;

~~(ix)~~(9) ~~a~~Any representations made to anyone, in connection with the transaction, about the transferor's compliance with its Franchise; and

~~(x)~~(10) ~~a~~A brief summary of the proposed transferee's plans for at least the next five (5) years regarding line extension, plant and equipment upgrades, Channel capacity, expansion or elimination of services, and any other changes affecting or enhancing the performance of the Cable System. This summary shall include the expected dates that specific plans will be implemented, and the projected costs of such plans.

~~(C)~~c. In addition to providing the information specified in § 41.2-15.A.3.b~~(a)(3)(B)~~, a Franchisee shall, at the request of the County, furnish any other information necessary to provide a complete and accurate understanding of the financial position of the Cable System before and after the proposed Transfer.

~~(D)~~d. For the purposes of determining whether it shall consent to a Transfer, the County or its agents may inquire into all qualifications of the prospective transferee and such other matters as the County may deem necessary and relevant to determine whether the Transfer is in the public interest and should be approved, denied, or conditioned as provided under ~~Section~~ § 41.2-15.B~~(b)~~. A Franchisee and any prospective transferees

shall assist the County in any such inquiry, and if they fail to do so, the request for a Transfer may be denied.

~~(b)~~B. *Determination by County*. In making a determination as to whether to grant, deny, or grant subject to conditions, an application for a Transfer of a Franchise, the County may consider, without limitation, the legal, financial, and technical qualifications of the transferee to operate the Cable System; any potential effects of the Transfer on Subscriber rates or services; whether a Franchisee is in compliance with its Franchise, and this ~~C~~chapter and, if not, the proposed transferee's commitment to cure such noncompliance; whether the transferee owns or controls any other Cable System in the County, and whether operation by the transferee may eliminate or reduce competition in the delivery of Cable Service in the County; and whether operation by the transferee or approval of the Transfer would adversely affect Subscribers, the public, or the County's interest under this ~~C~~chapter, a Franchise, or other applicable law.

~~(c)~~C. *Transferee's ~~A~~agreement.* No application for a Transfer of a Franchise shall be granted unless the transferee agrees in writing that it will abide by and accept all terms of this ~~C~~chapter and the Franchise and that it will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Franchisee under this ~~C~~chapter and the Franchise, for all purposes, including renewal.

~~(d)~~D. *Approval ~~D~~does ~~N~~not ~~C~~constitute ~~W~~waiver.* Approval by the Board of a Transfer does not constitute a waiver or release of any of the rights of the County under this ~~C~~chapter or a Certificate, whether arising before or after the date of the Transfer.

~~(e)~~E. *Exception for ~~I~~intra-~~C~~company ~~T~~transfers.* Notwithstanding the foregoing, a Certificate may provide that Transfers to Affiliates of a Franchisee shall be excepted from the requirements of ~~Section~~ § 41.2-15.A~~(a)~~ where (i) the Affiliate is wholly-owned and managed by an entity that will guarantee the performance under a Franchise; and (ii) the transferee Affiliate:

~~(~~1.~~)~~ ~~n~~Notifies the Administrator of the Transfer at least sixty (60) days before it occurs and, at that time provides the agreements and warranties required by this ~~Section~~ § 41.2-15, describes the nature of the Transfer, and submits complete information describing who will have direct and indirect ownership and control of the Cable System after the Transfer;

~~(~~2.~~)~~ ~~w~~Warrants that it has read, accepts and agrees to be bound by each and every term of the Certificate and related amendments, regulations, ordinances and resolutions then in effect;

~~(~~3.~~)~~ ~~a~~Agrees to assume all responsibility for all liabilities, acts and omissions, known and unknown, of its predecessor Franchisee(s), for all purposes, including renewal;

~~(~~4.~~)~~ ~~a~~Agrees that the Transfer shall not permit it to take any position or exercise any right which could not have been exercised by its predecessor Franchisee(s);

~~(~~5.~~)~~ ~~w~~Warrants that the Transfer will not substantially increase the financial burdens upon or substantially diminish the financial resources available to the Franchisee (the warranty to be based on comparing the burdens upon and resources that will be available to the transferee compared to its predecessors), or otherwise adversely affect the ability of the Franchisee to perform;

~~(~~6.~~)~~ ~~w~~Warrants that the Transfer will not in any way adversely affect the County or Subscribers (including by increasing rates);

~~(~~7.~~)~~ ~~n~~Notifies the County that the Transfer is complete within five (5) business days of the date the Transfer is completed; and

~~(~~8.~~)~~ ~~a~~Agrees that the Transfer in no way affects any evaluation of its legal, financial or technical qualifications that may occur under the Franchise or applicable law after the Transfer, and does not directly or indirectly authorize any additional Transfers.

(Ord. No. 98-21, 6-20-98)

§ 41.2-16. Open Video Systems.

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~~(a)~~A. *Applicability of ~~C~~chapter.*

~~(~~1.~~)~~ This ~~C~~chapter shall apply to open video systems that comply with 47 U.S.C. § 573, to the extent permitted by applicable law, except that the following sections shall not apply: § 41.2-3.A~~(a)~~ through 41.2-3.C~~(c)~~ (regarding grant of franchise), § 41.2-4 (franchise applications), § 41.2-5 (filing fees), § 41.2-7.A~~(a)~~ (construction schedule), § 41.2-10 (rate regulation), § 41.2-14.A.1.b~~(a)(1)(B)~~ through 41.2-14.A.1.d~~(a)(1)(D)~~ and 41.2-14.A.1.h~~(a)(1)(H)~~ (certain penalties), § 41.2-14.E~~(e)~~ (franchise termination due to bankruptcy), and § 41.2-15 (Transfers).

~~(~~2.~~)~~ In applying this ~~C~~chapter to an open video system, "Franchisee" shall be taken to refer to the open video system operator, "Cable System" to the open video system, and similar terms shall apply similarly.

~~(b)~~B. *Fee ~~I~~in ~~L~~lieu of ~~F~~franchise ~~F~~fee.* An open video system operator shall pay to the County a fee in lieu of the Franchise fee required in ~~Section~~ § 41.2-11 of this ~~C~~chapter, pursuant to the procedures and conditions specified in applicable law, including FCC regulations, ~~Section~~ § 41.2-11, and generally herein.

~~(c)~~C. *Public, ~~E~~educational, and ~~G~~governmental ~~A~~access ~~O~~obligations.* An open video system operator shall be subject to obligations pertaining to public, educational, and governmental access pursuant to applicable law and to the requirements herein.

~~(d)~~D. *Right-of-~~W~~way ~~U~~usage.* An open video system operator shall be subject to all requirements of State and local law regarding authorization to use or occupy the Public Rights-of-Way, except to the extent specifically prohibited by federal law. FCC approval of an open video system operator's certification pursuant to 47 U.S.C. § 573 shall not be taken to confer upon such operator any authority to use or occupy the Public Rights-of-Way that such operator would not otherwise possess.
(Ord. No. 98-21, 6-20-98)

§ 41.2-17. Rights of Individuals Protected.

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~~(a)~~A. *Discriminatory ~~P~~practices ~~P~~prohibited.*

~~(~~1.~~)~~ A Franchisee shall not deny service, deny access, or otherwise discriminate against Subscribers, Programmers, or residents of the County on the basis of race, color, religion, national origin, sex, age, condition of physical handicap, creed, ethnic background, marital status or sexual orientation.

~~(~~2.~~)~~ A Franchisee shall not discriminate among Persons or the County, or take any retaliatory action against a Person or the County because of that entity's exercise of any right it may have under federal, State, or local law, nor may the Franchisee require a Person or the County to waive such rights as a condition of taking service.

~~(~~3.~~)~~ Except as federal law prohibits enforcement of this provision, a Franchisee shall not deny access or levy different rates and charges on any group of potential cable subscribers because of the income of the residents of the local area in which such group resides.

~~(~~4.~~)~~ Subject to applicable law and except to the extent that a Franchisee is relieved of such a requirement, a Franchisee is prohibited from discriminating in its rates or charges or from granting undue preferences to any Subscriber, potential Subscriber, or group of Subscribers or potential Subscribers; provided, however, that a Franchisee may offer temporary, bona fide promotional discounts in order to attract or maintain Subscribers, so long as such discounts are offered on a non-discriminatory basis to similar classes of Subscribers throughout the County; and a Franchisee may offer discounts for the elderly, the handicapped, non-for-profit Persons or organizations, or the economically disadvantaged, and such other discounts as it is expressly entitled to provide

under federal law, if such discounts are applied in a uniform and consistent manner. A Franchisee shall comply at all times with all applicable federal, State, and County laws, and all executive and administrative orders relating to non-discrimination.

(5.) Information Accessibility: Each document required to be maintained, filed or submitted under the provisions of this Cchapter or a Certificate, except those specifically designated as confidential by a Franchisee and not required to be disclosed by the County under applicable law, is a public document, available for public inspection and copying at the requestor's expense, at the office(s) of the Franchisee or the County during normal business hours.

(b)B. *Equal Eemployment Oopportunity.* A Franchisee shall not refuse to employ, discharge from employment, or discriminate against any Person in compensation or in terms, conditions, or privileges of employment because of race, color, religion, national origin, sex, sexual orientation, age, disability, or marital status. A Franchisee shall comply with all federal, State, and local laws and regulations governing equal employment opportunities, as the same may be amended from time to time.

(c)C. *Subscriber Pprivacy.*

(1.) A Franchisee shall at all times protect the privacy rights of all Subscribers, including but not limited to those rights secured by the provisions of Section 631 of the Cable Act, 47 U.S.C. § 551.

(2.) Neither a Franchisee nor any other Person shall initiate in any form the discovery of any information on or about an individual Subscriber's premises without prior valid authorization from the Subscriber potentially affected. This provision is not intended to prohibit the transmission of signals useful only for the control or measurement of System performance.

(3.) A Franchisee shall not permit the installation of any special terminal equipment in any Subscriber's premises that will permit transmission from such Subscriber's premises of two-way services utilizing aural, visual or digital signals without such Subscriber's prior valid authorization.

(4.) As used in this Section § 41.2-17.C(c), "valid authorization" shall mean written permission from a Subscriber.

(5.) A Franchisee shall strictly observe and protect the privacy rights and property rights of Subscribers and Users at all times. Individual Subscriber preferences of any kind, viewing habits, political, social or economic philosophies, beliefs, creeds, religions, or telephone numbers shall not be revealed to any person, governmental unit, police department or investigating agency unless upon the authority of a court of law or upon prior voluntary valid authorization of a Subscriber.

(6.) A Franchisee may release the number of its Subscribers, but only as a total number and as a percentage of the potential Subscribers throughout the County or served by the System. When indicating the number of Subscribers viewing a particular Channel at a particular time, a Franchisee shall indicate only the total number of Subscribers viewing during the relevant time and the percentage of all Subscribers which they represent, but never the identity of a particular Subscriber.

(7.) A Franchisee may maintain such information as is necessary to bill Subscribers for any System service.

(8.) No monitoring of any Subscriber terminal shall take place without specific prior valid authorization by the Subscriber in question; provided, however, that a franchisee may conduct System-wide or individually addressed "sweeps" for the purpose of verifying System integrity and may take reasonable efforts necessary to prevent signal theft. In no event shall aural or visual monitoring of any kind take place without a clear indication to the Subscriber that such monitoring is taking place.

(9.) A Franchisee shall not disclose any test results that would reveal the commercial product preferences or opinions of individual Subscribers, members or their families or their invitees, licensees or employees, without a Subscriber's prior valid authorization.

(10.) A Subscriber may at any time revoke any authorization to release information by delivering to a Franchisee in writing, by mail or otherwise, the Subscriber's decision to revoke the authorization. Any such revocation shall be effective upon receipt by the Franchisee.

(11.) A Franchisee shall not condition Subscriber service on the Subscriber's valid authorization or denial of permission to collect, maintain or disclose personally identifiable information, except to the extent that such information is necessary for credit check or billing purposes.

(12.) Each compilation, publication, tabulation or other dissemination of information made or permitted to be made in violation of this Section § 41.2-17.C(c) shall be considered a separate violation.
(Ord. No. 98-21, 6-20-98)

§ 41.2-18. Administration.

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(a)A. *Duties of the Administrator.* The Administrator, either directly or through a duly appointed designee or designees, shall have the responsibility for overseeing the day-to-day administration of this Cchapter, Certificate, and related Agreements. The Administrator shall be empowered to take all administrative actions on behalf of the County, except for those actions specified in this Cchapter that are reserved to the Board. The Administrator may recommend that the Board take certain actions with respect to a Franchise. The Administrator shall keep the Board apprised of developments in cable and provide the Board with assistance, advice and recommendations as appropriate.

(b)B. *Authority of the Board.* The Board shall have the sole authority to regulate rates for Cable Service; grant Franchises; authorize the entering into of Certificates; modify Certificates; renew Franchises; revoke Franchises; and authorize the Transfer of a Franchise.

(c)C. *Transfer of Aauthority.* If at any time the powers of the Board, or any agency or official of the County or the Board are transferred by law to any other board, agency, authority or official, then such other board, agency, authority or official shall have the powers, rights and duties previously vested under this Cchapter or by law in the Board, or any agency or official of the County or the Board.
(Ord. No. 98-21, 6-20-98)

§ 41.2-19. Miscellaneous Provisions.

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(a)A. *Compliance Wwith Llaws.* Each Franchisee shall comply with all federal, State, and local laws and regulations heretofore and hereafter adopted or established during the entire term of the Franchise granted to the Franchisee.

(b)B. *Captions.* The captions and headings of sections throughout this Cchapter are intended solely to facilitate reading and reference to the sections and provisions of this Cchapter. Such captions shall not affect the meaning or interpretation of this Cchapter.

(c)C. *No Rrecourse Aagainst the County.* Without limiting such immunities as the County or other Persons may have under applicable law, a Franchisee shall have no recourse against the County, its elected or appointed officials, officers, boards, commissions, commissioners, employees and agents for any loss, cost, expense, claim, liability or damage arising out of any action undertaken or not undertaken by the Franchisee pursuant this Cchapter or a Franchise, whether or not such action or non-action was required by this Cchapter or a Franchise, arising out of the enforcement or non-enforcement by the County or the Board of any provision or requirement of this Cchapter or a Franchise, or otherwise arising out of this Cchapter or a Franchise. This subsection shall not preclude injunctive relief.

(d)D. *Rights and Rremedies.*

(1.) The rights and remedies reserved to the Board and the County by this Cchapter are cumulative and shall be in addition to and not in derogation of any other rights and remedies which the Board or the County may have with respect to the subject matter of this Cchapter.

(2.) The County hereby reserves to itself the right to intervene in any suit, action or proceeding involving any provision of this Cchapter or a Certificate.

(3.) Specific mention of the materiality of any of the provisions herein is not intended to be exclusive of any others for the purpose of determining whether any failure of compliance hereunder is material and substantial.

(4.) No Franchisee shall be relieved of its obligation to comply with any of the provisions of this Cchapter or a Certificate by reason of any failure of the County, the Board or the Administrator to enforce prompt compliance. No inaction by the County, the Board or the Administrator shall be deemed to waive or void any provision of this Cchapter or a Certificate.

(e)E. *Amendments to this Cchapter.* In order to fulfill the public interest goals of this Cchapter, to provide additional communications services to the County through the use of Cable Systems, and thereby to ensure the benefits which will result from such services, the Board specifically reserves the right to amend this Cchapter to effectuate the public interest in the operation of a Cable System.

(f)F. *Public Eemergency.* In the event of a major public emergency or disaster, as determined by the County or declared by the Governor of Virginia, a Franchisee shall immediately make its entire Cable System, employees, and property, as may be necessary, available for use by the County or any other civil defense or governmental agency designated by the County to operate the System for the term of such emergency or disaster for the emergency purposes. In the event of such use, a Franchisee shall waive any claim that such use by the County constitutes a use of eminent domain, provided that the County shall return use of the entire System, employees, and property to the Franchisee after the emergency or disaster has ended or has been dealt with.

(g)G. *Connections to Ssystem; Uuse of Aantennae.*

(1.) To the extent consistent with federal law, Subscribers shall have the right to attach devices to a Franchisee's System to allow Subscribers to transmit signals or services for which they have paid to VCRs, receivers, and other terminal equipment, so long as such devices do not interfere with the operation of the Cable System, or the reception of any cable Subscriber, nor serve to circumvent a Franchisee's security procedures, nor for any purpose to obtain services illegally. Subscribers also shall have the right to use their own remote control devices and Converters, and other similar equipment, and a Franchisee shall provide information to consumers which will allow them to adjust such devices so that they may be used with the Franchisee's System.

(2.) A Franchisee shall not, as a condition of providing service, require a Subscriber or potential Subscriber to remove any existing antenna or disconnect an antenna, or prohibit or discourage a Subscriber from installing an antenna switch, provided that such equipment and installations are consistent with applicable codes and technically able to shield the Cable System from any interference.

(h)H. *Calculation of Ttime.* Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required under this Cchapter or any Certificate, and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of duration time.

(i)I. *Severability.* If any term, condition, or provision of this Cchapter shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law, so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and

effect without further action by the County or the Board and shall thereafter be binding on the Franchisee and the County.

~~(j)~~J. In exercising its powers pursuant to this ~~C~~chapter, the Board may grant Certificates or authorize renewals, extensions, modifications, or transfers of a Franchise that contain terms that vary from the requirements of this ~~C~~chapter, provided that the Board determines that such terms are in the best interests of the County or enhance the public health, safety or welfare.
(Ord. No. 98-21, 6-20-98; Ord. No. 06-10, 6-13-06)

ARLINGTON COUNTY CODE

Chapter 14.3

TOWING AND STORAGE OF VEHICLES*

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* **Editors Note:** Ord. No. 09-15, adopted May 16, 2009, amended former Ch. 14.3, relative to towing and storage of vehicles, in its entirety to read as herein set out.

* **Editors note**: Ord. No. 07-18, adopted December 15, 2007, amended former Ch. 14.3, relative to towing and storage of vehicles, in its entirety to read as herein set out. The provisions of former Ch. 14.3 derived from an ordinance of July 8, 2006, Ord. No. 06-11.

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§ 14.3-1. Findings.
§ 14.3-2. Definitions.
§ 14.3-3. Applicability.
§ 14.3-4. Compliance with ~~s~~State ~~l~~Licensing ~~r~~Requirements.
§ 14.3-5. Removal of ~~t~~Trespassing ~~v~~Vehicles.
§ 14.3-6. Notice.
§ 14.3-7. Storage ~~f~~Facilities.
§ 14.3-8. Receipt ~~r~~Required.
§ 14.3-9. Fees.
§ 14.3-10. Manner of ~~p~~Payment.
§ 14.3-12. Violations.

§ 14.3-1. Findings.

The County Board has found that some members of the public and their property have been placed at risk in circumstances where their vehicles have been towed without their consent and placed in storage because of a variety of factors including, but not limited to, unfair and predatory towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of improper towing or storage, among others. Based upon the foregoing, the County Board has concluded that the regulations provided for by this ~~C~~chapter are required to protect the public health, safety and welfare generally, and particularly the safety of those members of the public whose vehicles have been towed without their consent and stored, as well as the public interest in ensuring that the prices charged for non-consensual tows occurring in instances when vehicles are trespassing on private property are fair and reasonable.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-2. Definitions.

Except as hereinafter set forth, the words used in this ~~C~~chapter shall have the same meaning as set forth in ~~section~~ § 46.2-100 of the Code of Virginia, as such may be amended from time to time.

"Storage fee" means the compensation payable for the storage of a towed vehicle that has been stored at or in a facility owned, operated, leased or used by a tow truck service.

"Tow, tows, or towing" means the act of removing, by tow truck, a vehicle from privately-owned property within the County where it is parked. The preparation of a vehicle for removal by a tow truck or the attachment of a vehicle to a tow truck, or both, does not, for purposes of this chapter, constitute a tow or towing.

"Towing fee" means the compensation payable for the towing of a vehicle.

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"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated. The term includes any employee, authorized agent or legal representative of such individual or entity. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services. The term does not, for purposes of this ~~C~~chapter, include an individual or entity that removes vehicles from public streets and other locations, pursuant to a contract with the County.

"Tow truck" means a vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least ten thousand (10,000) pounds. *Tow truck* also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks."

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-3. Applicability.

A. This ~~C~~chapter applies:

~~(i)~~1. to the towing, by a towing and recovery operator, of vehicles from privately-owned property within the County without the consent of the vehicle owner or driver,

~~(ii)~~2. to the fees that are charged for such towing of vehicles, and

~~(iii)~~3. to the fees that are charged for the storage and retrieval of such towed vehicles.

B. This ~~C~~chapter does not apply to the towing of vehicles from public streets and other locations that is performed pursuant to a contract with the ~~c~~County, or to the storage of such vehicles.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-4. Compliance with ~~s~~State ~~l~~Licensing ~~r~~Requirements.

All towing and recovery operators and all tow trucks engaged in business in the County shall comply with ~~s~~State licensing requirements imposed by ~~s~~State law, and shall provide evidence of such upon request by any representative of the County authorized to enforce the provisions of this ~~C~~chapter.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-5. Removal of ~~t~~Trespassing ~~v~~Vehicles.

A. The owner, operator, or lessee, or authorized agent thereof, of any property, may have any vehicle occupying the property without the permission of its owner, operator, lessee, or authorized agent thereof, removed by towing to a storage facility until reclaimed by the owner or his agent provided the provisions of this ~~C~~chapter are complied with, as well as the following;

1. Signs shall be posted at all vehicle entrances to the property clearly, conspicuously, and legibly disclosing that vehicles parked without permission will be towed. Such signs shall be posted so that the locations on the property subject to towing shall be clearly identified. The signs shall meet the following requirements and include the following information;

   a. each sign shall be not less than 12 X 18 inches;

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b. the lettering on each sign shall be as follows: "towing at owner's expense" not less than three (3) inches in height; "24 hrs/7 days" not less than one (1) inch in height and placed just above the tow truck symbol; the tow truck symbol, not less than two (2) inches in height. Other lettering may vary in size but in no case be less than one-half (1/2) inch in height;

c. each sign shall contain a pictorial symbol of a tow truck;

d. each sign shall contain a statement to the effect that trespassing vehicles are subject to towing and storage at the expense of the vehicle owner;

e. each sign shall state the hours and days of the week when trespassing vehicles are subject to towing;

f. each sign shall provide the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from the property, which telephone number shall be answered by a person twenty-four (24) hours each day;

g. each sign shall provide the non-emergency telephone number of the County Police; and

h. each sign, by May 1, 2012, shall include the name of the business or businesses on or adjoining the property, the street address of the property, or the name of the property.

2. The foregoing requirement for signs shall not apply on any parcel of property used at the time of removal for one single-family residence or one two-family residence; and provided further, however, that parking spaces parallel to or at an angle to a public street and entered directly from a public street shall be deemed to be providing signs properly when the signs are placed along the sidewalk (or in a similar location when there is no sidewalk) adjacent to the space or row of spaces and there is at least one (1) of the signs required by this ~~C~~chapter within forty (40) feet of each such space.

3. The towing and recovery operator performing the tow shall obtain authorization of the owner, operator, or lessee of the property from which the vehicle is towed, or the authorized agent thereof. For the purposes of this subsection, "authorized agent" may include a representative of the towing and recovery operator. The towing and recovery operator, and the owner, operator, or lessee of the property, shall maintain for public inspection at its business offices, and at the property, respectively, copies of all contracts or other documents that appoint the operator as the authorized agent for the owner, operator or lessee of the property for purposes of authorizing tows from the property.

4. The towing and recovery operator performing the tow shall obtain and retain the following, and shall provide a copy of each to the owner, operator, or lessee of the property;

a. digital and/or Polaroid photographs or videos of the vehicle in the location from which the vehicle is being towed;

b. digital and/or Polaroid photographs or videos of the condition of the vehicle prior to the tow; and

c. to the extent available, other documentary evidence substantiating the reason for the removal.

5. The tow truck used to perform the tow shall include the name, street address, and current, local telephone number of the towing and recovery operator permanently affixed in a conspicuous

location on the exterior of the truck.

B. This ~~S~~section shall not apply to public safety and public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-6. Notice.

A. Immediately prior to a trespassing vehicle being removed or towed as permitted by this ~~C~~chapter, notice of this action shall be given by the towing and recovery operator to the County Police. Such notice shall include the following information:

1. the name of the towing and recovery operator removing vehicle;

2. a description of the vehicle towed including make, model, VIN number and license plate;

3. the location of trespassing vehicle and the date and time of the tow;

4. the location of the storage facility to which the vehicle was towed; and

5. the name and address of the individual and/or entity who authorized the tow.

B. Failure to report such tow as required by this section shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars ($100.00). Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-7. Storage Facilities.

A. All towing and recovery operators engaged in towing vehicles without the consent of their owners shall conspicuously display at their main place of business and at any other storage facilities where towed vehicles may be reclaimed, in locations readily visible to those reclaiming vehicles:

1. signs that clearly and legibly provide the following information:

   a. a comprehensive list of all their fees for towing, recovery, and storage services. Charges in excess of those posted shall not be collectable from any vehicle owner whose vehicle is towed or stored without his consent;

   b. that payment may be made by cash, traveler's check, money order, insurance company check, or debit, credit or charge card;

   c. that a receipt shall be provided;

   d. that the vehicle owner shall have the opportunity to inspect the vehicle for damage prior to payment and a tow company or tow truck operator shall not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the owner's vehicle as a condition of the vehicle's release.

2. a consumer information sheet, designed by Arlington County, which will include, among other things, the fee limits and operator requirements established by this ~~C~~chapter, the non-emergency telephone number of the Police Department, the business telephone number of the County official responsible for handling consumer complaints, a reference to the Tow Ordinance on the County website, a summary of Frequently Asked Questions, and any other information the County determines is necessary to provide to the vehicle owner or his agent. The consumer information

sheet shall include a statement informing the consumer that a copy of the sheet shall be provided to them by the towing and recovery operator with their receipt and shall be provided and posted in both English and Spanish.

B. The fees authorized by this ~~C~~chapter shall be the maximum allowed and an additional fee for use of a debit, credit or charge card, or other form of payment, shall not be permitted.

C. Towing and recovery operators shall make change, up to one hundred dollars ($100.00), for those who pay in cash for towing and storage charges applicable to vehicles towed under the provisions of this ~~C~~chapter.

D. Storage facilities to which vehicles towed under the provisions of this ~~C~~chapter are towed shall be open twenty-four (24) hours a day.

E. Storage facilities to which vehicles towed under the provisions of this ~~C~~chapter are towed shall be located within the County or at a location in the Commonwealth of Virginia that is within three (3) miles of the boundary line of the County.

F. In the event that a vehicle is towed from the County and stored in or released from a location in another locality, the provisions of this ~~C~~chapter shall apply.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-8. Receipt Required.

A. At the time a vehicle owner or agent reclaims a towed vehicle, the towing and recovery operator shall provide a written receipt that contains the following information:

1. the name and address of the towing and recovery operator;

2. the address from which the vehicle was towed;

3. the date and time that the vehicle was towed;

4. the date and time that the vehicle entered the facility at which it was placed for storage;

5. an itemized list of all the fees that are being charged; and

6. a signature of an authorized representative of the towing and recovery operator.

B. In addition, the towing and recovery operator shall provide to the vehicle owner or agent a photocopy of the consumer information sheet referenced in subsection 14.3-7.A.2~~(2)~~.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-9. Fees.

A. Charges imposed for the towing, storage, and safekeeping of any vehicle removed, towed, or stored without the consent of its owner shall not be in excess of the maximum charges provided for in this ~~S~~section.

B. The maximum fees that may be charged for the towing of vehicles and for the storage of such towed vehicles are as follows:

1. for the towing of a vehicle with a gross vehicle weight rating of seven thousand five hundred (7,500) pounds or fewer, the maximum fee shall be one hundred twenty-five dollars ($125.00);

2. for the towing of a vehicle with a gross vehicle weight rating of between seven thousand five hundred and one (7,501) pounds and ten thousand (10,000) pounds, the maximum fee shall be two hundred fifty dollars ($250.00),

3. for the towing of a vehicle with a gross vehicle weight rating of ten thousand and one (10,001) pounds or greater, the maximum fee shall be five hundred dollars ($500.00).

4. for the storage of any towed vehicle, the maximum fee for each twenty-four (24) hour period of storage, or portion thereof, shall be fifty dollars ($50.00); provided that no storage fee may be charged for the first twenty-four (24) hours of storage, or any portion thereof, following the arrival of a towed vehicle at a storage facility.

C. Except for fees authorized by this ~~C~~chapter, no other fees or charges shall be imposed.

D. No towing and recovery operator having custody of a vehicle towed without the consent of its owner may impose storage charges for that vehicle for any period during which the vehicle could not be reclaimed because the storage facility was closed.

E. If the owner or representative or agent of the owner of the trespassing vehicle is present, and ready, willing, and able to remove the trespassing vehicle from the premises at any time before it is removed from the premises by a towing and recovery operator, the vehicle shall be released to the owner or representative or agent of the owner for purposes of immediate removal from the property, but the owner or representative or agent of the owner shall be liable for a reasonable "in lieu of towing" fee, not to exceed twenty-five dollars ($25.00), provided that the towing and recovery operator provides a written receipt to the owner or representative or agent of the owner identifying the accepted forms of payment specified in ~~Section~~ § 14.3-10.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-10. Manner of ~~p~~Payment.

A. Towing and recovery operators shall accept payment for towing fees, storage fees, retrieval fees and the "in lieu of towing"~~"~~ fee provided for in this ~~C~~chapter in each of the following ways:

1. cash in United States currency;

2. insurance company check

3. travelers' checks or money orders payable in United States currency; and

4. any debit, credit or charge card that the towing and recovery operator is authorized by the issuing credit or charge card company to accept, and that is accepted by the towing and recovery operator in the ordinary course of business.

(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-11. Records.

A. Every towing and recovery operator shall maintain a record of the following information for each vehicle that it has towed from a location within the County:

1. the date and time that the vehicle was towed;

2. the date and time that the vehicle entered the facility at which it was placed for storage;

3. the make, model, year, VIN number, and license plate number of the vehicle;

4. the address of the property from which the vehicle was removed;

5. the name and address of the person and/or entity who authorized the tow;

6. the video or photographs taken at the time of the tow;

7. the towing and storage fees actually charged;

8. the date and time the vehicle was reclaimed, and by whom; and

9. a copy of the receipt provided to the vehicle owner or agent.

B. Such record shall be maintained for a period of at least one (1) year from the date of each tow, and shall be made available, during normal business hours, for inspection and copying by any representative of the County authorized to enforce the provisions of this ~~C~~chapter. In addition, the portion of such log or record pertaining to a particular vehicle shall be made available, during normal business hours, for inspection and copying by the owner of the vehicle or the owner's authorized representative.
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, enacted 12-15-07; Ord. No. 09-15, 5-16-09)

§ 14.3-12. Violations.

Except as otherwise specifically provided, any violation of this ~~C~~chapter is unlawful and punishable by a fine not to exceed one thousand dollars ($1,000.00).
(Ord. No. 06-11, 7-8-06; Ord. No. 07-18, 12-15-07; Ord. No. 09-15, 5-16-09)

ARLINGTON COUNTY CODE

Chapter 15

NOISE CONTROL

§ 15-1. Short ~~t~~Title.
§ 15-2. Authorization and ~~d~~Declaration of ~~p~~Policy.
§ 15-3. Definitions.
§ 15-4. Duties and ~~p~~Powers of the ~~c~~County ~~m~~Manager.
§ 15-5. Reserved.
§ 15-6. Maximum ~~n~~Noise ~~l~~Levels.
§ 15-7. Prohibited ~~a~~Acts.
§ 15-8. Noise ~~s~~Suppression ~~d~~Devices.
§ 15-9. Inspections.
§ 15-10. Enforcement.
§ 15-11. Emergency ~~p~~Procedures.
§ 15-12. Exemptions.
§ 15-13. Penalties.
§ 15-14. Severability.
§ 15-15. Conflict of ~~o~~Ordinance.
§ 15-16. Exemption for County Activities.

§ 15-1. Short ~~t~~Title.

This chapter shall be known and may be cited as the "Noise Control Ordinance of Arlington County, Virginia."
(1-1-75; 8-14-76)

§ 15-2. Authorization and ~~d~~Declaration of ~~p~~Policy.

There is hereby established in the County of Arlington, Virginia, a noise control program for the purpose of promoting the health, safety and welfare and to foster the comfort of its inhabitants. To the maximum extent possible, such noise control program shall be conducted in coordination with any similar programs of other local jurisdictions, Council of Governments (COG), and of the state and federal governments.
(1-1-75; 8-14-76; 8-25-81)

§ 15-3. 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 the context clearly indicates a different meaning~~ unless the context clearly indicates otherwise:

~~(1)~~ "Acoustical terminology" ~~definitions of shall be those contained~~ is as defined in ANSI S1.1 "Acoustical Terminology" (1971).

~~(2)~~ "ANSI" ~~shall denote~~ means the American National Standards Institute or its successor bodies.

~~(3)~~ "Ambient noise" ~~shall denote~~ means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.

~~(4)~~ "Continuous noise" ~~shall denote~~ means a noise whose intensity remains essentially constant during the period of observation. Continuous noise for measurement purposes shall be defined as noise

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which is measured by the slow response setting of a sound level meter.

(5) "County Manager" shall means and include the County Manager of Arlington County or any of his duly authorized deputies or agents his designee.

(6) "Daytime" shall denote means the local time of day between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and from 10:00 a.m. to 9:00 p.m. on Saturdays, Sundays and legal holidays.

(7) "Decibel (dB)" shall denote means the unit of sound magnitude equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the sound pressure being measured to a reference sound pressure, twenty (20) micronewtons per square meter (20 micropascals).

(8) "Decibel-A-weighted (dBA)" shall denote means the sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in ANSI S1.4-1974 specification for sound lever meters.

(9) "Impulsive noise" shall denote means noise characterized by brief excursions (usually less than one (1) second) of sound pressure which significantly exceed the ambient environment sound pressure.

(10) Reserved.

(11) "Motorcycle" shall means unenclosed motor vehicle having two (2) or three (3) wheels and includes, but is not limited to, motor scooters and minibikes and mopeds.

(12) "Nighttime" shall denote means those times of day excluded from the definition of "daytime."

(13) "Noise" shall denote means the intensity, frequency, duration and character of undesired sounds from a single source or number of sources.

(14) "Noise disturbance" shall denote means any sound which:

(a) Endangers or injures the safety or health of humans or animals; or

(b) Annoys or disturbs a reasonable person of normal sensitivities; or

(c) Exceeds the applicable maximum permissible noise levels as they appear in Tables I and II.

(15) "Stationary source" shall denote means any equipment or activity capable of generating noise, operating or occurring on any parcel of property or public space.

(16) "Zoning district classification" shall denote means the scheme contained in Section 2B, Arlington County, Virginia, Zoning Ordinance, or similar classifications contained in zoning districts in adjoining jurisdictions.

(1-1-75; 8-14-76; 8-25-81)

§ 15-4. Duties and pPowers of the cCounty mManager.

(a)A. The administration and enforcement of this chapter shall be the duty of the cCounty mManager, who is hereby authorized to take such actions, including the promulgation of rules and regulations necessary to enforce the provisions of this chapter.

(b)B. In addition to any other powers vested in him by law, the cCounty mManager shall:

(1)1. Conduct studies, investigations and research relating to noise and its prevention, abatement and control.

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~~(2)~~2. Issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

~~(3)~~3. Hold hearings relating to any aspect of or matter in the administration of this chapter.

~~(4)~~4. Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract or otherwise.

~~(5)~~5. Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of noise.

~~(6)~~6. Advise, consult and cooperate with other local governmental units, agencies of the ~~s~~State, industries, interstate or interlocal agencies and the federal government and with interested persons or groups.

~~(7)~~7. Review those matters having a bearing upon excessive noise referred by public agencies.

~~(8)~~8. Collect and disseminate information and conduct educational and training programs relating to excessive noise, its effects and its control.

~~(9)~~9. Encourage voluntary cooperation by persons or affected groups to achieve the purposes of this chapter.

~~(10)~~10. Do any and all acts which may be necessary for the successful prosecution of the intent of this ~~C~~chapter and such other acts as may be specifically enumerated herein.

~~(11)~~11. Allocate police department resources, as shall be required to assist his~~ duly authorized agent~~ designee upon request by same, in the enforcement of this chapter.

(1-1-75; 8-14-76)

§ 15-5. Reserved.

§ 15-6. Maximum ~~n~~Noise ~~l~~Levels.

~~(a)~~A. *Noise sources*. Noise levels from stationary sources and mobile sources while stationary shall not exceed those noise limits presented in Table I for each of the zoning districts listed there during the time of day indicated. The maximum permissible noise level shall be that associated with the zoning district classification of the receiving property, except for vehicles on public or private streets.

~~(b)~~B. *Small power equipment*:

~~(1)~~1. Any small power equipment which exceeds the permissible noise levels established in ~~section~~ § 15-6.A~~(a)~~ may only be operated during the daytime.

~~(2)~~2. Noise measurements made to determine compliance with ~~sections~~ §§ 15-6.A~~(a)~~ and 15-6.B.1~~(b)(1)~~ shall be made not less than four (4) feet above the ground and not closer to the noise source than the boundary of the property on which the noise source is located.

~~(c)~~C. *Mobile sources*. Mobile sources are noise levels generated by moving vehicles which conform to the standards set forth in Table II.

~~(d)~~D. *Measurement standards*. Noise measurements made to determine compliance with ~~section~~ § 15-6.C~~(c)~~ shall be taken on a level surface at a distance of not less than fifty (50) feet from the noise.

~~(e)~~E. *Noise sensitive zones*:

~~(1)~~1. Whenever the protection of the public health and welfare so require, the ~~c~~County ~~m~~Manager, after a duly advertised public hearing conducted by the ~~c~~County ~~b~~Board, with the approval of the ~~c~~County ~~b~~Board, may designate any geographical area of Arlington County as a noise sensitive zone. Such designation shall include a description of the subject area and the reasons for determination as a noise sensitive zone.

~~(2)~~2. In noise sensitive zones, noise levels originating from stationary sources shall not exceed those presented in Table I of this chapter.

~~(f)~~F. *Construction noise*:

~~(1)~~1. Any construction activities which produce noise levels which exceed the maximum permissible noise levels established in Table I shall be permitted only during the daytime. This section shall not apply to emergency repairs to public utilities.

~~(2)~~2. All feasible procedures shall be undertaken to minimize noise generated by construction activities. In no instance shall noise levels originating from construction sites exceed ninety (90) dBA. Measurements are to be taken in accordance with the procedures established in ~~section~~ § 15-6.B.2~~(b)(2)~~.

~~(g)~~G. *Special ~~E~~events.* Short-term or seasonal activities sponsored by a County agency or any organization, which have been reviewed and approved through the ~~S~~special ~~E~~event review process may not exceed ninety (90) dBA for the duration of the event and associated clean-up. Such events may not extend beyond 9:00 p.m. on Sunday through Thursday, and 10:00 p.m. on Fridays, Saturdays and legal holidays.

TABLE I

MAXIMUM PERMISSIBLE NOISE LEVELS FROM STATIONARY SOURCES

				Continuous	
				Octave Band	
Zoning	Time of Day	Continuous	Impulsive	Center	dB
District		Noise	Noise	Frequency	
		(dBA)	(dB)	(Hz)	
				31.5	85
CM	ALL			63	84
		70	120	125	79
M				250	74
				500	68
				1000	62
				2000	57
				4000	53
				8000	50
				31.5	80
				63	79
C	ALL			125	74
		65	100	250	69
C-O				500	63
				1000	57
				2000	52
				4000	48
				8000	45
				31.5	75
R	DAY			63	74
				125	69

R-A		60	95	250	64
				500	58
S-3A				1000	52
				2000	47
				4000	43
				8000	40
				31.5	70
F	NIGHT			63	69
				125	64
RA		55	90	250	59
				500	53
S-3A				1000	47
				2000	42
				4000	38
Noise Sensitive					
Zones	ALL			8000	35

TABLE II

MAXIMUM PERMISSIBLE NOISE LEVELS FROM MOBILE SOURCES

Source	To 35 MPH	Above 35 MPH
Motorcycle	80 dBA	84 dBA
Mobile sources with gross weight less than 10,000 lbs.	70 dBA	79dBA
Mobile sources with gross weight more than 10,000 lbs.	86 dBA	90 dBA

(1-1-75; 8-14-76; 8-25-81; Ord. No. 04-21, 9-18-04)

§ 15-7. Prohibited ~~a~~Acts.

~~(a)~~A. It shall be unlawful for any person to sound a vehicular horn or other audible signal device except as an emergency warning signal.

~~(b)~~B. It shall be unlawful for any person to sell anything by outcry during the nighttime. The selling by outcry of merchandise, food and beverages at licensed entertainment events is excluded.

~~(c)~~C. It shall be unlawful for any person to use any machine or device for the production or reproduction of sound which is cast upon public streets or lands for the purpose of commercial advertising or of attracting the attention of the public to any building, structure or activity during the nighttime.

~~(d)~~D. It shall be unlawful for any person to operate, play or permit the operation or playing of any radio, television, phonograph, tape player, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance within any nearby dwelling unit or across a real property boundary.

~~(e)~~E. It shall be unlawful for any person or group of persons to unreasonably make, continue or cause to be made or continued any noise disturbance.

~~(f)~~F. It shall be unlawful for any person to collect refuse with a refuse vehicle during the nighttime.

~~(g)~~G. It shall be unlawful for any operator to run the propulsion engine of a commercial motor vehicle for more than three (3) minutes when the vehicle is parked, left unattended, or is stopped for other than traffic or maintenance reasons, except when the propulsion engine provides auxiliary service other than heating, or air conditioning.

~~(h)~~H. It shall be unlawful for any person who owns, possesses or harbors any animal or bird to permit that animal or bird to create a frequent or continued noise disturbance across a real property boundary or within a nearby dwelling unit.
(1-1-75; 8-14-76; 8-25-81)

§ 15-8. Noise ~~s~~Suppression ~~d~~Devices.

~~(a)~~A. No person shall cause, suffer, allow or permit the removal, disconnection or disabling of any noise suppression system or device which has been installed on any noise source:

~~(1)~~1. In accordance with federal or state laws or regulations.

~~(2)~~2. As a requirement for obtaining a permit to construct, modify or install such noise source.

~~(b)~~B. No person shall defeat the design purpose of any noise suppression system or device by installing therein or thereon any part or component which does not meet the minimum design specifications for that system or device.

~~(c)~~C. No noise source shall be operated with its noise suppression system or device removed or otherwise rendered inoperable.
(1-1-75; 8-14-76)

§ 15-9. Inspections.

~~(a)~~A. The ~~c~~County ~~m~~Manager is hereby authorized and directed to make or cause to be made inspections in response to complaints that an alleged violation of the provisions of this chapter or of applicable rules or regulations pursuant thereto which may exist when he has valid reason to believe that a violation of this chapter has been or is being committed, or as part of a systematic survey program.

~~(b)~~B. The ~~c~~County ~~m~~Manager shall have authority, with the consent of the owner; occupant; operator or agent, to enter and inspect all premises subject to the provisions of this chapter for the purpose of determining whether there is compliance with its requirements.

~~(c)~~C. If any owner, occupant, operator or agent fails to allow or refuses free access and entry to the premises where a noise source is located, or any part thereof, with respect to which an inspection authorized by this chapter is sought to be made, the ~~c~~County ~~m~~Manager may, upon a showing that probable cause exists for the inspection, petition and obtain an order from a court of competent jurisdiction authorizing such an inspection.

~~(d)~~D. All evidence which may be discovered or obtained in the course of an inspection made pursuant to this section shall not be disclosed except as may be necessary in the judgment of the ~~c~~County ~~m~~Manager or the ~~a~~Attorney for the ~~c~~Commonwealth for the proper and effective administration and enforcement of the provisions of this chapter and regulations issued pursuant thereto.
(1-1-75; 8-14-76)

§ 15-10. Enforcement.

~~(a)~~A. Whenever the ~~c~~County ~~m~~Manager or his ~~agent~~ designee determines that any noise source fails to meet the requirements set forth in this chapter or in applicable regulations issued pursuant thereto, he may obtain a warrant or summons for the prosecution of such violation. In addition, if the ~~agent~~ designee is a duly qualified law enforcement officer of Arlington County, he may issue a summons to, or arrest without a warrant, any person who, in the presence of the officer, violates this chapter. Furthermore, the ~~c~~County ~~m~~Manager or his ~~agent~~ designee may

issue a notice of violation setting forth the alleged failures and advising the owner, occupant, operator or agent that such failures must by corrected. Such notice shall:

(1)1. Be in writing,

(2)2. Set forth the alleged violations of this chapter or of applicable regulations issued pursuant thereto,

(3)3. Describe the premises where the violations are alleged to exist and/or other identifications of the noise source,

(4)4. Set forth a reasonable time within which any violation alleged is required to be corrected,

(5)5. Be served upon the owner, occupant or operator of the noise source, or upon the agent of any of the foregoing, by:

a. Personally delivering the same to such person; or

b. Mailing the same to such person by certified mail, return receipt requested, addressed to the last known place of residence of such person; or

c. Posting the same in or about the premises described in the notice if service under section § 15-10.A.5(a)(5)a. or b.

(b)B. At the end of the period of time allowed for correction of any violation alleged, the cCounty mManager shall re-inspect the noise source described in the notice.

(c)C. Reserved.

(d)D. Reserved.

(e)E. Reserved.

(f)F. Referral to cCommonwealth's aAttorney, injunction, etc. If the cCounty mManager determines that the violation has not been corrected, the cCounty mManager may:

(1)1. Refer the matter to the cCommonwealth's aAttorney for prosecution pursuant to section § 15-13.A(a); or

(2)2. Apply to a court of competent jurisdiction for any and all injunctive relief as the court may deem proper to enforce the provisions of this chapter; or

(3)3. Extend the time for compliance for a reasonable time.
(1-1-75; 8-14-76)

§ 15-11. Emergency pProcedures.

(a)A. Whenever, in the judgment of the cCounty mManager, an emergency exists which requires immediate action to protect the public health, safety or welfare, an order may be issued, without notice, conference or hearing, directing the owner, occupant, operator or agent to take such action as is appropriate to correct or abate the emergency. If circumstances warrant, the cCounty mManager may act to correct or abate the emergency.

(b)B. The owner, occupant, operator or agent shall be granted a conference on the matter upon his request, as soon as practicable, but such conference shall in no case stay the abatement or correction of such emergency.

(c)C. Any person aggrieved by an order of the cCounty mManager, pursuant to any provision of this

chapter, may appeal that order to a court of competent jurisdiction.
(1-1-75; 8-14-76)

§ 15-12. Exemptions.

~~(a)~~A. Any person responsible for any noise source may apply to the ~~c~~County ~~m~~Manager for an exemption or partial exemption from the provisions of this chapter. The application shall be accompanied by such information and data as he may require. The ~~c~~County ~~m~~Manager may grant such exemption or partial exemption if he finds that:

~~(1)~~1. The potential danger to the community is outweighed by the benefit to the public interest during the period of exemption.

~~(2)~~2. Compliance with the provisions of this chapter from which exemption is sought would produce serious hardship without equal or greater benefits to the public.

~~(b)~~B. No exemption or partial exemption issued pursuant to this section shall be granted for a period to exceed one (1) year; but any such exemption or partial exemption may be renewed for like periods if, after being duly considered at a hearing held by the ~~c~~County ~~m~~Manager, he finds that renewal is justified under ~~section~~ § 15-12.A~~(a)~~. No renewal shall be granted except on application therefor. Any such application shall be made at least sixty (60) days prior to the expiration of the exemption or partial exemption. Any renewal granted pursuant to this section shall be on the same grounds and subject to the same limitations and requirements as provided in ~~section~~ § 15-12.A~~(a)~~.

~~(c)~~C. An exemption, partial exemption or renewal thereof shall not be a right of the applicant or holder thereof but shall be at the discretion of the ~~c~~County ~~m~~Manager. Copy of exemption to be posted with the source of noise.

~~(d)~~D. Audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger are specifically exempt from the provisions of this chapter.

~~(e)~~E. Nothing in this section and no exemption, partial exemption or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provision and procedures of ~~section~~ § 15-11.A~~(a)~~ of this chapter to any person or his property.
(1-1-75; 8-14-76; 8-25-81)

§ 15-13. Penalties.

~~(a)~~A. All violations of this chapter shall be misdemeanors and shall, upon conviction, be punished by a fine of not less than twenty-five dollars ($25.00) nor more than two thousand five hundred dollars ($2,500.00), or by imprisonment in the ~~c~~County jail for a period of not more than thirty (30) days, or both, for each offense; and each day of violation shall constitute a separate offense.

~~(b)~~B. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue.

~~(c)~~C. Nothing in this chapter shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injuries to persons or property and to maintain any action or other appropriate proceeding therefor.
(1-1-75; 8-14-76; Ord. No. 91-34, 9-18-91)

§ 15-14. 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.

(1-1-75; 8-14-76)

§ 15-15. Conflict of ~~o~~Ordinance.

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.
(1-1-75; 8-14-76)

§ 15-16. Exemption for County Activities.

The provisions of this chapter shall not apply to operations at County facilities as designated by the County Manager and engaged in by County employees or County contractors, or to County residential refuse and leaf collection programs if such programs are operated by the County or by an entity under contract to the County.
(Ord. No. 06-02, 2-28-06)

ARLINGTON COUNTY CODE

Chapter 16

NURSING HOMES AND CHILD CARE AGENCIES

§ 16-1. Definitions--Generally.
§ 16-2. Same--Private ~~i~~Institutions, ~~b~~Boarding ~~h~~Homes, ~~e~~Etc.
§ 16-3. Same--Private ~~c~~Club for ~~m~~Minor ~~p~~Persons.
§ 16-4. License to ~~o~~Operate--Required.
§ 16-5. Same--Application.
§ 16-6. Same--Right to ~~a~~Appeal ~~u~~Upon ~~r~~Refusal to ~~i~~Issue or ~~r~~Revocation.
§ 16-7. Same--Revocation.
§ 16-8. Inspections.
§ 16-9. Number of ~~p~~Persons ~~a~~Accommodated.
§ 16-10. Application of ~~c~~Chapter.
§ 16-11. Type of ~~i~~Instruction ~~n~~Not ~~r~~Regulated.
§ 16-12. Application of ~~z~~Zoning ~~o~~Ordinance.

§ 16-1. Definitions--Generally.

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

~~(1)~~ "Private school" means any facility operated for the purpose of providing specialized training courses for more than four (4) children such as beauty schools, business schools, dance schools and karate and self-defense schools.

~~(2)~~ "Private institution" or "boarding home" or "voluntary agency" means any facility maintained or operated wholly or in part for the purpose of providing food, lodging or care for more than two (2) aged, convalescent or feeble-minded persons separated from their natural or legal families or guardians.

~~(3)~~ "Private club for minor persons" means any meeting place for a group of minor persons which is not sponsored by or supervised by a religious, charitable, civic, governmental, fraternal or political organization.

~~(4)~~ "Children" or "child" or "minor person" means any person less than eighteen (18) years of age.
(7-6-46)

§ 16-2. Same--Private ~~i~~Institutions, ~~b~~Boarding ~~h~~Homes, ~~e~~Etc.

A private institution, boarding home or other voluntary agency is defined, for the purposes of this chapter, as any home or other place maintained or operated wholly or in part to provide food, lodging or care for more than two (2) aged, convalescent or feeble-minded persons, separated from their natural or legal families or guardians.
(7-6-46)

§ 16-3. Same--Private ~~c~~Club for ~~m~~Minor ~~p~~Persons.

A private club for minor persons is defined, for the purposes of this chapter, as a meeting place for a group of minors which is not sponsored by or supervised by a religious, charitable, civic, governmental, fraternal or political organization.
(7-6-46; 6-1-58)

§ 16-4. License to ~~o~~Operate--Required.

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It shall be unlawful for any person to maintain or operate, or be employed in the operation of, any private school or nursery; or any private institution, boarding home or other voluntary agency for the care of aged, convalescent or feeble minded persons; or any private club for minor persons, as herein defined, unless a license, in writing, to conduct such school or nursery or private institution or private club for minor persons has first been obtained from the ~~c~~County ~~m~~Manager.
(7-6-46; 6-1-58)

§ 16-5. Same--Application.

The ~~c~~County ~~m~~Manager shall grant a license in writing to any applicant therefor, upon production of evidence satisfactory to him, by inspection of the premises to which the application relates or otherwise:

~~(a)~~A. That the applicant is a person of sound health and of good moral character, reputation and training.

~~(b)~~B. That the premises, to be specified in the license, are adequately provided with light, air, heat, sanitation, fire prevention and other health and safety facilities for the persons kept.

~~(c)~~C. That the applicant has made adequate provisions for the care and health of such persons.

~~(d)~~D. That, while any meeting place for minors, or any part thereof, is being used as a private club for minor persons, no liquor, beer or any other intoxicant shall be sold, dispensed, consumed or brought into same.
(7-6-46; 6-1-58)

§ 16-6. Same--Right to ~~a~~Appeal ~~u~~Upon ~~r~~Refusal to ~~i~~Issue or ~~r~~Revocation.

For any refusal to issue or the revocation of the license required by this chapter, an appeal may be had to the ~~c~~Circuit ~~c~~Court of the ~~co~~Cunty, to be filed in writing within thirty (30) days of refusal or revocation.
(7-6-46)

§ 16-7. Same--Revocation.

It shall be the duty of the ~~c~~County ~~m~~Manager forthwith to revoke the license, by notice in writing to be sent by registered mail to the licensee, whenever he shall determine that there has been a failure by such licensee to comply with the requirements upon which the license required by this chapter was issued.
(7-6-46)

§ 16-8. Inspections.

For the purpose of enforcing this chapter the ~~c~~County ~~m~~Manager, or his ~~authorized representative~~ designee, may visit and inspect any premises for which a license has been issued under the provisions of this chapter, at any time and shall make regular periodic inspections each year.
(7-6-46; 6-1-58)

§ 16-9. Number of ~~p~~Persons ~~a~~Accommodated.

It shall be unlawful for any person to keep or congregate in a school, nursery, or private club for minor persons to which this chapter is applicable, a greater number of children, or children of age groups other than as set forth in the application and license or, in the case of other places regulated by this chapter, a greater number of persons than as set forth in the application and license.
(7-6-46; 6-1-58)

§ 16-10. Application of ~~c~~Chapter.

This chapter shall not apply to any bona fide private institution, boarding home or other voluntary agency for the care of aged, convalescent or feeble-minded persons, as defined in this chapter, which was in existence prior

to September 1, 1946, so long as such institution shall continue to be operated on the premises occupied by it prior to September 1, 1946, and by the same owner. As to such institution or institutions, however, it shall be the duty of the ~~c~~County ~~m~~Manager or his~~ authorized representative~~ designee to make the same periodic inspections as are required of regularly licensed institutions under the provisions of this chapter.
(7-6-46; 1-31-48)

§ 16-11. Type of ~~i~~Instruction ~~n~~Not ~~r~~Regulated.

It is not the purpose of this chapter to undertake to regulate or supervise the kind of type of instruction, if any, to be furnished by any school or nursery, within the provisions of this chapter.
(7-6-46)

§ 16-12. Application of ~~z~~Zoning ~~o~~Ordinance.

The provisions of this chapter shall be in addition to the requirements of the applicable ~~z~~Zoning ~~o~~Ordinance of the ~~c~~County.
(7-6-46)

ARLINGTON COUNTY CODE

Chapter 17

MISCELLANEOUS OFFENSES AND PROVISIONS

§ 17-1. Display of ~~s~~Signs, ~~a~~Advertisements, ~~e~~Etc., on ~~c~~County ~~p~~Property.
§ 17-2. Use, ~~p~~Possession, ~~e~~Etc., of ~~a~~Alcoholic ~~b~~Beverages on ~~c~~Certain ~~c~~County ~~p~~Property.
§ 17-3. Disorderly ~~c~~Conduct.
§ 17-4. False ~~f~~Fire and ~~p~~Police ~~a~~Alarms; ~~c~~Calling or ~~s~~Summoning ~~a~~Ambulance or ~~f~~Firefighting ~~a~~Apparatus or ~~p~~Police ~~w~~Without ~~j~~Just ~~c~~Cause.
§ 17-5. Firearms, ~~m~~Missiles, ~~e~~Etc.
§ 17-5.1. Carrying ~~c~~Concealed ~~f~~Firearms; ~~f~~Fingerprinting ~~r~~Required.
§ 17-6. Obstructing or ~~l~~Littering ~~s~~Streets and ~~o~~Other ~~p~~Public ~~p~~Places.
§ 17-7. Public ~~d~~Drunkenness and ~~p~~Profanity.
§ 17-8. Real ~~e~~Estate ~~s~~Salesmen and ~~b~~Brokers, ~~b~~Bond ~~r~~Required.
§ 17-9. Use of ~~f~~Fluoroscope for ~~s~~Shoe ~~f~~Fitting ~~p~~Prohibited.
§ 17-10. Reserved.
§ 17-11. Trespass.
§ 17-11.1. Designation of ~~p~~Police to ~~e~~Enforce ~~t~~Trespass ~~v~~Violations.
§ 17-12. Riots, ~~r~~Routs and ~~u~~Unlawful ~~a~~Assemblies; ~~c~~Criminal ~~l~~Liability.
§ 17-13. Peace and ~~g~~Good ~~o~~Order; ~~l~~Loitering.
§ 17-14. Curfews.
§ 17-15. Leased ~~h~~Houses for ~~r~~Rent.
§ 17-16. Retaliatory ~~e~~Evictions and ~~o~~Other ~~a~~Actions.
§ 17-17. Tenant ~~s~~Security ~~d~~Deposits.
§ 17-18. Prohibition of ~~m~~Motorized ~~v~~Vehicles in ~~p~~Parks and ~~s~~School ~~g~~Grounds.
§ 17-19. Indecent ~~e~~Exposure.
§ 17-20. Prohibition of ~~s~~Solicitation for ~~h~~Home ~~i~~Improvement ~~s~~Services on ~~r~~Residential ~~p~~Property.
§ 17-21. Urinating and ~~d~~Defecating in ~~p~~Public ~~p~~Prohibited.
§ 17-22. Reporting of ~~h~~Hate ~~c~~Crimes.

§ 17-1. Display of ~~s~~Signs, ~~a~~Advertisements, ~~e~~Etc., on ~~c~~County ~~p~~Property.

It shall be unlawful for any person to display any sign, placard, political poster or other form of advertisement in any office, room, space, corridor, grounds or in any location whatsoever in or upon any land, including on trees and other vegetation, and buildings under the control of the ~~c~~County ~~b~~Board; provided, that there shall be excepted from the terms of this section the following:

~~(a)~~A. Legal advertisements and notices pursuant to court order and the ~~s~~State statutes.

~~(b)~~B. Advertisements and notices of a governmental nature pertaining to the government of the United States, the government of the ~~s~~State and the government of the ~~c~~County.

~~(c)~~C. Advertisements and notices of a patriotic or charitable nature, signs necessary for the maintenance of the buildings and grounds, or such signs as may be determined as rendering a service to the ~~c~~County upon written authority of the ~~c~~County ~~m~~Manager.

Any person who shall be convicted of a violation of this section shall be punished by a fine of not more than fifty dollars ($50.00) or by confinement in the ~~c~~County ~~j~~Jail for not more than ten (10) days, or both.
(10-25-51; Ord. No. 96-7, 5-11-96)

§ 17-2. Use, ~~p~~Possession, ~~e~~Etc., of ~~a~~Alcoholic ~~b~~Beverages on ~~c~~Certain ~~c~~County ~~p~~Property.

~~(a)~~A. The possession of open alcoholic beverage containers is unlawful in public parks and playgrounds. For purposes of this section, "alcoholic beverages" shall have the definition set forth in Virginia Code § 4.1-100.

~~(b)~~B. The prohibitions contained in § 17-2(a) shall not apply where such possession is allowed pursuant to licenses or permits issued by both the Virginia Alcohol Beverage Control Board and the Arlington County Manager or designee. The ~~c~~County ~~m~~Manager may issue permits only for the following parks, and only for areas of such parks as are designated by the ~~c~~County ~~m~~Manager: Fort C. F. Smith Park, 2411 North 24th Street; Clarendon Central Park, 3140 Wilson Boulevard; and Gateway Park, 1300 Lee Highway.

The ~~c~~County ~~m~~Manager shall promulgate regulations governing the issuance of ~~c~~County permits. These regulations shall be subject to review and approval by the County Board.
(12-15-50; Ord. No. 97-22, 8-2-97; Ord. No. 99-18, 7-13-99)

§ 17-3. Disorderly ~~c~~Conduct.

~~(a)~~A. A person is guilty of disorderly conduct if, with the predominant intent to cause inconvenience, annoyance or alarm to one (1) or more other persons, or recklessly to create a risk thereof, he engages in conduct, including the utterance or display of any threatening, abusive or insulting language, which, with respect to the person or persons at whom, individually, such conduct or language is directed, has a direct tendency to cause:

~~(1)~~1. Acts of violence by such person or persons; or

~~(2)~~2. Fear by such person or persons of an unpermitted touching of them or personal injury to them; or

~~(3)~~3. Personal injury to such person or persons, or an unpermitted touching of them; or

~~(4)~~4. Destruction or defacing of, or injury to the property of such person or persons or the property of others in their control or custody;

while either he or any of such persons are located upon any public property, or upon private property while open to the public, or upon any public conveyance.

~~(b)~~B. A person is guilty of disorderly conduct if, willfully, or being intoxicated, whether willfully or not, he disrupts any meeting of the Arlington County Board of the Arlington School Board, or of any committee, board or commission appointed in whole or in part by either of them, or of employees of Arlington County or the Arlington School Board, convened to conduct public business, or any meeting of a school, literary society or religious group, if such disruption prevents or interferes with the orderly conduct of such meeting.

~~(c)~~C. A person in charge of any such public property, private property while open to the public, public conveyance or meeting may eject therefrom any person whom he has probable cause to believe has committed any such disorderly conduct, with the aid, if necessary, of any persons who may be called upon for such purpose.

~~(d)~~D. Any person committing any such disorderly conduct shall be guilty of a Class 1 misdemeanor; provided, however, that if such disorderly conduct consists only of the utterance or display of abusive or insulting language in violation of ~~section~~ § 17-3.A~~(a)~~, such person shall be punished only by a fine not to exceed five hundred dollars ($500.00).
(9-22-51; 2-11-78; Ord. No. 91-34, 9-18-91)

§ 17-4. False ~~f~~Fire and ~~p~~Police ~~a~~Alarms; ~~c~~Calling or ~~s~~Summoning ~~a~~Ambulance or ~~f~~Firefighting ~~a~~Apparatus or ~~p~~Police ~~w~~Without ~~j~~Just ~~c~~Cause.

It shall be unlawful for any person to create or cause to be created any false alarm or fire or medical emergency or emergency requiring police response or by means of any fire bell or any other means cause or make any false alarm of fire, medical, or police emergency requiring the response of any police, ambulance or firefighting apparatus.
(8-11-24; 11-14-81)

§ 17-5. Firearms, ~~m~~Missiles, ~~e~~Etc.

~~(a)~~A. It shall be unlawful for any person to discharge or shoot off a firearm in the ~~e~~County.

~~(b)~~B. It shall be unlawful for any person to discharge or shoot or throw any dangerous missiles by mechanical, explosive, air-or gas-propelled means, or similar method or device onto or across any public sidewalk, path, or roadway, at any public structure or building, or at or onto the property of another.

~~(c)~~C. It shall be unlawful for any person to shoot a compound bow, crossbow, longbow, or recurve bow at or upon the property of another without permission. It shall be unlawful to discharge a projectile from any of the aforementioned bows within one hundred (100) yards of any public road, public building or structure, private residence or structure, or property of another.

Any violation of subsection A~~(a)~~, B~~(b)~~, or C~~(c)~~ shall constitute a Class 2 misdemeanor.

~~(d)~~D. Nothing in this section shall be construed to prohibit the use of firearms or other instruments or missiles or compound bows, crossbows, longbows, or recurve bows in lawful self defense or in the lawful defense of property, or to prohibit the use of firearms or other missiles or compound bows, crossbows, longbows, or recurve bows in supervised sport, recreation, or training conducted on safety-inspected and approved ranges and courses, provided the same is not contrary to existing law.
(7-14-24; Ord. No. 91-26, 7-30-91; Ord. No. 92-40, 8-8-92; Ord. No. 93-10, 7-1-93)
Cross References: Missiles generally, Ch. 13.

§ 17-5.1. Carrying ~~c~~Concealed ~~f~~Firearms; ~~f~~Fingerprinting ~~r~~Required.

Any person who applies to the ~~c~~Clerk of the Arlington Circuit Court for a permit to carry a concealed handgun under ~~section~~ § 18.2-308 of the Code of Virginia (1950), as amended, shall, as part of the application process, submit to fingerprinting by the ~~s~~Sheriff and provide descriptive information as required by the ~~s~~Sheriff, in order to determine the applicant's suitability for a concealed handgun permit. The applicant's fingerprint cards and personal descriptive information shall be forwarded through the Chief of Police to the Virginia State Police for a ~~s~~State criminal history records check. The ~~s~~State ~~p~~Police shall forward a fingerprint card and descriptive information to the Federal Bureau of Investigation for a national criminal history records check. Upon completion of the ~~s~~State and national criminal history records checks, the ~~s~~State ~~p~~Police shall return the fingerprint cards to the ~~c~~Chief of ~~p~~Police. Following the completion of the records check and return of the fingerprint card, the ~~c~~Chief of ~~p~~Police shall notify the applicant in writing that he has twenty-one (21) days from the date of the notice to request the return of the fingerprint cards prepared pursuant to this ~~S~~section that are in the possession of the Chief of Police. Any cards not claimed by an applicant within this twenty-one (21) day period shall be destroyed. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purpose.
(Ord. No. 97-19, 7-19-97)

§ 17-6. Obstructing or ~~l~~Littering ~~s~~Streets and ~~ot~~Other ~~p~~Public ~~p~~Places.

~~(a)~~A. No person shall place, deposit or cast or cause to be placed, deposited or cast upon or in any street, highway, alley, gutter, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building within the ~~c~~County, any timber, wood, lumber, ashes, rubbish, refuse, litter, trash, earth or mud, glass or similar material, nails or similar material, metal scraps or any substance whatever that may injure or tend to cause injury to any person, vehicle or animal using the highway, street, alley, gutter, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building, or to render the same unsafe or which may obstruct any such street, highway, alley, gutter, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building or impede or hinder travel thereon, or which may injure or disfigure the same or tend to the injury or disfigurement thereof, or to render the same unsafe, unclean or a nuisance.

~~(b)~~B. No person shall conduct repairs or internal mechanical maintenance of a motor vehicle or other internal combustion engine on public land as defined above, with the following exceptions:

~~(1)~~1. Emergency repairs without which the vehicle cannot be safely removed from public land to private property or to an authorized repair or storage facility;

~~(2)~~2. Repairs in high school automotive shops, career centers or on public lands where there is an official public school instructional program teaching motor vehicle repair and maintenance activities; and

~~(3)~~3. Minor exterior repairs such as changing tires, changing light bulbs, etc.

~~(c)~~C. Any person using a ~~c~~County street, highway, alley, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building for the sale or distribution of circulars, handbills, newspapers or product that is packaged in immediately disposable wrappers or containers shall provide receptacles for the disposal of waste materials or other litter that may be created in the immediate vicinity by such sale or distribution, shall request that all such waste materials or litter so created be placed in the receptacle, and shall remove and dispose of the waste materials or litter and receptacles in accordance with ~~c~~County regulations.
(12-1-54; Ord. No. 85-41, 3-1-86; Ord. No. 85-43, 2-1-86)

§ 17-7. Public ~~d~~Drunkenness and ~~p~~Profanity.

~~(a)~~A. It shall be unlawful for any person to be drunk or profanely to curse or swear in any public place in the ~~c~~County.

~~(b)~~B. Any person convicted of~~r~~ such public drunkenness or profanity may be punished by a fine not to exceed one hundred dollars ($100.00); provided, however, if any person shall be convicted for being drunk in public three (3) times within one (1) year in the Commonwealth of Virginia, upon the third such conviction or any subsequent conviction for such offense within the period of one (1) year, he shall be punished by a fine not to exceed five hundred dollars ($500.00).
(3-6-43; 2-11-78)

§ 17-8. Real ~~e~~Estate ~~s~~Salesmen and ~~b~~Brokers, ~~b~~Bond ~~r~~Required.

The provisions of Code of Virginia, 1950, ~~Section~~ § 54-767, shall be applicable to the ~~c~~County, and all real estate salesmen and real estate brokers doing business in the ~~c~~County are hereby required to give bond in the sum of one thousand dollars ($1,000.00) in accordance with the requirements of such ~~s~~State law before doing business in this ~~c~~County.
(8-31-46)

§ 17-9. Use of ~~f~~Fluoroscope for ~~s~~Shoe ~~f~~Fitting ~~p~~Prohibited.

It shall be unlawful for any person to install or operate an X-ray fluoroscope device to be used for the purpose of fitting shoes.
(7-10-51)

§ 17-10. Reserved.

§ 17-11. Trespass.

It shall be unlawful for any person to trespass over or upon the lands of any proprietor within the ~~c~~County after being warned not to do so.
(7-14-24)

§ 17-11.1. Designation of ~~p~~Police to ~~e~~Enforce ~~t~~Trespass ~~v~~Violations.

~~(a)~~A. The owner, lessee, custodian, or person lawfully in charge of any real property may designate the Arlington County Police Department as a "person lawfully in charge of the property" for the purpose of forbidding

another to go or remain upon the lands, buildings or premises of the owner, lessee, custodian, or person lawfully in charge as specified in the designation. This designation will appoint the Arlington County Police Department, and its officers, as true and lawful attorneys-in-fact for the owner, lessee, custodian, or person lawfully in charge with the following specific powers:

~~(1)~~1. To determine if a person has the owner's, lessee's, custodian's, or person lawfully in charge's permission to go or remain upon such property,

~~(2)~~2. To issue written "notice forbidding trespass" to person(s) without such permission provided they are engaged in illegal activity,

~~(3)~~3. To arrest person(s) found to be in violation of such notice, and

~~(4)~~4. To testify in court on behalf of the owner, lessee, custodian, or person lawfully in charge to enforce the notice forbidding trespass and the trespass laws.

~~(b)~~B. In all cases, the actual owner of said real property will have the right to change the officer's determination of "lack of permission" and the owner may revoke such notice forbidding trespass, in writing, at any time after providing written notice of such change to the Chief of Police. The owner may revoke his ~~L~~limited ~~P~~power of ~~A~~attorney, at any time, after providing written notice of such revocation to the Chief of Police. The Chief of Police may terminate the agreement to act as agents of the owner, lessee, custodian, or person lawfully in charge for any given property at any time, after providing written notice of such termination to the owner, lessee, custodian, or person lawfully in charge.

(c) Copies of such ~~L~~limited ~~P~~power of ~~A~~attorney will be kept on file with the Arlington County Police Department.
(Ord. No. 03-27, 12-6-03)

§ 17-12. Riots, ~~r~~Routs and ~~u~~Unlawful ~~a~~Assemblies; ~~c~~Criminal ~~l~~Liability.

~~(a)~~A. Definitions:

~~(1)~~1. Any lawful use of force or violence, by six (6) or more persons acting together, is a riot. Any threat to use harmful force or violence, if accompanied by immediate power of execution, by six (6) or more persons acting together to cause, produce, or promote unlawful use of force or violence, is a riot.

~~(2)~~2. Whenever three (3) or more persons acting together make any attempt to do any act which would be riot if actually committed, such acts shall be a rout.

~~(3)~~3. Whenever three (3) or more persons assemble with the common intent or with means and preparations to do an unlawful act which would be a riot if actually committed, but do not act toward the commission thereof, or whenever three (3) or more persons assemble without authority of law and for the purpose of disturbing the peace or exciting public alarm or disorder, such assembly is an unlawful assembly.

~~(b)~~B. [Related offenses are punishable as follows]:

~~(1)~~1. If any grand larceny, burglary, murder, maiming, robbery, kidnapping, abduction, rape, or arson was committed in the course of such riot and there is proof that such offense or offenses were caused, procured, encouraged or resulted from such riot, and that such person had personal knowledge that such offense or offenses were taking place, in the same manner as a principal in the most serious of any such offense as was committed; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year, or by fine not to exceed one thousand dollars ($1,000.00).

~~(2)~~2. If the purpose of the riotous assembly was to resist the execution of any statute of this ~~s~~State or of the United States, or to obstruct any public officer of this ~~s~~State or of the United States in the performance of any legal duty, or in serving or executing any legal process, by imprisonment in the penitentiary for not less than two (2) years nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars ($1,000.00).

~~(3)~~3. If such person carried, at the time of such riot, any species of firearms or other deadly or dangerous weapon, or was disguised, by imprisonment in the penitentiary for not less than two (2) years nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars ($1,000.00).

~~(4)~~4. If such person conspired with others to cause or produce a riot, or directed, devised, encouraged, incited, or solicited other persons who participated in the riot to acts of force or violence, by imprisonment in the penitentiary for not less than two (2) nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars ($1,000.00).

~~(5)~~5. In all other cases, in the same manner as for a misdemeanor.

~~(c)~~C. Every person who participates in any rout or unlawful assembly shall be guilty of a misdemeanor.

~~(d)~~D. Every person, except public officers and persons assisting them, remaining present at the place of any riot, rout, or unlawful assembly after having been lawfully warned to disperse, shall be guilty of a misdemeanor.

~~(e)~~E. When three (3) or more persons assemble for a lawful purpose and afterwards proceed to commit or attempt or threaten to commit an act which would amount to rout or riot if it had been the original purpose of the meeting, every person, except public officers and persons assisting them, who does not retire when the change of purpose is made known, shall be guilty of a misdemeanor.

~~(f)~~F. Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be punished by imprisonment in jail for not more than one (1) year, or by a fine of not more than one thousand dollars ($1,000.00), or by both such fine and imprisonment.

~~(g)~~G. When any number of persons, whether armed or not, unlawfully or riotously are assembled, the ~~s~~Sheriff of the ~~c~~County or the ~~c~~Chief of ~~p~~Police or any of the ~~s~~Sheriff's deputies and police officers, shall go among the persons assembled or as near to them as possible and command them in the name of the ~~s~~State immediately to disperse. If, upon command, the persons unlawfully assembled do not disperse immediately, the ~~s~~Sheriff or officer may use such force as is necessary to disperse them and/or to arrest those who fail or refuse to disperse. To this end, the ~~s~~Sheriff or other law enforcement officer may seek and use the assistance and services of private citizens. Any private citizen who, by request, seeks to or assists the law enforcement officer or officers in dispersing persons unlawfully or riotously assembled shall be immune from civil or criminal liability for using such reasonable force as may be necessary to arrest or disperse those persons who fail to disperse as ordered.

~~(h)~~H. Every endeavor must be used, both by the ~~s~~Sheriff or ~~c~~Chief of ~~p~~Police or other officers and by the officer commanding any other force which can be made consistently with the preservation of life, to induce or force the rioters to disperse before an attack is made upon them by which their lives may be endangered. If any of the persons so riotously or unlawfully assembled shall be killed, maimed or otherwise injured, in consequence of resisting the ~~s~~Sheriff or others in dispersing and apprehending them, or in attempting to disperse and apprehend them, such sheriffs and other officers and others acting by their authority, or the authority of any of them, shall be held guiltless; provided, such killing, maiming or injury shall take place in consequence of the use of necessary and proper means to disperse or apprehend any such persons so riotously or unlawfully assembled.

~~(i)~~I. Any person, who after the publication of a proclamation by the ~~g~~Governor, or who after lawful notice to disperse and retire, resists or aids in resisting the execution of process in county, city or town declared to be

in a state of riot or insurrection, or who aids or attempts the rescue or escape or another from lawful custody or confinement, or who resists or aids in resisting a force ordered out by the ~~g~~Governor or any ~~s~~Sheriff or other officer to quell or suppress an insurrection or riot, shall be guilty of a felony, and shall be punished by imprisonment in the penitentiary for not less than two (2) years nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars ($1,000.00).

~~(j)~~J. If any person or persons, unlawfully or riotously assembled pull down, injure, or destroy, or begin to pull down, injure or destroy any dwelling, house or other building, or assist therein, or perpetrate any premeditated injury on the person of another, he shall be imprisoned in the penitentiary not less than two (2) nor more than five (5) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars ($1,000.00).
(5-4-68)

§ 17-13. Peace and ~~g~~Good ~~o~~Order; ~~l~~Loitering.

~~(a)~~A. *Definitions.~~:~~* The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

~~(1)~~1. ~~*Loiter.*~~ "Loiter" means to stand around or remain, or to park or remain parked in a motor vehicle at a public place or place open to the public and to engage in any conduct prohibited under this law. Loiter also means to collect, gather, congregate or be a member of a group or a crowd of people, who are gathered together in any public place or place open to the public and to engage in any conduct prohibited under this law.

~~(2)~~2. ~~*Public place.*~~ "Public place" means any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot, or any vacant lot.

~~(3)~~3. ~~*Place open to the public.*~~ "Place open to the public" means any place open to the public or any place to which the public is invited, and in, on, or around any privately owned place of business, private parking lot, or private institution, including places of worship, cemetery, or any place of amusement and entertainment whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

~~(b)~~B. *Prohibited conduct*. It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in such a manner:

~~(1)~~1. As to interfere, impede or hinder the free passage of pedestrian or vehicular traffic, or

~~(2)~~2. As to interfere with, obstruct, harass, curse, or threaten or do physical harm to another member or members of the public, or

~~(3)~~3. As to threaten or do physical harm to the property of another member or members of the public, or

~~(4)~~4. That, by words, acts or other conduct, it is clear that there is a present danger of a breach of the peace or disorderly conduct.

It shall be unlawful for any person to loiter as defined in subsection A.1~~(a)(1)~~ at a public place or place open to the public and to fail to obey the direction of a uniformed police officer or the direction of a properly identified police officer not in uniform to move on, when not to obey such direction shall endanger the public peace.

~~(c)~~C. *Identification*. It shall be unlawful for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed police officer or of a properly identified

police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety requires such identification.

~~(d)~~D. *Lawful assembly*. Nothing herein shall be construed to prohibit orderly picketing or other lawful assembly.

~~(e)~~E. *Penalties*. Any person violating any of the provisions herein shall be deemed guilty of a misdemeanor, and punished as provided by law.
(8-10-68)

§ 17-14. Curfews.

~~(a)~~A. This section is enacted for the purpose of preventing any civil disorder and protecting the lives and property of the citizens of this ~~c~~County.

~~(b)~~B. Pursuant to the Code of Virginia, ~~Section~~ § 15.1-514.1, the ~~a~~Attorney for the ~~c~~Commonwealth is authorized, after consultation with the ~~c~~County ~~m~~Manager, the ~~c~~Chief of ~~p~~Police, and as many ~~c~~County ~~b~~Board ~~m~~Members as available, to invoke curfew when there exists an imminent threat of any civil commotion or disturbance in the nature of a riot in such county or part thereof, effective July 6, 1969 at 10:10 p.m.
(7-6-69)

§ 17-15. Leased ~~h~~Houses for ~~r~~Rent.

~~(a)~~A. The provisions of Code of Virginia, 1950, ~~Section~~ § 58-863, shall be applicable to the ~~c~~County, and every person, firm or corporation, operating an apartment house having two (2) or more apartments, or leasing houses for rent, or any trailer camp or trailer court or marina or privately operated airport in this ~~c~~County, shall, on or before February 1 of each year, upon request of the ~~c~~Commissioner of the ~~r~~Revenue, file with the ~~c~~Commissioner a list giving the name and address of every tenant of such apartment house, houses for rent, trailer camp, trailer court, and the name and address of every person renting space in a marina for waterborne craft and at a privately operated airport for airborne craft as of January 1 preceding.

~~(b)~~B. Any person, firm, or corporation failing to comply with this chapter shall be subject to a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100.00).
(10-20-71)

§ 17-16. Retaliatory ~~e~~Evictions and ~~o~~Other ~~a~~Actions.

~~(a)~~A. No owner or operator of real property, or his agent, in retaliation for any good faith and lawful action of a tenant shall:

~~(1)~~1. Proceed to evict a tenant.

~~(2)~~2. Require an increase in rent.

~~(3)~~3. Reduce services to a tenant.

~~(4)~~4. Refuse to renew a lease or rental agreement.

~~(b)~~B. "Good faith and lawful action" by the tenant is defined to include good faith and lawful:

~~(1)~~1. Complaints or reports concerning housing conditions made to a governmental authority by the tenant or his representative;

~~(2)~~2. Complaints or reports concerning housing conditions made to the owner or his agent;

~~(3)~~3. Complaints or reports concerning housing conditions made to any private organization;

(4)4. Activity of the tenant in organizing, encouraging, joining, participating, or being a member of or in a tenant organization or in a civic association; or

(5)5. Communication by the tenant with other tenants concerning housing conditions under reasonable rules and regulation as established by the building management.

(c)C. All violations of this section shall be misdemeanors and shall, upon conviction, be punished by a fine of not less than twenty-five dollars ($25.00) nor more than three hundred dollars ($300.00), or by imprisonment in the cCounty jJail for a period of not more than thirty (30) days, or both, for each offense, and each day of violation may constitute a separate offense.
(5-6-72)

§ 17-17. Tenant sSecurity dDeposits.

(a)A. Any security deposit of money or prepaid rent, however, denominated, furnished by a tenant or a lessee to a landlord or lessor or agent of same to secure the performance of any part of a written or oral lease or agreement, or as security for damages to the leased premises, shall be returned to the tenant or lessee within one (1) month after the date of tenancy terminates. Notwithstanding this, the landlord or lessor may retain all or any portion of the deposit as is reasonably necessary to repair unreasonable wear or damage to the leased premises, or as accrued rent, or to compensate the landlord or lessor for actual damages suffered as a result of a default of the lease or agreement by the tenant or lessee.. At the inception of the tenancy, the landlord or lessor shall provide the tenant or lessee with a written list of all existing damages, if any, to the leased premises. If any portion of the security deposit is retained upon the termination of the tenancy, the, landlord or lessor shall forward to the tenant or lessee, within one (1) month of such termination, an itemized statement accounting for the proceeds retained and giving the reasons therefor.

(b)B. Any landlord or lessor or agent of same who is found by a court of competent jurisdiction to have willfully failed to comply with the requirements of this section shall be liable to the lessee in an amount equal to twice the amount of the security deposit.
(9-8-73)

§ 17-18. Prohibition of mMotorized vVehicles in pParks and sSchool gGrounds.

(a)A. It is unlawful and punishable as a misdemeanor for any person to operate any motorized vehicle in any park, open space, or greenway owned by Arlington County or by a park authority created by sState law or on the ground of any public school of Arlington County, except that persons may operate motorized vehicles in areas designated as parking lots in such parks, open space, schools or greenways, and in the driveways providing access to those parking lots from the public streets; provided, however, that the cCounty mManager, or his delegee designee, may designate certain areas in cCounty parks for the use of minibikes and establish procedures for the issuance of permits for the use of such areas by persons holding permits; the prohibitions of this section shall not apply to persons holding such permits while operating minibikes in the designated areas, or to cCounty, park authority, or school board vehicles entering the parks, open space or greenways or school grounds for maintenance, fire and police patrol purposes.

(b)B. "Motorized vehicle" as used herein means any vehicle powered by an internal combustion engine, electrical motor or other electrical device.

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(c)C. The prohibitions of this section do not apply to vehicles being used by handicapped persons when such use is necessary because of the handicapped condition of the person or persons using such vehicles.
(8-3-74)

§ 17-19. Indecent cExposure.

(a)A. It shall be unlawful for any person to intentionally make an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or to procure

another to so expose himself.

(b)B. Any person convicted of such indecent exposure shall be guilty of a Class 1 misdemeanor.
(2-11-78; Ord. No. 91-34, 9-18-91)

§ 17-20. Prohibition of sSolicitation for hHome iImprovement sServices on rResidential pProperty.

(a)A. It shall be unlawful for any person to offer to provide home improvements services by going upon any residential property in Arlington County without a prior invitation from the owner or occupant of the property. However, nothing herein shall prohibit a contractor who is licensed to provide home improvement work pursuant to Chapter 51 of the Arlington County Code from soliciting business within the cCounty without a prior invitation.

(b)B. For the purpose of this section, home improvement services shall mean the performance of labor and/or the furnishing of materials for any repairs, improvements and additions to or the construction or removal of any dwelling, building or accessory structures including, but not limited to, patios, driveways, sidewalks, and fences. Repairs shall include, among other things, the inspection or treatment for, or the repair of damage caused by, termites, roaches, rodents or other pests.
(5-2-78; 6-27-78)

§ 17-21. Urinating and dDefecating in pPublic pProhibited.

(a)A. It shall be unlawful for any person to urinate or defecate on any street, alley, sidewalk, park, or public place or area where the public gathers or has access, or within public view, other than in facilities designed for such purposes.

(b)B. Any person found guilty of this section shall be guilty of a Class 1 misdemeanor.
(Ord. No. 85-16, 4-27-85; Ord. No. 91-34, 9-18-91)

§ 17-22. Reporting of hHate cCrimes.

(a)A. *Definitions.* For the purposes of this section, the termThe following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise:

(1)1. "Hate crime" means a crime where the defendant intentionally selects the person against whom the crime under Title 18.2 of the Virginia Code and/or cChapter 17 of the Arlington County Code is committed or selects the property which is damaged or otherwise affected by the crime under Title 18.2 of the Virginia Code and/or cChapter 17 of the Arlington County Code on the basis of the race, religion, color, disability, gender, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property.

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(2)2. "Information" means all information relating to the commission of the particular crime and any information that describes the particulars of the crime committed. This shall include, but is not limited, to incident reports and all other specific information that relates to the nature of where, when, and how the crime was committed. Information shall not include any physical evidence being used in the prosecution of the defendant by the cCommonwealth.

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(b)B. When it is determined by the Arlington County Police Department that there exists evidence of the commission of a hate crime as defined in section A(a) above by either an adult or a juvenile, such information about the hate crime committed by the particular defendant shall be reported to one (1) of the following: the local Federal Bureau of Investigation (FBI) Office, the United States Department of Justice Civil Rights Division, or the local United States Attorney's Office for their determination as to whether such information shall be used in their investigation and prosecution of the particular defendant for violations of any applicable federal civil rights laws.

(c)C. Any reporting of information to the local FBI Office, the United States Department of Justice Civil Rights Division, or the local United States Attorney's Office is not intended to create exclusive jurisdiction in those offices for the prosecution of the defendant based on such reported information, nor to prohibit the

Commonwealth Attorney's involvement in the prosecution of the accused for a hate crime or any connected crime against the Commonwealth of Virginia.
(Ord. No. 94-1, 2-5-94)

ARLINGTON COUNTY CODE

Chapter 18

PLUMBING AND GAS CODES

§ 18-1. Title and ~~s~~Scope.
§ 18-2. Definitions.
§ 18-3. Availability of ~~c~~Codes.
§ 18-4. Administration and ~~e~~Enforcement.
§ 18-5. Registration of ~~c~~Contractors and ~~c~~Certification ~~r~~Requirements.
§ 18-6. Permits and ~~f~~Fees.
§ 18-7. General ~~p~~Provisions.

§ 18-1. Title and ~~s~~Scope.

~~(a)~~A. *Title*. This chapter shall be known as the "Arlington County Plumbing and Gas Code," and may be so cited.

~~(b)~~B. *Scope*. Plumbing Systems or Gas Systems:

This ~~c~~Code shall apply to all plumbing and gas systems and to parts thereto which are hereafter installed in buildings of the occupancy classifications enumerated in The Virginia Uniform Statewide Building Code.

~~(1)~~C. *Plugging, capping and sealing of abandoned sewer laterals.* When a building is razed or a new sewer connection is provided for an existing building, the abandoned sewer lateral shall be plugged or capped at, or outside of, the property line, and tightly sealed with an approved material. A permit for this work must be obtained before the work is started. Where evidence of an abandoned sewer later is found on a vacant lot or in an abandoned building, it shall be plugged and sealed after proper notice to the owner. Should the owner or agent for the premises ordered to perform this work neglect or refuse to comply with the order within thirty (30) days, it shall be the duty of the ~~i~~Inspections ~~d~~Division ~~c~~Chief to arrange to have this work performed and the cost charged as a recorded lien against the property.
(Ord. No. 89-25, 9-23-89; Ord. No. 95-14, 8-8-95; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 18-2. Definitions.

The following words~~,~~ and terms~~ and phrases~~, when used in this chapter, shall have the following meanings ~~ascribed to them in this section, except where the context clearly indicates a different meaning~~unless the context clearly indicates otherwise:

"Building ~~o~~Official"~~:~~ means ~~T~~the ~~i~~Inspection ~~s~~Services ~~d~~Division ~~c~~Chief of Arlington County~~, his agent~~ or his designee.

"Construction ~~c~~Code ~~i~~Inspector"~~:~~ means ~~T~~the qualified person charged with the inspections of all plumbing and gas work performed in the ~~c~~County.

"Division ~~c~~Chief"~~:~~ means ~~T~~the ~~b~~Building ~~o~~Official of Arlington County.

"License"~~:~~ means ~~T~~the license to engage in the business of plumbing or gasfitting issued by Arlington County.

"Thoroughfare"~~:~~ means ~~A~~any street on which the vehicle count exceeds five thousand (5,000) vehicles per day.
(Ord. No. 86-11, 5-17-86; Ord. No. 88-8, 4-30-88; Ord. No. 89-25, 9-23-89; Ord. No. 95-14, 8-8-95; Ord. No. 07-

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13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 18-3. Availability of ~~c~~Codes.

There is hereby made available by the ~~c~~County ~~b~~Board of the County of Arlington, Virginia, the Virginia Uniform Statewide Building Code, latest edition, of which copies of each are on file in the office of the Inspection Services Division, 2100 Clarendon Boulevard, and may be examined during the hours between 8:00 a.m. and 5:00 p.m. on their regular business days.
(Ord. No. 86-11, 5-17-86; Ord. No. 89-25, 9-23-89; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 18-4. Administration and ~~e~~Enforcement.

~~(a)~~A. *Generally*. The administration and enforcement of this ~~c~~Code shall be the duty of the ~~b~~Building ~~o~~Official who is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be reasonably necessary to enforce the provisions of this ~~c~~Code. Such persons may be appointed and authorized as assistants or agents of the ~~b~~Building ~~o~~Official as may be necessary to carry out the provisions of this ~~c~~Code.

~~(b)~~B. *Powers and duties*. It shall be the duty of the ~~b~~Building ~~o~~Official or ~~a duly authorized agent~~ his designee to cause all plumbing and gas work in or on any building, structure or premises in the County of Arlington to be inspected from time to time, in order to ascertain whether due to the construction, installation or the condition thereof such plumbing and gas work is dangerous to health and safety.

When the use of any plumbing or gas work shall be found dangerous to health and safety, the ~~b~~Building ~~o~~Official or ~~a duly authorized agent~~ his designee is hereby authorized to order it removed or made safe as may be deemed necessary.

~~(c)~~C. *Responsibility of owner or occupant*:

~~(1)~~1. Every building, structure or part thereof, shall be kept in good plumbing repair by the owner.

~~(2)~~2. It shall be unlawful for any person to knowingly have any plumbing or gas work done on premises under his control or on premises owned by him, except in accordance with the provisions of~~:~~ this ~~c~~Code.

~~(d)~~D. *Saving provisions*. Should any clause, sentence, paragraph or part of this ~~c~~Code, 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 ~~c~~Code or the application of such provision 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.

~~(e)~~E. The owner of a building or structure, registered plumbing contractor or master plumber may appeal from a decision of the ~~b~~Building ~~o~~Official on his interpretation and enforcement of the provisions of this chapter to the ~~b~~Building ~~c~~Code ~~b~~Board of ~~a~~Appeals as provided herein.
(Ord. No. 86-11, 5-17-86; Ord. No. 88-8, 4-30-88; Ord. No. 89-25, 9-23-89; Ord. No. 95-14, 8-8-95; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 18-5. Registration of ~~c~~Contractors and ~~c~~Certification ~~r~~Requirements.

Registration and certification.

Street permit bond and financial responsibility. Any contractor qualified and registered under ~~s~~State law shall file with the ~~i~~Inspection ~~s~~Services ~~d~~Division a street permit bond in the sum of five thousand dollars

($5,000.00) to permit the cutting of the surface of streets or highways of the ~~c~~County or tunneling under the same for the purpose of sewer connections. The registered contractor shall file with the ~~i~~Inspection ~~s~~Services ~~d~~Division a public liability insurance policy with minimum limits of forty thousand dollars ($40,000.00) or furnish satisfactory evidence of financial responsibility to satisfy claims to the extent of forty thousand dollars ($40,000.00) of damage to person or property suffered by reason of operation in the public highway.
(Ord. No. 86-11, 5-17-86; Ord. No. 89-25, 9-23-89; Ord. No. 90-33, 10-6-90; Ord. No. 95-14, 8-8-95; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)

§ 18-6. Permits and ~~f~~Fees.

~~(a)~~A. *Permit ~~R~~required*:

~~(1)~~1. *Issuance; compliance, exceptions*. No person shall do plumbing or gas work, except minor repair work as herein defined, until he or she shall have filed an application and received a permit therefor~~e~~ from the ~~i~~Inspection ~~s~~Services ~~d~~Division. No plumbing permits or gas permits shall be issued to any person other than a licensed master plumber or master mechanical worker, except that any permit required by this section may be issued to a person to do any work regulated by this chapter in a single-family dwelling or townhouse used exclusively for residence purposes, including the usual accessory buildings and quarters in connection with such building, provided that the person is the bona fide owner or agent of the owner of such dwelling and the work is done in compliance with all requirements of this ~~c~~Code.

~~(2)~~2. *Card*. The plumbing permit card shall be posted on the job in such a manner that it will be clearly visible from the street and shall not be removed, defaced or altered.

~~(3)~~3. *Permit application*. Application for a plumbing or gas permit shall be made on forms furnished by the ~~i~~Inspection ~~s~~Services ~~d~~Division. No person shall present any fraudulent information in making application for a plumbing or gas permit, nor shall he or she use the name of another person in order to secure a plumbing or gas permit, except when regularly employed by and authorized to act as agent for a master plumber or master mechanical worker.

~~(4)~~4. *Plans required*. Plans must be submitted and approved before permits will be issued for any plumbing work involving new buildings. Every plot plan for structures or premises which will have plumbing shall show the location and size of the public water main and also the location, size, and depth of the public sewer. If no sewer is available, the location and size of the private disposal system shall be shown. If no public water supply is reasonably available to the premises, the location and nature of the private source of supply shall be shown on the plot plan. Complete mechanical plans including fixture layout and spacing, size, material and location of all building sewers, building drains, storm sewers, drains, soil, waste, and vent piping and water supply, piping for the installation of, alteration of, or addition of the plumbing, sewage and/or drainage system of any building or premises shall be submitted to ~~i~~Inspection ~~s~~Services ~~d~~Division and approved by the construction plans examiner prior to the issuance of any plumbing permit. The master plumber or master mechanical worker shall file in the ~~i~~Inspection ~~s~~Services ~~d~~Division detailed sketches of the work proposed to be done before permits will be issued for major plumbing alterations or repairs in existing buildings. The permit shall not be issued until the plans or sketches have been approved. A copy of the approved plans shall be on the construction site and available during inspections. All work shall be installed in accordance with the approved plans and any approved amendments thereto.

~~(5)~~5. *Abandoned or discontinued work*:

a. Should any person to whom a permit has been issued for plumbing or gas work abandon the installation for any reason, he or she shall immediately notify the ~~i~~Inspection ~~s~~Services ~~d~~Division.

b. If an installation has been partially completed, the permit grantee, upon abandoning the installation, shall notify the ~~i~~Inspection ~~s~~Services ~~d~~Division and request an inspection. A record shall be kept of the results of the inspection.

c. If a permit grantee abandons an installation after work has been started, the work shall be inspected and a notice of any violations shall be sent to the permit grantee and the bonding company. The master plumber or master mechanical worker, who then proceeds with the installation, shall secure a permit for the entire job and shall be responsible for all work.

d. In case of abandonment or withdrawal of any permit, seventy percent (70%) ~~percent~~ of the fee shall be refunded to the applicant, provided that he or she makes a written request before the work is commenced. If work has commenced, the applicant may return the permit with a written request for cancellation and a pro-rata refund of the fee will be made based on the remaining incomplete work; provided further that such request is made within six (6) months after the date the permit is issued.

e. Before proceeding with any plumbing or gas work which has been started by any other person, an owner or master plumber or master mechanical worker shall make request for an inspection of the installation, and shall secure a permit for the entire job and shall be responsible for all work.

f. An owner who has secured a plumbing or gas permit may transfer said permit to the master plumber or master mechanical worker, provided he or she notified the ~~i~~Inspection ~~s~~Services ~~d~~Division of his or her intention and receives inspection of the work performed to date.

~~(b)~~B. *Fee ~~S~~schedule.* All fees shall be paid prior to release of the permit and in accordance with the fee schedule adopted by the Board.
(Ord. No. 86-11, 5-17-86; Ord. No. 87-9, 3-21-87; Ord. No. 88-8, 4-30-88; Ord. No. 89-25, 9-23-89; Ord. No. 90-6, 7-1-90; Ord. No. 91-17, 7-1-91; Ord. No. 92-1, 2-1-92; Ord. No. 93-4, 7-1-93; Ord. No. 95-8, 4-29-95; Ord. No. 98-10, 7-1-98; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09; Ord. No. 10-12, 4-24-10)

§ 18-7. General ~~p~~Provisions.

~~(a)~~A. *Buildings erected over public sewers.* No building shall be erected over a public storm or sanitary sewer, except in cases of undue hardship, limiting the full use of the property, in which case permission may be granted by the ~~c~~County ~~m~~Manager or his designee for storm sewers and sanitary sewers, to construct a limited portion of a building over a public storm or sanitary sewer, provided the plans for such buildings are approved by the ~~b~~Building ~~o~~Official, or ~~a duly authorized agent~~ his designee. Arlington County will not be responsible for damage to any structure built over a public storm or sanitary sewer if it becomes necessary to excavate under or near such structure to maintain the public storm or sanitary sewer.

~~(b)~~B. *Maintenance of ~~T~~trap ~~S~~seals, ~~F~~fixtures and ~~P~~piping.* The plumbing system of any structure shall be maintained so as to prevent sewer or drain air from entering the building. Vent piping and stacks shall be kept free from stoppages; vacant portions of structures or vacated structures which contain plumbing shall have the normal water seal replaced with nonvolatile, nontoxic liquid, such as waste engine oil or glycerin, or the tapped fixture or device shall be disconnected and its drain opening capped or plugged. Fixtures and devices which discharge to the drainage system, if broken or damaged so liquid seals cannot be maintained, shall be replaced or removed and their drain openings capped or plugged. Broken or deteriorated piping which leaks, or emits soil or waste materials, or drain air, shall be replaced if in service, or if out of service, removed and the system closed until such time as restored use and/or service requires its replacement.

~~(c)~~C. *Connection to public sewer.* All taps into a sanitary sewer shall be made under the supervision of a ~~c~~Construction ~~c~~Code ~~i~~Inspector. The connection of a house sewer to a public sanitary sewer shall be made using an

approved saddle. The maximum size house sewer which may be connected to an eight- (8) inch public sanitary sewer shall be five (5) inches. The maximum size house sewer, which may be connected to a ten- (10) inch or larger public sanitary sewer is six (6) inches. All other connections of a house sewer to a public sanitary sewer require the installation of an approved manhole, at the property owner's expense. Taps into the public sanitary sewer shall be at least three (3) feet apart. Taps into sanitary sewer manholes are prohibited, except by permission of the ~~c~~County ~~m~~Manager or his designee. Such taps will be made at the master plumber's expense. Taps into public storm sewers shall be made as directed by the ~~c~~County ~~m~~Manager or his designee. Trenches and excavations at taps into public storm or sanitary sewers shall be maintained in a safe condition and shall be kept free from water to permit adequate inspection.

~~(d)~~D. *Work in public right-of-way*. All construction performed within a public right-of-way or easement area shall conform to the requirements contained in the Arlington County Department of Environmental Services Construction Standards and Specifications for Streets, Storm Sewers, Water Mains, and Sanitary Sewers, copies of which are available upon request from the ~~d~~Department of ~~e~~Environmental ~~s~~Services.

~~(e)~~E. *Easements for ~~S~~sewers*. Unless a right-of-way or easement is recorded with the ~~c~~County ~~c~~Clerk of Arlington County, Virginia, no sewer or drain from any building or premises shall be installed on any adjacent property or premises, even though at the time of the proposed installation the adjacent properties are under common ownership. Any plumbing permits hereafter issued without such record of easement for installation as indicated in the previous paragraph shall be null and void, and installations made without such record of easement shall be removed in case of inability on the part or the person desiring right-of-way to secure an easement or right-of-way within thirty (30) days after notice of violation.

~~(f)~~F. *Method of ~~S~~sewage ~~D~~disposal*:

~~(1)~~1. For a one- or two-family dwelling, a public sanitary sewer shall be deemed available when such sewer abuts the premises on which the dwelling is located, any part of the building is within three hundred (300) feet of sewer, and a connection may be made lawfully thereto according to local jurisdictional requirements.

~~(2)~~2. For buildings of any other occupancies, a public sanitary sewer shall be deemed available when such sewer is within five hundred (500) feet of the premises on which the building is located, measured along a street, alley or easement, and a connection may be made lawfully thereto according to local jurisdictional requirements. Any extension of public sewer required hereby shall be made at the expense of the owner of the premises to be served. Such extension shall conform to ~~c~~County regulations and will be inspected by the ~~d~~Department of ~~e~~Environmental ~~s~~Services. This section shall not preclude installation of an extension of greater length if required by, or approved by, the ~~c~~County ~~m~~Manager or his designee.

~~(3)~~3. Disposal of radioactive wastes shall conform to rules and regulations of Title 10 Atomic Energy Commission Part 10--Standards of Protection Against Radiation Paragraph 20-203 Disposal by Release into Sanitary Sewerage System, or as required by administrative authority having jurisdiction.

~~(4)~~4. *Sewers required.~~:~~* Every building or separate business establishment having an outside entrance shall have an independent building sewer connection with a public or private sewer, except where one (1) building stands in the rear of another building on the same lot and no public or private sewer is available or can be constructed to the rear building through adjoining alley, court, yard or driveway, the house drain from the front building may be extended to the rear building and the whole may be considered as one (1) house drain.

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~~(5)~~5. Cooperative apartments, apartment buildings, condominium apartments or office buildings, and office buildings designed for rental purposes may have one (1) common building sewer, provided that other utilities (water, gas and electricity) are supplied to the building through common meters. In shopping centers and warehouses, each rental unit in one-story buildings to be considered as one (1) building.

Exception: Commercial buildings under one (1) roof containing several different units where the landlord is responsible for the maintenance and repair of plumbing, may be served by one (1) system upon written request by the owner so long as separate units within said buildings are not subdividable under both the ~~z~~Zoning and ~~b~~Building ~~c~~Codes. Semi-detached houses, attached houses, or attached condominium houses, shall have one (1) public sewer connection for each living unit.

~~(g)~~G. *Source of ~~W~~water ~~S~~supply*:

~~(1)~~1. For a one- or two-family dwelling a public water supply system shall be deemed available when such system abuts the premises on which the dwelling is located, any part of the building in within three hundred (300) feet of system, and a connection may be made lawfully thereto.

~~(2)~~2. For buildings of any other occupancies, a public water supply system shall be deemed available when such system is within five hundred (500) feet of the premises in which the building is located, measured along a street, and a connection may be made lawfully thereto.

~~(3)~~3. *Water service required.~~:~~* Every building or separate business establishment having an outside entrance, shall have an independent water connection with a public or private water main, except where one building stands in the rear of another building on an interior lot and no public or private water supply main is available or can be installed to the rear building through an adjoining alley, court, yard or driveway, the water supply from the front building may be extended to the rear building and the whole may be considered as one water service. Water service required for buildings under a single covenant, such as garden apartments, cooperative apartments, apartment buildings, condominium apartments or office buildings, and office buildings designed for rental purposes may have one (1) common water service, provided that other utilities (gas and electricity) are supplied to the building through common meters. In shopping centers and warehouses, each rental unit in one-story buildings shall be considered as one (1) building.

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Exception: Commercial buildings under one (1) roof containing several different units where the landlord is responsible for the maintenance and repair of plumbing, may be served by one (1) system upon written request by the owner so long as separate units within said building are not subdividable under both the ~~z~~Zoning and ~~b~~Building ~~c~~Codes. Semi-detached houses, attached houses or attached condominium houses shall have separate water service for each living unit.

~~(h)~~H. *Water ~~C~~conservation:*

~~(1)~~1. *Car wash installation.~~:~~* Car wash installation shall be equipped with an approved water recycling system. This clause shall be retroactive and all existing car wash installations shall be equipped with such recycling devices by not later than one (1) year of the effective date of this section.

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~~(2)~~2. *Coin-operated car washes or similar devices.~~:~~* No coin-operated car wash may be permitted to be installed and used until plans have been submitted to and approved by the administrative authority. The plans must show the method of connection to an approved sanitary sewer system, disposal of rain subsurface water and the protection of the potable water system.

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(Ord. No. 86-11, 5-17-86; Ord. No. 88-8, 4-30-88; Ord. No. 99-9, § 1, 4-14-99; Ord. No. 04-22, 10-2-04; Ord. No. 07-13, 9-18-07, effective 10-1-07; Ord. No. 08-08, 4-19-08, effective 7-1-08; Ord. No. 09-11, 04-28-09, effective 07-01-09)