

ARLINGTON COUNTY CODE

Chapter 53

AUXILIARY POLICE FORCE

§ 53-1. General pPolicy.

§ 53-2. Definitions.

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

§ 53-4. Application for aAppointment.

§ 53-5. Calling aAuxiliary pPolice into sService.

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

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

§ 53-1. General pPolicy.

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

§ 53-2. Definitions.

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

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

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

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(5-22-76)

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

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

(5-22-76)

§ 53-4. Application for aAppointment.

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

(5-22-76)

§ 53-5. Calling aAuxiliary pPolice into sService.

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

1. In time of public emergency;

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

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

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

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

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

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

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

ARLINGTON COUNTY CODE

Chapter 54

FUEL TAX*

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

§ 54-1. Levy; ~~f~~Tax ~~r~~Rate; ~~H~~Local ~~f~~Fuel ~~t~~Tax.

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

§ 54-1. Levy; ~~f~~Tax ~~r~~Rate; ~~H~~Local ~~f~~Fuel ~~t~~Tax.

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

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

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

ARLINGTON COUNTY CODE

Chapter 55

UNDERGROUND UTILITY PROTECTION

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

§ 55-1. Short ~~¶~~Title.

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

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

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

§ 55-3. Definitions.

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

(1) ~~_____~~ "Contractor": ~~means Any person, including a subcontractor, who contracts with an operator or property owner, public or private, for the purpose or engaging in, at least, excavation, demolition or blasting.~~

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

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(3) ~~_____~~ "Emergency": ~~means Any imminent threat of interruption or interruption of essential services resulting from the destruction of, disruption of, or damage to underground utility lines. (An emergency is classified as less severe than a hazard.)~~

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(4) ~~_____~~ "Excavate": ~~means T~~he movement or removal of earth, using mechanized equipment or blasting, and includes auguring, backfilling, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scrapping, trenching and tunnelling.

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(5) ~~_____~~ "Hazard": ~~means Any imminent threat of interruption or interruption of essential services which includes a severe risk of death or injury to persons or property due to destruction of, disruption of, or damage to~~

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

~~(6)~~ ~~_____~~ ~~“Operator”~~; ~~means~~ ~~A~~ny person who furnishes or transports any of the following materials or services by means of a utility line:

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

~~(7)~~ ~~_____~~ ~~“Person”~~; ~~means~~ ~~A~~ny individual, partnership, association, corporation, state, subdivision or instrumentality of a state, or the legal representative thereof.

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~~(8)~~ ~~_____~~ ~~“Property owner”~~; ~~means~~ ~~A~~ny person who owns fee title to or leases a given area of land, excluding, however, any recorded easement or right-of-way.

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~~(9)~~ ~~_____~~ ~~“Utility line”~~; ~~means~~ ~~A~~ny underground conduit and its related facilities including pipe or cable, by which an operator furnishes or transports materials or services.

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

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§ 55-4. Administration and eEnforcement.

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

§ 55-5. Responsibilities of the eContractor.

~~(A)~~ ~~A.~~ *Exceptions.*

~~(1.1)~~ ~~1.~~ The requirements of this section shall not apply to any property owner who, without the aid of a contractor, is performing work within the boundaries of his property which does not require the acquisition of any permit issued by Arlington County.

~~(1.2)~~ ~~2.~~ The requirements of ~~section § 55-5.B(2)~~ of this chapter shall not apply to any person acting as/for the operator of a damaged line in making emergency repairs to its own underground facilities, streets, or alleys when such repairs must be made within a shorter period of time than that provided for in ~~section § 55-5.B.1(2.1)~~ of this chapter, provided, however, that this exemption from obtaining information shall not excuse the person making the excavation from any liability for damages caused by his negligence.

~~(1.3)~~ ~~3.~~ The requirements of this chapter shall not apply to persons and operators excavating for routine maintenance including concrete repairs, "patch" type paving, sign erection, if working on the traveled way, shoulder, sidewalks or drainage features of a public road, street, or highway when

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

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

~~(2.1)1.~~ Contractors doing work which does or does not require permits and property owners doing work requiring permits shall notify all operators who maintain underground utility lines in the area of the proposed excavation or blasting, at least two (2) working days, but not more than ten (10) working days prior to commencement of said excavation or demolition. This notification shall consist, at least, of the following:

~~(2.1.1)a.~~ _____ The contractor's name and telephone number.

~~(2.1.2)b.~~ _____ The name of the person for whom the proposed work is being done.

~~(2.1.3)c.~~ _____ The date and approximate time work is to commence.

~~(2.1.4)d.~~ _____ The location and approximate depth of proposed work.

~~(2.1.5)e.~~ _____ The nature of work to be done.

~~(2.1.6)f.~~ _____ The contractor's field representative or filed contact, if any.

~~(2.1.7)g.~~ _____ Any special remarks.

~~(2.2)2.~~ The telephone number(s) to be used for giving notice to operators as required in ~~section § 55-5.B.1(2.1)~~ above shall be located on the approved site plan, subdivision plan, or engineering plan which is to be at the site during excavation or demolition as required in ~~section § 55-5.C.3(3.3)~~ of this chapter.

~~(2.3)3.~~ It shall be unlawful for any contractor to commence excavation or demolition on any property without first receiving clearance for excavation from each operator as provided in ~~section § 55-6.A.1(4.1)~~ of this chapter.

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

~~(3.1)1.~~ Verification that rough grading is to within six (6) inches or finished grade must be provided to the operator in writing by the contractor or property owner before such operator shall commence excavation for the installation of its utility lines.

~~(3.2)2.~~ Any person excavating within two (2) feet of any side of the staked or marked location of an operator's underground utility line or blasting which has any effect within the same distance of the underground utility line, shall take all reasonable steps necessary to properly protect, support and backfill underground utility lines. This protection shall include but not be limited to hand digging within the limits of the planned excavation or demolition, starting two (2) feet of either side of the extremities of the underground utility line for other than parallel type excavations and at reasonable distances along the line of excavation for parallel excavations.

~~(3.3)3.~~ Any contractor performing excavation or demolition is required to have an approved site plan, subdivision plan or engineering plan indicating the plan view of all known existing and proposed utility lines (with exception of house service laterals) at the site during excavation or demolition.

~~(3.4)4.~~ Any person who is designated to operate mechanized equipment for the purpose of excavation or demolition shall not perform such excavation or demolition until he has examined the plan(s) provided in ~~section § 55-5.C.3(3.3)~~ and written the time and date of that examination followed by his signature on the plan.

~~(3-5)5.~~ It is not the intent of this section to make the act of obtaining information as required by this chapter an excuse for any person making an excavation or demolition from doing so in a careful and prudent manner nor an excuse for such person from liability for any damage resulting from his negligence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(3.4)1.~~ The horizontal location of all existing underground utility lines and those underground utility lines proposed by any operator shall be indicated on all site plans, subdivision plans, or engineering plans prior to ~~e~~CCounty approval.

~~(3.2)2.~~ Wherever it is necessary for safe excavation or demolition for a person with expert knowledge of an operator's utility lines to be present during any work, the affected operator shall provide such a person during the time the work is being done.

(10-26-76)

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

~~(4)A.~~ *The contractor.*

~~(4.4)1.~~ Communication between the job site and the contractor's base office shall be maintained at all times through the use of a two-way radio system or some other means approved by the ~~e~~CChief ~~F~~ire ~~m~~arshal of Arlington County.

~~(4.2)2.~~ When any person damages a utility line, or the protective coating thereof, or accidentally exposes or severs a utility line during excavation or demolition, an emergency shall be deemed to exist and the operator of such utility line shall be directly notified at that time.

~~(4.3)3.~~ When any gas or flammable liquid utility line is severed, or damaged to the extent that there is escapement of its contents, a hazard shall be deemed to exist and the operator of such utility line and the Arlington County Fire Alarm Headquarters shall be immediately notified.

~~(4.4)4.~~ Contractors shall display in plain sight on the instrument or control panel, or dash of all trucks and mechanized equipment operated by them, the current telephone number(s) which is to be utilized to give notice as required in ~~paragraph subsection A.3(1.3)~~ above.

~~(4.5)5.~~ The telephone numbers to be utilized in giving notice as required in ~~paragraph subsection A.2(1.2)~~ above shall be located on the approved site plan, subdivision plan, or engineering plan which is to be at the site during excavation or demolition as required by ~~section § 55-5.C.3(3.3)~~ of this chapter.

~~(4.6)6.~~ It shall be unlawful to backfill around a damaged utility line, as described in ~~paragraphs subsections A.2(1.2) and A.3(1.3)~~ above, until the operator of that utility line has been notified of such incident, has repaired the damage and/or has given clearance to backfill in writing.

~~(4.7)7.~~ During an emergency or hazard, prudent work to relieve the emergency or hazard may be undertaken by the contractor with the permission of the operator, after notice has given as required in ~~paragraphs subsections A.2(1.2) and A.3(1.3)~~.

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

~~(2.4)1.~~ All operators shall make available on a twenty-four-~~(24)~~ hour basis adequate emergency response crew(s) including answering personnel, radio dispatchers, appliance servicemen and utility repair crews capable of performing all work tasks necessary to cope with emergencies or hazards. The number of emergency work crews shall be determined by the operator based upon the number and frequency of experiences recorded and a reasonable response time to the site of the emergency during other than working hours as determined by the ~~e~~CCounty ~~m~~anager.

~~(2.2)2.~~ All hazards reported to operators shall be reported by them immediately to Arlington County Fire Alarm Headquarters.

~~(2.3)~~3. Emergency shut-off valves shall be provided for all new gas service line installations such that:

~~(2.3.1)~~a. _____ All gas services supplying inside meters shall be equipped with an easily accessible outside shut-off.

~~(2.3.2)~~b. _____ Steel or copper services to outside meters shall be equipped with an outside shut-off as provided in ~~paragraph subsection B.3(2.3)~~ of this section or an above ground shut-off at the meter.

~~(2.3.3)~~c. _____ Plastic services to outside meters shall be equipped with an outside shut-off at the meter.

~~(2.4)~~4. The decision to shut off a utility main line during a hazard shall be vested in an appropriate representative of the utility company concerned.

~~(2.5)~~5. When adequate operator emergency response crews are not available during a hazard, the operator involved shall notify the Arlington County Fire Department to take necessary safety precautions to protect the area affected until the utility operator can respond.

~~(2.6)~~6. Only the appropriate utility line representatives shall be permitted to reopen any valve or breaker which was closed during such a hazard and only after a thorough investigation has indicated that it is safe to place the affected lines back into service.

~~(2.7)~~7. During any emergency or hazard, prudent work to relieve the emergency or hazard may be undertaken by the contractor with permission of the operator: ~~(After notice has been given as required in sections §§ 55-7, A.2(4.2) and A.3(4.3)).~~

(10-26-76)

§ 55-8. Violations.

~~(A)~~A. Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punishable by a fine not to exceed two thousand five hundred dollars (\$2,500.00). If the unlawful act resulted in injury to any person or property then the act shall be punishable by a criminal penalty not to exceed thirty (30) days in jail and a fine not to exceed two thousand five hundred dollars (\$2,500.00), or both. Each day a violation of this chapter shall continue shall constitute a separate offense.

~~(B)~~B. If, during excavation or demolition, an underground utility line is damaged by any person who has failed to comply with any provision of this chapter, it is the policy of the Arlington County Board, and the ~~b~~B~~uilding~~ ~~e~~O~~fficial~~ shall take such action with respect to permits issued by Arlington County as provided in the Virginia Uniform Statewide Building Code.

~~(C)~~C. The ~~e~~C~~ounty~~ ~~m~~M~~anager~~ or the ~~b~~B~~uilding~~ ~~e~~O~~fficial~~ shall temporarily suspend the license(s) issued by Arlington County to any person who is convicted of violating any provision of this chapter two (2) or more times within any twelve (12) month period. They shall further recommend the suspension of such license(s) for a period not to exceed one (1) year to the appropriate licensing board of Arlington County.

(10-26-76; Ord. No. 91-34, 9-18-91)

§ 55-9. Severability.

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

(10-26-76)

ARLINGTON COUNTY CODE

Chapter 56

OBSCENITY

- § 56-1. Definitions.
- § 56-2. Obscene ~~it~~ems ~~e~~numerated.
- § 56-3. Unlawful ~~a~~cts.
- § 56-4. Penalties.
- § 56-5. Severability.

§ 56-1. Definitions.

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

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

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

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

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

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

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

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

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

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§ 56-2. Obscene ~~it~~ems ~~e~~numerated.

Obscene items shall include:

(A) Any obscene book; or

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

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

§ 56-3. Unlawful ~~a~~Acts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10-9-76)

§ 56-4. Penalties.

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

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

§ 56-5. Severability.

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

(10-9-76)

ARLINGTON COUNTY CODE

Chapter 57

EROSION AND SEDIMENT CONTROL*

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

- § 57-1. Title.
§ 57-2. Purpose.
§ 57-3. Authorization.
§ 57-4. Definitions.
§ 57-5. Local eErosion and sSediment eControl pPProgram.
§ 57-6. Regulated iL and-dDisturbing aActivities.
§ 57-7. Action on eErosion and sSediment eControl pPlans pPrior to iL and-dDisturbing aActivity.
§ 57-8. Issuance of iL and-dDisturbing pPermit and fFees.
§ 57-9. Monitoring, rReports and iInspections.
§ 57-9.1. Adherence to aApproved pPlans and sSpecifications.
§ 57-10. Administrative aAppeal; jJudicial rReview.
§ 57-11. Penalties, iInjunctions, and oOther iLegal aActions.
§ 57-12. Severability.
§ 57-13. Conflict of eChapter.

§ 57-1. Title.

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

§ 57-2. Purpose.

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

§ 57-3. Authorization.

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

§ 57-4. Definitions.

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

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

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

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

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

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

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

~~4.~~ “Land-disturbing activity” means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the state, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

- ~~(i)~~ (1) Individual service connections;
- ~~(ii)~~ (2) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street, or sidewalk provided such land-disturbing activity is confined to the area of the road, street, or sidewalk provided such land-disturbing activity is confined to the area of the road, street, or sidewalk which is hard-surfaced;
- ~~(iii)~~ (3) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- ~~(iv)~~ (4) Surface or deep mining;
- ~~(v)~~ (5) Exploration or drilling for oil and gas including well-site, roads, feeder lines and off-site disposal areas;
- ~~(vi)~~ (6) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- ~~(vii)~~ (7) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetland boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto;
- ~~(viii)~~ (8) Such minor land-disturbing activities as home gardens and individual landscaping, repairs, and maintenance work of areas which are less than two thousand five hundred (2,500) square feet and for which no building permit is required;
- ~~(ix)~~ (9) Emergency work to protect life, limb, or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirement of the local plan approving authority or the commission when applicable;
- ~~(x)~~ (10) Livestock feed lot operations, tilling, planting, or harvesting of agricultural, horticultural, forestry, or forest crops, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, to reforest or convert to bona fide agriculture or improved pasture use, land drainage and land irrigation;

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

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

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

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

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

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

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

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

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

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~~9. “Person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of this state, any interstate body, or any other legal entity.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

guidelines and standards.

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

§ 57-6. Regulated ~~l~~and-~~d~~isturbing ~~a~~ctivities.

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

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

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

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

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

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

§ 57-7. Action on ~~e~~rosion and ~~s~~ediment ~~e~~ontrol ~~p~~lans ~~p~~rior to ~~l~~and-~~d~~isturbing ~~a~~ctivity.

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

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

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

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

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

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

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

§ 57-8. Issuance of ~~IL~~and-~~d~~Disturbing ~~p~~Permit and ~~f~~ees.

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

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

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

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

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

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

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

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

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

~~but n~~ot to exceed. . . . \$34,000.00

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

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

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

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

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

effective 7-1-09)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

action to enforce the provisions of this chapter.

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

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

~~(4)~~L. Civil charges in lieu of appropriate civil penalties issued in orders against violators of this chapter shall be assessed as follows:

~~(4)~~a. Failure to make proper application for a land-disturbing permit, as required by ~~section~~§ 57-8 of this chapter, within the time limit specified in a duly served notice of permit requirement--Five hundred dollars (\$500.00).

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

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

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

§ 57-12. Severability.

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

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

§ 57-13. Conflict of ~~e~~C~~hapter~~.

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

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

ARLINGTON COUNTY CODE

Chapter 58

EMERGENCY MANAGEMENT

§ 58-1. Office of Emergency Management **eE**stablished.

§ 58-2. Director.

§ 58-3. Responsibilities of **dD**irector.

§ 58-4. Local **eE**mergency **eO**perations **pP**lan; **mM**utual **aA**id **aA**greements.

§ 58-5. Appointment of **eC**oordinator.

§ 58-6. Line of **sS**uccession.

§ 58-1. Office of Emergency Management **eE**stablished.

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

§ 58-2. Director.

The Director of Emergency Management shall be the **eC**ounty **mM**anager, and while acting in this capacity, he shall have all of the powers and duties established by law for the **dD**irector and for the **eC**ounty **mM**anager.
(10-23-76; Ord. No. 05-11, 9-17-05)

§ 58-3. Responsibilities of **dD**irector.

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

§ 58-4. Local **eE**mergency **eO**perations **pP**lan; **mM**utual **aA**id **aA**greements.

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

§ 58-5. Appointment of **eC**oordinator.

The **dD**irector shall have authority to appoint Coordinator of Emergency Management with the consent of the **eC**ounty **bB**oard.
(10-23-76; Ord. No. 05-11, 9-17-05)

§ 58-6. Line of **sS**uccession.

The line of succession for the Director of Emergency Management during a disaster or emergency, or an impending disaster or emergency, shall be established by the **eC**ounty **mM**anager.
(10-23-76; Ord. No. 05-11, 9-17-05)

ARLINGTON COUNTY CODE

Chapter 59

FAMILY DAY CARE HOMES

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

§ 59-1. Policy, ~~a~~Assurances.

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

§ 59-2. Definitions.

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

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

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

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

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

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

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

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

§ 59-4. Types of ~~H~~licenses.

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

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

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

~~(a)~~A. Any person who intends to operate or maintain a family day care home for more than three (3) children and any person who operates or maintains a family day care home for more than three (3) children on the effective date of this chapter shall make application (on forms provided by the ~~e~~County ~~m~~Manager) to the ~~e~~County ~~m~~Manager for a license in the name of the person for the specified structure to which the application relates. No license issued pursuant to this chapter shall be transferable.

~~(b)~~B. Any person who intends to provide a family day care home in which four (4) through nine (9) children are to be received shall file an application for a license at least two (2) months in advance of the planned opening date.

§ 59-6. Investigation on ~~r~~Receipt of ~~a~~Application.

Upon receipt of the application, the ~~e~~County ~~m~~Manager shall cause an investigation to be made of the activities, services and facilities of the applicant. The applicant shall afford the representatives of the ~~e~~County ~~m~~Manager required to make the investigation reasonable opportunity to inspect all of the applicant's facilities and to interview the applicant or his agents and employees.

§ 59-7. Issuance of ~~H~~License.

~~(a)~~A. *Annual license.* Upon completion of the investigation, the ~~e~~County ~~m~~Manager shall grant an annual license in writing to any applicant thereof upon production of evidence satisfactory to him that the applicant, his facilities, services and activities are in compliance with the provisions of this chapter, the Arlington County Code and the Code of Virginia.

~~(b)~~B. *Provisional license.* Upon completion of the investigation, the ~~e~~County ~~m~~Manager shall grant a provisional license in writing to any applicant thereof upon production of evidence satisfactory to him that the applicant is in compliance with the County Code and the Code of Virginia but that the facilities, services and activities are temporarily unable to completely comply with the requirements of this chapter and do not endanger the health, safety and welfare of the children and that all the requirements will be met within six (6) months from the date of its issuance.

§ 59-8. Denial of ~~a~~Application.

~~(a)~~A. The ~~e~~County ~~m~~Manager shall deny a license to any applicant upon a finding that the activities, services and facilities of the applicant are in violation of any provision of this chapter, the Arlington County Code, the Code of Virginia and are a danger to the health, safety and welfare of the children.

~~(b)~~B. Upon the denial of the application for a license or renewal or upon revocation of a permit as described in ~~section § 59-8, A(a)~~, the eCounty mManager shall notify the applicant that the application or license is denied or revoked stating:

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

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

§ 59-9. Renewal of Hlicense.

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

A provisional license may be issued for any period not to exceed six (6) months and shall not be renewable.

§ 59-10. Suspension of Hlicense.

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

~~(b)~~B. Whenever the eCounty mManager finds by complaint, investigation, or otherwise that any condition exists that endangers the life, health or safety of the children, within a facility required to be licensed by this chapter, he shall order that the license to operate the facility be temporarily suspended. Whenever a license has been so temporarily suspended, a hearing shall be held before the eCounty mManager to determine whether the license to operate the facility should be permanently suspended. If the temporary suspension occurs during normal business hours, the hearing shall be held prior to 5:00 p.m. of that day. Should the temporary suspension occur after business hours, the hearing shall be held on the next regular business day. At the hearing a representative of the facility shall have the right to answer personally or in writing or both personally and in writing. The right to answer personally includes the right to answer orally in person or by being given a reasonable opportunity to make representations which the representative believes might affect the final decision of the eCounty mManager. The eCounty mManager shall send a written statement of the findings of the hearing to the facility within twenty-four (24) hours after the hearing is terminated. In the event the eCounty mManager finds that the conditions at the facility do not endanger the life, health or safety of the children, he shall order that the license of that facility be reinstated immediately. In the event that the eCounty mManager finds that there exist conditions which endanger the life, health or safety of the children, he shall order that the license of that facility be suspended until such time as the conditions which caused said suspension are eliminated.

§ 59-11. Revocation of Hlicense.

The eCounty mManager shall revoke the license of any establishment if the corrective action specified under ~~section § 59-10, A(a)~~ of this chapter is not taken. Procedure for revocation of a license shall be the same as described in ~~section § 59-8~~ of this chapter. Nothing in this section shall be construed to deny the right of any facility so affected to reapply for a license in accordance with the procedures established by this chapter.

§ 59-12. Deferred eCcompliance.

The owner or operators of any facility required to be licensed by this chapter, operating in the eCounty as of the effective date of this chapter, may apply for and be granted a time period not to exceed six (6) months in order to comply with the licensing requirement prescribed hereunder which were not in effect on the date of enactment or this chapter. All other provisions of this chapter become effective upon the effective date of this chapter.

§ 59-13. Inspection ~~p~~Period.

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

§ 59-14. License ~~e~~Conditions.

Each license issued pursuant to this chapter shall set forth the conditions under which the license may operate. Said conditions shall include, but not be limited to, the name(s) of the operator(s) of the family day care home, the maximum number and age range of children to be served, and the period of time for which the license is effective. Each provisional license issued pursuant to this chapter shall be accompanied by a letter from the ~~e~~County ~~m~~Manager or his ~~designated agent designee~~ stating the reason(s) for its being provisional.

§ 59-15. Modification.

The conditions of the license may be modified by the ~~e~~County ~~m~~Manager or his ~~designated agent designee~~ during the licensing year with respect to the number of children, the age range or other conditions. A licensee shall report in writing to the ~~e~~County ~~m~~Manager or his ~~designated representative designee~~ any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. No contemplated changes in staff or program of a family day care home shall be reported unless they affect the terms of the license or the continuing eligibility of the licensee.

§ 59-16. Personnel and ~~h~~Household ~~r~~Requirements.

~~(a)~~A. *Personnel and management.*

~~(1.)~~ There shall be one (1) adult day care parent for a maximum of six (6) children, including the parent's own or related children under age fourteen (14). The ages and number of the children in care may vary according to age combinations as shown in the following tables:

	Adults	Ages of Children	Maximum Number of Children
Table I	1	Under 2 years	0
		Over 2 years	6
Table II	1	Under 2 years	1
		Over 2 years	4
Table III	1	Under 2 years	2
		Over 2 years	2

~~(2.)~~ There shall be at least one (1) adult day care parent and an assistant when more than six (6) children are in care, up to a maximum of nine (9) children, including the parent's or assistant's own or related children under age fourteen (14). Both the day care parent and the assistant must be present at all times. In the absence of either, a qualified substitute shall be present. The ages and number of the children in care may vary according to age combinations as shown in the following tables:

	Adults	Ages of Children	Maximum Number of Children
Table I	2	Under 2 years	0
		Over 2 years	9
Table II	2	Under 2 years	1
		Over 2 years	8

Table III	2	Under 2 years	2
		Over 2 years	7
Table IV	2	Under 2 years	3
		Over 2 years	6
Table V	2	Under 2 years	4
		Over 2 years	4
Table VI	2	Under 2 years	5
		Over 2 years	2
Table VII	2	Under 2 years	6
		Over 2 years	0

- (3.) Where the day care provider has responsibility for a handicapped person including any person related by blood or marriage, that person shall be considered for the purpose of the adult-child ratio on the basis of his or her mental and physical functional age.
- (4.) Provided, however, that children of the adult day care parent and assistant shall not be included in determining the aforementioned adult-child ratio unless such children are being provided day care at the family day care home contemporaneously.
- ~~(b)B.~~ *Household.*
- (1.) Age of adults: The adults in charge of day care children shall be at least eighteen (18) years of age.
- (2.) All members of the day care household, including relatives, lodgers, and servants, shall be responsible, wholesome, and emotionally stable persons of good character and reputation. They shall not be persons convicted of any unlawful act involving sex offenses or offenses of bodily harm.
- (3.) Medical requirements.
 - a. Each employee who comes into contact with the children and each staff person responsible for preparation and serving of food must have a current medical certificate certifying freedom from chronic, communicable or incapacitating disease, based on an examination by a licensed physician, including a negative chest X-ray or TB skin test. Employees shall provide certification of a negative chest X-ray or TB skin test annually thereafter. Records of examinations must be presented upon request. In the event of serious illness or hospitalization of the licensee or director, the eCounty mManager must be informed immediately of the nature of the illness or hospitalization and the arrangements that have been made for delegation of responsibility for operation of the program in the licensee's absence.
 - b. For providers of family day care for four (4) or more children: All members of the day care household who are exposed to the children including relatives, lodgers, servants, and cooks, and assistants, shall have had a satisfactory chest X-ray and shall have had a tuberculin test at the time of application. Annually thereafter, those whose previous tuberculin test was negative shall be required to have a tuberculin skin test only, but those whose previous tuberculin test was positive shall be required to be X-rayed annually.
- (4.) A family day care parent must have understanding of the problems of childhood and sympathy for them. He/she shall be able to give the child the affection and security that the child needs. The family day care parent's motivation in taking a child shall include a desire to contribute to the child's wholesome development and not be limited to meeting the family day care parent's own needs. All members of the family must be willing to accept the family day care child into the

home as a member of the family.

~~(e)C.~~ *Physical environment.*

~~(1.)~~ The physical facilities of homes used for day care shall provide adequate space for daily activities of young children and present no hazards to their health or safety. There shall be space indoors and outdoors for the child to play, and sufficient play materials and equipment to stimulate activity and imaginative play suitable to the ages of the children. A safe, fenced play area shall be provided. Fencing shall not be required if the applicant can show that the play area provides proper protection from traffic and other hazards.

- a. In family day care homes, emphasis shall be placed on homemaking rather than housekeeping. The premises shall be kept clean.
- b. Provision shall be made for individual children for quiet rest or napping on beds, cribs, cots and couches. All beds, cribs, cots and couches used shall be safe, in clean and sanitary condition at all times with bedding suitable to the occasion. The crib should either meet federal standards or be equipped with securely fastened bumper pads. When cots are used, there shall be at least two (2) feet of space between cots.
- c. A space to keep clothing, toys and other personal belongings shall be provided for each child.
- d. Play material and equipment which are necessary to provide children with stimulating experiences, especially for preschool children who spend their whole day in the day care home shall be made available for the children's use. Day care parents shall be encouraged to provide safe, constructive, educational, and not necessarily expensive equipment and to let children make use of available material such as kitchen utensils, water, dough, empty cartons, newspapers, spools, bags, string, fabric remnants, and scraps.
- e. There shall be proper provision for food preparation, care of perishable food, and for refrigeration, especially of milk.
- f. The house must be screened and properly ventilated and must be dry and heated in the winter; sixty-eight (68) to seventy-two (72) degrees Fahrenheit shall be maintained in all rooms occupied by children. Where a heater is used to supplement heat in any room, protection must be provided for the safety of the children.
- g. Drinking water must be made available to the children at all times. If paper cups are not used, each child shall have his individually assigned glass.
- h. Provisions for isolation of sick children shall be made.
- i. Paper towels may be used. If paper towels are not used, towels shall be individually assigned.
- j. Adequate lighting shall be provided in each room. There shall be sufficient windows to admit natural light. Whenever natural light must be supplemented, there shall be the equivalency of thirty (30) footcandles of light.
- k. There must be adequate bathing and toilet facilities to include at least one (1) lavatory and one (1) commode easily accessible to the children.
- l. There shall be a telephone in the family day care home. The number for the doctor who may be called in an emergency, ambulance, fire department, and the police shall be posted near the telephone out of children's reach.

- m. Fire prevention: The home shall be free from fire hazards and have adequate fire protection. Inspection and approval of such authorities as are either required or permitted to inspect and enforce fire regulations shall be required in instances when conditions seem to indicate need for same.

~~(4)D.~~ *Records.* Each family day care home in which four (4) or more children are received shall maintain a record for each child as long as the child remains in care. In homes with one (1) to three (3) children, these records are recommended:

~~(1.)~~ Identifying information: Name and nickname (if any) of the child, birthdate, names, home addresses, and telephone number of parents or other responsible person and of the family physician; place of parents' employment and telephone numbers; address and telephone number of some designated person to call in case of an emergency when the parent cannot be reached; names of persons authorized to call for the child as well as those who are not to visit; and date of admission and date of withdrawal.

~~(2.)~~ A current medical statement signed by a licensed physician shall be required on each child at the time of the child's acceptance in the home and annually thereafter. This statement shall consist of a record of the child's having had a TB test and immunizations as required by the state health department. In the case of infants below two (2) years of age, there shall be a statement from the physician as to the child's immunization status since the timing of immunizations for infants will be a determination of the child's physician.

~~(3.)~~ There shall be a record of other information including allergies, food habits (special diets), and any pertinent information pertaining to a particular child.

~~(4.)~~ Each home shall have a ~~s~~State ~~h~~Health ~~d~~Department "Communicable Disease Chart" and a ~~s~~State ~~h~~Health and ~~e~~Education ~~d~~Department flip chart "Suggestions for Temporary Care of Emergencies in Schools."

~~(5.)~~ Agreement forms: Written agreements shall be made between the day care parent and the natural parent, guardian or other responsible person for each child in care. Sample forms may be obtained from the child care coordinator. These agreements shall cover:

- a. Hours of care per day, week, or month; cost of care per day, week, or month; frequency and amount of payment per day, week, or month; and any special services to be provided by either party to the agreement.
- b. Authorization for emergency medical care if any emergency occurs when parents cannot be located immediately.
- c. Authorization for participation in community activities when feasible.
- d. Authorization for field trips when taken.
- e. Provision that the day care parent will notify him or her when the child becomes ill and that the child will be picked up as soon as it is feasible for the parent to do so.
- f. One (1) copy shall be maintained with the record and one (1) copy shall be given to the parent, guardian, or other responsible person.

~~(6.)~~ *Fees:* There shall be a record of fees paid for each child.

~~(e)E.~~ *Liability and fire insurance.*

(1.) For four (4) through nine (9) children: The day care provider(s) shall have adequate liability and fire insurance to protect themselves and the children served. The possibility of carrying a nursery supplement shall be considered with the insurance company. A copy of the insurance policy shall be available to the eCounty mManager or his ~~designated agent desigence~~ upon request.

(2.) For one (1) through three (3) children: Subsection ~~E.1(5)a~~ is recommended.

(f)F. *Energy shortage emergencies.* Whenever the eCounty mManager shall determine and declare that an energy shortage exists, the minimum thermal standards set forth in this section shall be superseded by thermal standards established by the eCounty mManager. Such standards shall be consistent with the nature and extent of the energy shortage and the health and safety of the occupants. These standards shall remain in effect until the eCounty mManager shall declare the emergency is ended.
(2-11-78)

§ 59-17. Care of eChildren.

(a)A. The family day care home shall provide a homelike atmosphere. In its provision of supplementary care, the family day care parent shall be aware of the development needs and varying potentialities of each child.

(b)B. *Activities and experiences.*

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(1.) Each family day care home shall provide opportunities to meet the needs of the children in attendance, to help each child learn about himself, others, and the world about him.

(2.) The developmental experiences of the family day care home shall emphasize self-expression, creativity, physical development, social, and emotional development of the child.

(3.) The daily experiences shall include opportunities for alternating periods of active and quiet participation.

(4.) Depending upon the age of the child, the activities for each day shall include opportunities for vigorous indoor and outdoor play dependent upon the weather and the health of the child.

(5.) Each preschool child shall have one (1) or more regularly scheduled rest period(s) appropriate to his age and needs.

(6.) Children shall be supervised at all times by the day care home provider or qualified assistant.

(7.) Television shall be used sparingly with discretion and selectivity. Visual protection is essential. The television room shall be well-lighted and the child shall be a safe distance from the television set when viewing a television program.

(c)C. *Nutrition and food services.*

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(1.) The food for children shall be adequate for nutritional needs for wholesome growth and development. Special diets are to be provided as prescribed by a physician for individual children.

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

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

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

(5.) Meals and snacks.

- a. Meals shall include a morning snack. If the child arrives before 8:00 a.m., breakfast or a snack shall be served soon after arrival, if the child has not been given breakfast before leaving home. Sugarless snacks shall be available.
- b. The meals shall be planned to provide the opportunity for the child to learn to eat and enjoy a variety of nutritious foods.
- c. Meals shall be served in a pleasant, clean atmosphere.
- d. For providers of family day care for four (4) or more children: The main meal of the day served in the family day care home, unless otherwise specifically provided by the parent, shall consist of:

~~(1)~~ Meat, eggs, cheese, poultry, fish (2--4 tablespoons). Dry beans, peas, or peanut butter may be substituted in place of meat not more than two (2) times a week (2--4 tablespoons).

~~(2)~~ Dark green leafy vegetable or deep yellow vegetable at least three (3) times a week (1/2 cup).

~~(3)~~ Another vegetable (potatoes approximately three (3) times a week (1/2 cup)).

~~(4)~~ Fruit (1/2 cup).

~~(5)~~ Milk (1/2 to 1 cup).

~~(6)~~ Enriched or whole grain bread (1/2--1 1/2 slices).

~~(7)~~ Butter or fortified margarine (1/2 teaspoon).

- e. For providers of family day care for three (3) or fewer children: Subsection ~~C.5.d.1(5)(d)~~ through 7 is recommended.
- f. All food for children shall be adequate for nutritional needs for wholesome growth and development. Meals shall be planned to provide the opportunity for each child to learn to eat and enjoy a variety of nutritious food.
- g. Children shall be served small-sized portions and permitted to have additional servings.
- h. Snacks shall be selected and planned to provide nutritional needs of the child. Portions served shall be small in amount and not less than one ~~and one-half (1 1/2) hour and a half (1 1/2 hr.)~~ prior to the meal.

~~(d)~~ *Parental involvement.*

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~~(1)~~ Parents or other responsible persons shall be encouraged by the day care parent to visit the home while it is in operation. There shall be a plan for parental involvement for homes of four (4) or more children.

~~(2)~~ Opportunities shall be provided for development of mutual understanding and attitudes toward:

- a. Guidance and behavior;
- b. Development experience; and

c. Knowledge of preventive health measures.

(3.) If the family day care parent becomes aware of any unusual or special needs of a child, he/she shall discuss them with the parent or guardian. Consultation regarding referral resources is available through the eCounty mManager's representative.

(4.) Parents shall be encouraged to participate in planned activities within the home and to exchange ideas with other parents and to offer special talents where feasible.

~~(E)~~ *Behavior and guidance.*

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(1.) Constructive methods for establishing freedom within limitations shall be used for behavioral guidance with an awareness of total developmental needs of the child.

(2.) The family day care parent shall not use or permit an employee or volunteer to use corporal punishment or any humiliating or frightening methods of discipline.

(3.) Any effort toward toilet training shall be made in consultation with and consent of the child's parent or parents.

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

~~(F)~~ *Health care; safety.*

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(1.) Prior to admission and annually thereafter, a child shall meet the medical requirements as outlined in ~~section § 59-16.D.2(d)2~~ and 3.

(2.) The day care parent shall inspect each child daily for signs of communicable diseases and other illnesses.

(3.) Parents shall be advised that children who are ill will not be accepted at the family day care home.

(4.) If a child becomes ill during the day, the child shall be isolated and the parents or other responsible person shall be notified immediately in order that the child may be removed. The child shall be isolated, but not left unattended.

~~(G)~~ *Medical policies.*

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(1.) Arrangements shall be made to have a licensed physician available for referral or contact in cases of emergency when the physician designated by the parent or other responsible person cannot be reached. The provider shall furnish to the eCounty mManager the name of the physician or facilities to be used.

(2.) The telephone number of a doctor who may be called in an emergency when the child's own doctor is unavailable and that of a hospital shall be posted in a conspicuous place for use in case of serious accident or illness. The telephone number of an ambulance or rescue squad service shall be posted, but out of reach of children. At least one (1) person in the home during the time children are there shall have a current Red Cross First Aid Certificate or shall obtain one within a year after the date these standards become effective.

(3.) All injuries or accidents and all head injuries shall be reported immediately to the parents. Parents shall also be notified if the child has been exposed to a contagious disease.

(4.) No medication shall be given a child without a signed doctor's order and a signed permission from the parents, guardian, or other responsible person. Medications shall be identified and carefully

labeled with the child's name, kept out of reach of all children, and be returned to the parents when no longer needed.

5. In cases where there are pets in the day care home, special care shall be exercised in protecting the children.
- a. All dogs and cats over six (6) months of age shall be immunized against rabies. A maximum of three (3) dogs and/or cats shall be permitted. Dogs past the age of six (6) months must be licensed.
 - b. There shall be no turtles due to high accident of gastroenteritis, which is turtle-related, or wild animals in the family day care home.
 - c. Animals known to be dangerous to children shall not be kept near the children nor shall children be allowed access to such animals.
 - d. At no time shall animal excreta be allowed to remain in areas used by children.

§ 59-18. Family Day Care Homes in Which Less Than Four Children Are Received.

Family day care homes in which ~~less~~ fewer than four (4) children are received shall comply with all standards and policies prescribed herein except that a license shall not be required. If the ~~e~~County ~~m~~Manager determines that such standards and policies are not being met in any family day care home in which ~~less~~ fewer than four (4) children are received, he shall notify the operator of such failure and he shall require compliance within ten (10) days of such notice. Continued operation beyond the ~~ten~~ (10) day period without correcting the violation shall be unlawful, and the penalties prescribed under ~~section~~ § 59-19 shall apply. In addition to said penalties, the home shall not be operated for a period of six (6) months unless the ~~e~~County ~~m~~Manager receives satisfactory evidence that full compliance with the standards will be made.

§ 59-19. Penalties.

Any person who operates a family day care home in which four (4) or more children are received without a valid, nonsuspended license issued pursuant to this chapter, and any person who operates a family day care home in which ~~less~~ fewer than four (4) children are received, for more than ten (10) days after receipt of notice from the ~~e~~County ~~m~~Manager that a violation of this chapter exists without having corrected such violation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment in jail not to exceed thirty (30) days or both. Each day of violation shall constitute a separate offense.

§ 59-20. Severability.

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

ARLINGTON COUNTY CODE

Chapter 60

STORMWATER DETENTION

- § 60-1. Title.
- § 60-2. Purpose.
- § 60-3. Applicability.
- § 60-4. Manual of ~~e~~Operation.
- § 60-5. Criteria.
- § 60-6. Penalty.
- § 60-7. Severability.

§ 60-1. Title.

This chapter shall be known as the "Stormwater Detention Ordinance of Arlington County, Virginia."
(9-11-76)

§ 60-2. Purpose.

The purpose of this chapter is to reduce the harmful effects of stormwater runoff on streambeds, banks, parklands, private properties and other areas in Arlington County by requiring the installation of on-site stormwater detention facilities as properties are developed or redeveloped within the ~~e~~County.
(9-11-76)

§ 60-3. Applicability.

The provisions of this chapter shall apply to any work for which a site development plan and/or building permit is required and shall apply to any work requiring a permit for which other changes in the land use are made which change the runoff characteristics. The provisions of this chapter shall apply in all use districts under the ~~z~~Zoning ~~e~~Ordinance of Arlington County except for single unit residential development that occurs within the Potomac Watershed.

Potomac Watershed: The basin that drains directly into the Potomac River without passing through Four Mile Run Watershed.

Four Mile Run Watershed: The basin that drains directly into Four Mile Run, which ultimately empties into the Potomac River.
(9-11-76)

§ 60-4. Manual of ~~e~~Operations.

The ~~d~~Director of the ~~d~~Department of ~~e~~Environmental ~~s~~Services shall prepare and set forth in the form of a manual, guidelines for compliance of the standards of this chapter. The manual will assist those persons who are required to comply with the provisions of the ~~s~~Stormwater ~~d~~Detention ~~e~~Ordinance and may be secured at the ~~d~~Department of ~~e~~Environmental ~~s~~Services and shall be followed unless otherwise specified. The ~~d~~Director of the ~~d~~Department of ~~e~~Environmental ~~s~~Services shall act as the ~~e~~County ~~m~~Manager's designee for control, final approval of submitted plans, and waiver of requirements.
(9-11-76; Ord. No. 82-23, 5-20-82; Ord. No. 04-25, 10-2-04)

§ 60-5. Criteria.

~~(A)~~ *Plan submittal and waiver of requirements.* Site, subdivision and building plans submitted to the ~~d~~Department of ~~e~~Environmental ~~s~~Services will include plans and design calculations for each detention facility proposed. Detention facilities shall be designed so that they do not become health or safety hazards. Whenever the benefits resulting from full compliance with this chapter are not sufficient to warrant the required detention capacity, the applicant may appeal to the ~~e~~County ~~m~~Manager or his designee for a determination. Upon determination, the ~~e~~County ~~m~~Manager may waive or vary the requirements of the ordinance to the extent necessary to take account of the following factors and at the same time to maintain the maximum stormwater detention system. One ~~(1)~~ or more of the following factors must be found to exist in order to grant a waiver or variance of the requirements:

- ~~(1.)~~ The proposed use is a temporary use, not to exceed five (5) years and not to be renewed for any combination of periods which would exceed five (5) years, unless permanent improvements are made in connection with undertaking the temporary use which are likely to outlast the period of temporary use.
- ~~(2.)~~ The proposed use will have a nominal impact on the stormwater runoff characteristics and the provisions of a detention system will not produce a positive effect on the downstream storm sewer or watershed area.
- ~~(3.)~~ The positive effect of the benefits on the downstream storm sewer or watershed area gained by the construction of a detention facility are slight and the cost of construction exceeds the ordinary cost of construction of detention facilities in Arlington County.

~~(B)~~ *Improvements on developed or undeveloped areas.*

- ~~(1.)~~ Whenever any work for which a site development plan or a building permit is required is undertaken on a developed site or previously undeveloped site, then the person or persons undertaking the work shall provide stormwater detention capacity sufficient to accommodate the maximum storage required for a ten- ~~(10)~~ year rain storm at the runoff rate on the developed site (using the applicable runoff coefficient) and a release rate which would be equivalent to that for the ten- ~~(10)~~ year rain storm using an assumed runoff coefficient of 0.2 on the site work. Insubstantial remodeling which has no impact on stormwater runoff from the site is exempted from this chapter and shall not be considered "work" as that word is used in this chapter.
- ~~(2.)~~ Whenever any said work is undertaken on a site which is located within the Four Mile Run Watershed, the following requirement shall be met in order to comply with measures authorized by the United States Congress under ~~Section §~~ 201 of the 1965 Flood Control Act (PL 89-298) and reauthorized under ~~Section §~~ 84 of the Water Resources Development Act of 1974 (PL 93-251). Within the Four Mile Run Watershed, the person or persons undertaking the said work shall provide stormwater detention capacity sufficient to accommodate the maximum storage required for a one hundred- ~~(100)~~ year rain storm at the runoff rate on the developed site (using the applicable runoff coefficient) and a release rate which would be equivalent to that for the ten- ~~(10)~~ year rain storm using an assumed runoff coefficient of 0.3 on the site of the work. In the event that the release rate from the site would have a negative impact and impair the effectiveness of the flood control improvement by increasing the runoff, the County Manager is vested with the authority to vary the release rate in order to comply with the aforesaid federal laws.

~~(C)~~ *Construction and maintenance.* Construction of all detention facilities shall be in conformance with approved plans. The County may require a test operation of facility during or after construction as a condition of approval. All plans submitted for stormwater detention systems shall describe an adequate procedure of normal maintenance for the detention system. It shall be the responsibility of the owner, or its successors or assigns, of the property on which the detention system is located to provide adequate maintenance for proper functioning of the detention system. The County may require periodic maintenance inspections certificates from the owner, or its successors or assigns, pursuant to schedules outlined by state or federal regulations. Periodic inspection by the Department of Environmental Services will be made to determine conformity with the ~~C~~chapter. The submittal of plans for such a system or the purchase of property on which such a system is located shall be deemed an acceptance of responsibility for normal and capital maintenance of the system. Additionally, this responsibility of maintenance

shall be duly recorded in the land records of Arlington County prior to the issuance of any construction permit (9-11-76; Ord. No. 82-23, 5-20-82; Ord. No. 01-19, 4-21-01; Ord. No. 04-25, 10-2-04; Ord. No. 10-14, 6-12-10)

§ 60-6. Penalty.

~~(A)~~A. Any development or redevelopment in which a person, whether applicant, owner, lessee, principal, agent, employee or assigns, is required to build and maintain a stormwater detention system and fails to do so, the development or redevelopment shall be considered an unlawful use of land and the applicant shall be deemed in violation of this ~~C~~chapter.

~~(B)~~B. Any person, who violates this ~~C~~chapter or any regulations adopted thereunder, or who fails, neglects or refuses to comply with any order of the County Manager or his designee, shall be subject to a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation within the discretion of the Court. Each day of violation shall constitute a separate offense. The County Manager or his designee may issue a summons for collection of the civil penalty in the Arlington County Circuit Court. Such civil penalties shall be paid to the Treasurer of Arlington County and shall be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters.

~~(1.)~~ A first violation under this subsection shall be subject to a civil penalty of two hundred and fifty dollars (\$250.00).

~~(2.)~~ A second violation under this subsection shall be subject to a civil penalty of five hundred dollars (\$500.00).

~~(3.)~~ A third violation or thereafter under this subsection shall be subject to a civil penalty of one thousand dollars (\$1,000.00).

~~(C)~~C. Any person who willfully and knowingly violates any provision of this ~~C~~chapter shall be guilty of a Class 1 misdemeanor.

~~(D)~~D. Violations of this ~~C~~chapter may also be addressed in the following ways:

~~(1.)~~ The County may apply to the Circuit Court of Arlington County for injunctive relief to enjoin a violation or threatened violation.

~~(2.)~~ In lieu of any appropriate civil penalty that could be imposed under subsection ~~B~~(~~B~~), the County may, with the consent and agreement of any person who has violated or failed, neglected or refused to obey with this ~~C~~chapter or any regulation thereunder, the County may provide, in an order issued against such person, for payment of civil charges for violations in specific sums, not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation. Any civil charges collected shall be paid to the Treasurer of Arlington County and shall be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters.

~~(E)~~E. “Person” as used in this section ~~shall~~ means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes, without limitation, all federal, state or local government entities.

(9-11-76; Ord. No. 10-14, 6-12-10)

§ 60-7. Severability.

If any provision of this chapter is declared to be invalid, such declaration shall not affect, impair or invalidate the remaining provisions of this chapter.

(9-11-76)

ARLINGTON COUNTY CODE

Chapter 61

CHESAPEAKE BAY PRESERVATION ORDINANCE*

* **Editors Note:** Ord. No. 03-1, adopted Feb. 8, 2003, amended Ch. 61, in its entirety, to read as herein set out in §§ 61-1--61-19.

- § 61-1. Title
- § 61-2. Purpose and **i**ntent
- § 61-3. Definitions
- § 61-4. Administration.
- § 61-5. Areas of **a**pplicability.
- § 61-6. Use **r**egulations.
- § 61-7. Allowable **d**evelopment, **m**odifications, and **e**ncroachments in RPAs.
- § 61-8. Minimum **h**lot **s**ize.
- § 61-9. Interpretation of RPA **b**oundaries.
- § 61-10. General **p**erformance **s**tandards for **d**evelopment in Chesapeake Bay Preservation Areas.
- § 61-11. Watershed **m**anagement **f**und.
- § 61-12. Water **q**uality **i**mpact **a**ssessment.
- § 61-13. Plan of **d**evelopment **p**rocess in Chesapeake Bay Preservation Areas.
- § 61-14. Nonconforming **u**ses and **s**tructures.
- § 61-15. Exemptions.
- § 61-16. Exceptions.
- § 61-17. Enforcement.
- § 61-18. Penalties.
- § 61-19. Severability.

§ 61-1. Title

This ~~ordinance chapter~~ shall be known and referenced as the "Chesapeake Bay Preservation Ordinance" of Arlington County.
(Ord. No. 03-1, 2-8-03)

§ 61-2. Purpose and Intent

A. This ~~ordinance chapter~~ is enacted to implement the requirements of ~~Section §~~ 10.1-2100 ~~et seq.~~ of the Code of Virginia, the Chesapeake Bay Preservation Act. The intent of the County Board and the purpose of the Chesapeake Bay Preservation Area Overlay District created herein is to:

- (1.) ~~p~~rotect existing high quality state waters;
- (2.) ~~r~~estore all other state waters to a condition or quality that will permit all reasonable public uses and will support the propagation and growth of all aquatic life, which might reasonably be expected to inhabit them;
- (3.) ~~s~~afeguard the waters of the Commonwealth from pollution;
- (4.) ~~p~~revent any increase in pollution;
- (5.) ~~m~~aintain and improve riparian habitat; and,

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(6.) Promote water resource conservation in order to provide for the health, safety, and welfare of the citizens of Arlington County.

B. This Overlay District shall be in addition to and shall overlay all zoning districts where they are applied, so that any parcel of land lying in the Chesapeake Bay Preservation Area Overlay District shall also lie in one (1) or more of the zoning districts provided for by the Zoning Ordinance. Unless otherwise stated in these regulations, the review and approval procedures provided for in Section § 61-13 (Plan of Development) shall be followed in reviewing and approving development and uses governed by this Chapter. (Ord. No. 03-1, 2-8-03)

§ 61-3. Definitions

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

“Act” means the Chesapeake Bay Preservation Act found in Chapter 21 (Section § 10.1-2100 et seq.) of Title 10.1 of the Code of Virginia, as may be amended from time to time.

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“Average land cover” means the average amount of impervious surfaces within a watershed, assumed to be sixteen percent (16%) percent for the Chesapeake Bay watershed.

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“Best Management Practices” (BMP’s) means a practice, or combination of practices, that are determined by a state or designated area-wide planning agency, and approved by the County Manager, to be the most effective, practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.

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“Buffer” means an area managed to protect the components of a Resource Protection Area and State waters from significant degradation due to land disturbances.

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“Clean Water Act” means the 1972 amendments to the Federal Water Pollution Control Act and the Federal Water Quality Act of 1987 and any subsequent amendments to those Acts.

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“Code” or “Arlington County Code” means the Code of the County of Arlington County, Virginia, including the Appendix and the Zoning Ordinance.

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“Chesapeake Bay Preservation Area” (CBPA) means any land designated by the County Board pursuant to Section § 61-5 of this Chapter, Part III of the Chesapeake Bay Preservation Area Designation and Management Regulations, 9 VAC 10-20-et seq., and Section § 10.1-2107 of the Code of Virginia. Chesapeake Bay Preservation Areas shall consist of Resource Protection Areas and Resource Management Areas.

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“Construction footprint” means the area of all impervious surfaces, including but not limited to buildings, roads and drives, parking areas, sidewalks, and the area necessary for construction of such improvements.

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“County” means Arlington County, Virginia.

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“County Board” means the County Board of Arlington County, Virginia.

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“County Manager” means the County Manager for the County of Arlington or his designees.

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“Department” means the Chesapeake Bay Local Assistance Department or its successor agency.

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“Development” means the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures. Unless otherwise specified, the term development shall be taken to include both new development and redevelopment, as defined herein.

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▲ “Diameter at breast height” or “DBH” means the diameter of a tree measured outside the bark at a point ~~four and one-half~~ (4.5) feet above the ground.

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▲ “Dripline” means a vertical projection to the ground surface from the furthest lateral extent of a tree or shrub’s canopy.

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▲ “Floodplain” means all lands that would be included in “Zone A” as defined in ~~Section §~~ 48-2.23 of the Arlington County Code and shown on the adopted floodplain map.

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▲ “Highly erodible soils” means soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight (8), as defined by the U.S. Department of Agriculture - Natural Resource Conservation Service. The erodibility index for any soil is defined by the Universal Soil Loss Equation formula (RKLS/T), where K is the soil susceptibility to water erosion in the surface layer, R is the rainfall and runoff, LS is the combined effects of slope length and steepness, and T is the soil loss tolerance.

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▲ “Highly permeable soils” ~~are defined as means~~ any soil having a permeability equal to or greater than six (6) inches of water movement per hour in any part of the soil profile to a depth of ~~seventy-two~~ (72) inches (i.e., permeability groups “rapid” and “very rapid”) as found in the “National Soil Survey Handbook” of November 1996 in the “Field Office Technical Guide” of the U.S. Department of Agriculture - Natural Resources Soil Conservation Service.

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▲ “Impervious cover” or “impervious surface” means a surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Depending on the design, impervious surfaces may include, but are not limited to: non-vegetated roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel or dirt surface without measurable permeability. For the purposes of this ~~Chapter~~, any impervious cover removed from a site within the preceding two (2) years may be counted as impervious cover for the pre-development condition, if a valid demolition permit was obtained for the project or other documentation of the removal acceptable to the County Manager is provided.

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▲ “Intensely ~~Developed~~ ~~Areas~~” means a portion of a ~~Resource~~ ~~Protection~~ ~~Area~~ or ~~Resource~~ ~~Management~~ ~~Area~~ designated by the County Board and shown on the official map where little of the natural environment remains and where development is currently concentrated.

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▲ “Land-disturbance” or “land-disturbing activity” means those activities which disturb land by grading of soil, removing soil, filling over soil, altering structures such that soil is disturbed, dredging, paving or removing pavement over soils, clearing, grubbing, or any other activity specifically included in this ~~ordinance chapter~~ as having the potential for impacts to water quality, except that minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work shall not be considered land disturbance under this ~~ordinance chapter~~ unless it involves the creation of impervious cover in the Resource Protection Area, the disturbance of more than ~~two thousand five hundred~~ (2,500) square feet of land, or the removal of trees with a diameter of at least three (3) inches in the RPA.

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▲ “Landward” means any portion of the RPA buffer located more than ~~fifty~~ (50) feet from a waterbody or other component of the RPA, as specified in ~~Section §~~ 61-5.B.;

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▲ “Map” means the map adopted by the County Board that delineates the areas presumed to be Chesapeake Bay Preservation Areas.

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▲ “New development” means the process of developing land that has not been previously developed by the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

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▲ “Nonpoint source pollution” means pollution consisting of contaminants including, but not limited to, sediment, nitrogen, phosphorus, hydrocarbons, heavy metals and other organic or toxic substances that are washed from the land surface from diffuse sources by stormwater runoff from agricultural and urban land development and use.

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▲ “Nontidal wetlands” means those wetlands other than tidal wetlands that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to Section § 404 of the federal Clean Water Act, and in 33 C.F.R. Part 328.3b, as each may be amended from time to time.

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▲ “Noxious vegetation” means invasive or otherwise harmful plants as may be determined by the County Manager including, but not limited to, poison ivy, poison oak, poison sumac, Johnson grass, kudzu, bamboo, English ivy, porcelain berry, and multiflora rose.

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▲ “Passive recreation” means recreational activities that are commonly unorganized and noncompetitive, including, but not limited to, picnicking, bird watching, kite flying, bicycling, and walking. Site amenities for such activities include, but are not limited to, picnic tables, photo stands, open play areas where substantial clearing is not required, rest rooms, tot lots, boardwalks, paved paths, pathways, benches, and pedestrian bridges and appurtenant structures.

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▲ “Plan of development” means the process for plan review and all required information submitted to the County to ensure compliance with Section § 10.1-2109 of the Code of Virginia and Section § 61-13 of this Chapter, prior to any clearing and grading of a site and the issuance of a building permit.

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▲ “Pollutant” means any substance that causes or contributes to, or may cause or contribute to, environmental degradation when discharged into the environment.

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▲ “Pollutant load” means the amount of a particular pollutant delivered to a waterbody measured in units of mass per unit time (e.g., pounds per year).

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▲ “Public road” means a publicly owned road, or a road designated for public use, that is designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) the Erosion and Sediment Control Law (Section § 10.1-560 et seq. of the Code of Virginia) and (ii) the Virginia Stormwater Management Act (Section 10.1-603.1 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where roads are constructed or maintained, or both, by Arlington County in accordance with the County’s standards for road design and construction activities.

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▲ “Redevelopment” means the process of developing land that is or has been previously developed by the construction, or substantial alteration of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures.

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▲ “Resource Management Area (RMA)” means that component of the Chesapeake Bay Preservation Area that is not classified as the Resource Protection Area.

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▲ “Resource Protection Area (RPA)” means that component of the Chesapeake Bay Preservation Area as defined in Section § 61-5.B of this Chapter.

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▲ “Seaward” means that portion of the RPA buffer located within fifty (50) feet of a waterbody or other component of the RPA, as specified in Section § 61-5.B.

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▲ “Substantial alteration” means expansion or modification of a building or development that would result in a disturbance of any land within a Resource Protection Area, or disturbance of any land exceeding an area of two thousand five hundred (2,500) square feet within a Resource Management Area.

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▲ “Tree canopy” means the branches, leaves, or other foliage from woody vegetation exceeding five (5) feet in height. The area of tree canopy may be measured by determining the area surrounding a tree located within the dripline.

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▲“Tidal shore” or “shore” means land contiguous to a tidal body of water between the mean low water level and the mean high water level.

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▲“Tidal wetlands” means vegetated and nonvegetated wetlands as defined in Section § 28.2-1300 of the Code of Virginia, as may be amended from time to time.

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▲“Use” means the purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

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▲“Water-dependent facility” or “water-dependent development” means the development of land or a facility that cannot exist outside of a Resource Protection Area and must be located within a Resource Protection Area, either in whole or in part, by reason of the intrinsic nature of its operation. These facilities include, but are not limited to (i) ports; (ii) the intake and outfall structures of power plants, water treatment plants, sewage treatment plants, and storm sewers; (iii) marinas and other boat docking structures; (iv) beaches and other public water-oriented recreation areas; (v) fisheries or other marine resources facilities; and (vi) water-oriented education facilities.

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▲“Watershed management fund” means a fund administered by the County for the purpose of reducing nonpoint source pollution runoff through regional nonpoint source pollution control and stream restoration programs, demonstration programs, and public education and outreach.

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▲“Wetlands” means tidal and nontidal wetlands.

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▲“Zoning Ordinance” means that part of the Arlington County Code called the “Zoning Ordinance.” (Ord. No. 03-1, 2-8-03)

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§ 61-4. Administration

The County Manager shall be responsible for the administration of this Chapter and is authorized to develop regulations to implement this Chapter, as necessary. The County Board may establish a schedule of fees to implement this Chapter. (Ord. No. 03-1, 2-8-03)

§ 61-5. Areas of Applicability

A. Resource Protection Areas shall consist of sensitive lands adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may cause significant degradation to the quality of State waters. In their natural condition, these lands provide for the removal, reduction, or assimilation of sediments, nutrients, and potentially harmful or toxic substances in runoff entering the Bay and its tributaries, and minimize the adverse effects of human activities on State waters and aquatic resources.

B. The Chesapeake Bay Preservation Area (CBPA) Overlay District shall apply to all lands identified as the CBPA by the County Board and as shown on the adopted CBPA map. The adopted CBPA map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Chapter.

1. The Resource Protection Area (RPA) includes:

- a. Tidal wetlands;
- b. Nontidal wetlands connected by surface flow and contiguous to tidal wetlands or water bodies with perennial flow;
- c. Tidal shores;

d. A buffer area not less than one hundred (100) feet in width located adjacent to and landward of the components listed in subsections 61-5.B.1.a through c, and along both sides of any water body with perennial flow.

e. Such other lands considered by the County Board to meet some or all of the criteria described in ~~Section §~~ 61.5.A of this ~~C~~chapter and to be necessary to protect the quality of State waters.

~~i.~~(1) Other lands to be included within the RPA may include, but are not limited to, natural stream channels and man-made open channels as depicted on the most recent ~~S~~storm ~~S~~ewer ~~M~~ap layer of the County's ~~G~~eographic ~~I~~nformation ~~S~~ystem and including a buffer area not less than one hundred (100) feet in width located adjacent to and landward of these lands.

~~ii.~~(2) The buffer area described in ~~Section-subsections~~ 61-5.B.1.d and 61-5.B.1.e. ~~i.~~(1), shall be expanded to include any contiguous steep slopes greater than or equal to twenty-five percent (25%) ~~percent~~ located adjacent to the landward boundary of the RPA buffer.

~~iii.~~(3) When necessary to protect the integrity of the RPA buffer, contiguous slopes greater than or equal to fifteen percent (15%) ~~percent~~ located adjacent to the landward boundary of the RPA buffer may also be designated by the County Board.

2. The ~~R~~resource ~~M~~anagement ~~A~~rea (RMA) includes all areas within the County not designated as an RPA. Resource ~~M~~anagement ~~A~~reas include land types that, if improperly used or developed, have a potential for causing significant water quality degradation or for diminishing the functional value of the RPA.

C. The adopted CBPA map shows only the general location of the RPA and should be consulted by persons contemplating activities within the County prior to engaging in development activities or modifications to the RPA. Where RPA boundaries on the adopted CBPA map differ from boundaries as determined from the text of this ~~C~~chapter, the text shall govern. The specific location of an RPA on a lot or parcel shall be delineated on each site or parcel or subdivision plat as required under ~~Section §~~ 61-9 of this ~~C~~chapter through the review and approval of the plan of development in accordance with ~~Section §~~ 61-13, or as required under ~~Section §~~ 61-12, through the review and approval of a water quality impact assessment.

D. Portions of RPAs and RMAs may be designated by the County Board as ~~I~~ntensely ~~D~~eveloped ~~A~~reas. Areas so designated shall comply with all erosion and sediment control requirements and the performance standards in ~~Section §~~ 61-10 (~~P~~erformance ~~S~~tandards). Intensely ~~D~~eveloped ~~A~~reas may include those areas of existing development where little of the natural environment remains, provided at least one (1) of the following conditions existed on May 16, 1992:

1. Development had severely altered the natural state of the area such that it had more than fifty percent (50%) ~~percent~~ impervious surface;

2. Public sewer and water systems, or a constructed stormwater drainage system, or both, had actually been constructed and served the area;

3. Housing density was equal to or greater than four (4) dwelling units per acre.

(Ord. No. 03-1, 2-8-03)

§ 61-6. Use ~~r~~Regulations

Permitted uses, special exceptions, site plan requirements, proffered uses, accessory uses and special requirements shall be as established by the Zoning Ordinance, unless specifically modified by the requirements set

forth herein.
(Ord. No. 03-1, 2-8-03)

§ 61-7. Allowable Development, Modifications, and Encroachments in RPAs

The following uses are allowed within the RPA, subject to the conditions set forth below. All other uses, as may be permitted in this ~~C~~chapter, are subject to additional requirements contained in ~~Section §~~ 61-14 (~~Nonconforming U~~ses and ~~S~~tructures), ~~Section §~~ 61-15 (~~E~~xemptions), and ~~Section §~~ 61-16 (~~E~~xceptions).

~~a.A.~~ *Allowable development in RPAs.* Land development in RPAs may be allowed only when permitted by the County Manager and if it: (i) is water-dependent; or (ii) constitutes redevelopment; or (iii) constitutes new development or redevelopment within a designated ~~I~~ntensely ~~D~~eveloped ~~A~~rea; or (iv) is a road or driveway crossing satisfying the conditions set forth in ~~Section §~~ 61-7.A.3 below; or (v) is a flood control or stormwater management facility that satisfies the criteria in ~~Section §~~ 61-7.A.4.

1. A new or expanded water-dependent facility may be allowed provided that the following criteria are met:
 - a. It does not conflict with the County's comprehensive plan;
 - b. It complies with the performance standards set forth in ~~Section §~~ 61-10 of this ~~C~~chapter;
 - c. Any nonwater-dependent component is located outside of the RPA; and,
 - d. Access to the water-dependent facility will be provided with the minimum disturbance necessary. Where practicable, a single point of access will be provided.
2. Redevelopment outside of locally designated Intensely Developed Areas designated by the County shall be permitted only if there is no increase in the amount of impervious cover within the RPA and there is no further encroachment within the RPA and it shall conform to the erosion and sediment control requirements outlined under ~~Section §~~ 61-10.E. of this chapter and the stormwater management requirements outlined under ~~Section §~~ 61-10.F of this ~~C~~chapter. Within an ~~I~~ntensely ~~D~~eveloped ~~A~~rea, an increase in impervious area in the RPA may be allowed only if there is no adverse impact on water quality and suitable ~~b~~est ~~m~~anagement ~~p~~actices are incorporated in the approved plan of development so as to comply with applicable provisions of ~~Section §~~ 61-10.F of this ~~C~~chapter, and any additional conditions required by the County Manager.
3. Roads and driveways not exempt under ~~Section §~~ 61-15 may be constructed in or across RPAs if each of the following conditions is met:
 - a. The County Manager makes a finding that there are no reasonable alternatives to aligning the road or driveway in or across the RPA;
 - b. The alignment and design of the road or driveway are optimized, consistent with other applicable requirements, to minimize encroachment in the RPA and minimize adverse effects on water quality;
 - c. The design and construction of the road or driveway satisfy all applicable criteria of this ~~C~~chapter;
 - d. The County Manager reviews the plan for the road or driveway proposed in or across the RPA in coordination with the plan of development requirements as required under ~~Section §~~ 61-13, or the proposed subdivision plan or plat.
4. Flood control and stormwater management facilities that drain or treat water from multiple

development projects or from a significant portion of a watershed may be allowed in RPAs, provided that:

- a. The County Manager has conclusively established that location of the facility within the RPA is the optimum location;
- b. The size of the facility is the minimum necessary to provide necessary flood control, stormwater treatment, or both;
- c. The facility shall be consistent with a stormwater management program that has been approved by the Chesapeake Bay Local Assistance Board;
- d. All applicable permits for construction in state or federal waters shall be obtained from the appropriate state and federal agencies;
- e. Approval shall be received from the County Manager prior to construction; and,
- f. Routine maintenance is allowed to be performed on such facilities to assure that they continue to function as designed.

B. *Allowable Modifications to RPA Buffers.* To minimize the adverse effects of human activities on the other components of the RPA, state waters, and aquatic life, a buffer area at least one hundred (100) feet wide of vegetation that is effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff shall be retained if present and established where it does not exist. Notwithstanding permitted uses, encroachments, and vegetation clearing allowed in this ~~C~~chapter, the minimum one hundred (100)-foot buffer area is not reduced in width.

In order to maintain the functional value of the RPA buffer, existing trees and vegetation may be removed, only as permitted by the County Manager, to provide for reasonable sight lines, access paths, general woodlot management, and ~~B~~est ~~m~~Management ~~p~~Practices including those that prevent upland erosion and concentrated flows of stormwater, as follows:

1. Trees may be pruned or removed from the RPA buffer as necessary to provide for sight lines and vistas, provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
2. Trees may be pruned or removed from the RPA buffer in an area no greater than five thousand (5,000) square feet or twenty-five percent (25%) ~~percent~~ of the RPA buffer, whichever is less, for all sight lines and vistas combined. The bounds of this area shall be determined in a manner acceptable to the County Manager and are to be based on identified vantage points and the portion of the landscape to be viewed.
3. Trees may not be removed where reasonable sight lines or vistas can be created by pruning trees alone. No more than twenty-five (25%) ~~percent~~ of the trees six (6) inches or greater in diameter at breast height (four and one-half (4.5) feet) may be removed from the areas designated for sight lines and vistas.
4. A written request for a determination by the County Manager that the proposed removal of vegetation from the RPA buffer is in accordance with the requirements of this ~~C~~chapter is required. Such request shall include a plan showing the following:
 - a. The vantage points for the sight lines and vistas;
 - b. The portion of the landscape to be viewed;

- c. The area in which trees are to be pruned or removed;
 - d. The location of all trees six (6) inches or greater in diameter at breast height (~~four and one-half~~ (4.5) feet) or as required by the County Manager;
 - e. The location of the trees to be removed or pruned;
 - f. The type of replacement vegetation proposed.
5. Trees may not be pruned or removed from the RPA buffer until a written determination is obtained from the County Manager that the proposed activity is in accordance with the requirements of this ~~C~~chapter.
 6. Any path shall be constructed and surfaced so as to control erosion effectively. Paths serving individual residential lots shall be no more than four (4) feet in width.
 7. Noxious weeds and dead, diseased, or dying trees or shrubbery may be removed from the RPA buffer at the discretion of the landowner provided that where removed, they shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion, and filtering nonpoint source pollution from runoff.
 8. For shoreline erosion control projects, trees and woody vegetation may be removed, necessary control techniques employed, and appropriate vegetation established to protect or stabilize the shoreline in accordance with applicable permit conditions or requirements. For shoreline erosion control projects which propose the use of sea walls, rip-rap, groins or other structural means of stabilization, it shall be demonstrated to the satisfaction of the County Manager that vegetative techniques cannot be effectively utilized.
- C. *Allowable Encroachments into RPA Buffer*
1. When the application of the RPA buffer would result in the loss of a reasonable buildable area on a lot or parcel recorded prior to October 1, 1989, the County Manager may, through an administrative process, permit encroachments into the RPA buffer in accordance with ~~Section §~~ 61-13 (~~P~~lan of ~~D~~evelopment) and the following criteria:
 - a. Encroachments into the RPA buffer shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities. For the purpose of this section, reasonable buildable area shall mean that area reasonably necessary for a principal structure and necessary utilities with compatible bulk and scale to those in the surrounding neighborhood or area;
 - b. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the RPA buffer encroachment, and is equal to the area of encroachment into the RPA buffer shall be established elsewhere on the lot or parcel; and,
 - c. The encroachment shall not extend into the seaward ~~fifty~~ (50) feet of the RPA buffer unless an exception has been approved as provided in ~~Section §~~ 61-16.
 2. When the application of the RPA buffer would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, the County Manager may permit encroachments into the RPA buffer in accordance with ~~Section §~~ 61-13 (~~P~~lan of ~~D~~evelopment) and the following criteria:
 - a. The lot or parcel was created as a result of a legal process conducted in conformity with the subdivision regulations under Chapter 23 of the Arlington County Code;

- b. Conditions or mitigation measures imposed through a previously approved exception shall be met;
- c. If the use of a ~~Best Management Practice~~ (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and,
- d. The criteria in ~~Section §~~ 61-7.C.1 shall be met.

D. A water quality impact assessment as outlined in ~~Section §~~ 61-12 of this ~~C~~chapter shall be required for any proposed land disturbance, development, or modification within RPAs.
(Ord. No. 03-1, 2-8-03)

§ 61-8. Minimum Lot Size

Lot size shall be subject to the requirements of the underlying zoning district(s), provided that any lot subdivided after October 1, 1989, shall have sufficient area outside the RPA to accommodate an intended development, in accordance with the performance standards in ~~Section §~~ 61-10, unless the development is otherwise allowed in the RPA, in accordance with ~~Section §~~ 61-7.
(Ord. No. 03-1, 2-8-03)

§ 61-9. Interpretation of RPA Boundaries.

A. *Delineation of RPA Boundaries on a ~~P~~lan of ~~D~~development or ~~S~~ubdivision ~~P~~lat.* The site-specific boundaries and location of the RPA shall be determined by the applicant, surveyor, or engineer following guidelines and procedures to be provided by the County, and shall be made part of the submittal, for review and approval by the County, of a plan of development or subdivision plat showing the RPA delineation. The RPA delineation shown on a plan of development or subdivision plat shall be subject to approval by the County Manager and in accordance with ~~Section §~~ 61-8 (~~M~~inimum ~~L~~ot ~~S~~ize), ~~Section §~~ 61-13 (~~P~~lan of ~~D~~development) and ~~Section §~~ 61-12 (~~W~~ater ~~Q~~uality ~~I~~mpact ~~A~~ssessment) of this ~~C~~chapter, if applicable. The adopted CBPA map may be used as a guide to the general location of RPAs.

B. *Where ~~C~~onflict ~~A~~arises ~~O~~ver ~~D~~elineation.* Where the applicant has provided a determination of the RPA, the County Manager shall verify the accuracy of the boundary delineation. In determining the site-specific RPA boundary, the County Manager may render adjustments to the applicant's boundary delineation, in accordance with ~~Section §~~ 61-13 (~~P~~lan of ~~D~~development) of this ~~C~~chapter. In the event the adjusted boundary delineation is contested by the applicant, the applicant may seek relief, in accordance with the provisions of ~~Section §~~ 61-13.H (~~D~~enial/~~A~~ppeal of ~~P~~lan).
(Ord. No. 03-1, 2-8-03)

§ 61-10. General Performance Standards for Development in Chesapeake Bay Preservation Areas

The following general performance standards shall apply to development in Chesapeake Bay Preservation Areas, including development in both RPAs and RMAs.

- A. Land disturbance shall be limited to the area reasonably necessary to provide for the proposed use or development.
 - 1. In accordance with an approved plan of development, the limits of clearing and grading shall be strictly defined by the construction footprint. The County Manager shall review and approve the construction footprint through the plan of development process. These limits shall be clearly shown on submitted plans and physically marked on the development site.
 - 2. Ingress and egress during construction shall be limited to one access point, unless otherwise approved by the County Manager.

B. Existing vegetation and trees shall be preserved to the maximum extent practicable consistent with the proposed use and development permitted and in accordance with the Virginia Erosion and Sediment Control Handbook.

1. Existing trees over three (3) inches in diameter at breast height (DBH) shall be preserved outside the approved construction footprint consistent with the preceding paragraph. Diseased trees or trees weakened by age, storm, fire, or other injury may be removed, when approved by the County Manager.
2. Site clearing for construction activities shall be allowed as approved by the County Manager through the Plan of Development review process outlined under ~~Section §~~ 61-13 of this ~~C~~chapter.
3. Prior to clearing and grading, suitable protective barriers consistent with the County's construction standards and specifications, and including safety fencing, signs, or such other material as may be required by the County Manager, shall be erected to protect the critical root zone for any tree or stand of trees to be preserved on the site, as well as to protect the critical root zone of trees on adjacent properties that extend onto the site.
4. Exceptions may be granted to allow reasonable access to the site and work area, with specific conditions to be established by the County Manager. Protective barriers shall remain so erected throughout all phases of construction. The storage of equipment, materials, debris, or fill shall not be allowed within the area protected by the barrier.

C. All new development or redevelopment shall provide for the planting or retention of trees on the site to the extent that, at a maturity of twenty (20) years, the minimum lot coverage of the tree canopy shall be as specified below:

1. *Minimum tree canopy requirements*
 - a. Ten percent (10%) ~~percent~~ tree canopy for a site zoned business, commercial, or industrial;
 - b. Ten percent (10%) ~~percent~~ tree canopy for a residential site zoned twenty (20) or more units per acre;
 - c. Fifteen percent (15%) ~~percent~~ tree canopy for a residential site zoned more than ten (10) but less than twenty (20) units per acre; and,
 - d. Twenty percent (20%) ~~percent~~ tree canopy for a residential site zoned ten (10) units or less per acre.
 2. The County Manager may modify the tree canopy coverage requirements in this ~~C~~chapter where necessary to preserve wetlands or where the strict application of the requirements would be unnecessary, or an unreasonable hardship to the developer.
 3. Dedicated school sites, playing fields, or other nonwooded public recreation areas, and other facilities and uses of a similar nature are exempt from these tree canopy coverage requirements.
 4. The County Manager may impose conditions on any request for a modification or exception to the tree canopy coverage requirements that will assure that the results of the modification or exception will be in accordance with the purpose and intent of this ~~C~~chapter.
 5. The tree canopy coverage requirements in this ~~S~~section shall be subject to the enforcement provisions of the Zoning Ordinance.
- D. Land development shall minimize impervious cover consistent with the proposed use or

development.

E. Notwithstanding any other provisions of this ~~C~~chapter or exceptions or exemptions thereto, any land disturbing activity exceeding two thousand five hundred (2,500) square feet, including construction of all single-family houses, shall comply with the requirements of Chapter 57 - Erosion and Sediment Control Ordinance.

F. All development shall meet the following stormwater quality requirements:

1. *Pollutant removal requirements.* The pollutant removal requirements for all development shall be determined according to ~~Sections-subsections~~ 61-10.F.1.a through 61-10.F.1.d.

- a. If pre-development impervious cover is less than or equal to the average land cover condition, defined for purposes of this ~~C~~chapter as the Chesapeake Bay watershed average of ~~sixteen percent (16%)~~ percent, and post-development impervious cover is less than or equal to the average land cover condition, there are no pollutant removal requirements for the site.
- b. If pre-development impervious cover is less than or equal to the average land cover condition, and post-development impervious cover is greater than the average land cover condition, the post-development pollutant load shall be reduced to the pollutant load generated by the average land cover condition.
- c. If pre-development impervious cover is greater than the average land cover condition, the post-development pollutant load shall be reduced to ninety percent (90%) percent of the pre-development pollutant load or to the pollutant load generated by the average land cover condition, whichever pollutant load reduction is smaller.
- d. If pre-development impervious cover is served by an existing stormwater quality BMP, the post-development pollutant load shall be reduced to the pre-development pollutant load after treatment by the existing BMP. The existing BMP shall be shown to have been designed and constructed in accordance with proper design standards and specifications, and to be in proper functioning condition.

2. *Compliance with pollutant removal requirements*

- a. Onsite stormwater treatment shall be provided for impervious surfaces on the development site with which vehicles come into contact, including but not limited to parking areas; streets and roadways except for public roads exempt under ~~Section-§~~ 61-15; loading docks; equipment, material, and waste storage areas; and vehicle fueling, washing, storage, maintenance, and repair areas.

Onsite treatment of vehicle-related impervious cover is not required to exceed the total pollutant removal requirements under ~~Section-§~~ 61-10.F.1.

- b. If onsite stormwater treatment required under ~~Section-§~~ 61-10.F.2.a does not meet the total pollutant removal requirements under ~~Section-§~~ 61-10.F.1, full compliance with ~~Section-§~~ 61-10.F.1 shall be achieved by a combination of the following options, subject to approval by the County Manager:

~~1~~(1) Additional onsite stormwater treatment for roofs, plazas, and other areas of the development site;

~~2~~(2) Onsite stormwater treatment for offsite areas; or

~~3~~(3) A contribution to the County's ~~W~~watershed ~~M~~management ~~F~~fund, as described in ~~Section-§~~ 61-11.

3. *Site design standards.* All development shall incorporate site design standards recognized by the County Manager as a means of minimizing impervious cover, stormwater runoff, and nonpoint source pollution and protecting or improving indigenous vegetation and habitat.
4. Compliance with the pollutant removal, ~~W~~watershed ~~M~~management ~~F~~fund, and site design standards requirements shall be determined using the administrative guidance and calculation procedures provided by the County Manager.

G. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all wetlands permits required by federal, state, and local laws and regulations shall be obtained and evidence of such submitted to the County Manager, in accordance with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) of this ~~C~~chapter.

H. *On-site sewage disposal system requirements*

1. All on-site sewage disposal systems not requiring a state or federal permit shall be pumped out at least once every five (5) years. Pumping of systems and disposal of waste shall be in accordance with the provisions of the Arlington County Health Code. Owners of on-site sewage treatment systems shall submit to the County, every five (5) years, documentation certified by a sewage handler permitted by the Virginia Department of Health that the septic system has either been pumped out, or that the on-site sewage disposal system has been inspected and is functioning properly and does not need to be pumped out.
2. For new development or redevelopment, each on-site sewage disposal system shall be provided with a reserve sewage disposal site with a capacity at least equal to that of the primary sewage disposal site for lots recorded after October 1, 1989. Buildings or the construction of any impervious surface shall be prohibited on the area of all sewage disposal sites or on an on-site sewage treatment system that operates under a permit issued by the State Water Control Board, until the structure is served by public sewer.

(Ord. No. 03-1, 2-8-03)

§ 61-11. Watershed Management Fund

A. The County Manager shall administer a dedicated fund known as the "~~W~~watershed ~~M~~management ~~F~~fund" to be used in conjunction with the County's ~~W~~watershed ~~M~~management ~~P~~plan to reduce nonpoint source pollution and improve stream quality and habitat through programs which provide BMP retrofits, stabilize or restore stream valleys and streams, educate the residents of the County on methods of reducing nonpoint source pollution runoff, promote public awareness of the importance of stormwater quality, supplement County programs which provide water quality protection, provide demonstration projects, or provide water quality monitoring or analysis.

B. The County Manager shall fund the ~~W~~watershed ~~M~~management ~~F~~fund from participation contributions made by development projects, in accordance with ~~Section §~~ 61-10.F, and any additional funds the County Board may authorize. The County Board shall establish a contribution rate that shall not exceed the typical cost of providing on-site stormwater quality treatment, and periodically adjust the rate to reflect inflation and changes in the cost of designing, building, and maintaining stormwater treatment facilities. Expenditures from the ~~W~~watershed ~~M~~management ~~F~~fund shall be used to provide regional stormwater management, stream restoration programs, demonstration projects, and outreach and education programs that protect water quality.

C. The initial contribution rate for the ~~W~~watershed ~~M~~management ~~F~~fund is equal to two dollars and fifty cents (\$2.50) per square foot of impervious area mitigation required, as specified under ~~Section §~~ 61-10.F. of this ~~C~~chapter. Such rate may be adjusted in the future by the County Board in accordance with ~~Section §~~ 61-11.B. and shall be hereafter set forth in Chapter 22 of the Arlington County Code.
(Ord. No. 03-1, 2-8-03)

§ 61-12. Water Quality Impact Assessment

A. *Applicability.* A water quality impact assessment shall be required for any proposed land disturbance or development within an RPA, including development permitted under ~~Section §~~ 61-7.A of this ~~C~~chapter, as well as any RPA buffer modification or encroachment, including modifications or encroachments permitted under ~~Section §~~ 61-7.B or C of this ~~C~~chapter. A water quality impact assessment shall also be required for any proposed land disturbance or development on contiguous steep slopes greater than or equal to fifteen percent ~~(15%) percent~~ located adjacent to the landward boundary of the RPA buffer. A water quality impact assessment may also be required for any proposed land disturbance or development in an RMA as regarded appropriate by the County Manager due to the presence of wetlands, potential for harmful discharge of contaminants from the property, or due to the unique site characteristics or intensity of the proposed use or development and its potential impact on water quality.

At a minimum, a water quality impact assessment shall demonstrate that enhanced RPA buffer vegetation and/or onsite stormwater BMPs will retard runoff, prevent erosion, and result in pollutant reduction. In general, the WQIA shall demonstrate that there is either a forty percent (40%) percent reduction of pollutant loads from the post-development condition for sites with an RPA buffer that consists primarily of natural vegetation (trees, shrubs, and ground cover), or there is a net reduction in pollutant loads over the pre-development condition and a net improvement in RPA buffer vegetation and riparian habitat for sites with an RPA buffer that contains impervious cover and/or little natural vegetation. Actual site requirements will be determined during the review of the water quality impact assessment as well as by any other requirements applicable to the site (e.g., pollutant removal requirements under ~~Section §~~ 61-10.F) under this ~~C~~chapter.

There shall be two (2) levels of water quality impact assessments: a minor assessment and a major assessment. Information shall be provided using the forms and guidance provided by the County Manager.

B. *Minor ~~W~~ater ~~E~~quality ~~I~~mpact ~~A~~ssessment.* A minor water quality impact assessment shall be performed for any land disturbance or development that proposes to disturb up to five thousand (5,000) square feet of land in the landward fifty (50) feet of the RPA buffer or proposes to modify or encroach into the landward fifty (50) feet of the RPA buffer. A minor water quality impact assessment shall also be required for any proposed land disturbance or development that proposes to disturb up to five thousand (5,000) square feet of land on contiguous steep slopes greater than or equal to fifteen percent (15%) percent located adjacent to the landward boundary of the RPA buffer.

A minor assessment shall include a site drawing to scale, which shows the following:

1. Location of the components of the RPA as defined in ~~Section §~~ 61-5.B.1 and required in ~~Section §~~ 61-13.B, including the minimum one hundred (100) foot buffer area measured from the top of the streambank and adjacent twenty-five percent (25%) percent slopes; the location of slopes greater than or equal to fifteen percent (15%) percent located adjacent to the landward boundary of the RPA buffer shall also be delineated;
2. Location and nature of the proposed encroachment into the RPA buffer, including the type of paving material; areas of clearing or grading; location of any structures, drives, or other impervious cover; and sewage disposal systems or reserve drainfield sites;
3. Estimation of pre- and post-development impervious surfaces on the site and stormwater calculations required by the County Manager;
4. Type and location of proposed ~~b~~Best ~~m~~Management ~~p~~Practices to mitigate the proposed encroachment and the location of existing and proposed runoff outfalls or drainage pathways from the property;
5. Location of existing vegetation onsite, including the number and type of trees and other vegetation to be removed in the RPA buffer to accommodate the encroachment or modification;
6. Re-vegetation or vegetation enhancement plan that supplements the existing RPA buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control.

C. ~~Major Water Quality Impact Assessment~~. A major water quality impact assessment shall be performed for any land disturbance or development that proposes to disturb more than five thousand (5,000) square feet of land in the landward fifty (50) feet of the RPA buffer or proposes to disturb, modify, or encroach into any portion of the seaward fifty (50) feet of the Resource Protection Area buffer, regardless of the size of the proposed disturbance. A major water quality impact assessment shall also be required for any proposed land disturbance or development that proposes to disturb more than five thousand (5,000) square feet of land on contiguous steep slopes greater than or equal to ~~fifteen percent (15%)~~ located adjacent to the landward boundary of the RPA buffer. The information required in this section shall be considered a minimum, unless the County Manager determines that some of the elements are unnecessary due to the scope and nature of the proposed use and development.

The following elements shall be included in the preparation and submission of a major water quality impact assessment.

1. All of the information required in a minor water quality impact assessment, as specified in ~~Section §~~ 61-12.B.
2. A hydrogeological element that:
 - a. Describes the existing topography, soils, hydrology and geology of the site and adjacent lands.
 - b. Describes the impacts of the proposed development on topography, soils, hydrology and geology on the site and adjacent lands.
 - c. Includes the following elements, if applicable:
 - ~~i.~~(1) Disturbance or removal of wetlands and justification for such action;
 - ~~ii.~~(2) Changes or reductions in the supply of water to wetlands, streams, lakes, rivers or other water bodies;
 - ~~iii.~~(3) Changes to the existing hydrology of the site and adjacent lands;
 - ~~iv.~~(4) Source, location, and description of proposed fill material;
 - ~~v.~~(5) Location of dredging and location of dumping area for such dredged material;
 - ~~vi.~~(6) Percent of site to be cleared for the proposed project;
 - ~~vii.~~(7) Anticipated duration and phasing schedule of the proposed construction project;
 - ~~viii.~~(8) Listing of all requisite permits from all applicable agencies necessary to develop the proposed project.
 - d. Describes the proposed mitigation measures for the potential hydrogeological impacts. Potential mitigation measures may include, but are not limited to:
 - ~~i.~~(1) Additional proposed erosion and sediment control concepts beyond those normally required under ~~Section §~~ 61-10.E of this ~~C~~chapter; these additional concepts may include the following: minimizing the extent of cleared area; perimeter controls; reduction of runoff velocities; measures to stabilize disturbed areas; schedule and personnel for site inspection;
 - ~~ii.~~(2) Proposed stormwater management system for nonpoint source quality and quantity control.

3. A landscape conservation element that:
- a. Identifies and delineates the location of all woody plant material on site, including shrubs having a canopy greater than ~~twenty-four~~ (24) inches in diameter and all trees on site three (3) inches or greater in diameter at breast height or, where there are groups of trees, said stands may be outlined.
 - b. Describes the impacts the development or use will have on the existing vegetation. Information shall include:
 - ~~i.~~(1) General limits of land disturbance, based on all anticipated improvements, including buildings, drives, and utilities;
 - ~~ii.~~(2) Clear delineation of all trees and other woody vegetation that will be removed.
 - c. Describes the proposed measures for mitigation, including a proposed design plan and planting schedule for trees and other woody vegetation removed for construction, including a list of proposed plants and trees to be used. Possible mitigation measures include:
 - ~~i.~~(1) The re-vegetation plan shall supplement the existing RPA buffer vegetation in a manner that provides for pollutant removal, erosion and runoff control;
 - ~~ii.~~(2) The design of the plan shall preserve to the greatest extent possible any significant trees and vegetation on the site and will provide maximum erosion control and overland flow benefits from such vegetation;
 - ~~iii.~~(3) Indigenous plants shall be used unless otherwise approved by the County Manager.
- D. *Water Quality Impact Assessment Submission and Review Requirements*
1. Copies of all site drawings and other applicable information as required by ~~S~~subsections B and C above shall be submitted to the County Manager for review.
 2. A major or minor water quality impact assessment shall be prepared, as applicable, and submitted to and reviewed by the County Manager in conjunction with ~~Section §~~ 61-13 (~~P~~plan of ~~D~~development) of this ~~C~~chapter.
 3. All information required in this section shall be certified as complete and accurate by a professional engineer or certified land surveyor, except that the landscape conservation element of the assessment shall be certified as complete and accurate by a licensed arborist or landscape architect.
- E. *Evaluation Procedure.* Upon the completed review of a water quality impact assessment, the County Manager or the Chesapeake Bay Ordinance Review Committee (CBORC), in accordance with ~~Section §~~ 61-16, will determine whether the proposed modification or encroachment into the RPA buffer, if any, is consistent with the provisions of this ~~C~~chapter and applicable regulations.
(Ord. No. 03-1, 2-8-03)

§ 61-13. Plan of Development Process in Chesapeake Bay Preservation Areas

Any new development or redevelopment exceeding ~~two thousand five hundred~~ (2,500) square feet of land disturbance in aggregate shall be accomplished through a plan of development process prior to any development preparation activities onsite, including, but not limited to, clearing and grading of the site and the issuance of any

building or other applicable permit, to assure compliance with all applicable requirements of this ~~C~~chapter.

A. *Required ~~I~~information.* The plan of development process shall consist of the plans and studies identified below. These required plans and studies may be coordinated or combined, as deemed appropriate by the County Manager. The County Manager may determine that some of the following information is unnecessary due to the scope and nature of the proposed development.

The applicant shall submit the following plans or studies to the County Manager:

1. Copies of plans submitted to the Zoning Administrator to ensure compliance with the provisions of the Zoning Ordinance;
2. A plan showing the RPA delineation, as defined in ~~Section §~~ 61-13.B;
3. A landscape conservation plan, as defined in ~~Section §~~ 61-13.C;
4. A stormwater management plan, as defined in ~~Section §~~ 61-13.D;
5. An erosion and sediment control plan in accordance with the provisions of Chapter 57 of the Arlington County Code.
6. A ~~W~~water ~~Q~~quality ~~I~~mpact ~~A~~assessment, if applicable, in accordance with ~~Section §~~ 61-12.
7. Other studies requested by the County Manager reasonably required to ensure compliance with this ~~C~~chapter.

B. *Plan ~~S~~showing RPA ~~D~~delineation.* The applicant shall submit a plan showing the RPA delineation, if any portion of the property is located within an RPA, in conjunction with any proposed land disturbance exceeding two thousand five hundred (2,500) square feet.

1. The plan showing the RPA delineation shall be drawn to scale and clearly delineate all environmental features, as defined in ~~Section §~~ 61-5.B.1, including any sensitive environmental features as may be determined by the County Manager;
2. Wetlands delineation shall be performed consistent with the procedures specified in the most current version of the *Corps of Engineers Wetlands Delineation Manual*, 1987, as may be revised from time to time;
3. The plan showing the RPA delineation shall be drawn at the same scale as the preliminary site plan unless otherwise requested by the County Manager, and shall be certified as complete and accurate by a professional engineer or a certified land surveyor. The County Manager may waive this requirement when the proposed use or development would result in less than five thousand (5,000) square feet of disturbed area.

C. *Landscape ~~C~~onservation ~~P~~plan.* A ~~L~~andscape ~~C~~onservation ~~P~~plan shall be submitted in conjunction with plan review and approval. No clearing or grading of any lot or parcel will be permitted without an approved landscape conservation plan for any land disturbance exceeding two thousand five hundred (2,500) square feet. Landscape conservation plans shall be prepared and/or certified by a landscape architect or arborist practicing within their areas of competence as prescribed by the Code of Virginia.

1. *Contents of the ~~P~~plan*
 - a. The landscape conservation plan shall be drawn to scale and clearly delineate the location, size, and description of existing and proposed plant material. All existing trees on the site three (3) inches or greater diameter at breast height (DBH) shall be shown on the plan, or where there are groups of trees, said stands may be outlined instead. The

specific number of trees three (3) inches or greater DBH to be preserved outside of the building envelope shall be indicated on the plan. Trees and other woody vegetation proposed to be removed to create the desired construction footprint shall be clearly delineated on the plan.

- b. The location of the critical root zone, as defined by the County's construction standards and specifications, for any trees shown on the plan or located on adjacent properties where the critical root zone extends onto the site, shall be delineated on the plan.
- c. Any required RPA shall be clearly delineated and any plant material to be added to establish or supplement the RPA buffer, as required under the authority of this ~~C~~chapter, shall be shown on the plan.
- d. Within the RPA buffer, trees and other woody vegetation to be removed for sight lines, vistas, access paths, and ~~b~~est ~~m~~Management ~~p~~Practices, as provided for in this ~~C~~chapter, shall be shown on the plan. Vegetation required by this ~~C~~chapter to replace any existing trees within the RPA buffer shall be also be depicted on the plan.
- e. Trees and other woody vegetation to be removed for shoreline stabilization projects and any replacement vegetation required by this ~~C~~chapter shall be shown on the plan.
- f. The plan shall depict grade changes or other work adjacent to trees that would affect them adversely. Specifications shall be provided showing how grade, drainage, and aeration will be maintained around trees to be preserved to ensure the protection of existing trees and other vegetation during clearing, grading, and all phases of construction.

2. *Plant ~~S~~specifications*

- a. All plant materials necessary to supplement the RPA buffer or vegetated areas outside the construction footprint shall be installed according to the County's standard planting practices and procedures.
- b. All supplementary or replacement plant materials shall be living and in a healthy condition. Plant materials shall conform to the standards of the most recent edition of the American Standard for Nursery Stock, published by the American Association of Nurserymen.
- c. Where areas to be preserved, as designated on an approved landscape conservation plan, are encroached, the County Manager may require reasonable replacement of any trees damaged or destroyed in accordance with the County's current tree replacement policy, as adopted by the County Manager.
- d. Native or indigenous species shall be used for all supplementary or replacement plant materials, unless otherwise approved by the County Manager.

D. *Stormwater ~~M~~management ~~P~~plan.* A stormwater management plan shall be submitted as part of the plan of development process required by this ~~C~~chapter.

- 1. *Contents of the ~~P~~plan.* The stormwater management plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, explanations, and citations to supporting references as appropriate to communicate the information required by this ~~C~~chapter. At a minimum, the stormwater management plan shall contain the following:
 - a. Pre- and post-development impervious cover and stormwater calculations required by the County Manager;

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- b. Location and design of all planned stormwater BMPs, including total area of impervious surface treated by each BMP and BMP treatment efficiencies;
 - c. Description and design of any non-structural stormwater control practices and techniques;
 - d. For stormwater management facilities, verification of performance and structural soundness, including a ~~P~~professional ~~E~~ngineer ~~C~~ertification;
 - e. Any worksheets or other documentation required by the County Manager.
2. Site specific facilities shall be designed, where required by the County Manager, to accommodate the future development of the contributing watershed based on zoning, comprehensive plans, local public facility master plans, or other similar planning documents.
 3. All engineering calculations shall be performed in accordance with the procedures outlined in the current edition of the Virginia Stormwater Management Handbook or engineering manuals developed by designated area-wide planning agencies.
 4. The plan shall establish a schedule for inspection and maintenance of stormwater management facilities that includes all maintenance requirements and persons responsible for performing maintenance. If the designated maintenance responsibility is with a party other than the County then a maintenance agreement shall be executed between the responsible party and the County.

E. *Erosion and ~~S~~ediment ~~C~~ontrol ~~P~~lan.* An erosion and sediment control plan shall be submitted that satisfies the requirements of this ~~C~~hapter and in accordance with Chapter 57 (Erosion and Sediment Control Ordinance) of the Arlington County Code.

F. *Other ~~S~~ubmittal ~~R~~equirements*

1. Final plans for all lands within CBPAs shall include the following additional information:
 - a. All wetlands permits required by law;
 - b. A maintenance agreement as deemed necessary and appropriate by the County Manager to ensure proper maintenance of ~~b~~Best ~~m~~Management ~~p~~Practices in order to continue their function.
 - c. Plat or plan note stating that no land disturbance is allowed in the RPA buffer without review or approval by the County Manager.
2. Installation and ~~B~~onding ~~R~~equirements
 - a. Where RPAs, landscaping, stormwater management facilities or other specifications of an approved plan are required, no certificate of occupancy shall be issued until the installation of required plant material or facilities is completed in accordance with the approved plan.
 - b. When the occupancy of a structure is desired prior to the completion of the required landscaping, stormwater management facilities, or other specifications of an approved plan, a certificate of occupancy may be issued only if the applicant provides to the County Manager a form of surety satisfactory to the County Manager in an amount equal to the cost of any remaining plant materials, related materials, or installation costs of the required landscaping or facilities and/or maintenance costs for any required stormwater management facilities, under terms to be established by the County Manager. A certificate of occupancy may be issued if the County Manager determines that the cost of

any uncompleted work is less than one thousand five hundred dollars (\$1,500.00).

- c. All required landscaping shall be installed and approved by the first planting season following issuance of a certificate of occupancy or the surety may be forfeited to the County.
- d. All required stormwater management facilities or other specifications shall be installed and approved within six (6) months of project initiation, as evidenced by issuance of the initial County building permit, this period being subject to extension for cause by the County Manager. Should the applicant fail, after proper written notice, to initiate, complete or maintain appropriate actions required by the approved plan, the surety may be forfeited to County. The County may collect from the applicant the amount by which the reasonable cost of required actions exceeds the amount of the surety held.
- e. The applicant shall submit a written request for final inspection after all required actions of the approved plan have been completed. If the requirements of the approved plan have been completed to the satisfaction of the County Manager, such unexpended or unobligated portion of the surety held shall be refunded to the applicant or terminated within sixty (60) days following receipt of the applicant's request for final inspection. The County Manager may require a certificate of substantial completion from a Professional Engineer or Class III B Surveyor, as applicable, before making a final inspection.

G. *Administrative Responsibility.* The County Manager shall approve, approve subject to conditions, or disapprove the plans or subdivision plats in accordance with this ~~C~~chapter. The County Manager shall review and return the plan or plat review results to the applicant, including required conditions or modifications if the applicant wishes to proceed. If the applicant decides to proceed, the plan or plat shall be modified by the applicant to reflect any required conditions or modifications and submitted for approval.

H. *Denial of Pplan or Ssubdivision Pplat, Appeal of Cconditions or Mmodifications.* The applicant, when aggrieved by a decision of the County Manager in the enforcement of this ~~C~~chapter, may request a meeting with the County Manager to review the decision. Requests for the meeting shall be made no more than thirty (30) calendar days after the applicant has been notified of the County Manager's decision. The County Manager shall then preside at a meeting of the involved parties and then reconsider the decision. The meeting participants shall be notified by the County Manager within thirty (30) calendar days after the meeting of the result of the reconsideration.

(Ord. No. 03-1, 2-8-03)

§ 61-14. Nonconforming Uses and Structures

A. Any structure or nonagricultural use that was legally established in accordance with the provisions of the Arlington County Code and was in existence on the effective date of this ~~C~~chapter, May 16, 1992, and made non-conforming by operation of this ~~C~~chapter, may continue and be maintained, but shall not be enlarged or expanded, unless such enlargement or expansion is approved pursuant to ~~Section §~~ 61-16 (~~E~~exceptions) of this ~~C~~chapter and otherwise complies with applicable provisions of the Arlington County Code, or is otherwise allowed under ~~Section §~~ 61-14.C.

B. Nothing in this ~~C~~chapter shall prevent the reconstruction of such nonconforming structures destroyed or damaged by any casualty unless the reconstruction is otherwise restricted by the Zoning Ordinance or other portions of the Arlington County Code. Such reconstruction shall occur within two (2) years after the destruction or damage and there shall be no increase in the amount of impervious area and no further encroachment into the RPA, to the extent possible by sound engineering practices.

C. No change or expansion of nonconforming uses or structures in the RPA buffer shall be allowed except that:

- 1. The County Manager may approve exception requests to modify principal nonconforming

structures on legal nonconforming lots or parcels, including the addition of decks, garages, and other customary and incidental structures attached to the principal structure, provided that:

- a. The principal structure remains intact and the modification is compatible in bulk and scale to those in the surrounding neighborhood or area, as determined by the County Manager. If these criteria are not met, the modification shall be subject to the exception request requirements for redevelopment under § 61-16.A.
 - b. There will be no net increase in nonpoint source pollution load;
 - c. Any development or land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with all erosion and sediment control requirement of this Chapter.
 - d. The County Manager finds that the exception request complies with the provisions of Section § 61-16.C.
2. The County Manager may establish criteria to determine when the request shall become null and void, if granted and no substantial work has commenced.
 3. Requests to expand nonconforming uses or to construct or modify nonconforming, non-attached accessory structures in the RPA buffer shall only be approved by the Chesapeake Bay Ordinance Review Committee (CBORC) through the exceptions process in Section § 61-16.A of this Chapter.

(Ord. No. 03-1, 2-8-03)

§ 61-15. Exemptions

A. *Exemptions for ~~P~~ublic ~~U~~tilities, ~~R~~ailroads, ~~P~~ublic ~~R~~oads, and ~~F~~acilities.* Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads (built separately from development projects regulated under Section § 61-13) and their appurtenant structures in accordance with (i) regulations promulgated pursuant to the Erosion and Sediment Control Law (Section § 10.1-560 et seq. of the Code of Virginia) and the Stormwater Management Act (Section § 10.1-603.1 et seq. of the Code of Virginia), (ii) an erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above ~~S~~state requirements are deemed to comply with this Chapter. Any road alignment and design shall be optimized, consistent with all applicable requirements, to prevent or otherwise minimize the encroachment in the RPA buffer and to minimize adverse effects on water quality.

B. *Exemptions for ~~L~~ocal ~~U~~tilities and ~~O~~ther ~~S~~ervice ~~L~~ines.* Construction, installation, and maintenance of water, sewer, natural gas, underground telecommunications and cable television lines owned or permitted by Arlington County or a service authority shall be exempt from the requirements of this Chapter provided that:

1. To the degree possible, the location of such utilities and facilities shall be outside RPAs;
 2. No more land shall be disturbed than is necessary to provide for the proposed utility installation;
 3. All such construction, installation, and maintenance of such utilities and facilities shall be in compliance with all applicable state and federal requirements and permits and designed and conducted in a manner that protects water quality; and,
 4. Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet complies with all Arlington County erosion and sediment control requirements.
- C. *Exemptions in RPAs.* The following land disturbances in RPAs may be exempt from the

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requirements of this Chapter provided that they comply with the requirements listed in subdivisions 1 through 3 below: (i) water wells; (ii) passive recreation facilities and associated amenities such as boardwalks, trails, and pathways, including nature trails operated by government agencies, and trails and bikepaths that provide a link to a planned County trail system or have been recognized by the County Manager as an integral portion of a public trail network; (iii) conservation or preservation of soil, water, vegetation, fish, and other wildlife; and (iv) historic preservation and archaeological activities. The applicant shall demonstrate to the satisfaction of the County Manager that:

1. Any required permits, except those to which this exemption specifically applies, shall have been issued;
2. Sufficient and reasonable proof is submitted that the intended use will not deteriorate water quality; and,
3. Any land disturbance exceeding an area of two thousand five hundred (2,500) square feet shall comply with all Arlington County erosion and sediment control requirements.

(Ord. No. 03-1, 2-8-03)

§ 61-16. Exceptions

A. *Exception Requests Submitted to the Chesapeake Bay Ordinance Review Committee*

1. A request for an exception to the requirements of ~~Section §~~ 61-7.A and ~~Section §~~ 61-7.B (~~A~~allowable ~~D~~evelopment, ~~M~~odifications and ~~E~~ncroachments in RPAs) of this Chapter, or an exception request to modify nonconforming, non-attached accessory structures and uses in the RPA buffer under ~~Section §~~ 61-14.C.3, shall be made in writing to the Chesapeake Bay Ordinance Review Committee (CBORC), which is to be appointed by the County Manager. CBORC shall hold a public hearing on any such requests prior to approving or denying the exception.
2. CBORC shall consist of an odd number of members, including at least five (5), but not more than nine (9), individuals. Members shall be appointed to serve staggered terms of service, not to exceed four (4) years. Members may be appointed from County staff, residents of Arlington County, or persons doing business in Arlington, provided that all members shall be knowledgeable in County development policies and/or Chesapeake Bay Preservation Ordinance policies, and provided further that no more than three (3) staff members shall serve on the ~~e~~Committee at any time.

B. *Exception Requests Submitted to the County Manager.* A request for an exception to the requirements of this Chapter shall be made in writing to the County Manager in the following cases:

1. Exception requests for provisions other than ~~Section §~~ 61-7.A and ~~Section §~~ 61-7.B (~~A~~allowable ~~D~~evelopment, ~~M~~odifications and ~~E~~ncroachments in RPAs);
2. Exception requests to modify principal nonconforming structures on legal nonconforming lots or parcels in the RPA buffer, as may be approved by the County Manager under ~~Section §~~ 61-14.C.1.

C. CBORC or the County Manager, as appropriate, shall review the exception request, including the water quality impact assessment, if applicable, and may grant the exception with such conditions and safeguards as are deemed necessary to further the purpose and intent of this Chapter, if CBORC or the County Manager find:

1. The requested exception to the criteria is the minimum necessary to afford relief;
2. Granting the exception will not confer upon the applicant any special privileges that are denied by this Chapter to other property owners who are subject to its provisions and who are similarly situated;

3. The exception is in harmony with the purpose and intent of this Chapter and is not of substantial detriment to water quality;
4. The exception request is not based upon conditions or circumstances that are self-created or self-imposed;
5. Reasonable and appropriate conditions are imposed, as warranted, that will prevent the allowed activity from causing a degradation of water quality; and,
6. Other findings, as appropriate and required by CBORC or the County Manager.

D. *Public Notification.* For exception requests submitted to CBORC under Section § 61-16.A, the applicant shall notify the affected public as set forth below:

1. Applicants submitting exception requests, waiver requests or water quality impact assessment review requests under this Chapter shall be required to provide notice to all persons owning property abutting or immediately across the street from the parcel, who are identified as the owners of record in the County Tax Records. The local Civic Association president and the Neighborhood Conservation Advisory Committee representatives that are on file with the County Board Office shall also be notified by the applicant. If a County designated historic district or landmark is situated on, abuts or is immediately across the street from the parcel affected by the request, the applicant shall also give notice to the Historic Affairs and Landmark Review Board Chairman.
2. The notices shall be sent by mail certified, return receipt requested by the applicant and at their expense. The notices shall use the form prescribed by the County. The return receipts or copies shall be given to the County Manager and become part of the documentation for the exception request. CBORC shall not hold a public hearing on any request for at least ten (10) working days from the last date as shown in the signed and dated return receipts provided to the applicant by the U.S. Postal Service, except where the County Manager determines an emergency situation requires an immediate response. The applicant shall ensure that a copy of the request is readily available for public review during the ten (10) working day period and shall note the location of the copy in the request filed with the County Manager.

E. If CBORC or the County Manager cannot make the required findings or refuse to grant the exception, CBORC or the County Manager shall return the request for an exception together with the water quality impact assessment and the written findings and rationale for the decision to the applicant.

F. Any person aggrieved by a decision of CBORC or the County Manager in the enforcement of this Chapter may request a meeting with the County Manager and a representative of CBORC, if the exception request was submitted to CBORC, to review the decision. Requests for the meeting shall be made no more than thirty (30) days after the decision has been made. The County Manager and a representative of CBORC, if the exception request was submitted to CBORC, shall then preside at a meeting of the involved parties and then reconsider the decision. The County Manager shall notify the meeting participants within thirty (30) days of the result of the reconsideration.

(Ord. No. 03-1, 2-8-03)

§ 61-17. Enforcement

The County Manager, on behalf of the County Board, may seek injunctive relief to enjoin a violation or a threatened violation of any provision of this Chapter.

(Ord. No. 03-1, 2-8-03)

§ 61-18. Penalties

- A. *General Provisions*

1. Any building erected or improvements constructed contrary to any of the provisions of this ~~Chapter~~ and any land disturbing activity regardless of area contrary to any of the provisions of this ~~Chapter~~ and any removal of vegetation in Chesapeake Bay Preservation Areas contrary to any of the provisions of this ~~Chapter~~ shall be and the same is hereby declared to be unlawful.
 2. Any person, whether owner, lessee, principal, agent, employee or otherwise, who violates any of the provisions of this ~~Chapter~~, or permits any such violation, or fails to comply with any of the requirements hereof, or who erects any building or uses any building or land in violation of the provisions of this ~~Chapter~~ shall be subject to the enforcement provisions of this ~~Chapter~~.
 3. Upon becoming aware of any violation of any provisions of this ~~Chapter~~, the County Manager may serve a notice of violation on the property owner, the person committing or permitting the same either in person or by registered or certified mail to the property or the owner's address. Such notice shall specify the provisions of the ~~Chapter~~ which have been violated, the measures needed to remedy the violation, and a reasonable time in which to remedy the violations. Failure to take steps to comply with such notice within the time provided for shall constitute a separate violation of this ~~Chapter~~.
 4. Restoration of Chesapeake Bay Preservation Areas shall be performed as necessary to meet the intent of this ~~Chapter~~. In addition to the plantings required by ~~Section § 61-10.C~~, the County Manager may require that trees illegally removed from Chesapeake Bay Preservation Areas be replaced by other trees of the same or comparable species of equal value. The value of the replacement trees shall not exceed the value of those illegally removed as determined by the formula in the latest revision of the ~~Guide for Plant Appraisal prepared by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture~~.
 5. The County Manager may require the submission of a ~~Water Quality Impact Assessment~~ (WQIA) in accordance with the provisions of ~~Section § 61-12~~ as a condition for remedying a violation. In addition to the components of the WQIA listed in ~~Section § 61-12.C~~, the WQIA shall include a restoration plan acceptable to the County Manager for any removal of vegetation from Chesapeake Bay Preservation Areas which does not comply with the provisions of this ~~Chapter~~.
- B. Criminal violations and penalties*
1. Violation of this ~~ordinance chapter~~ shall constitute a Class ~~One 1~~ misdemeanor punishable by a fine of up to ~~two thousand five hundred dollars (\$2,500.00)~~ for each offense. Each separate act on the part of the person violating the ~~Chapter~~ shall be deemed a separate offense, and each day a violation is permitted to continue unabated shall be deemed to constitute a separate offense.
 2. In addition to any criminal penalties provided under this ~~Chapter~~, any person who violates any provision of this ~~Chapter~~ may be liable to the County in a civil action for damages, or for injunctive relief.
- C. Civil ~~P~~enalties*
1. With the consent of any person who: (i) violates any provision of any local ordinance related to the protection of water quality in Chesapeake Bay Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any Arlington County notice, order, rule, regulation, or variance or permit condition authorized under such ordinance, Arlington County may provide for the issuance of an order against such person for the one- ~~(1)~~ time payment of civil charges for each violation in specific sums, not to exceed ~~ten thousand dollars (\$10,000.00)~~ for each violation. Such civil charges shall be paid into the Watershed Management Fund established by ~~Section § 61-11~~ of this Chapter in the ~~T~~reasury of Arlington County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas, except that where the violator is the County itself or its agent, the civil charges shall be paid into the ~~s~~State ~~T~~reasury. Civil charges shall be in lieu

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of any appropriate civil penalty that could be imposed under ~~S~~subsection C.2. of this ~~S~~section. Civil charges may be in addition to the cost of any restoration required or ordered by the local governmental body or official.

2. Any person who (i) violates this ~~Ordinance chapter~~ or (ii) violates or fails, neglects, or refuses to obey any Arlington County final notice, order, rule, regulation, or variance or permit condition authorized under this ~~Ordinance chapter~~ shall, upon such finding by an appropriate circuit court, be assessed a civil penalty not to exceed five thousand dollars (\$5,000.00) for each day of violation. Such civil penalties may, at the discretion of the court assessing them, be directed to be paid into the ~~W~~atershed ~~M~~anagement ~~F~~und established by ~~Section §~~ 61-11 of this ~~C~~hapter in the ~~T~~reasury of Arlington County for the purpose of abating environmental damage to or restoring Chesapeake Bay Preservation Areas, in such a manner as the court may direct by order except that where the violator is the County itself or its agent, the court shall direct the penalty to be paid into the ~~s~~State ~~T~~reasury.

(Ord. No. 03-1, 2-8-03)

§ 61-19. Severability

It is the intention of the County Board that the phrases, clauses, sections, paragraphs, and sentences of this ~~C~~hapter are severable, and if any phrase, clause, section, paragraph or sentence of this ~~ordinance chapter~~ shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ~~C~~hapter.

(Ord. No. 03-1, 2-8-03)

ARLINGTON COUNTY CODE

Chapter 62

PAWNBROKERS AND DEALERS IN SECONDHAND ARTICLES

- § 62-1. Policy.
- § 62-2. Definitions.
- § 62-3. Inspection of identifying eredentials.
- § 62-4. Records to be kept by pawnbrokers and merchants.
- § 62-5. Report of pawns and purchases to be furnished to the eChief of pPolice.
- § 62-6. Injuring, eConcealing, eEtc., property rReceived on deposit or pledge by pawnbrokers; removing, eChanging, eEtc., serial or identification numbers.
- § 62-7. Inspection of premises; warrantless search and seizure authorized.
- § 62-8. Purchase from minors.
- § 62-9. Purchases to be retained for inspection.
- § 62-10. Permit required.
- § 62-10.1. To whom ilicense issued.
- § 62-10.2. How permits are eObtained.
- § 62-10.3. False statements on application.
- § 62-10.4. Bond requirement.
- § 62-10.5. Revocation of permit.
- § 62-11. Penalties.
- § 62-12. Severability.

§ 62-1. Policy.

It is hereby declared to be the policy of the County of Arlington, in the exercise of its police power for the protection of the safety, health and welfare of its citizens, to regulate the purchase and sale of secondhand articles by pawnbrokers and other merchants.
(11-15-80)

§ 62-2. Definitions.

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

~~“Established merchant” means Any merchant which has been continuously conducting its business at the same fixed address in Arlington County for a period of not less than sixty (60) calendar days and for not less than five (5) days in any calendar week prior to applying for a license required by this chapter; provided, however, if such merchant has been continuously conducting its business in Arlington County for the twelve- (12) month period prior to such application, it qualifies as an established merchant even if it has changed addresses, so long as it has not changed addresses more than once. Any employee or agent who does the foregoing acts on behalf of his employee or principal and any partner or principal of any legal entity shall also be considered an established merchant.~~

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~~“Gem” means Any item containing precious or semiprecious stones customarily used in jewelry.~~

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~~“Itinerant merchant” means Any merchant who is not an established merchant. Any employee or agent who does the foregoing acts on behalf of his employer or principal and any partner or principal of any legal entity shall also be considered an itinerant merchant.~~

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PAWNBROKERS AND DEALERS IN SECONDHAND ARTICLES

"Merchant" means Any person, partnership, corporation or other legal entity who either purchases secondhand articles for profit, or for a fee accepts secondhand articles for sale on consignment. Any employee or agent who does the foregoing acts on behalf of his employer or principal and any partner or principal of any legal entity shall also be considered a merchant.

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"Pawnbroker" means Any person who shall in any manner lend or advance money or other things for profit on the pledge or possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price. Any employee or agent who does the foregoing acts on behalf of his employer or principal, and any partner or principal of any legal entity shall also be considered a pawnbroker.

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"Precious metal" means Any item, except coins, composed in whole or in part of gold, silver, platinum, or platinum alloys.

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"Secondhand articles" means Any of the following items of personal property or objects of value, previously owned or used, which are not purchased or sold as new:

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- (1) Gold, silver, platinum, or platinum alloy, except coins, in any chemical, physical, or other form;
(2) Watches and clocks;
(3) Stamps, stamp collections and commemorative issues;
(4) Currency and mint sets excluding coins;
(5) Figurines, defined as china, or other objects painted or made that are valuable primarily by reason of age, scarcity, or the skill and craftsmanship of the artist or artisan;
(6) Paintings;
(7) Jewelry, gems, semiprecious stones;
(8) Electronic or electrical appliances, typewriters, business machines, and equipment, excluding those that are traded in on new appliances.

Secondhand articles do not include property purchased by one established merchant from another within or without Arlington County in the normal course of business. (11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-3. Inspection of identifying credentials.

It shall be unlawful for any pawnbroker or merchant dealing in secondhand articles to take in pawn, buy or exchange any such articles prior to examining the identifying credentials of the person pawning, selling or exchanging said articles. The pawnbroker or merchant shall be deemed to be in compliance with this section if they are in compliance with Section § 54.1-4102 of the Code of Virginia of 1950, as amended. (11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-4. Records to be kept by Pawnbrokers and Merchants.

(a) Every pawnbroker and merchant dealing in secondhand articles shall keep at his place of business an accurate and legible record of each loan, transaction or purchase in the course of business. The record of each purchase of precious metal or gem shall be retained by the dealer for at least twenty-four (24) months. The account shall be recorded at the time of the loan, transaction or purchase, and shall include:

- (1) A complete description, including all names, initials or other identifying marks or monograms,

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serial number, true weight or carat of any gem, purchase price, and a statement of ownership of the goods, article or thing pawned or pledged or received on account of money loaned thereon, or bought or received in exchange;

- (2.) The time, date and place of the transaction;
- (3.) The full name, residence address, work place, and home and work telephone numbers of the person pawning or pledging or selling the goods, article or thing, together with a particular description, including the height, weight, date of birth, race, gender, hair and eye color, and any other identifying marks of such person;
- (4.) The amount of any money loaned thereon at the time of pledging the same;
- (5.) The rate of interest to be paid on any loan;
- (6.) Verification of the identification by exhibition of a government-issued identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency and the number thereon;
- (7.) The terms and conditions of any loan, including the period for which any such loan may be made; and
- (8.) All other facts and circumstances respecting any loan.

(b)B. The records described in this section shall be available for inspection during regular business hours by the eChief of pPolice or his ~~designated agent designee~~.
(11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-5. Report of pPawns and pPurchases to be fFurnished to the eChief of pPolice.

(a)A. All pawnbrokers and merchants dealing in secondhand articles shall furnish daily to the eChief of pPolice, upon forms to be prescribed by him, a record of all articles taken in pawn or bought or exchanged by such dealers. Reports of articles taken into pawn shall be filed by 12:00 noon of the day following the pawn or pledge. Reports of articles bought or exchanged by merchants shall be conveyed within twenty-four (24) hours of the time of the purchase or exchange. Reports of such transactions occurring on weekends or holidays shall be conveyed to the eChief of pPolice on the following business day. Such forms shall contain all the information required by subsections 62-4.A.1(a)(+), (2) and (3).

(b)B. In the event stolen property or property believed to be stolen is located in the custody of a licensed merchant, the eChief of pPolice or his ~~designated agent designee~~ shall notify the merchant that the article or articles are stolen. No such article or articles shall be removed from the location specified on the business license until authorized by the eChief of pPolice or his ~~designated agent designee~~.
(11-15-80; Ord. No. 84-15, 6-2-84; Ord. No. 90-17, 7-1-90)

§ 62-6. Injuring, eConcealing, eEtc., pProperty rReceived on dDeposit or pPledge by pPawnbrokers; rRemoving, eChanging, eEtc., sSerial or iIdentification nNumbers.

(a)A. No secondhand articles of any kind received on deposit or pledge by any pawnbroker or merchant shall be disfigured or its identity destroyed, changed or modified in any manner whatsoever so long as it continues in pawn or in the possession of such pawnbroker or merchant, nor shall any article be removed from the premises where received for any reason for a period of fifteen (15) days after the same shall have been received by such pawnbroker or merchant, unless redeemed by the pledger or seized by the police as stolen property, without the permission of the eChief of pPolice or his designee.

(b)B. It shall be unlawful for any pawnbroker or merchant dealing in secondhand articles to remove, change, alter or conceal any serial or other identification number which may be attached or affixed to any property

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of any kind received by such person, without the consent of the ~~e~~Chief of ~~p~~Police or his ~~designated agent designee~~. Nor shall such person knowingly take in pawn, buy, exchange or keep in his possession any such property, the serial or other identification number of which has been removed, changed or altered, without the consent of the ~~e~~Chief of ~~p~~Police or his designee of any article offered for pawn, sale or exchange whose serial number or other identification number or name has been removed, changed or altered.
(11-15-80)

§ 62-7. Inspection of ~~p~~Premises; ~~w~~Warrantless ~~s~~Search and ~~s~~Seizure ~~a~~Authorized.

Every pawnbroker or merchant dealing in secondhand articles and every employee of such pawnbroker or merchant shall admit to his place of business, during regular work hours, the ~~e~~Chief of ~~p~~Police or his agent or any law enforcement official of the state or federal government, shall permit such officer to examine all records required to be maintained under ~~section §~~ 62-4, and shall permit the officer to examine any article listed in a record which is believed by the officer to be missing or stolen and to search for and take into possession any article known to him to be missing or known or believed by him to have been stolen.
(11-15-80; Ord. No. 90-2, 1-16-90; Ord. No. 90-17, 7-1-90)

§ 62-8. Purchase from ~~m~~Minors.

It shall be unlawful for any pawnbroker or merchant dealing in secondhand articles to take in pawn, buy or exchange any article of any kind from a person under eighteen (18) years of age.
(11-15-80)

§ 62-9. Purchases to be ~~r~~Retained for ~~i~~Inspection.

Every pawnbroker and merchant dealing in secondhand articles shall retain in his possession, at the location specified in his business license, and open to the inspection of the ~~e~~Chief of ~~p~~Police or any designated member of the Arlington Police Department, all such articles so purchased or acquired by such person for at least fifteen (15) days before disposing of the same, unless otherwise authorized by the ~~e~~Chief of ~~p~~Police or his designee.
(11-15-80)

§ 62-10. Permit ~~r~~Required.

No pawnbroker or merchant shall transact any business, regardless of the quantity, in the County of Arlington of buying or acquiring secondhand articles without first obtaining a permit therefor from the ~~e~~Chief of ~~p~~Police or his designee. Such permit shall be necessary in addition to any required business license.
(11-15-80)

§ 62-10.1. To ~~w~~Whom ~~i~~License ~~i~~ssued.

The ~~e~~Chief of ~~p~~Police or his designee shall grant a permit to any established merchant, as defined above, or any person seeking to become an established merchant in Arlington County desiring to engage in the business of buying or acquiring secondhand articles upon proof of good character. Permits shall be issued to itinerant merchants upon proof of good character, designation of the premises on which the person shall conduct business and specification of the date or dates upon which such business shall be conducted. Good character shall be considered proved if neither the merchant, or any of its principals, agents or employees who perform any functions related to the activities regulated by this chapter, have been convicted of any crime involving moral turpitude within the last ten (10) years if the crime was a felony and within five (5) years if the crime was a misdemeanor. The burden shall be on the merchant to prove good character, and any applicant shall produce necessary releases, so appropriate record checks can be made.
(11-15-80)

§ 62-10.2. How ~~p~~Permits ~~a~~re ~~o~~btained.

The ~~e~~Chief of ~~p~~Police, or his ~~designated agent designee~~, shall process applications on Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. at the ~~p~~Police ~~d~~Department. Permits shall be issued to

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established merchants, as defined above, for a charge of ten dollars (\$10.00). Itinerant merchants and persons desiring to become an established merchant shall pay a fee of fifty dollars (\$50.00), payable to the ~~T~~reasurer of Arlington County, for such permit. Permits issued to established merchants shall be valid indefinitely, provided that such merchant does not change the nature of his business or its address. Established merchants who change their address or the nature of their business must reapply for such permit and pay a fee of ten dollars (\$10.00). Permits shall be issued to itinerant merchants only for the period specified in the application. Itinerant merchants must obtain a permit for each period of operation in Arlington County. Each applicant must specify on the application the identity of all corporations, firms or businesses with which they are affiliated, and their authorized agents. Permits are not transferable.

(11-15-80)

§ 62-10.3. False ~~s~~Statements on ~~a~~Application.

The application shall state thereon that "it is unlawful for any person to make a false statement on this application and discovery of a false statement shall constitute grounds for denial of any application or revocation of a permit." Any false statement made on the application form will constitute a misdemeanor punishable under ~~section~~ § 62-11.

(11-15-80)

§ 62-10.4. Bond ~~r~~Requirement.

In addition to all other requirements, all itinerant vendors shall be required to post a bond with surety in a form acceptable to the ~~e~~County ~~a~~Attorney in the amount of ten thousand dollars (\$10,000.00) before a permit is issued. The surety shall be a bank authorized to do business in Virginia. In lieu of a bond with surety, an irrevocable letter of credit in a form acceptable to the ~~e~~County ~~a~~Attorney may be provided. The period of the bond or letter of credit shall extend for a period of two (2) years beyond the last day on which the merchant transacts any business regulated by this chapter. The bond or letter of credit shall indemnify all persons who suffer any loss resulting from the failure of the merchant to abide by the provisions of this chapter.

(11-15-80)

§ 62-10.5. Revocation of ~~p~~Permit.

~~(a)~~A. The ~~e~~Chief of ~~p~~Police shall revoke the permit of any person after notice and hearing if the ~~e~~Chief finds that such person has knowingly violated any provisions of this chapter.

~~(b)~~B. Notice of the hearing before the ~~e~~Chief for revocation of the permit shall be given in writing to the permit holder at the last known address of the permit holder which shall be mailed by certified mail to the permit holder at least eight (8) days prior to the hearing and no more than thirty (30) days prior to the hearing. Said notice shall set forth the grounds of the proposed revocation and the time and place of the meeting.

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

~~(d)~~D. The ~~e~~Chief shall submit his decision to the permit holder within five (5) days of his decision or within thirty (30) days of the hearing, whichever is sooner.

~~(e)~~E. In the case of an itinerant merchant, the ~~e~~Chief of ~~p~~Police may forthwith revoke such permit if the ~~e~~Chief finds that such person has knowingly violated the provisions of this chapter. Any itinerant merchant who has had his or her permit revoked by the ~~e~~Chief may demand notice and hearing as described above within forty-eight (48) hours of the next business day following revocation. At such hearing, the itinerant merchant shall be afforded all ~~of~~ the rights and privileges described above.

(11-15-80)

§ 62-11. Penalties.

Any person violating the provisions of this chapter shall, upon conviction, in addition to having his or her

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permit revoked, be punished by confinement in jail for a period not exceeding six (6) months or by a fine not to exceed one thousand dollars (\$1,000.00), either or both.
(11-15-80)

§ 62-12. Severability.

Should any clause, sentence, paragraph or part of this chapter or the application thereof to any person or circumstance be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this chapter or the application of such provisions to other provisions or circumstances, but shall be confined in its application to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.
(11-15-80)

ARLINGTON COUNTY CODE

Chapter 63

UTILITY TAX*

* **Editor's Note:** Ord. No. 07-08, adopted May 5, 2007, amended Ch. 63, in its entirety, to read as herein set out.

- § 63-1. Definitions.
- § 63-2. Levy; ~~£~~Tax ~~£~~Rate; ~~£~~Rate ~~£~~Payment.
- § 63-3. Collection.
- § 63-4. Records to be ~~k~~Kept by the ~~s~~Seller.
- § 63-5. Exemptions from ~~£~~Tax.
- § 63-6. Penalty for ~~v~~Violation of ~~e~~Chapter.
- § 63-7. Effective ~~d~~Date.
- § 63-8. Severability ~~e~~Clause.

§ 63-1. Definitions.

"CCF" means the volume of gas at standard pressure and temperature in units of one hundred (100) cubic feet.

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"Consumer" means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

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"Gas utility" means a public utility authorized to furnish natural gas service in Virginia.

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"Interruptible gas users" ~~shall~~ means users who receive gas service, pursuant to executed contracts, which may be interrupted by the provider of gas service under tariffs approved by the ~~s~~State ~~e~~Corporation ~~e~~Commission of Virginia.

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"Kilowatt hours (kWh) delivered" means one thousand (1,000) watts of electricity delivered in a one- (1) hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

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"Person" ~~shall~~ includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

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"Pipeline distribution company" means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

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"Residential consumer" ~~shall~~ means the owner, occupant or tenant of property used primarily for residential purposes who pays for utility service in or for such property and shall include, whether or not master metered, apartment houses and other multiple-family dwellings.

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"Service provider" means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

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UTILITY TAX

~~“Treasurer” shall~~ means the ~~the~~ Treasurer of Arlington County.

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~~“Used primarily” shall~~ relates to the larger portion of the use for which the utility service is furnished, and for the purposes of this chapter in the determination of the primary use for which a utility service is furnished, the primary or larger portion of that use shall be determined by the relative load for each use or the relative time of operation of each.

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~~“Utility service” shall~~ means electric and gas service, excluding bottled gas, furnished within the boundaries of Arlington County. (Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

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§ 63-2. Levy; ~~the~~ Tax ~~Rate~~; ~~the~~ Rate ~~of~~ Payment.

There is hereby imposed and levied by Arlington County upon each and every consumer of a utility service a tax in the following amounts with respect to each utility service, which tax in every case shall be collected by the service provider from the consumer and shall be paid to the service provider for the use of Arlington County at the time the purchase price or such charge shall become due and payable under the agreement between the consumer and the service provider. There shall be no tax computed on bills submitted on sales of electric utility service for resale.

~~(A)~~ *Electric utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

~~(1.)~~ *Commercial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.00649 on each kWh delivered monthly to commercial consumers.

~~(2.)~~ *Industrial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.01043 on each kWh delivered monthly to industrial consumers.

~~(3.)~~ *Residential consumers* --For electricity consumption in excess of ~~four hundred (400)~~ kWh such tax shall be \$0.00341 on each kWh delivered monthly to residential consumers not to exceed ~~three dollars (\$3.00)~~ per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be \$0.00341 on each kWh delivered monthly in excess of the number of units times ~~four hundred (400)~~ kWh with the tax not to exceed ~~three dollars (\$3.00)~~ multiplied by the number of individual dwelling units served by the master meter or meters.

~~(B)~~ *Local natural gas utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code § 58.1-3814 J., as follows:

~~(1.)~~ *Commercial and industrial consumers* --Such tax shall be \$0.845 plus the rate of \$0.06522 on each CCF delivered monthly to commercial and industrial consumers.

~~(2.)~~ *Interruptible nonresidential consumers* --Such tax shall be four dollars and fifty cents (\$4.50) plus the rate of \$0.01187 on each CCF delivered monthly to nonresidential consumers of interruptible gas service.

~~(3.)~~ *Residential consumers* --For natural gas consumption in excess of ~~twenty (20)~~ CCF such tax shall be ~~three cents (\$0.03)~~ on each CCF delivered monthly to residential consumers not to exceed ~~three dollars (\$3.00)~~ per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be ~~three cents (\$0.03)~~ on each CCF delivered monthly in excess of the number of unit times ~~twenty (20)~~ CCF with the tax not to exceed ~~three dollars (\$3.00)~~ multiplied by the number of individual dwelling units served by the master meter or meters.

(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 05-01, 4-16-05, effective 7-1-05; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-3. Collection.

~~(A)~~ It shall be the duty of every service provider in acting as the tax collecting medium or agency for Arlington County to collect from the purchaser for the use of Arlington County the tax hereby imposed and levied at the time of collecting the purchase price charged therefore and the taxes collected during each calendar month shall be reported and paid by each service provider to the ~~t~~reasurer and the seller shall remit the amount of tax shown by said report to the ~~t~~reasurer on or before the last working day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

Such taxes shall be paid by the service provider to the ~~t~~reasurer, and the service provider shall act in accordance with Virginia Code § 58.1-3814, paragraphs F, G, H, and I, and Virginia Code § 58.1-2901. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the ~~t~~reasurer.

If any consumer fails to pay a bill issued by a service provider, including the taxes imposed by this chapter, the service provider shall follow its normal collection procedures and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for utility service and the tax and remit the tax portion to this jurisdiction.

~~(B)~~ Bills shall be considered as monthly bills for the purposes of this chapter if submitted twelve (12) times per year of approximately one (1) month each. Accordingly, the tax for a bi-monthly bill (approximately sixty (60) days) shall be determined as follows: (i) the CCF will be divided by two (2); (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by two (2); (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."
(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-4. Records to be ~~k~~Kept by the ~~s~~Seller.

Each and every seller shall keep complete records showing all purchases in Arlington County, which records shall show the price charged against each purchaser with respect to each purchase, the date of purchase, the date of payment, and the amount of tax imposed, and such records shall be kept open for inspection by the duly authorized agents of Arlington County who shall have the right, power and authority to make such copies thereof during such times as they may desire.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-5. Exemptions from ~~t~~Tax.

The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof, and persons exempted from payment of real property taxes within Arlington County under state or federal law, are hereby exempted from the payment of tax imposed and levied by this ~~C~~hapter with respect to the purchase of utility services.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07; Ord. No. 09-08, 4-28-09)

§ 63-6. Penalty for ~~v~~Violation of ~~e~~Chapter.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax hereby levied, and any officer, agent or employee of any seller service provider violating the provisions hereof shall, upon conviction, be subject to penalty not to exceed those prescribed by general law for a ~~e~~Class 3 misdemeanor if the amount of tax due is one thousand dollars (\$1,000.00) or less, or a ~~e~~Class 1 misdemeanor if the amount of the tax due is more than one thousand dollars (\$1,000.00). Each failure, refusal, neglect or violation and each day's continuance shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this ~~o~~rdinance ~~c~~hapter.

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

| § 63-7. Effective ~~d~~eate.

| ~~(a)~~—The tax levied or imposed under this chapter shall become effective on the later of July 1, 1989, or on the day immediately after sixty (60) days' written notice by certified mail to the registered agent of the service provider required to collect the tax.

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 05-01, 4-16-05, effective 7-1-05; Ord. No. 07-08, 5-5-07, effective 7-1-07)

Editors Note: Ord. No. 05-01, adopted April 16, 2005, repealed former Ch. 63, § 63-7(b).

| § 63-8. Severability ~~e~~Clause.

| It is hereby declared to be the intention of the ~~e~~County ~~b~~Board that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this chapter.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07)

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Chapter 64

SHORT-TERM RENTAL TAX

- § 64-1. Definitions.
- § 64-2. Levy and ~~r~~Rate of ~~d~~Daily ~~r~~Rental ~~t~~Tax.
- § 64-3. Exemptions from ~~d~~Daily ~~r~~Rental ~~t~~Tax.
- § 64-4. Short-~~t~~Term ~~r~~Rental ~~b~~Business ~~a~~Application for ~~e~~Certificates of ~~r~~Registration.
- § 64-5. Issuance and ~~e~~Effect of ~~e~~Certificate of ~~r~~Registration for ~~s~~Short-~~t~~Term ~~d~~Daily ~~r~~Rental ~~b~~Business.
- § 64-6. Collection and ~~r~~Record-~~k~~Keeping.
- § 64-7. Filing of ~~q~~Quarterly ~~t~~Tax ~~r~~Returns and ~~r~~Remittance of ~~t~~Tax.
- § 64-8. Taxes ~~h~~Held in ~~t~~Trust for ~~e~~County.
- § 64-9. Penalty for ~~f~~Failure or ~~r~~Refusal to ~~e~~Collect ~~t~~Tax.
- § 64-10. Penalties and ~~i~~Interest; ~~f~~Failure to ~~f~~File ~~r~~Return or ~~p~~Pay ~~o~~Over ~~t~~Taxes ~~e~~Collected.
- § 64-11. Uncertified ~~r~~Renters ~~p~~Prohibited from ~~e~~Collecting ~~t~~Tax.
- § 64-12. Criminal ~~p~~Penalties.
- § 64-13. Taxation of ~~r~~Rental ~~p~~Property ~~t~~That is ~~n~~Not ~~d~~Daily ~~r~~Rental ~~p~~Property.
- § 64-14. Effect of ~~r~~Revocations of ~~e~~Certification as ~~s~~Short-~~t~~Term ~~r~~Rental ~~b~~Business.

§ 64-1. Definitions.

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

~~(a) "A person is affiliated with another person" if either has a five percent (5%) percent or greater ownership interest in the other, either directly or through a third person.~~

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~~(b) "Certificate of rRegistration" shall refer to the annual certificate issued by the Arlington Commissioner of the Revenue to persons engaged in the short-term rental business in Arlington County who make application for such certificate pursuant to section § 64-4 of this chapter.~~

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~~(c) "Commissioner of the rRevenue" shall mean the eCommissioner of the rRevenue of Arlington County, Virginia, and any of the eCommissioner's duly authorized deputies or agents designees.~~

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~~(d) "County" shall mean Arlington County, Virginia.~~

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~~(e) "Daily rental property" shall mean all tangible personal property held for rental and owned by a person engaged in the short-term rental business as defined in section § 64-1(a) of this chapter, except trailers, as defined in Section § 46.2-100(33) of the Virginia Code and other tangible personal property required to be licensed or registered with the dDepartment of mMotor vVehicles, the dDepartment of eGame and iInland fFisheries or the dDepartment of aAviation.~~

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~~(f) "Gross proceeds" shall mean the total amount charged including penalties, late charges or interest, to each person for the rental of daily rental property from a short-term rental business with a valid eCertificate of rRegistration, excluding any state and local sales taxes paid pursuant to Chapter 6 of Title 58.1 of the Virginia Code. Gross proceeds is the taxable basis for the daily rental tax.~~

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~~(g) "Gross rental receipts" shall mean all proceeds from rentals during a calendar year, including rentals to persons affiliated with the lessor, except that proceeds from rental of personal property which also involves the~~

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provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. For purposes of this section the delivery and installation of tangible personal property shall not mean operation.

(h) ~~“Person” shall mean and include means~~ individuals, firms, partnerships, associations, corporations, and combinations of individuals of whatever form and character.

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(i) ~~“Short-term rental business” shall include~~ any person engaged in the short-term rental of daily rental property as defined in ~~section § 64-1(e)~~ of this chapter if:

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(1) Not less than eighty ~~percent~~ (80%) ~~percent~~ of the gross rental receipts of such business in any year are from transactions involving rental periods of ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor; and, provided that,

(2) Any rental to a person affiliated with the lessor shall be treated as rental receipts for the purposes of the eighty ~~percent~~ (80%) ~~percent~~ requirement to qualify as a short-term rental business.

(Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

§ 64-2. Levy and ~~R~~Rate of ~~d~~Daily ~~R~~Rental ~~T~~Tax.

Pursuant to ~~Section §~~ 58.1-3510.1 of the Virginia Code, and in addition to all other taxes of every kind now or hereinafter imposed by law, Arlington County hereby levies and imposes on every person engaged in the short-term rental business a tax of one ~~percent~~ (1%) ~~percent~~ on the gross proceeds of such business as defined in ~~section §~~ 64-1(i). Such tax shall be in addition to the tax levied pursuant to ~~Section §~~ 58.1-605 of the Virginia Code. (Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

§ 64-3. Exemptions from ~~d~~Daily ~~R~~Rental ~~T~~Tax.

(a) ~~A~~. No tax hereunder shall be collected or payable on rentals by the Commonwealth of Virginia, by any political subdivision of the ~~e~~Commonwealth or by the United States.

(b) ~~B~~. No tax hereunder shall be collected or payable on any rental of durable medical equipment as defined in subsection 22 of ~~Section §~~ 58.1-608.

(c) ~~C~~. All rentals exempt from the Virginia Sales and Use Tax, pursuant to Chapter 6 of Title 58.1 of the Virginia Code, shall be exempt from this daily rental tax.

(d) ~~D~~. All exemptions from this tax claimed by short-term rental businesses at the time of payment of collected taxes shall be proved by the filing of appropriate documentation as directed by the ~~e~~Commissioner of the ~~R~~Revenue and are subject to verification by the ~~e~~Commissioner at any time. (Ord. No. 89-29, 1-1-90)

§ 64-4. Short-~~t~~erm ~~R~~Rental ~~b~~usiness ~~a~~pplication for ~~e~~Certificate of ~~R~~Registration.

Every person engaging in the business of short-term rental, as defined in ~~section §~~ 64-1(i), shall annually file an application for a ~~e~~Certificate of ~~R~~Registration with the ~~e~~Commissioner of the ~~R~~Revenue for each place of business in Arlington County from which short-term rental business will be conducted by the applicant. Such application shall be filed by January 31 of each year or within thirty (30) days of the beginning of a short-term rental business. The application shall be on a form prescribed by the ~~e~~Commissioner and shall contain:

(a) ~~A~~. The name under which the applicant intends to operate the rental business;

(b) ~~B~~. The location in the ~~e~~County from which the rental business will be conducted as well as the location of the rental business headquarters;

~~(c)~~C. The figures for the previous year's business including the total gross receipts from all business, the total gross rental proceeds and the total receipts from short-term rental of daily rental property;

~~(d)~~D. A list of all tangible personal property owned by the applicant as of January 1 of the current year and used as short-term rental property;

~~(e)~~E. A list of all property leased or licensed to the short-term rental business as of January 1 of the current year, used for short-term rental, with the name and address of the owner of such property;

~~(f)~~F. Such other information as the eCommissioner may require; and

~~(g)~~G. An oath by the person making application or an officer, partner or ~~duly authorized agent designee~~ for such applicant, that they are in fact qualified for tax treatment as a short-term rental business, they shall collect only those daily rental taxes due under the law in the time and manner prescribed by law, and they shall remit all daily rental taxes collected or due and owing to the eCounty.
(Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

§ 64-5. Issuance and eEffect of eCertificate of rRegistration for sShort-~~t~~erm dDaily rRental bBusiness.

Upon approval of the application required by ~~section §~~ 64-4, by the eCommissioner of the rRevenue, a eCertificate of rRegistration shall be issued for each location from which a daily rental business is to be conducted or operated in the eCounty by the applicant. The eCertificate shall be conspicuously displayed at all times at the place of business for which it is issued. Each annual eCertificate shall be valid and authorize the collection of the short-term rental tax until renewal or revocation of the eCertificate. The eCertificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.
(Ord. No. 89-29, 1-1-90)

§ 64-6. Collection and rRecord-~~k~~Keeping.

~~(a)~~A. Every person engaged in the short-term rental business with a valid eCertificate of rRegistration from the eCommissioner of the rRevenue shall collect this daily rental tax from the lessee of the daily rental property at the time of the rental.

~~(b)~~B. The person collecting this tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:

~~(1)~~1. A description of the property rented;

~~(2)~~2. The period of time for which the property was rented;

~~(3)~~3. The name and address of the person to whom the property was rented; and

~~(4)~~4. The amount charged for each rental including all late charges, penalties and interest.

~~(c)~~C. Every person engaged in the short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property including, in addition to the information specified in subsection B(~~b~~) of this section:

~~(1)~~1. A copy of the Virginia Department of Taxation tax-exemption certificate; or

~~(2)~~2. A copy of the U.S. State Department tax exemption certificate, which U.S. State Department card must specify that the renter by name is exempt from sales tax; or

~~(3)~~3. Other explanation and proof of claimed exemption.

(Ord. No. 89-29, 1-1-90)

§ 64-7. Filing of ~~q~~Quarterly ~~t~~Tax ~~r~~Returns and ~~r~~Remittance of ~~t~~Tax.

Each certified short-term rental business under the provisions of this chapter shall file a quarterly tax return with the ~~e~~Commissioner of the ~~r~~Revenue, indicating for the quarter just past:

~~(+)A.~~ The total business gross receipts of the return filer;

~~(+)B.~~ The gross proceeds derived from the short-term rental business;

~~(+)C.~~ All rental gross proceeds claimed to be exempt from the daily rental tax and documentation of each such claim; and

~~(+)D.~~ The total daily rental tax due the ~~e~~County for the previous quarter's short-term rental business.

Each return shall be accompanied by payment of the taxes due and owing or collected by the certified short-term rental business. The quarterly return and payment of tax shall be filed with the ~~e~~Commissioner of the ~~r~~Revenue on or before the twentieth day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31.

(Ord. No. 89-29, 1-1-90)

§ 64-8. Taxes ~~h~~Held in ~~t~~Trust for ~~e~~County.

The taxes required to be collected under this chapter shall be deemed to be held in trust for the ~~e~~County by the person required to collect such taxes until remitted as required in this ~~e~~Chapter.

(Ord. No. 89-29, 1-1-90)

§ 64-9. Penalty for ~~f~~Failure or ~~r~~Refusal to ~~e~~Collect ~~t~~Tax.

If any certified short-term rental business in the ~~e~~County fails or refuses to collect the tax imposed under this chapter, their current ~~e~~Certificate of ~~r~~Registration shall be revoked and the business shall not be subject to the provisions of ~~Sections §§~~ 58.1-3510, 58.1-3510.1 and 58.1-3706.C of the Virginia Code nor to the provisions of ~~section 11-61.4 Chapter 11~~ and Chapter 64 of the Arlington County Code for the calendar year in which the ~~e~~Certificate was revoked. Any payments of daily rental tax made previous to the revocation of the ~~e~~Certificate shall be refunded to such lessees as can be identified by the lessor.

(Ord. No. 89-29, 1-1-90)

§ 64-10. Penalties and ~~i~~Interest; ~~f~~Failure to ~~f~~File ~~r~~Return or ~~p~~Pay ~~o~~ver ~~t~~Taxes ~~e~~Collected.

If any certified short-term rental business fails to file the returns required by this section or fails or refuses to remit to the ~~e~~Commissioner of the ~~r~~Revenue the tax collected and paid under this chapter at the time specified in this chapter, its certification as a short-term rental business shall be revoked and there shall be added to such tax collected prior to revocation of the ~~e~~Certificate and due the ~~e~~County but not paid a penalty in the amount of ten ~~percent~~ (10%) ~~percent~~ of the tax past due or the sum of ten dollars (\$10.00), whichever is greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.

Interest shall accrue on taxes due and delinquent prior to June 30, 1999, at the rate of ten ~~percent~~ (10%) ~~percent~~ for the first year. For the second and subsequent years, interest shall be paid on the delinquent tax and penalty at a rate established by the ~~t~~Treasurer, at his or her discretion, but not to exceed ten ~~percent~~ (10%) ~~percent~~ per annum or the rate of interest established pursuant to ~~Section §~~ 6621 of the Internal Revenue Code of 1984, as amended, whichever is greater, up to June 30, 1999; and as prescribed in § 27-3 thereafter. Interest on taxes due and payable after July 1, 1999, shall accrue interest as prescribed in § 27-3. Penalty and interest for failure to file the return or to pay the tax due pursuant to this chapter shall be assessed on the first day following the day such quarterly return and tax payment is due. The certification shall be revoked if the failure to pay the tax due or to file the returns required by this chapter continues for sixty (60) days beyond the due date.

(Ord. No. 89-29, 1-1-90; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99)

§ 64-11. Uncertified ~~r~~Renters ~~p~~Prohibited from ~~e~~Collecting ~~t~~Tax.

No person renting any property or services to any other person shall collect from the lessee the daily rental tax authorized by this chapter unless they have a valid ~~e~~Certificate of ~~r~~Registration issued for the current year by the ~~e~~Commissioner of the ~~r~~Revenue. Any taxes collected in a manner not authorized by law shall be forfeited to the ~~e~~County.

(Ord. No. 89-29, 1-1-90)

§ 64-12. Criminal ~~p~~Penalties.

Persons violating or failing to comply with any provision of this chapter shall be guilty of a Class 3 misdemeanor, except as provided below:

~~(+)A.~~ If the amount of tax due and unpaid for any quarter exceeds one thousand dollars (\$1,000.00), any person failing to file a return or remit payment when due and convicted with such failure on a criminal warrant shall be guilty of a Class 1 misdemeanor.

~~(2)B.~~ Any person violating ~~section §~~ 64-11 of this chapter shall be guilty of a Class 1 misdemeanor.

(Ord. No. 89-29, 1-1-90)

§ 64-13. Taxation of ~~r~~Rental ~~p~~Property ~~t~~That is ~~n~~Not ~~d~~Daily ~~r~~Rental ~~p~~Property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to ~~Section §~~ 58.1-3503 of the Virginia Code.

(Ord. No. 89-29, 1-1-90)

§ 64-14. Effect of ~~r~~Revocations of ~~e~~Certification as ~~s~~Short-~~t~~Term ~~r~~Rental ~~b~~Business.

If upon audit by the ~~e~~Commissioner of the ~~r~~Revenue of the preceding full year's gross proceeds and gross rental receipts, it is ascertained that a certified short-term rental business did not meet the criteria for certification set out in ~~section §~~ 64-1 ~~(+)~~, any current certification shall be revoked or renewal of certification shall be denied. In addition, the business shall not be treated for business license tax and business tangible property tax assessment as a certified short-term rental business for the preceding year and for the current year. The business shall be assessed any additional business license and business tangible property taxes found to be due.

(Ord. No. 89-29, 1-1-90; Ord. No. 09-08, 4-28-09)

ARLINGTON COUNTY CODE

Chapter 65

MEALS, FOOD AND BEVERAGE TAXATION

- § 65-1. Definitions.
- § 65-2. Levy.
- § 65-3. Exemptions, Hlimitations, and eCredits.
- § 65-4. Certificate of rRegistration.
- § 65-5. Collection.
- § 65-6. Taxes eCollected hHeld in tTrust.
- § 65-7. Filing of tTax rReturns and rRemittance of tTax.
- § 65-8. Penalties, iInterest, and eCollection fFees.
- § 65-9. Assessment and eCollection of oOmitted tTaxes.
- § 65-10. Posting bBond or lLetter of eCredit.
- § 65-11. Records.
- § 65-12. Sale or eCessation of bBusiness.
- § 65-13. Criminal pPenalties.
- § 65-14. Severability.

§ 65-1. Definitions.

~~For purposes of this chapter, the following words and phrases terms, when used in this chapter, shall have the following meanings stated below to the extent the context where they are used indicates unless the context clearly indicates otherwise:~~

~~“Caterer” means Aa person who prepares food at a business site in the eCounty for compensation, for service, or consumption off the premises.~~

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~~“Commissioner of the Revenue” means Fthe Commissioner of the Revenue of Arlington County and any of the eCommissioner’s duly authorized deputies, assistants, employees, or agents designees.~~

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~~“Grocery items” means Ffood and foodstuffs, green groceries, beverages and household goods usually prepackaged or measured into quantities for household use from containers made for retail grocery or baking sales and not generally suitable for immediate consumption by the purchaser. Grocery items, sometimes called staples, include, by way of illustration and not limitation, sugar, flour, spices, dry pasta, loaves of bread, ground coffee, coffee beans and loose or bagged tea, bottled and unopened wine, cooking oils, four (4) or more rolls, donuts or other baked goods, canned, bottled, and jarred goods (other than individual, nonalcoholic beverages sold with food).~~

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~~“Meals” means Aall food or beverages or both including alcoholic beverages and snack foods sold in a state ordinarily associated with consumption at one (1) period by a single person or a group, whether or not eaten in the place where it is bought or prepared including at delicatessen counters of grocery and convenience stores in the eCounty. The term “meals” does not include grocery items nor alcoholic beverages sold in factory-sealed containers for off-premises consumption.~~

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~~“Person” means Aany business, individual, corporation, company, association, firm, partnership, or any combination of individuals of whatever form or character.~~

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~~“Purchaser” means Aany person who buys meals in or from a restaurant, caterer, or delicatessen counter at grocery or convenience stores.~~

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~~“Restaurant” means:~~

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- (1) Any place in the eCounty where meals are prepared for service to the public on or off the premises, or any place where meals are served. Examples of such places include, but are not limited to, any lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, and for profit schools; and
- (2) Any place or operation which prepares or stores meals for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include, but are not limited to, operations preparing or storing meals for catering services, push cart operations, hotdog stands and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence.

~~“Seller” means Any person who sells for money or other consideration meals in or from a restaurant, or as a caterer from business premises in the eCounty or from a delicatessen counter at grocery or convenience stores in the eCounty.~~

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~~“Treasurer” means The Treasurer of Arlington County and any of the Treasurer’s duly authorized deputies, assistants, employees, or agents designees.~~
(Ord. No. 91-8, 6-1-91; Ord. No. 00-19, 8-1-00)

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§ 65-2. Levy.

~~(a)A.~~ Except as outlined in subparagraph ~~B(b)~~, there is hereby imposed and levied by Arlington County, in addition to all other taxes, fees, and charges of every kind now or hereafter imposed by law, a tax upon all meals sold for money or other consideration in, from, or by a restaurant or caterer, whether prepared in such restaurant or not and whether consumed on the premises or not, and upon prepared sandwiches and single-meal platters sold at the delicatessen counters of grocery and convenience stores, such tax to be at a rate of four ~~percent (4%)~~ ~~percent~~ on the total amount charged by the seller for the meal. In the computation of this tax, any fraction of one-half (1/2) cent or more shall be treated as one (1) cent.

~~(b)B.~~ For meals sold by a restaurant or caterer specifically prepared for use on commercial airlines and delivered to the purchaser for that purpose, the tax rate shall be two ~~percent (2%)~~ ~~percent~~ of the total amount charged by the seller for the meal. In the computation of this tax, any fraction of one-half (1/2) cent or more shall be treated as one (1) cent.

~~(c)C.~~ In situations where any amount or percentage, whether designated as a gratuity, tip, or service charge, is added to the price of the meal by the seller and required to be paid by the purchaser and the amount of said gratuity, tip or service charge exceeds ~~twenty percent (20%)~~ of the cost of the meal, said amount or percentage shall be included in the calculation of the amount charged for the meal.
(Ord. No. 91-8, 6-1-91; Ord. No. 08-21, 11-15-08)

§ 65-3. Exemptions, ~~H~~limitations, and ~~e~~credits.

~~(a)A.~~ ~~Exemptions:~~ The tax levied by ~~section § 65-2.A(a)~~ shall not be collected or assessed on the following sales of meals:

- ~~(1.)~~ Meals sold through vending machines;
- ~~(2.)~~ Meals sold at or included in the cost of accommodations or services at the following facilities: boardinghouses that do not accommodate transients, child care and senior care facilities, nursing homes, senior and disabled living facilities, hospitals, and public or nonprofit institutions of learning;
- ~~(3.)~~ Meals sold at cafeterias operated by industrial plants for employees only;

~~(4.)~~ a. Meals sold by nonprofit organizations including churches, fraternal, civic and social organizations, volunteer fire departments and rescue squads, at occasional dinners and bazaars of up to three (3) days duration at which meals prepared in the homes of members or in the kitchen of the church or organization are offered for sale to the public;

b. Meals sold by nonprofit organizations including churches, fraternal, civic and social organizations, volunteer fire departments and rescue squads, at occasional dinners or special events, of up to three (3) days duration per event, if the nonprofit organization has three (3) or fewer such events a year and the food or meals sold by the nonprofit organization to the public is prepared by the members of the nonprofit organization.

~~(5.)~~ Meals which churches serve for their members as a regular part of their religious observances; and

~~(6.)~~ Meals sold at wholesale for resale, which sales are exempt from Virginia sales and use taxation under Chapter 6 of Title 58.1 of the Virginia Code.

~~(7.)~~ Meals sold for delivery in another state or the District of Columbia by caterers based in Arlington County to an entity which is exempt from a similar tax on the sale, delivery, or service of meals in the jurisdiction where the meal is served. This exemption is not applicable except upon proof that the entity in the foreign jurisdiction is exempt from a sales and use tax. This section shall not be applicable to meals sold by a restaurant or caterer specifically prepared for use on commercial airlines and delivered to the purchaser for that purpose.

~~(b)B.~~ *Limitations.* The following limitations on the tax levied by ~~section §~~ 65-2 shall apply:

~~(1.)~~ Alcoholic beverages sold in factory-sealed containers for off-premises consumption shall not be subject to this tax;

~~(2.)~~ Nonalcoholic beverages sold alone and not in connection with a meal shall not be subject to this tax;

~~(3.)~~ Meals sold by enterprises under the jurisdiction of the Virginia Department for the Visually Handicapped which are exempted by state law from this tax are not subject to this tax;

~~(4.)~~ Meals for the elderly which are exempt from Virginia sales and use taxation pursuant to ~~Section §~~ 58.1-608.8.C. of the Virginia Code, as amended, are not subject to this tax; and

~~(5.)~~ Meals served by organizations exempt from business license taxes under Arlington County Code ~~section §~~ 11-61.3 are exempt from this tax.

~~(c)C.~~ *Credits.* There shall be a credit for taxes paid by a seller as defined in this chapter in another state or the District of Columbia by reason of the imposition of a similar tax on the sale, delivery, or service of the meals subject to tax under this chapter in that other taxing jurisdiction to the extent the foreign jurisdiction's tax exceeds the Virginia sales tax, as reflected in the Code of Virginia, including the local portion of the tax. The amount of this credit shall not exceed the tax imposed by this chapter. Credit shall not be granted when the laws of the other taxing jurisdiction provide a credit for payment by the seller of Arlington County's meals tax. The other taxing jurisdiction's tax credit must be exhausted before any credit is granted under this subsection. The credit under this subsection shall not be granted except upon proof of actual tax payments to the other jurisdiction based on the sale, delivery, or service of the same meals which are the subject of taxation under this chapter. (Ord. No. 91-8, 6-1-91; Ord. No. 93-14, 8-1-93; Ord. No. 96-18, 12-7-96; Ord. No. 00-19, 8-1-00; Ord. No. 08-21, 11-15-08)

§ 65-4. Certificate of ~~r~~Registration.

~~(a)A.~~ Every person responsible for the collection of the tax levied by ~~section §~~ 65-2 shall file an application for a certificate of registration with the ~~e~~Commissioner of the ~~r~~Revenue. The application shall be on a

form prescribed by the eCommissioner of the rRevenue to provide information for the assessment and collection of this tax and for the enforcement of the provisions of this chapter. The application shall be signed under oath by the person making application who shall be an officer, partner, or authorized agent of the applicant.

(b)B. Upon approval of the application by the eCommissioner of the rRevenue, a certificate of registration authorizing the collection of this meals, food, and beverage tax shall be issued to the applicant.

(c)C. Each person with a certificate of registration pursuant to this section shall notify the eCommissioner of the rRevenue of any changes to the information provided on their application for the certificate within thirty (30) days of the change.
(Ord. No. 91-8, 6-1-91)

§ 65-5. Collection.

The tax levied by ~~section §~~ 65-2, in each and every case, shall be collected by each seller from the purchaser at the time that the charges for the meals are due and payable, whether such payment is made in cash, by check, or on credit by means of a credit card or otherwise. The seller shall separately state the amount of the tax and add such tax to the amount charged for the meal, and the tax shall be paid to the eCounty by the seller as hereinafter provided.
(Ord. No. 91-8, 6-1-91)

§ 65-6. Taxes eCollected hHeld in tTrust.

The taxes required to be collected under this chapter shall be deemed to be held in trust for the eCounty by the person required to collect such taxes until remitted to the eCounty as required in this chapter.
(Ord. No. 91-8, 6-1-91)

§ 65-7. Filing of tTax rReturns and rRemittance of tTax.

(a)A. Every person required to collect the taxes levied under the provisions of this chapter shall file a tax return for each calendar month and upon such forms as the eCommissioner of the rRevenue shall prescribe. Each monthly tax return shall be filed with the eCommissioner of the rRevenue with remittance of the tax required to be collected for the previous month.

(b)B. Such tax returns and remittances shall be made to the eCommissioner of the rRevenue on or before the twentieth day of each calendar month and shall cover the taxes required to be collected by the seller during the previous month; provided, however, that when the eCommissioner of the rRevenue finds any seller demonstrates a pattern of late filing of tax returns or payment of taxes, the eCommissioner of the rRevenue may require the filing of tax returns and remittance of taxes on a more frequent basis.
(Ord. No. 91-8, 6-1-91)

§ 65-8. Penalties, iInterest, and eCollection fFees.

(a)A. If a seller required to collect taxes pursuant to this chapter fails or refuses to file the tax returns or to remit the taxes collected or due within the time and in the amount specified by this chapter, there shall be added to such tax due a penalty of ten ~~percent~~ (10%) ~~percent~~ of the tax due.

(b)B. Interest shall accrue as prescribed in ~~section §~~ 27-3.

(c)C. The assessment or payment of penalties or interest pursuant to this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.
(Ord. No. 91-8, 6-1-91; Ord. No. 92-12, 4-25-92; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99; Ord. No. 09-23, 10-24-09)

§ 65-9. Assessment and eCollection of oOmitted tTaxes.

(a)A. If the eCommissioner of the rRevenue finds that any seller has failed to collect the taxes required by this chapter or has failed to remit taxes collected to the eCounty, the eCommissioner of the rRevenue shall immediately assess such taxes, including penalty as provided in ~~section §~~ 65-8, against the seller as the eCommissioner of the rRevenue determines are due pursuant to ~~Section §~~ 58.1-3903 of the Virginia Code, as amended, and certify such assessment to the tTreasurer for collection.

(b)B. Any seller who neglects, fails, or refuses to collect the taxes due under this chapter from the purchaser shall be liable for and be assessed with and pay the omitted taxes due.

(c)C. Upon receipt of a certified omitted tax assessment due under this chapter, the tTreasurer may undertake immediate collection action for the omitted taxes.

(d)D. The assessment and payment of omitted taxes under this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.
(Ord. No. 91-8, 6-1-91)

§ 65-10. Posting bBond or lLetter of eCredit.

The eCommissioner of the rRevenue shall require any seller with a record of late filing of the tax returns or of late remittance of the taxes required by this chapter to annually post a bond with corporate surety payable to the eCounty to insure the seller's faithful performance of the seller's duties to the eCounty under this chapter. The bond, including the corporate surety thereon, shall be in an amount which is three (3) times the taxes collected or which should have been collected by the seller during the month previous to bonding, but in no case less than one thousand dollars (\$1,000.00). An irrevocable letter of credit from a bank approved by the eCounty mManager with an expiration date not earlier than one (1) year from the date of issuance in the amount specified in this section and payable to the eCounty may be accepted in lieu of the bond.
(Ord. No. 91-8, 6-1-91)

§ 65-11. Records.

Every seller subject to the requirements of this chapter shall keep and preserve books of account and complete records of the sales taxable or claimed exempt and the taxes paid under this chapter for the current year and the three (3) years last past.
(Ord. No. 91-8, 6-1-91)

§ 65-12. Sale or eCessation of bBusiness.

When any seller required to collect and remit taxes to the eCounty under this chapter ceases to operate or otherwise disposes of his business, any taxes collected by the seller are immediately due and payable to the eCounty, and the seller shall file a final tax return within fifteen (15) days of ceasing business.
(Ord. No. 91-8, 6-1-91)

§ 65-13. Criminal pPenalties.

(a)A. Any person who willfully files a false or fraudulent tax return with intent to defraud the eCounty under the provisions of this chapter, or who willfully fails or refuses to file a tax return under the provisions of this chapter, shall be guilty of a Class 3 misdemeanor if the amount of the tax lawfully due in connection with the return is one thousand dollars (\$1,000.00) or less and of a Class 1 misdemeanor if the amount of the tax lawfully due in connection with the return is more than one thousand dollars (\$1,000.00).

(b)B. Violations or failure to comply with any other provisions of this chapter shall be a Class 3 misdemeanor.

(c)C. Each day any violation or failure to comply continues shall constitute a separate offense.
(Ord. No. 91-8, 6-1-91)

§ 65-14. Severability.

It is hereby declared to be the intention of the eCounty bBoard that the sections, paragraphs, clauses, sentences, and parts of this chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this chapter is declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect, impair, or invalidate the remainder of this chapter or the application of such provisions to other provisions or circumstances but shall be confined in its application to the section, clause, sentence, paragraph, or part thereof directly involved in the controversy in which said judgment shall have been rendered and the person or circumstances involved.

Should any exemption from, lower rate of, or limitation on this tax be declared invalid, illegal, unconstitutional, or void for any reason, such declaration is not intended to affect the taxes imposed by this chapter, but the transactions found to be wrongfully exempted, limited, or subjected to lower tax rate shall become fully subject to this tax to the same extent as if such exemption, attempted exemption or limitation, or lower rate had never been included in this chapter.
(Ord. No. 91-8, 6-1-91)

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Chapter 66

TECHNOLOGY ZONES*

* **Editor's Note:** Ord. No. 07-11, adopted September 8, 2007, amended Ch. 66, in its entirety, to read as herein set out.

Article I. General Provisions

§ 66-1. Purpose.

§ 66-2. Compliance.

§ 66-3. Definitions.

§ 66-4. Business ~~L~~icense ~~t~~ax.

ARTICLE I.

GENERAL PROVISIONS

§ 66-1. Purpose.

The Arlington County Board finds that certain classes of high technology business activities have special economic significance to the eCounty due to the nature of the technology developed or employed, their interrelationship with other Arlington-based federal and private organizations/businesses, and their potential for high growth in employment and capital investment. The Arlington County Board further finds that the most appropriate method of offering incentives to certain classes of technology businesses is to create technology zones in the Rosslyn-Ballston Corridor, the Jefferson Davis Corridor, the Columbia Pike Special Revitalization District, and the Shirlington Area, as authorized in the Code of Virginia, Section § 58.1-3850, in which zones inducements may be offered to encourage such technology businesses to relocate to the eCounty. The eCounty has determined that the establishment of these technology zones will improve economic conditions, hasten redevelopment, and benefit the welfare of its citizens.

(Ord. No. 00-01, § 1, 2-1-00; Ord. No. 03-02, 2-25-03; Ord. No. 07-11, 9-8-07)

§ 66-2. Compliance.

A business shall qualify as a qualified technology business on an annual basis. If a business ceases to be a qualified technology business during a calendar tax year in which the tax reductions apply, any tax owed by the business at the reduced rate for a qualified technology business shall be prorated for the months the business was a qualified technology business.

Failure of the business to fully comply with any tax imposed by the eCounty will result in the revocation of its designation as a qualified technology business for the current tax year and any other tax years in which it fails to comply. Upon such a determination, the eCommissioner of the rRevenue shall assess additional business license taxes with penalties and interest as authorized in Arlington County Code, Chapter 11.

(Ord. No. 00-01, § 1, 2-1-00; Ord. No. 07-11, 9-8-07)

§ 66-3. Definitions.

~~For the purpose of this chapter, t~~The following words and ~~phrases~~ terms, when used in this chapter, shall have the following meanings, unless ~~clearly indicated to the contrary~~ the context clearly indicates otherwise:

~~(a)A.~~ *Qualified technology business.* The term "~~q~~Qualified technology business" shall mean a business that has a "definite place of business" as defined in paragraph ~~D(4)~~, below, within a "qualified technology zone" as defined in paragraph ~~E(4)~~ of this section, and which:

1. Is engaged in the design, or research and development of computer hardware or software:
 - for aerospace or aviation applications; or
 - for interactive or simulated real-time use; or
 - for instruction in the use or development of customized computer technology; or
 - for gathering data from the internet or computerized data bases, or integrating such data; or
 - for emergency communications, emergency service delivery and tracking
 - for security training, security data collection, storage and/or analysis
 - for building energy management and control systems.

OR

2. Provides:
 - production of multi-media products; or
 - computerized data mapping systems; or
 - on-line financial services including buying, selling, handling, managing, investing and/or advice regarding money, credit, securities, or other investments over the Internet.

AND

3. If located in a "Downtown Technology Zone," has at least two hundred fifty (250) employees on site after February 1, 2000, and before November 15, 2005, or two hundred (200) employees on site after November 15, 2005 and before October 1, 2007, or one hundred (100) employees on site after July 7, 2007, at the "~~D~~definite ~~P~~place of ~~B~~business" within the technology zone; if located in the "Shirlington Technology Zone" or the "Columbia Pike Corridor Technology Zone" as defined in paragraph ~~E(4)~~ subsection 2- and 3- below, respectively, no size threshold shall apply;

~~(4)B.~~ The use of computers, telecommunications services, or a web page or internet site shall not, in itself, be sufficient to qualify as a qualified technology business.

~~(4)C.~~ No business shall be a qualified technology business unless (1) that business has first established a ~~D~~definite ~~P~~place of ~~B~~business in Arlington County after February 1, 2000, and (2) within eighteen (18) months after establishing a definite place of business in a technology zone, that business has met the requirements of this ordinance and applied for such status.

~~(4)D.~~ *Definite place of business.* The term "~~d~~Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing over a period of thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person and real property leased to another.

~~(4)E.~~ *Qualified Technology Zone.* The term "~~q~~Qualified technology zone" shall mean one (1) of the following:

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1. *Downtown Technology Zones.* Those areas zoned for commercial or industrial use in the Rosslyn-Ballston or Jefferson Davis Corridors, as designated on the General Land Use Plan in effect on December 11, 1999, and which is a part of the Comprehensive Plan for Arlington County, Virginia. The precise boundaries of the Rosslyn-Ballston Corridor and Pentagon City - Crystal City Technology Zones are set forth in Appendix A, which is attached to this ~~Chapter~~.
2. *Shirlington Technology Zone.* Those areas zoned for commercial or industrial use in the Shirlington area as set forth in Appendix A.
3. *Columbia Pike Corridor Technology Zone.* Those specific parcels within the "Columbia Pike Special Revitalization District" as set forth in Appendix A.

~~(F)~~ ~~"Employee" is means~~ a person who is on the qualified technology business' payroll within the technology zone and is required to report to work in the technology zone.
(Ord. No. 00-01, 2-1-00; Ord. No. 03-02, 2-25-03; Ord. No. 06-01, 1-21-06; Ord. No. 07-11, 9-8-07)

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§ 66-4. Business ~~l~~icense ~~t~~ax.

A qualified technology business as defined by this chapter shall be subject to the business license tax provided in Arlington County Code ~~section §~~ 11-86.
(Ord. No. 00-01, 2-1-00; Ord. No. 07-11, 9-8-07)

APPENDIX A

DEFINITION OF TECHNOLOGY ZONES

DOWNTOWN TECHNOLOGY ZONES:

ROSSLYN-BALLSTON CORRIDOR TECHNOLOGY ZONE -- The geographic area as delineated by the following:

Beginning at Route 50 and Arlington Ridge Road, west on Route 50 to ~~North~~ Mead Street, south along ~~North~~ Mead Street to 12th Street ~~North~~, west on 12th Street ~~North~~ to Route 50, west on Route 50 to 10th Street, west on 10th Street to Washington Boulevard, south on Washington Boulevard to 7th Street ~~North~~, west on 7th Street ~~North~~ to ~~North~~ Hudson Street, south on ~~North~~ Hudson Street to 6th Street North, west on 6th Street ~~North~~ to North Ivy Street, south on ~~North~~ Ivy Street to 5th Street ~~North~~, west on 5th Street ~~North~~ to Glebe Road, southeast on Glebe Road to 4th Street ~~North~~, southwest on 4th Street ~~North~~ to George Mason Drive, northwest on George Mason Drive to I-66, northeast on I-66 to Washington Boulevard, east on Washington Boulevard to Kirkwood Road, north on Kirkwood Road to 13th Street ~~North~~, east on 13th Street ~~North~~ to North Jackson Street, north on ~~North~~ Jackson Street to Key Boulevard, east on Key Boulevard to Custis Road, southeast on Custis Road to Barton Street, north on Barton Street to Key Boulevard, east on Key Boulevard to ~~North~~ Adams Street, north on ~~North~~ Adams Street to 18th Street ~~North~~, east on 18th Street ~~North~~ to ~~North~~ Veitch Street, north on ~~North~~ Veitch Street to Lee Highway, east on Lee Highway to ~~North~~ Oak Street, north along ~~North~~ Oak Street, and continuing in that line to the George Washington Memorial Parkway, west on the George Washington Memorial Parkway to Arlington Ridge Road, then south along Arlington Ridge Road to Route 50.

JEFFERSON DAVIS CORRIDOR -- The geographic area delineated by the following:

Beginning at South Joyce Street and Shirley Highway, east on Shirley Highway then northward to its intersection with the George Washington Memorial Parkway, east on the George Washington Memorial Parkway to the R F&P railroad track ~~r.o.w. right-of-way~~, south along the R F&P railroad ~~r.o.w. right-of-way~~ to the Four Mile Run waterway, west along Four Mile Run to South Eads Street, north on ~~South~~ Eads Street to 23rd Street ~~South~~, west on 23rd Street ~~South~~ to South Fern Street, north on ~~South~~ Fern Street to 18th Street ~~South~~ at its intersection with South Hayes Street, northwest on South Hayes Street to its intersection with 15th Street ~~South~~, west on 15th Street ~~South~~ to South Joyce Street, north on South Joyce Street to Shirley Highway.

OTHER TECHNOLOGY ZONES

SHIRLINGTON TECHNOLOGY ZONE:

The geographic area delineated by the following:

Beginning at Walter Reed Drive at Four Mile Run Drive, east on Four Mile Run Drive to ~~South~~ Shirlington Road, north on ~~South~~ Shirlington Road to 24th Street ~~South~~, east on 24th Street ~~South~~ to South Glebe Road, southeast on ~~South~~ Glebe Road to I-395, south on I-395 to the Arlington County boundary with the City of Alexandria, thence west along said boundary to ~~South~~ Shirlington Road, south on Shirlington Road to Shirlington Circle, south on Shirlington Circle to the edge of the C-O-1.5 zoning, thence west along said zoning line to the southern edge of the Arlington County Trades Center property, north along said property line to 29th Street ~~South~~, north on 29th Street ~~South~~ to Arlington Mill Drive, west on Arlington Mill Drive to ~~South~~ Walter Reed Drive, and thence north on Walter Reed Drive to Four Mile Run Drive.

COLUMBIA PIKE CORRIDOR TECHNOLOGY ZONE:

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Being all parcels with commercial, mixed use or public use zoning within the boundaries of the "Columbia Pike Special Revitalization District"; as such district is more specifically defined on the County's General Land Use Plan, and said Plan's Note #8, as such may be amended; and as the sub-components of such District are further more precisely defined in the Regulating Plans of the Form-Based Code for Columbia Pike, for each of "Town Center", "Village Center", "Neighborhood Center" and "Western Gateway" areas.

(Ord. No. 03-02, 2-25-03; Ord. No. 06-01, 1-21-06; Ord. No. 07-11, 9-8-07)

ARLINGTON COUNTY CODE

Chapter 67

TREES AND SHRUBS

* **Editor's Note:** Ord. No. 02-25, adopted November 16, 2002, enacted Ch. 67, in its entirety, to read as herein set out.

Article ~~1~~I. General Provisions

- § ~~67-1~~1. Title.
- § ~~67-1~~2. Purpose and ~~i~~ntent.
- § ~~67-1~~3. Definitions.

Article ~~2~~II. Regulation of Trees and Shrubs on Public Property.

- § ~~67-2~~14. Treatment of Trees and Shrubs.
- § ~~67-2~~25. Injury to or Removal of Trees and Shrubs.

Article ~~3~~III. Regulation of Heritage Trees, Memorial Trees, Specimen Trees, and Street Trees on Public or Private Property.

- § ~~67-3~~16. Designation ~~P~~rocedure.
- § ~~67-3~~27. Preservation.
- § ~~67-3~~38. Penalties.
- § ~~67-3~~49. Exceptions.

ARTICLE ~~1~~I.

GENERAL PROVISIONS

§ ~~67-1~~1. Title.

This ~~ordinance chapter~~ shall hereafter be known, cited and referred to as the "Tree Preservation Ordinance" of Arlington County, Virginia.
(Ord. No. 02-25, 11-16-02)

§ ~~67-1~~2. Purpose and Intent.

There is hereby established a ~~T~~ree ~~P~~reservation ~~O~~rdinance to ensure that the tree cover within Arlington County's boundaries is maintained and improved in order to protect the health, safety, and welfare of County citizens and the general public, to safeguard the ecological and aesthetic environment necessary to a community, to preserve, protect, and enhance valuable natural resources, and to conserve properties and their values.
(Ord. No. 02-25, 11-16-02)

§ ~~67-1~~3. Definitions.

~~For the purposes of this Chapter, t~~The following words and ~~phrases terms, when used in this chapter,~~ shall have the following meanings ascribed to them in this section, unless the context clearly indicates otherwise:

“Arborist” or “Urban Forester” means Aa person trained in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native and ornamental trees who is in the employ of or under contract to Arlington County.

“County Manager” means The County Manager of Arlington County or the County Manager’s designee.

“Destroy” means To cut down a tree or shrub or perpetrate any intentional or negligent act which will cause a tree or shrub to decline substantially or die within a period of two (2) years. This shall include, but not be limited to, damage inflicted upon the root system of a tree or shrub by the application of toxic substances, by the operation of equipment and vehicles, or by the change of natural grade by unapproved excavation or filling inside or on the dripline of a tree or shrub- or damage caused by the unapproved alteration of natural physical conditions.

“Dripline” means Aa vertical projection to the ground surface from the furthest lateral extent of a tree’s or shrub’s canopy.

“Heritage Tree” means Aany tree that has been individually designated by the County Board to be of notable historic or cultural interest.

“Memorial Tree” means Aany tree that has been individually designated by the County Board to be a special commemorating memorial.

“Shrub” means Aany self-supporting, woody, perennial plant growing upon the earth that usually produces several branches without any distinct head and usually does not exceed ten to fifteen feet in height at maturity.

“Specimen Tree” means Aany tree that has been individually designated by the County Board to be notable by virtue of its outstanding size and quality for its particular species.

“Street Tree” means Aany tree that has been individually designated by the County Board and that grows in the street right-of-way.

“Tree” means Aany self-supporting woody plant growing upon the earth that usually produces a main stem or trunk or a more or less distinct and elevated head, and with many branches. It may appear to have several stems or trunks. A tree usually exceeds ten feet in height at maturity. In any case the County Manager or the Urban Forester or arborist designated by the County Manager shall have the right to determine whether any specific woody plant shall be considered a tree. Such determination shall be final and not subject to appeal.

“Tree Guidelines” means Guidelines established or selected by the County Manager for selecting, planting, pruning, maintaining, removal, replacement, and other treatment of trees and shrubs.

“Utility Company” means Aa company engaged in the provision of electric, cable, telephone, or gas service.

“Volunteer Maintenance Contractors” means County citizens who have agreed in a current, County-approved writing to maintain trees or shrubs on County property. (Ord. No. 02-25, 11-16-02)

ARTICLE 2II.

REGULATION OF TREES AND SHRUBS ON PUBLIC PROPERTY

§ 67-2-14. Treatment of Trees and Shrubs.

The planting, pruning, maintaining, removal, or other treatment of trees and shrubs upon the streets, public rights-of-way, other County-owned public lands, and public vehicular or public pedestrian access easements where Arlington County is responsible for the maintenance of such easement shall be under the direction of the County Manager. Such planting, pruning, removal, or other treatment shall be in accord with the tree guidelines and shall

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not be performed without the County Manager's approval if such planting, pruning, removal, or other treatment is performed by other than County employees or County contractors or agents. Volunteer Maintenance Contractors shall be deemed to have the County Manager's approval for pruning and maintaining, but not removal of or injury to, the trees or shrubs specified in their agreement with the County. Permission is not required for routine watering and mulching of County-owned trees.

(Ord. No. 02-25, 11-16-02)

§ ~~67-2-25~~. **Injury to or Removal of Trees and Shrubs.**

~~(A)~~ It shall be unlawful for any person, including any person employed by or under contract to any utility company, to destroy, cut down, girdle, break, bend, wound, or in any manner injure or remove any tree or shrub upon any public right-of-way, any other County-owned public land, or any public vehicular or public pedestrian access easements where the County is responsible for the maintenance of such easement without the written permission of the County Manager. Any person violating this ~~S~~section shall be guilty of a Class 3 misdemeanor.

~~(B)~~ The County Manager shall not remove or permit removal of all or any part of any tree or shrub unless the County Manager has determined that the action proposed is necessary or desirable and will not be contrary to any County policy or plan or ordinance for or related to trees, shrubs, plants, or other vegetation.

~~(C)~~ The County Manager's permission under this section shall be evidenced by a writing that specifies the tree or shrub for which removal is permitted and the duration of the permission, except such written permission is not required if the removal is performed by County employees or County contractors or County agents. Such permission shall be issued only upon the conditions that (i) the applicant for permission agrees either to replace the tree or shrub specified to be removed at a rate and with guaranties in accord with the tree guidelines within one ~~(1)~~ year of the date of the permission or immediately pays to the County an amount equaling the full value of the tree or shrub specified to be removed, at the option of the County Manager, and (ii) the applicant, in the event of destruction of or injury to an unspecified tree or shrub, agrees to either replace such unspecified tree or shrub at a rate and with guaranties in accord with the ~~T~~ree ~~G~~uidelines or to pay to the County an amount equaling the full value of the unspecified tree or shrub, at the option of the County Manager. The full value of a tree or shrub shall be determined by the County Manager in accordance with appraisal methods developed by the Council of Tree and Landscape Appraisers and published by the International Society of Arboriculture in *Guide for Plant Appraisal*.
(Ord. No. 02-25, 11-16-02)

ARTICLE ~~3~~III.

REGULATION OF HERITAGE TREES, MEMORIAL TREES, SPECIMEN TREES, AND STREET TREES ON PUBLIC OR PRIVATE PROPERTY

§ ~~67-3-16~~. **Designation.**

~~(A)~~ A County ~~U~~rb~~a~~n ~~F~~orester or an arborist designated by the County Manager may, in accordance with the provisions of this ~~A~~rticle, recommend to the County Board that certain trees located within the County on public property or private property, excluding parcels used for a single-family dwelling unless the owner of such property consents to the designation of such tree, be designated by ordinance as ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet Trees. The County Board shall hold a public hearing prior to so designating any ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet ~~T~~ree. Trees may be recommended to the ~~U~~rb~~a~~n ~~F~~orester or designated arborist by any person in the instance of a tree on public property and on private property, excluding parcels used for a single-family dwelling, and by the private property owner in the instance of a tree on parcels used for a single-family dwelling, by submitting a complete report to the ~~U~~rb~~a~~n ~~F~~orester, designated arborist or County Manager describing the tree in question and its significance in needing protection.

~~(B)~~ In the case of a tree on private property the County Manager shall notify the owner of the property on which the tree is located by certified mail (i) as soon as practicable once the recommendation is received by the Urban Forester; and (ii) again at least ~~thirty (30)~~ days prior to the hearing on the adoption by ordinance of the designation of such tree. The owner may request an extension of the hearing date for up to six ~~(6)~~ months.

~~(c)~~C. A property owner shall not destroy a tree proposed for designation pursuant to this ~~S~~section pending final County Board decision or a decision by the Urban Forester or designated arborist not to recommend designation.

~~(d)~~D. In the event that the application of this ~~A~~article regulating ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet ~~T~~rees results in a taking of private property for a public purpose or use, the County shall compensate by fee or other consideration the property owner for such taking, to the extent that such claim is recognized and compensable under state or federal law, and shall notify the owner of his right to seek such fee or compensation.
(Ord. No. 02-25, 11-16-02)

§ ~~67-3-27~~. Preservation.

No ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet ~~T~~ree shall be removed or damaged in any way unless the County Board determines that: ~~(a)~~ there is an overriding need for public improvements; or ~~(b)~~ a severe hardship exists for reasonable use of a site. Should the County Board determine to permit such treatment, the County Board may require that the tree be replaced with a similar tree or trees to approximate the canopy lost, and must issue a writing specifying the action permitted, the tree and its location, and the findings justifying the permission. Nothing in this section shall prevent the County Manager from permitting the removal of a tree in the event that an ~~A~~arborist or ~~U~~rban ~~F~~orester determines that the tree is dead, has become the irreversibly diseased or irreversibly damaged by natural causes, or presents a hazard to the public.
(Ord. No. 02-25, 11-16-02)

§ ~~67-3-38~~. Penalties.

Any person or entity who violates any provision of this ~~A~~article by causing, contributing to, or permitting injury to or removal or destruction of a ~~H~~eritage, ~~M~~emorial, ~~S~~pecimen, or ~~S~~treet ~~T~~ree shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each violation.

Civil penalties shall be imposed by the issuance of a civil summons by the County Manager. Any person or entity served with a summons shall have thirty (30) days in which either to pay a fine to the Treasurer of Arlington County, Virginia, or to appeal the violation to the General District Court.
(Ord. No. 02-25, 11-16-02)

§ ~~67-3-49~~. Exceptions.

The provisions of this ~~A~~article shall not apply ~~(a)~~ to work conducted on federal or state property; ~~(b)~~ to emergency work to protect life, limb or property; ~~(c)~~ to routine installation, maintenance and repair of cable and wires used to provide cable television, electric, gas or telephone service; ~~(d)~~ to activities with minor effects on trees, including but not limited to home gardening and landscaping of individual homes; and ~~(e)~~ to commercial silvicultural or horticultural activities, including but not limited to planting, managing, or harvesting forest or tree crops.
(Ord. No. 02-25, 11-16-02)

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