



## ARLINGTON COUNTY, VIRGINIA

<p><b>County Board Agenda Item Meeting of February 23, 2008</b></p>
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**DATE:** February 4, 2008

**SUBJECT:** Request to advertise a Public Hearing to consider enactment of an Ordinance amending, Chapter 22, Street Development and Construction Ordinance, Section 22-9 of the Code of Arlington County, Virginia, concerning the penalty for violation of any provision of Chapter 22 to become effective July 1, 2008.

**C. M. RECOMMENDATION:**

Authorize the request to advertise a public hearing, to be held on March 27, 2008, to consider enactment of an Ordinance amending, Chapter 22, Street Development and Construction Ordinance, Section 22-9 of the Code of Arlington County, Virginia, concerning the penalty for violation of any provision of Chapter 22 to become effective July 1, 2008.

**ISSUES:** As part of the regular budget process, authorization from the County Board is requested to advertise a public hearing on the proposed amendments to Chapter 22 of the Arlington County Code.

**SUMMARY:** With the growing amount of construction activities in Arlington County, the need to maintain a usable transportation network including pedestrian walkways, bike lanes, parking lanes and travel lanes is becoming increasingly important. The County Code allows temporary use of portions of the public rights-of-way, sidewalks and travel lanes, subject to the issuance of a permit for such use and payment of fees. Unauthorized use of the right-of-way results in an impaired transportation network that adversely affects the quality of life for pedestrians and other users of the County's transportation network. County staff is routinely engaged in identifying and minimizing the impact of improper and unauthorized use of the public right-of-way during construction projects. The current Section 22-9 was enacted in 1961 and has not yet been updated since that time. It provides for a fine not less than five dollars nor more than fifty dollars upon conviction of a violation of any provision of Chapter 22. The proposed amendment to Section 22-9 of the County Code would increase the penalty to a class four misdemeanor (a fine

<p>County Manager: _____</p>
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<p>County Attorney: _____</p>
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<p>Staff: Jose Thommana, DES</p>
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not greater than two hundred and fifty dollars) that could be imposed for unauthorized use of the public right-of-way for a temporary period of time rendering them out of service for the citizens of Arlington. The revenues generated from the penalty will recover a larger portion of the costs to the County associated with enforcing the improper and authorized use of the public right-of-way.

**BACKGROUND:** The Department of Transportation is responsible for reviewing requests for and issuing all right-of-way permits. The purpose of the program is to ensure that temporary private use of portions of the public rights-of-way is permitted in accordance with Arlington County, Virginia Department of Transportation and National standards and codes (such as the Manual of Uniform Traffic Control Devices (MUTCD)), and to maintain a safe and effective transportation network. Improper and unauthorized private use of the public rights-of-way, sidewalks and travel lanes, results in an impaired transportation network that greatly affects the quality of life for pedestrians and other users of the County's transportation network.

The proposed amendment to Chapter 22, Section 22-9, of the Code of Arlington County, Virginia is needed to effectively manage the public right-of-way. The current penalty was last updated in 1961.

**DISCUSSION:** The proposed amendment would increase the fine for any violation of Chapter 22 provisions from the existing fine of not less than five dollars nor greater than fifty dollars to a fine as provided by law for class four misdemeanors of not more than two hundred and fifty dollars.

**FISCAL IMPACT:** The revenue generated by the proposed change is projected to be \$50,000 and is included in the County Manager's FY 2009 Proposed Budget.

**AN ORDINANCE TO AMEND, REENACT AND RECODIFY CHAPTER 22 (STREET DEVELOPMENT AND CONSTRUCTION), SECTION 22-9, OF THE CODE OF ARLINGTON COUNTY, VIRGINIA, CONCERNING THE PENALTY FOR VIOLATION OF CHAPTER 22, TO BECOME EFFECTIVE JULY 1, 2008.**

- I. BE IT ORDAINED by the County Board of Arlington County, Virginia that Chapter 22, Section 22-9, is amended, reenacted and recodified, effective July 1, 2008, to read as follows:

**Chapter 22**

**STREET DEVELOPMENT AND CONSTRUCTION**

\* \* \*

**§ 22-9. Penalty.**

Any person, firm or corporation, who shall violate any provision of this chapter shall be guilty of a Class 4 misdemeanor, and, upon conviction thereof, shall be punished by a fine as provided by law for Class 4 misdemeanors ~~not less than five dollars (\$5.00) or more than fifty dollars (\$50.00) for each offense.~~ Where there is a continuing violation of this chapter from day to day each ~~such~~ violation shall constitute a separate offense.  
(7-1-2008) ~~(5-23-61)~~

\* \* \*

- II. The remaining sections and subsections of Chapter 22 of the Code of Arlington County, Virginia not amended hereby shall remain in effect as previously enacted.