

ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of May 15, 2021

DATE: May 12, 2021

SUBJECT: Request to authorize advertisement of a public hearing on an ordinance to repeal, reenact and re-codify Chapter 17 (Miscellaneous Offenses and Provisions) of the Code of Arlington County, Virginia, effective June 12, 2021, to update outdated references to state statutes, remove provisions conflicting with state and federal laws, repeal the law that makes refusal to identify oneself at the request of a police officer a criminal act, and modernize provisions to reflect current practice.

C. M. RECOMMENDATION:

Authorize the advertisement of a June 12, 2021, public hearing by the County Board to consider the attached ordinance to repeal, reenact and re-codify Chapter 17 (Miscellaneous Offenses and Provisions) of the Code of Arlington County, Virginia, effective June 12, 2021, to update outdated references to state statutes, remove provisions conflicting with state and federal laws, repeal the law that makes refusal to identify oneself at the request of a police officer a criminal act, and modernize provisions to reflect current practice.

ISSUES: There are no identified issues at the date of this report.

SUMMARY: The recently issued Police Practices Group Report recommended repealing Arlington County Code §17-13(C) *Identification* (refusal to identify oneself at the request of a police officer). A closer look at Chapter 17 identified the need to update other provisions that contain outdated references to state statutes, remove provisions conflicting with state and federal laws, and modernize provisions in this chapter.

BACKGROUND: One of the recommendations in the recently issued Police Practices Group (PPG) Report is to repeal County Code §17-13(C). This provision makes it a crime to refuse to identify oneself when asked to do so by a police officer. Below is the language in the County Code:

County Manager:

mjs

County Attorney:

[Signature]

MNC

Staff: Captain LaTasha Chamberlain, ACPD and Lynne Porfiri, CMO

§ 17-13. Peace and Good Order; Loitering.

C. Identification. It shall be unlawful for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed police officer or of a properly identified police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety requires such identification.

There were several concerns around this section raised by the PPG. It was thought that this law provides a pretext for charging people experiencing homelessness or people of color¹ with a crime. There were also concerns about charging persons with mental illness or persons with developmental disabilities with “Failure to ID”. One anecdotal example cited was an individual charged with “Failure to ID” who experienced communication challenges and was unable to respond. Finally, the working group focused on the “public safety” requirement of County Code §17-13(C). There was concern that subjects were being charged in situations where there was no threat to public safety.

DISCUSSION: The Arlington County Police Department supports the PPG recommendation to repeal County Code§17-13(C) and provided the following statistics and information:

- Over the past five years, “Failure to ID” was charged 184 times – on average 37 times a year.
- Of those 184 instances, “Failure to ID” was the only charge 25 times.
- Every other time “Failure to ID” was used, it was charged along with another offense. Quite often the other offense was “Drunk in Public.”

Assuming County Code§17-13(C) is repealed, it must be understood that if potential for injury or damage to a person or property were present in any given situation, the subject could be charged with alternative offenses. Examples of other offenses that have been charged together with “Failure to ID” are drunk in public, assault and battery, grand larceny, and malicious and unlawful wounding. Therefore, even with the repeal of Failure to ID, the goal of reducing the overall number of arrests is not guaranteed.

DISCUSSION: All things considered, the fact that “Failure to ID” is seldom a stand-alone charge, that it is not a tool is necessary for police to keep peace and good order in the community, and in support of its Bias-Free Policing policy, ACPD supports the PPG recommendation to repeal County Code§17-13(C).

Finally, during its review of Ch. 17 of the County Code staff recognized that in addition to repealing “Failure to ID”, other provisions needed to be updated. Some of the provisions had been on the books since the 1960s. Therefore, the recommended changes in the attached Ordinance include updates to outdated references to state statutes, removal of provisions that conflict with federal or state law and the modernization of provisions to reflect current practices. Below is a summary of some these other changes:

¹ The PPG intended “people of color” to mean BIPOC (Black, Indigenous and People of Color).

- § 17-5.1 Inconsistent with current state law. Recommend repeal as this subject is already governed by state law.
- § 17-7 Recommend edit to reflect current ACPD practices. ACPD does not charge or make arrests solely for use of profanity.
- §§ 17-8, 17-9 These are outdated provisions that are no longer used. Recommend repeal.
- § 17-12 Redundant because it mirrors state law. Recommend repeal to avoid inconsistency with state law if the state statute is amended in the future.
- § 17-15 Updated reference to state code and current definition of a class 4 misdemeanor.
- §§ 17-16, 17-17 Local regulation of this subject is preempted by VA Code § 55.1-1201. Recommend repeal.

PUBLIC ENGAGEMENT:

Level of Engagement: **Collaborate**

The most significant proposed change comes directly from a series of over 100 recommendations submitted by the Police Practice Group (PPG) to the County Manager. The PPG was appointed by the County Manager to focus on the development of a civilian review board, traffic enforcement, mental health and policing, and alternative dispute resolution. The PPG collectively hosted 60 meetings, including community learning sessions and focused roundtable conversations. In addition, the PPG gathered online community feedback that informed the recommendations submitted to the County Manager. Once the County Board authorizes a request to advertise for this proposed policy change, members of the public will have additional opportunity to provide direct feedback to the County Board prior to the public hearing; and/or during a public hearing on June 12, 2021.

FISCAL IMPACT: The proposed amendments to the County Code will not have a fiscal impact.

ATTACHMENT A

REQUEST TO AUTHORIZE ADVERTISEMENT OF A PUBLIC HEARING ON AN ORDINANCE TO REPEAL, REENACT AND RE-CODIFY CHAPTER 17 (MISCELLANEOUS OFFENSES AND PROVISIONS) OF THE CODE OF ARLINGTON COUNTY, VIRGINIA, EFFECTIVE JUNE 12, 2021, TO UPDATE OUTDATED REFERENCES TO STATE STATUTES, REMOVE PROVISIONS CONFLICTING WITH STATE AND FEDERAL LAWS, REPEAL THE LAW THAT MAKES REFUSAL TO IDENTIFY ONESELF AT THE REQUEST OF A POLICE OFFICER A CRIMINAL ACT, AND MODERNIZE PROVISIONS TO REFLECT CURRENT PRACTICE.

BE IT ORDAINED by the County Board of Arlington County, Virginia that Chapter 17 of the Arlington County Code is repealed, reenacted, and re-codified, to read as shown below, with proposed changes shown in red, text proposed to be added shown with underline and text proposed to be removed shown with strikethrough:

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ARLINGTON COUNTY CODE

Chapter 17

MISCELLANEOUS OFFENSES AND PROVISIONS

- § 17-1. Display of Signs, Advertisements, Etc., on County Property.
- § 17-2. Use, Possession, Etc., of Alcoholic Beverages on Certain County Property.
- § 17-3. Disorderly Conduct.
- § 17-4. False Fire and Police Alarms; Calling or Summoning Ambulance or Firefighting Apparatus or Police Without Just Cause.
- § 17-5. Firearms, Missiles, Etc.
- § 17-5.1. ~~Carrying Concealed Firearms; Fingerprinting Required. Reserved.~~
- § 17-6. Obstructing or Littering Streets and Other Public Places.
- § 17-7. Public Intoxication and Profanity.
- § 17-8. ~~Real Estate Salesmen and Brokers, Bond Required. Reserved.~~
- § 17-9. ~~Use of Fluoroscope for Shoe Fitting Prohibited. Reserved.~~
- § 17-10. Reserved.
- § 17-11. Trespass.
- § 17-11.1. Designation of Police to Enforce Trespass Violations.
- § 17-12. ~~Riots, Routs and Unlawful Assemblies; Criminal Liability. Reserved.~~
- § 17-13. Peace and Good Order; Loitering.
- § 17-14. Curfews.
- § 17-15. Leased Houses for Rent.
- § 17-16. ~~Retaliatory Evictions and Other Actions. Reserved.~~
- § 17-17. ~~Tenant Security Deposits. Reserved.~~
- § 17-18. Prohibition of Motorized Vehicles in Parks and School Grounds.
- § 17-19. Indecent Exposure.
- § 17-20. Prohibition of Solicitation for Home Improvement Services on Residential Property.
- § 17-21. Urinating and Defecating in Public Prohibited.
- § 17-22. Reporting of Hate Crimes.

§ 17-1. Display of Signs, Advertisements, Etc., on County Property.

It shall be unlawful for any person to display any sign, placard, political poster or other form of advertisement in any office, room, space, corridor, grounds or in any location whatsoever in or upon any land, including on trees and other vegetation, and buildings under the control of the County Board; provided, that there shall be excepted from the terms of this section the following:

- A. Legal advertisements and notices pursuant to court order and the State statutes.
- B. Advertisements and notices of a governmental nature pertaining to the government of the United States, the government of the State and the government of the County.
- C. Advertisements and notices of a patriotic or charitable nature, signs necessary for the maintenance of the buildings and grounds, or such signs as may be determined as rendering a service to the County upon written authority of the County Manager.

Any person who shall be convicted of a violation of this section shall be punished by a fine of not more than fifty dollars (\$50.00) or by confinement in the County Jail for not more than ten (10) days, or both. (10-25-51; Ord. No. 96-7, 5-11-96)

§ 17-2. Use, Possession, Etc., of Alcoholic Beverages on Certain County Property.

- A. The possession of open alcoholic beverage containers is unlawful in public parks and playgrounds.

For purposes of this section, "alcoholic beverages" shall have the definition set forth in Virginia Code § 4.1-100.

B. The prohibitions contained in § 17-2(a) shall not apply where such possession is allowed pursuant to licenses or permits issued by both the Virginia Alcohol Beverage Control Board and the Arlington County Manager or designee. The County Manager may issue permits only for the following parks, and only for areas of such parks as are designated by the County Manager: Fort C. F. Smith Park, 2411 North 24th Street; Clarendon Central Park, 3140 Wilson Boulevard; and Gateway Park, 1300 Lee Highway.

The County Manager shall promulgate regulations governing the issuance of County permits. These regulations shall be subject to review and approval by the County Board.
(12-15-50; Ord. No. 97-22, 8-2-97; Ord. No. 99-18, 7-13-99)

§ 17-3. Disorderly Conduct.

A. A person is guilty of disorderly conduct if, with the predominant intent to cause inconvenience, annoyance or alarm to one (1) or more other persons, or recklessly to create a risk thereof, he engages in conduct, including the utterance or display of any threatening, abusive or insulting language, which, with respect to the person or persons at whom, individually, such conduct or language is directed, has a direct tendency to cause:

1. Acts of violence by such person or persons; or
2. Fear by such person or persons of an unpermitted touching of them or personal injury to them; or
3. Personal injury to such person or persons, or an unpermitted touching of them; or
4. Destruction or defacing of, or injury to the property of such person or persons or the property of others in their control or custody;

while either he or any of such persons are located upon any public property, or upon private property while open to the public, or upon any public conveyance.

B. A person is guilty of disorderly conduct if, willfully, or being intoxicated, whether willfully or not, he disrupts any meeting of the Arlington County Board of the Arlington School Board, or of any committee, board or commission appointed in whole or in part by either of them, or of employees of Arlington County or the Arlington School Board, convened to conduct public business, or any meeting of a school, literary society or religious group, if such disruption prevents or interferes with the orderly conduct of such meeting.

C. A person in charge of any such public property, private property while open to the public, public conveyance or meeting may eject therefrom any person whom he has probable cause to believe has committed any such disorderly conduct, with the aid, if necessary, of any persons who may be called upon for such purpose.

D. Any person committing any such disorderly conduct shall be guilty of a Class 1 misdemeanor; provided, however, that if such disorderly conduct consists only of the utterance or display of abusive or insulting language in violation of § 17-3.A, such person shall be punished only by a fine not to exceed five hundred dollars (\$500.00).
(9-22-51; 2-11-78; Ord. No. 91-34, 9-18-91)

§ 17-4. False Fire and Police Alarms; Calling or Summoning Ambulance or Firefighting Apparatus or Police Without Just Cause.

It shall be unlawful for any person to create or cause to be created any false alarm or fire or medical emergency or emergency requiring police response or by means of any fire bell or any other means cause or make any false alarm of fire, medical, or police emergency requiring the response of any police, ambulance or firefighting apparatus.

(8-11-24; 11-14-81)

§ 17-5. Firearms, Missiles, Etc.

- A. It shall be unlawful for any person to discharge or shoot off a firearm in the County.
- B. It shall be unlawful for any person to discharge or shoot or throw any dangerous missiles by mechanical, explosive, air-or gas-propelled means, or similar method or device onto or across any public sidewalk, path, or roadway, at any public structure or building, or at or onto the property of another.
- C. It shall be unlawful for any person to shoot a compound bow, crossbow, longbow, or recurve bow at or upon the property of another without permission. It shall be unlawful to discharge a projectile from any of the aforementioned bows within one hundred (100) yards of any public road, public building or structure, private residence or structure, or property of another.

Any violation of subsection A, B, or C shall constitute a Class 2 misdemeanor.

- D. Nothing in this section shall be construed to prohibit the use of firearms or other instruments or missiles or compound bows, crossbows, longbows, or recurve bows in lawful self defense or in the lawful defense of property, or to prohibit the use of firearms or other missiles or compound bows, crossbows, longbows, or recurve bows in supervised sport, recreation, or training conducted on safety-inspected and approved ranges and courses, provided the same is not contrary to existing law.

(7-14-24; Ord. No. 91-26, 7-30-91; Ord. No. 92-40, 8-8-92; Ord. No. 93-10, 7-1-93)

Cross References: Missiles generally, Ch. 13.

§ 17-5.1. ~~Reserved. Carrying Concealed Firearms; Fingerprinting Required.~~

~~Any person who applies to the Clerk of the Arlington Circuit Court for a permit to carry a concealed handgun under § 18.2-308 of the Code of Virginia (1950), as amended, shall, as part of the application process, submit to fingerprinting by the Sheriff and provide descriptive information as required by the Sheriff, in order to determine the applicant's suitability for a concealed handgun permit. The applicant's fingerprint cards and personal descriptive information shall be forwarded through the Chief of Police to the Virginia State Police for a State criminal history records check. The State Police shall forward a fingerprint card and descriptive information to the Federal Bureau of Investigation for a national criminal history records check. Upon completion of the State and national criminal history records checks, the State Police shall return the fingerprint cards to the Chief of Police. Following the completion of the records check and return of the fingerprint card, the Chief of Police shall notify the applicant in writing that he has twenty-one (21) days from the date of the notice to request the return of the fingerprint cards prepared pursuant to this section that are in the possession of the Chief of Police. Any cards not claimed by an applicant within this twenty-one (21) day period shall be destroyed. Fingerprints taken for the purposes described in this section shall not be copied, held or used for any other purpose.~~
(Ord. No. 97-19, 7-19-97)

§ 17-6. Obstructing or Littering Streets and Other Public Places.

- A. No person shall place, deposit or cast or cause to be placed, deposited or cast upon or in any street, highway, alley, gutter, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building within the County, any timber, wood, lumber, ashes, rubbish, refuse, litter, trash, earth or mud, glass or similar material, nails or similar material, metal scraps or any substance whatever that may injure or tend to cause injury to any person, vehicle or animal using the highway, street, alley, gutter, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building, or to render the same unsafe or which may obstruct any such street, highway, alley, gutter, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building or impede or hinder travel thereon, or which may injure or disfigure the same or tend to the injury or disfigurement thereof, or to render the same unsafe, unclean or a nuisance.

- B. No person shall conduct repairs or internal mechanical maintenance of a motor vehicle or other internal combustion engine on public land as defined above, with the following exceptions:

1. Emergency repairs without which the vehicle cannot be safely removed from public land to private property or to an authorized repair or storage facility;
2. Repairs in high school automotive shops, career centers or on public lands where there is an official public school instructional program teaching motor vehicle repair and maintenance activities; and
3. Minor exterior repairs such as changing tires, changing light bulbs, etc.

C. Any person using a County street, highway, alley, sidewalk, park, playground, school ground or other publicly owned, rented or otherwise publicly controlled land or building for the sale or distribution of circulars, handbills, newspapers or product that is packaged in immediately disposable wrappers or containers shall provide receptacles for the disposal of waste materials or other litter that may be created in the immediate vicinity by such sale or distribution, shall request that all such waste materials or litter so created be placed in the receptacle, and shall remove and dispose of the waste materials or litter and receptacles in accordance with County regulations. (12-1-54; Ord. No. 85-41, 3-1-86; Ord. No. 85-43, 2-1-86)

§ 17-7. Public Intoxication and Profanity.

A. It shall be unlawful for any person to be intoxicated ~~or to profanely curse or swear~~ in any public place in the County.

B. For the purposes of this section, "intoxicated" shall mean a condition in which a person has consumed enough alcoholic beverages, narcotic drugs, or other intoxicants or drugs of whatever nature, to observably affect his manner, disposition, speech, muscular movement, general appearance, or behavior.

C. Any person convicted of such public intoxication ~~or profanity~~ shall be guilty of a Class 4 misdemeanor. (3-6-43; 2-11-78; Ord. No. 15-06, 6-13-15)

§ 17-8. ~~Real Estate Salesmen and Brokers, Bond Required.~~ Reserved

~~The provisions of Code of Virginia, 1950, § 54-767, shall be applicable to the County, and all real estate salesmen and real estate brokers doing business in the County are hereby required to give bond in the sum of one thousand dollars (\$1,000.00) in accordance with the requirements of such State law before doing business in this County.~~
(8-31-46)

§ 17-9. ~~Use of Fluoroscope for Shoe Fitting Prohibited.~~ Reserved.

~~It shall be unlawful for any person to install or operate an X-ray fluoroscope device to be used for the purpose of fitting shoes.~~
(7-10-51)

§ 17-10. Reserved.

§ 17-11. Trespass.

It shall be unlawful for any person to trespass over or upon the lands of any proprietor within the County after being warned not to do so. (7-14-24)

§ 17-11.1. Designation of Police to Enforce Trespass Violations.

A. The owner, lessee, custodian, or person lawfully in charge of any real property may designate the Arlington County Police Department as a "person lawfully in charge of the property" for the purpose of forbidding

another to go or remain upon the lands, buildings or premises of the owner, lessee, custodian, or person lawfully in charge as specified in the designation. This designation will appoint the Arlington County Police Department, and its officers, as true and lawful attorneys-in-fact for the owner, lessee, custodian, or person lawfully in charge with the following specific powers:

1. To determine if a person has the owner's, lessee's, custodian's, or person lawfully in charge's permission to go or remain upon such property,
2. To issue written "notice forbidding trespass" to person(s) without such permission provided they are engaged in illegal activity,
3. To arrest person(s) found to be in violation of such notice, and
4. To testify in court on behalf of the owner, lessee, custodian, or person lawfully in charge to enforce the notice forbidding trespass and the trespass laws.

B. In all cases, the actual owner of said real property will have the right to change the officer's determination of "lack of permission" and the owner may revoke such notice forbidding trespass, in writing, at any time after providing written notice of such change to the Chief of Police. The owner may revoke his limited power of attorney, at any time, after providing written notice of such revocation to the Chief of Police. The Chief of Police may terminate the agreement to act as agents of the owner, lessee, custodian, or person lawfully in charge for any given property at any time, after providing written notice of such termination to the owner, lessee, custodian, or person lawfully in charge.

(c) Copies of such limited power of attorney will be kept on file with the Arlington County Police Department.
(Ord. No. 03-27, 12-6-03)

§ 17-12. ~~Riots, Routs and Unlawful Assemblies; Criminal Liability.~~Reserved.

~~A. Definitions:~~

- ~~1. Any lawful use of force or violence, by six (6) or more persons acting together, is a riot. Any threat to use harmful force or violence, if accompanied by immediate power of execution, by six (6) or more persons acting together to cause, produce, or promote unlawful use of force or violence, is a riot.~~
- ~~2. Whenever three (3) or more persons acting together make any attempt to do any act which would be riot if actually committed, such acts shall be a rout.~~
- ~~3. Whenever three (3) or more persons assemble with the common intent or with means and preparations to do an unlawful act which would be a riot if actually committed, but do not act toward the commission thereof, or whenever three (3) or more persons assemble without authority of law and for the purpose of disturbing the peace or exciting public alarm or disorder, such assembly is an unlawful assembly.~~

~~B. [Related offenses are punishable as follows]:~~

- ~~1. If any grand larceny, burglary, murder, maiming, robbery, kidnapping, abduction, rape, or arson was committed in the course of such riot and there is proof that such offense or offenses were caused, procured, encouraged or resulted from such riot, and that such person had personal knowledge that such offense or offenses were taking place, in the same manner as a principal in the most serious of any such offense as was committed; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year, or by fine not to exceed one thousand dollars (\$1,000.00).~~

- ~~2. If the purpose of the riotous assembly was to resist the execution of any statute of this State or of the United States, or to obstruct any public officer of this State or of the United States in the performance of any legal duty, or in serving or executing any legal process, by imprisonment in the penitentiary for not less than two (2) years nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars (\$1,000.00).~~
- ~~3. If such person carried, at the time of such riot, any species of firearms or other deadly or dangerous weapon, or was disguised, by imprisonment in the penitentiary for not less than two (2) years nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars (\$1,000.00).~~
- ~~4. If such person conspired with others to cause or produce a riot, or directed, devised, encouraged, incited, or solicited other persons who participated in the riot to acts of force or violence, by imprisonment in the penitentiary for not less than two (2) nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars (\$1,000.00).~~
- ~~5. In all other cases, in the same manner as for a misdemeanor.~~
- ~~C. Every person who participates in any rout or unlawful assembly shall be guilty of a misdemeanor.~~
- ~~D. Every person, except public officers and persons assisting them, remaining present at the place of any riot, rout, or unlawful assembly after having been lawfully warned to disperse, shall be guilty of a misdemeanor.~~
- ~~E. When three (3) or more persons assemble for a lawful purpose and afterwards proceed to commit or attempt or threaten to commit an act which would amount to rout or riot if it had been the original purpose of the meeting, every person, except public officers and persons assisting them, who does not retire when the change of purpose is made known, shall be guilty of a misdemeanor.~~
- ~~F. Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be punished by imprisonment in jail for not more than one (1) year, or by a fine of not more than one thousand dollars (\$1,000.00), or by both such fine and imprisonment.~~
- ~~G. When any number of persons, whether armed or not, unlawfully or riotously are assembled, the Sheriff of the County or the Chief of Police or any of the Sheriff's deputies and police officers, shall go among the persons assembled or as near to them as possible and command them in the name of the State immediately to disperse. If, upon command, the persons unlawfully assembled do not disperse immediately, the Sheriff or officer may use such force as is necessary to disperse them and/or to arrest those who fail or refuse to disperse. To this end, the Sheriff or other law enforcement officer may seek and use the assistance and services of private citizens. Any private citizen who, by request, seeks to or assists the law enforcement officer or officers in dispersing persons unlawfully or riotously assembled shall be immune from civil or criminal liability for using such reasonable force as may be necessary to arrest or disperse those persons who fail to disperse as ordered.~~
- ~~H. Every endeavor must be used, both by the Sheriff or Chief of Police or other officers and by the officer commanding any other force which can be made consistently with the preservation of life, to induce or force the rioters to disperse before an attack is made upon them by which their lives may be endangered. If any of the persons so riotously or unlawfully assembled shall be killed, maimed or otherwise injured, in consequence of resisting the Sheriff or others in dispersing and apprehending them, or in attempting to disperse and apprehend them, such sheriffs and other officers and others acting by their authority, or the authority of any of them, shall be held guiltless; provided, such killing, maiming or injury shall take place in consequence of the use of necessary and proper means to disperse or apprehend any such persons so riotously or unlawfully assembled.~~
- ~~I. Any person, who after the publication of a proclamation by the Governor, or who after lawful notice to disperse and retire, resists or aids in resisting the execution of process in county, city or town declared to be~~

~~in a state of riot or insurrection, or who aids or attempts the rescue or escape or another from lawful custody or confinement, or who resists or aids in resisting a force ordered out by the Governor or any Sheriff or other officer to quell or suppress an insurrection or riot, shall be guilty of a felony, and shall be punished by imprisonment in the penitentiary for not less than two (2) years nor more than ten (10) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars (\$1,000.00).~~

~~J. If any person or persons, unlawfully or riotously assembled pull down, injure, or destroy, or begin to pull down, injure or destroy any dwelling, house or other building, or assist therein, or perpetrate any premeditated injury on the person of another, he shall be imprisoned in the penitentiary not less than two (2) nor more than five (5) years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one (1) year or by fine not to exceed one thousand dollars (\$1,000.00).~~
~~(5-4-68)~~

§ 17-13. Peace and Good Order; Loitering.

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

1. "Loiter" means to stand around or remain, or to park or remain parked in a motor vehicle at a public place or place open to the public and to engage in any conduct prohibited under this law. Loiter also means to collect, gather, congregate or be a member of a group or a crowd of people, who are gathered together in any public place or place open to the public and to engage in any conduct prohibited under this law.
2. "Public place" means any public street, road, or highway, alley, lane, sidewalk, crosswalk, or other public way, or any public resort, place of amusement, park, playground, public building or grounds appurtenant thereto, school building or school grounds, public parking lot, or any vacant lot.
3. "Place open to the public" means any place open to the public or any place to which the public is invited, and in, on, or around any privately owned place of business, private parking lot, or private institution, including places of worship, cemetery, or any place of amusement and entertainment whether or not a charge of admission or entry thereto is made. It includes the elevator, lobby, halls, corridors and areas open to the public of any store, office, or apartment building.

B. *Prohibited conduct.* It shall be unlawful for any person to loiter at, on or in a public place or place open to the public in such a manner:

1. As to interfere, impede or hinder the free passage of pedestrian or vehicular traffic, or
2. As to interfere with, obstruct, harass, ~~curse~~, or threaten or do physical harm to another member or members of the public, or
3. As to threaten or do physical harm to the property of another member or members of the public, or
4. That, by words, acts or other conduct, it is clear that there is a present danger of a breach of the peace or disorderly conduct.

It shall be unlawful for any person to loiter as defined in subsection A.1 at a public place or place open to the public and to fail to obey the direction of a uniformed police officer or the direction of a properly identified police officer not in uniform to move on, when not to obey such direction shall endanger the public peace.

~~C. Reserved. Identification. It shall be unlawful for any person at a public place or place open to the public to refuse to identify himself by name and address at the request of a uniformed police officer or of a properly identified police officer not in uniform, if the surrounding circumstances are such as to indicate to a reasonable man~~

~~that the public safety requires such identification.~~

D. *Lawful assembly.* Nothing herein shall be construed to prohibit orderly picketing or other lawful assembly.

E. *Penalties.* Any person violating any of the provisions herein shall be deemed guilty of a misdemeanor, and punished as provided by law.

(8-10-68)

§ 17-14. Curfews.

A. This section is enacted for the purpose of preventing any civil disorder and protecting the lives and property of the citizens of this County.

B. Pursuant to the Code of Virginia, § ~~15.1-514.1~~ 15.2-925, the ~~Attorney for the Commonwealth Chief of Police~~ is authorized, after consultation with the County Manager, ~~the Chief of Police~~, and as many County Board Members as available, to invoke curfew when there exists an imminent threat of any civil commotion or disturbance in the nature of a riot in such county or part thereof, effective July 6, 1969 at 10:10 p.m.

(7-6-69)

§ 17-15. Leased Houses for Rent.

A. The provisions of Code of Virginia, 1950, § ~~58-863~~ 58.1-3901, shall be applicable to the County, and every person, firm or corporation, operating an apartment house having two (2) or more apartments, or leasing houses for rent, or any trailer camp or trailer court or marina or privately operated airport in this County, shall, on or before February 1 of each year, upon request of the Commissioner of the Revenue, file with the Commissioner a list giving the name and address of every tenant of such apartment house, houses for rent, trailer camp, trailer court, and the name and address of every person renting space in a marina for waterborne craft and at a privately operated airport for airborne craft as of January 1 preceding.

B. Any person, firm, or corporation failing to comply with this chapter shall be guilty of a Class 4 misdemeanor, and subject to a fine of not more than two-hundred and fifty dollars (\$250.00). ~~subject to a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00).~~

(10-20-71)

§ 17-16. ~~Retaliatory Evictions and Other Actions Reserved.~~

~~_____ A. _____ No owner or operator of real property, or his agent, in retaliation for any good faith and lawful action of a tenant shall:~~

~~_____ 1. _____ Proceed to evict a tenant.~~

~~_____ 2. _____ Require an increase in rent.~~

~~_____ 3. _____ Reduce services to a tenant.~~

~~_____ 4. _____ Refuse to renew a lease or rental agreement.~~

~~_____ B. _____ "Good faith and lawful action" by the tenant is defined to include good faith and lawful:~~

~~_____ 1. _____ Complaints or reports concerning housing conditions made to a governmental authority by the tenant or his representative;~~

~~_____ 2. _____ Complaints or reports concerning housing conditions made to the owner or his agent;~~

~~_____ 3. _____ Complaints or reports concerning housing conditions made to any private organization;~~

~~4. Activity of the tenant in organizing, encouraging, joining, participating, or being a member of or in a tenant organization or in a civic association; or~~

~~5. Communication by the tenant with other tenants concerning housing conditions under reasonable rules and regulation as established by the building management.~~

~~C. All violations of this section shall be misdemeanors and shall, upon conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00), or by imprisonment in the County Jail for a period of not more than thirty (30) days, or both, for each offense, and each day of violation may constitute a separate offense.~~

~~(5-6-72)~~

§ 17-17. Tenant Security Deposits Reserved.

~~A. Any security deposit of money or prepaid rent, however, denominated, furnished by a tenant or a lessee to a landlord or lessor or agent of same to secure the performance of any part of a written or oral lease or agreement, or as security for damages to the leased premises, shall be returned to the tenant or lessee within one (1) month after the date of tenancy terminates. Notwithstanding this, the landlord or lessor may retain all or any portion of the deposit as is reasonably necessary to repair unreasonable wear or damage to the leased premises, or as accrued rent, or to compensate the landlord or lessor for actual damages suffered as a result of a default of the lease or agreement by the tenant or lessee. At the inception of the tenancy, the landlord or lessor shall provide the tenant or lessee with a written list of all existing damages, if any, to the leased premises. If any portion of the security deposit is retained upon the termination of the tenancy, the landlord or lessor shall forward to the tenant or lessee, within one (1) month of such termination, an itemized statement accounting for the proceeds retained and giving the reasons therefor.~~

~~B. Any landlord or lessor or agent of same who is found by a court of competent jurisdiction to have willfully failed to comply with the requirements of this section shall be liable to the lessee in an amount equal to twice the amount of the security deposit.~~

~~(9-8-73)~~

§ 17-18. Prohibition of Motorized Vehicles in Parks and School Grounds.

A. It is unlawful and punishable as a misdemeanor for any person to operate any motorized vehicle in any park, open space, or greenway owned by Arlington County or by a park authority created by State law or on the ground of any public school of Arlington County, except that persons may operate motorized vehicles in areas designated as parking lots in such parks, open space, schools or greenways, and in the driveways providing access to those parking lots from the public streets; provided, however, that the County Manager, or his designee, may designate certain areas in County parks for the use of minibikes and establish procedures for the issuance of permits for the use of such areas by persons holding permits; the prohibitions of this section shall not apply to persons holding such permits while operating minibikes in the designated areas, or to County, park authority, or school board vehicles entering the parks, open space or greenways or school grounds for maintenance, fire and police patrol purposes.

B. "Motorized vehicle" means any vehicle powered by an internal combustion engine, electrical motor or other electrical device.

C. The prohibitions of this section do not apply to vehicles being used by handicapped persons when such use is necessary because of the handicapped condition of the person or persons using such vehicles.

(8-3-74)

§ 17-19. Indecent Exposure.

A. It shall be unlawful for any person to intentionally make an obscene display or exposure of his person, or the private parts thereof, in any public place, or in any place where others are present, or to procure

another to so expose himself.

B. Any person convicted of such indecent exposure shall be guilty of a Class 1 misdemeanor. (2-11-78; Ord. No. 91-34, 9-18-91)

§ 17-20. Prohibition of Solicitation for Home Improvement Services on Residential Property.

A. It shall be unlawful for any person to offer to provide home improvements services by going upon any residential property in Arlington County without a prior invitation from the owner or occupant of the property. However, nothing herein shall prohibit a contractor who is licensed to provide home improvement work pursuant to Chapter 51 of the Arlington County Code from soliciting business within the County without a prior invitation.

B. For the purpose of this section, home improvement services shall mean the performance of labor and/or the furnishing of materials for any repairs, improvements and additions to or the construction or removal of any dwelling, building or accessory structures including, but not limited to, patios, driveways, sidewalks, and fences. Repairs shall include, among other things, the inspection or treatment for, or the repair of damage caused by, termites, roaches, rodents or other pests. (5-2-78; 6-27-78)

§ 17-21. Urinating and Defecating in Public Prohibited.

A. It shall be unlawful for any person to urinate or defecate on any street, alley, sidewalk, park, or public place or area where the public gathers or has access, or within public view, other than in facilities designed for such purposes.

B. Any person found guilty of this section shall be guilty of a Class 1 misdemeanor. (Ord. No. 85-16, 4-27-85; Ord. No. 91-34, 9-18-91)

§ 17-22. Reporting of Hate Crimes.

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

1. "Hate crime" means a crime where the defendant intentionally selects the person against whom the crime under Title 18.2 of the Virginia Code and/or Chapter 17 of the Arlington County Code is committed or selects the property which is damaged or otherwise affected by the crime under Title 18.2 of the Virginia Code and/or Chapter 17 of the Arlington County Code on the basis of the race, religion, color, disability, gender, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property.
2. "Information" means all information relating to the commission of the particular crime and any information that describes the particulars of the crime committed. This shall include, but is not limited, to incident reports and all other specific information that relates to the nature of where, when, and how the crime was committed. Information shall not include any physical evidence being used in the prosecution of the defendant by the Commonwealth.

B. When it is determined by the Arlington County Police Department that there exists evidence of the commission of a hate crime as defined in section A above by either an adult or a juvenile, such information about the hate crime committed by the particular defendant shall be reported to one (1) of the following: the local Federal Bureau of Investigation (FBI) Office, the United States Department of Justice Civil Rights Division, or the local United States Attorney's Office for their determination as to whether such information shall be used in their investigation and prosecution of the particular defendant for violations of any applicable federal civil rights laws.

C. Any reporting of information to the local FBI Office, the United States Department of Justice Civil Rights Division, or the local United States Attorney's Office is not intended to create exclusive jurisdiction in those offices for the prosecution of the defendant based on such reported information, nor to prohibit the Commonwealth Attorney's involvement in the prosecution of the accused for a hate crime or any connected crime

ARLINGTON COUNTY CODE

MISCELLANEOUS OFFENSES AND PROVISIONS

against the Commonwealth of Virginia.
(Ord. No. 94-1, 2-5-94)