ARLINGTON COUNTY CODE

Chapter 22

STREET DEVELOPMENT AND CONSTRUCTION

§ 22-1. Approved Plans for Work and Permit Required; Compliance with Plans, Etc.; Waiver of Formal Plans.

A. It shall be unlawful for any person, firm or corporation to do any work of any kind in any street, highway, public right-of-way, easement or other area dedicated to the public use within the County of Arlington, Virginia, without having first made application to the County Manager or his designee and having received from him approved plans covering the work and a permit to do the work as shown on such plans. In this chapter the term "County Manager" shall mean and include the term "or his designee."

B. All construction, repair work, or planting of any nature performed by any individual, firm or corporation shall be performed according to the plans, specifications, regulations and written instructions of the County Manager. The County Manager, however, is hereby invested with authority to waive the requirement of formal plans where the work to be done is of a routine nature and is so limited in scope as not to require detailed plans and specifications for its proper execution.

C. Plans that have been approved by the County after the effective date of this chapter shall become null and void if no work has been started within one (1) year after the date of approval, or if after starting the work there in a period of one (1) year in which there has been no work performed in accordance with the approved plans, unless a reasonable additional delay in completion of street construction has been approved by the County Manager.
(5-23-61)

§ 22-2. Application for Permit.

Application for such permit shall be made upon a form provided for that purpose by the County Manager. Said application shall be accompanied by plans covering in detail the proposed work to be carried out under the permit.
(5-23-61)

§ 22-3. Specifications.

Specifications covering the type of work that is proposed to be done according to the plans are available from Arlington County. These specifications with plans will cover excavation, drainage, curb and gutter, sidewalks, road surface from curb to curb, storm sewers, planting and street trees and all other incidental construction such as utility facilities and street lighting as shown on plans or as given in written instructions. Standards, specifications, regulations and special provisions of the Department of Environmental Services shall be followed unless otherwise specified.
(5-23-61; 2-7-70; Ord. No. 88-7, 7-1-88; Ord. No. 04-25, 10-2-04)

§ 22-4. Inspection.

A. The plans and specifications will require complete and sufficient inspection by the County Manager to control the construction at all times and to ensure completed work in conformity with them.

B. In order to make the proper check of the work done, the owner, contractor or agent will notify the Department of Environmental Services upon the completion of each portion or type of work done under the permit so that proper inspection may be made to determine its correctness, such as the inspection of grade or rough excavation, drainage structures and utility lines before backfilling, storm sewers before backfilling, curb and gutter forms before placing concrete, subgrade before placing surface, and completion of the surface of street. Other periodic inspection may be designated by the County Manager from time to time.
(5-23-61; 2-7-70; Ord. No. 88-7, 7-1-88; Ord. No. 04-25, 10-2-04)

§ 22-5. Construction.

A. *Excavation*. Excavation shall be made the full width of the dedicated right-of-way unless construction plans shall be approved otherwise.

B. *Curb and gutter*. Curb and gutter shall be placed on each side of the street.

C. *Sidewalks*. Sidewalks of uniform width of at least four (4) feet shall be placed on each side of the street unless, because of some unusual condition, this requirement shall be modified by the County Manager.

D. *Drainage*. No lot or area where natural drainage is affected shall be built upon or developed without first having constructed an adequate storm sewer system approved by the County Manager. The storm sewer system shall be designed in accordance with the Stormwater Detention Ordinance, Chapter 60 of the Code of Arlington County, Virginia. All drainage structures, including storm sewers and stormwater detention facilities through new developments, shall be constructed according to approved plans and specifications.

E. *Pavement*. The pavement shall be constructed by the developer according to approved standards of the Department of Environmental Services.

F. *Street construction plans*. All plans for street construction which have been approved for a period of more than a year and under which no work has been started or, in the event work has been started and there has been a delay of more than one (1) year in the completion of the work, will become null and void and will have to be resubmitted for approval under the terms of this chapter, unless a reasonable additional delay in completion of street construction has been approved by the County Manager. All construction started after the effective date of this chapter shall be in accordance with the specifications in effect at the time of the commencing of the construction.

G. *Conditional acceptance of streets*. If, in the judgment of the County Manager, circumstances in any case warrant conditional acceptance of any street under this chapter, the County Manager may conditionally accept such street setting forth in writing the terms and conditions of such acceptance, including provision for security in an appropriate amount to be held in escrow to assure completion of such street in accordance with the requirements of this chapter.

H. *Maintenance of traffic.* All construction or repair work being done by any person, firm, or corporation in any street, highway, public right-of-way, easement, or other dedicated area within the County shall be

sufficiently and adequately protected by barricades at all times. Traffic controls for street construction, maintenance, and utility operations shall conform to the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration. Such warning devices shall be maintained at all times by the person, firm, or corporation to whom the permit is issued or where the permit has been issued to an owner and the work is being done by an independent contractor they shall be maintained by the contractor. Both pedestrian and vehicular traffic shall be maintained at all times except as approved in accordance with § 22-1.

I. *Suspensions or delays*. All work which has been commenced under the provisions of this chapter shall be prosecuted as promptly as sound construction practice will permit and shall not be suspended or delayed, except for unusual conditions, in which case such suspension or delay shall be approved by the County Manager.

J. *Times*. On streets specified by the Department of Environmental Services, work is not to be carried out from 7:00 to 9:00 a.m. and 4:00 to 6:00 p.m. unless it does not interfere with traffic and special permission is granted by the Department of Environmental Services or Police Department in an emergency.

K. *Approval of work*. After final completion and final inspection of the work under the permit, it shall be the duty of the County Manager to approve the work performed and to notify the owner that the work has been satisfactorily completed according to plans, specifications and written instructions.

L. *Parklet Program.*

1. *Purpose and Intent.* The Parklet Program is intended to allow for the installation of publicly accessible parklets that serve as an extension of the sidewalk by converting curbside parking spaces into vibrant public spaces within non-residential areas and that may be installed for one year or longer. Despite their size and atypical location, Parklets can contribute to the public space network and overall sidewalk experience by providing places to sit, relax or socialize. Future installations of Parklets can increase social activity and enhance the pedestrian experience throughout the County.

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

   "Parklet" is a small, contained area with seating and tables, green space, and/or other similar elements that is typically contained within two (2) parking spaces situated adjacent to a sidewalk.

   "Parklet Program" is a program that authorizes individuals, business establishments, organizations, or business improvement districts to install and maintain parklets in the public right-of-way throughout the County.

3. *Authority to Administer the Parklet Program, and Develop Administrative Guidelines and Procedures.* The County Manager or his designee shall establish a Parklet Program, and set forth the guidelines and standards for carrying out this Section in the Parklet Administrative Guidelines.

(5-23-61; 2-7-70; 9-11-76; Ord. No. 88-7, 7-1-88; Ord. No. 91-37, 10-12-91; Ord. No. 04-25, 10-2-04; Ord. No. 21-12, 7-17-21)

§ 22-6. Acceptance of County Streets.

No dedicated street, highway, public right-of-way or any part thereof hereafter will be accepted unconditionally as a County street or highway, unless and until the same shall have been constructed according to plans, specifications and written instructions of and approved by the County Manager. No street or highway shall hereafter be accepted unless it is at least one (1) block long, unless it intersects the boundary of the subdivision of which it is a part or on account of unusual conditions, upon the approval of the County Manager. But this provision shall not be construed as to defeat or deny any right which the County, or the public at large, may have acquired or may hereafter acquire, in any easement or way, under the general provisions of the law.

Interlocking concrete and brick pavers and trees and shrubbery as required by the approved plans and specification shall be warranted as follows for a period of one (1) year beyond the date of the approval of work as established in § 22-5, subsection K:

Interlocking concrete and brick pavers against settlement which creates an unsafe or hazardous condition for pedestrians and is attributable to foundation failures or poor construction practices. Trees and shrubs shall be planted in conformity with standards set forth in the American National Standards Institutes (ANSI) publication, Z-60.1-1990, except for those failures resulting from extreme weather conditions or abuse or destruction by others beyond the control of the permittee.
(5-23-61; 2-7-70; Ord. No. 88-7, 7-1-88; Ord. No. 96-7, 5-11-96)

§ 22-7. Charges.

Sections A-M Removed.

The cost of the engineering services including review and approval of civil engineering plans, building plans, right-of-way use permits, supervision and inspection of construction, shall be borne by the owner or developer according to the Arlington County Permit and Plan Fee Schedule adopted by the County Board.

N. Permit surcharge:

No permit shall be issued which would allow an excavation or opening in any paved or improved street or alley which has been improved within a five (5) year period preceding the date of permit issuance unless a surcharge, which shall be in addition to the usual permit fee, is paid to the Treasurer of Arlington County. Excavation for emergency repairs shall be exempt from this surcharge.

The surcharge shall be equal to fifty percent (50%) of the restoration fees as itemized in Table 1.

Table 1. Restoration Fees

Restoration fees are for each square yard or fraction thereof of street or alley pavement.

		Cost Per Square Yard
1.	*Street Pavements:*	
	Concrete	$ 31.00
	Concrete base with bituminous top	36.00
	Bituminous base with bituminous top	26.00
	Bituminous base without bituminous top	no fee
	Gravel base with bituminous top	26.00
2.	*Alley Pavements:*	
	Concrete	31.00
	Bituminous	26.00
	Gravel	no fee

O. For the initial continuous installation of a new County-wide utility plant project, which does not exceed a three (3) year completion period, the maximum fee is fifteen dollars ($15.00) per mile. After completion of the initial utility plant project, any additions to the plant will have fees determined in accordance with subsection D above.

Note: Applications for permits should be accompanied by check unless a public department or agency, operating without profit, is responsible. Companies doing continuous construction work in the County can put up a bond or certified check for two hundred dollars ($200.00) and secure various permits by stating on the permit that guarantee is covered by such bond or check. The amount of surety is to be established by the County Manager.

P. Refunds: ln cases where a permit has been issued and the project is abandoned or withdrawn before any work has begun under the permit, the applicant may return the permit to the Department of Environmental Services with a written request for cancellation of the permit and partial refund. In such cases the applicant may receive a refund of fifty percent (50%) of the portion of the permit fee which is in excess of the base permit fee; provided, however, that the request is received at least thirty (30) calendar days before the expiration date of the permit. No refund shall be given for an abandonment or withdrawal request if any work has begun under the permit or if fewer than thirty (30) calendar days remain between the time the request is received and the expiration date of the permit.
(5-23-61; 11-8-75; 2-21-76; 2-24-79; Ord. No. 84-14, 6-2-84; Ord. No. 88-7, 7-1-88; Ord. No. 90-5, 7-1-90; Ord. No. 91-11, 4-27-91; Ord. No. 92-21, 7-1-92; Ord. No. 93-9, 7-1-93; Ord. No. 98-8, 7-1-98; Ord. No. 99-10, § 1, 4-14-99; Ord. No. 02-08, § 1, 4-20-02; Ord. No. 04-11, § 1, 4-24-04; Ord. No. 04-25, 10-2-04; Ord. No. 05-05, 4-16-05, effective 7-1-05; Ord. No. 07-01, 4-21-07, effective 7-1-07; Ord. No. 07-05, 4-21-07, effective 7-1-07; Ord. No. 07-07, 4-21-07, effective 7-1-07; Ord. No. 09-14, 4-28-09, effective 7-1-09; Ord. No. 10-09, 4-24-10, effective 7-1-10; Ord. No. 13-02, 4-20-13, effective 7-1-13; Ord. No. 18-05, 4-21-18, effective 7-1-18; Ord. No. 20-09, 4-30-2020, effective 7-1-20; Ord. No. 22-08, 4-26-22, effective 7-1-22.)

§ 22-7.1. Public Rights-of-Way Use Fee for Providers of Telecommunications Services.

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

"Certificated provider of telecommunications services" means a public service corporation holding a certificate issued by the State Corporation Commission to provide local exchange or interexchange telephone service.

"Public rights-of-way use fee" means a fee charged and billed monthly to the ultimate end user of each access line of a certificated provider of local exchange telephone service, the rate of which fee shall be established annually by the Virginia Department of Transportation in the manner specified in Virginia Code § 56-468.1.

B. The public rights-of-way use fee is hereby imposed on the ultimate end user of each access line, as defined in Virginia Code § 56-468.1(A), and shall be collected by each certificated provider of local exchange telephone service operating in Arlington County, but not providers of commercial mobile radio services. Within two (2) months after the end of each calendar quarter, each such certificated provider shall remit to the County Treasurer the amount of public rights-of-way use fees it has billed to end users of the provider's services during such preceding quarter. Fees so collected by certificated providers shall be deemed to be held in trust until remitted to the County Treasurer. Until the ultimate end user pays the public rights-of-way use fee to the local exchange provider, such fee shall constitute a debt of the ultimate end user to the County until paid to such provider. If any ultimate end user refuses to pay the public rights-of-way use fee, the local exchange service provider shall provide the name and address of each such ultimate end user on a quarterly basis along with the remittance of fees.

C. The public rights-of-way use fee shall be in lieu of, and not in addition to, the permit inspection and other fees of general application imposed by this chapter on certificated providers of telecommunications services. No certificated provider of telecommunications services shall be required to pay such permit or inspection fees or any other County fees charges (except for zoning, subdivision, site plan and comprehensive plan fees of general application) as a condition of, or as compensation for, its use of the public rights-of-way.

D. Nothing in this section, however, shall relieve any certificated provider of telecommunications services from submitting plans, applying for permits, and adhering to applicable standards for construction, installation of facilities, and street or roadway repairs in the manner required by this chapter and other applicable statutes, ordinances or regulations, provided such requirements are no greater than those imposed on all providers of telecommunications or nonpublic providers of cable television, electric, natural gas, water or sanitary sewer

services. Any application by a certificated provider of telecommunications services to use County rights-of-way shall be granted or denied within forty-five (45) days after receipt, and, if denied, shall be accompanied by a written explanation of the reasons for denial and the actions required to cure the denial.

E. Nothing in this section shall affect the type or amount of fees payable by providers of cable television services pursuant to any existing or future franchise, license or permit granted by the County.

F. Nothing in this section shall affect any amount payable by any provider of telecommunications services for the right to locate towers or other facilities on property of the County other than within the public rights-of-way, nor shall anything prohibit the County from entering into voluntary pole attachment, conduit occupancy or conduit construction agreements with any certificated provider of telecommunications service.

G. The county shall annually expend at least ten percent (10%) of the amount of public rights-of-way use fees it receives under this section for transportation construction or maintenance purposes.
(Ord. No. 98-19, 10-1-98)

§ 22-8. Withholding Building Permits under Certain Conditions.

Whenever, in the opinion of the County Manager, any person is guilty of any violation of this chapter, and for such length of time as there is a continuing violation, thereof, the County Manager is hereby authorized to withhold a permit to such owner, or to any person acting for him, to construct any building or other improvement for the construction of which a permit is required by any ordinance or resolution effective in the County of Arlington within the subdivision of land where a violation of the chapter has occurred and continues. He may, in his discretion, withhold such permit until the condition which constitutes a violation of the chapter has been eliminated.
(5-23-61)

§ 22-8.1 Permits Issued Before October 1, 2010 by the Commonwealth of Virginia, Department of Transportation, for Activity, Work and Installation of Facilities in the Columbia Pike (State Route 244) Right of Way

A. All facilities, as hereinafter defined, existing on October 1, 2010 in the Columbia Pike right of way as defined in a certain Quitclaim Deed from the Commonwealth of Virginia to the County Board of Arlington County, Virginia pursuant to a permit, agreement, or other written permission duly issued by the Commonwealth of Virginia, Department of Transportation, are permitted to remain in the Columbia Pike right of way after the effective date of the transfer of such right of way from the Commonwealth to the County Board without the necessity of the owner of such facilities obtaining a permit pursuant to this chapter, provided that:

1. The permission for such facilities to remain in the right of way shall not be construed as conveying any property right to the owner of the facilities. The permission shall be a mere license, revocable at will by the County Manager.

2. Unless otherwise specifically provided by statute or by a fully executed written agreement between the County Board and the owner of the facilities:

a. Such owner shall relocate and/or adjust all such facilities located, in whole or in part, within the Columbia Pike right of way when relocation and/or adjustment is necessary to facilitate any street, highway and/or transportation improvements;

b. The relocation and/or adjustment of the facilities shall be performed by the owner of the facilities at such owner's sole cost and expense, without delay, and without liability to, or obligation of, the County to such owner or to others;

c. The permission for such facilities to remain in the right of way shall not relieve the owner thereof, or any other person or entity, of the requirement to obtain permits for work in the right of way as otherwise required by this chapter.

B. All permits issued before October 1, 2010, by the Commonwealth of Virginia, Department of Transportation, permitting activity or work to be performed, or facilities to be installed, in the Columbia Pike right

of way, and which activity, work, or installation is not completed as of October 1, 2010, shall be recognized by the County as fulfilling, until December 31, 2010, the requirements of this chapter, but only for the activities at the location(s) specified in such permit, provided that:

1. In order to continue any activity, work, or installation in the Columbia Pike right of way after December 31, 2010, the person or entity required by this chapter shall obtain a permit from the County, in accordance with this chapter;

2. Such permit shall be obtained not later than January 1, 2011; and,

3. The failure of any person, firm or corporation to timely obtain a permit in accordance with subsections B.1 and B.2 above shall constitute a violation of this § 22-8.1 and, upon conviction thereof, shall be punishable as provided in § 22-9.

C. For the purposes of this § 22-8.1, the word "facilities" shall refer to and mean any item that is built, constructed, installed, or established to perform a particular function or to serve or facilitate a particular end, including without limitation, structures, equipment, fixtures, apparatus, tunnels, pipes, box culverts, conduits, wires, cables, fiber optic cable lines, utilities, foundations, poles, towers, antennae, telecommunications systems, traffic signals, cabinets, benches, retaining walls, landscaping, and appurtenances thereto.

D. Enforcement of this § 22-8.1 shall not preclude the County from enforcing any other provision of the Code or of State law concerning the unauthorized use or occupation of the public right of way.
(Ord. No. 10-16, 6-12-10; effective 7-1-10; Ord. No. 10-18, 9-25-10, effective 10-1-10)

§22-8.2 Permits For Certain Entities To Install And Maintain Small Cell Facilities On Existing Structures In The Public Rights-Of-Ways Of The County; Application; Fees.

A. *Definitions*. For the purposes of this section, the following words and phrases are defined as follows:

"County Code" means The Code of Arlington County, Virginia 1957, as amended.

"County Manager" means the Manager of Arlington County, Virginia or his/her designee.

"Existing structure(s)" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure.

"Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Public rights-of-way" means all highways, streets, boulevards, and thoroughfares, irrespective of the type of legal interest or how such interest was acquired, under the jurisdiction of, and operated and maintained by, the County Board.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume; electric meter, concealment, telecommunications, demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Small cell permit" means a permit(s) issued pursuant to this section.

"Wireless infrastructure provider(s)" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. §332(c) (7) (C) (i); (ii) "personal wireless services facilities" as defined in 47 U.S.C. §332(c) (7) (C) (ii), "including commercial mobile services" as defined in 47 U.S.C. §332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider(s)" means a provider of wireless services.

B. It shall be unlawful for any wireless service provider, wireless infrastructure provider, or any other person or entity to install, attach or maintain, or cause to be installed, attached, or maintained, a small cell facility on an existing structure in the public rights-of-way without having first obtained a small cell permit and satisfied all of the requirements of this section and such permit.

C. Upon receipt and acceptance of complete applications from, and signed by, wireless service providers or wireless infrastructure providers, and upon satisfaction of all applicable requirements of the County Code and the County Manager, he/she is authorized to issue small cell permits to wireless service providers and wireless infrastructure providers to install and maintain small cell facilities on existing structures in the public rights-of-way.

D. Each application shall be accompanied by the following:

1. documentary evidence that the applicant has permission from the owner of each structure to co-locate small cell equipment on each such structure;

2. completed applications for all public right-of-way permits and for all transportation right-of-way permits for each such structure; and

3. all documents and information required by the County Manager.

   a. No small cell permit shall be issued until the applicant has paid to the County a small cell permit application processing fee in the amount of $250.00.

   b. The issuance of a small cell permit, pursuant to this section, shall not relieve the applicant, and all others of their independent legal obligations to comply with all applicable provisions and requirements of this Chapter and the County Code concerning, without limitation: planning and zoning approval; building, electrical and related permits; permits and ordinances for occupation of, work in, and use of, the public rights of way including, without limitation, public right-of-way permits, transportation right-of-way permits, and the payment of associated fees and charges to satisfy each of the above described provisions and requirements.

   c. The County Manager is authorized to implement this section through the creation of all necessary applications, procedures, requirements, conditions, standards and specifications (collectively, "Requirements"). Each applicant shall strictly comply with all such Requirements.

(Ord. No 17-09, 6-17-17; Ord. No. 19-09, 7-16-19, effective 8-1-19)

§ 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. Where there is a continuing violation of this chapter from day to day each violation shall constitute a separate offense.
(5-23-61; Ord. No. 08-07, 4-19-08, effective 7-1-08)

§ 22-10. Repeal of Previous Ordinance.

The ordinance of the same name adopted by the County Board on October 13, 1952, is hereby repealed on the effective date of this chapter.
(5-23-61)