

Arlington, VA

County Code

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<http://www.arlingtonva.us/Departments/ParksRecreation/scripts/parks/ParksRecreationScriptsParksTreesOrdinance.aspx>

Original Document:

**COUNTY CODE OF ARLINGTON, VIRGINIA
CHAPTER 67 TREES & SHRUBS ORDINANCE**

ORDINANCE TO ENACT AND CODIFY CHAPTER 67 (TREES AND SHRUBS) OF ARLINGTON COUNTY CODE TO ESTABLISH A TREE PRESERVATION ORDINANCE THAT PROTECTS TREES ON COUNTY PROPERTY AND ESTABLISHES A MECHANISM FOR DESIGNATING HERITAGE, MEMORIAL, SPECIMEN AND STREET TREES ON BOTH PUBLIC AND PRIVATE PROPERTY, WHICH MAY RESULT IN SPECIAL PROTECTION FROM REMOVAL OR DAMAGE

BE IT ORDAINED that Chapter 67 (Trees and Shrubs) of the Arlington County Code is enacted and codified as follows:

CHAPTER 67 Trees and Shrubs.

Article 1. General Provisions

§ 67-1-1 . Title.

§ 67-1-2. Purpose and intent.

§ 67-1-3. Definitions.

Article 2. Regulation of Trees and Shrubs on Public Property.

§ 67-2-1. Treatment of Trees and Shrubs.

§ 67-2-2. Injury to or Removal of Trees and Shrubs.

Article 3. Regulation of Heritage Trees, Memorial Trees, Specimen Trees, and Street Trees on Public or Private Property.

§ 67-3-1. Designation Procedure.

§ 67-3-2. Preservation.

§ 67-3-3. Penalties.

§ 67-3-4. Exceptions.

ARTICLE 1. General Provisions

Cross-references: Arlington Code Chapter 10 (Garbage, Refuse and Weeds), Section 10-12 (Definitions.), Section 10-13 (Duty of property owner to cut grass, weeds, maintain lawns, etc.) Section 10-15 (Duty of each property owner or occupant of property to cut back obstructing vegetation); Section 17.1 (Display of signs, advertisements, etc., on county property); Section 22-6 (Acceptance of county streets); Section 32D-4 (Vision Clearance); Chapter 61 (Chesapeake Bay Preservation Ordinance), Section 61-7(b) (Uses and Development), Section 61-8 (Performance Criteria and Buffer Requirements) (preservation, removal and replacement of vegetation during land-disturbing activities) .

§ 67-1-1. Title.

This ordinance shall hereafter be known, cited and referred to as the "Tree Preservation Ordinance" of Arlington County, Virginia.

§ 67-1-2. Purpose and Intent.

There is hereby established a Tree Preservation Ordinance 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.

§ 67-1-3. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings ascribed to them in this section.

Arborist or Urban Forester: A 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: The County Manager of Arlington County or the County Manager's designee.

Destroy: 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: A vertical projection to the ground surface from the furthest lateral extent of a tree's or shrub's canopy.

Heritage Tree: Any tree that has been individually designated by the County Board to be of notable historic or cultural interest.

Memorial Tree: Any tree that has been individually designated by the County Board to be a special commemorating memorial.

Shrub: Any 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: Any 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: Any tree that has been individually designated by the County Board and that grows in the street right-of-way.

Tree: Any 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: Guidelines established or selected by the County Manager for selecting, planting, pruning, maintaining, removal, replacement, and other treatment of trees and shrubs.

Utility Company: A company engaged in the provision of electric, cable, telephone, or gas service.

Volunteer Maintenance Contractors: County citizens who have agreed in a current, County-approved writing to maintain trees or shrubs on County property.

ARTICLE 2. Regulation of Trees and Shrubs on Public Property.

§ 67-2-1. 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 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.

ARTICLE 2. Regulation of Trees and Shrubs on Public Property.

§ 67-2-2. 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 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 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 Tree Guidelines 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 & Landscape Appraisers and published by the International Society of Arboriculture in Guide for Plant Appraisal.

ARTICLE 3. Regulation of Heritage Trees, Memorial Trees, Specimen Trees, and Street Trees on Public or Private Property.

§ 67-3-1. Designation.

(a) A County Urban Forester or an arborist designated by the County Manager may, in accordance with the provisions of this Article, 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 Heritage, Memorial, Specimen, or Street Trees. The County Board shall hold a public hearing prior to so designating any Heritage, Memorial, Specimen, or Street Tree. Trees may be recommended to the Urban Forester 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 Urban Forester, 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 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 months.

(c) A property owner shall not destroy a tree proposed for designation pursuant to this Section pending final County Board decision or a decision by the Urban Forester or designated arborist not to recommend designation.

(d) In the event that the application of this Article regulating Heritage, Memorial, Specimen, or Street Trees 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.

§ 67-3-2. Preservation.

No Heritage, Memorial, Specimen, or Street Tree 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 Arborist or Urban Forester determines that the tree is dead, has become the irreversibly diseased or irreversibly damaged by natural causes, or presents a hazard to the public.

§ 67- 3-3. Penalties.

Any person or entity who violates any provision of this Article by causing, contributing to, or permitting injury to or removal or destruction of a Heritage, Memorial, Specimen, or Street Tree shall be subject to a civil penalty not to exceed \$2,500 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.

§ 67-3-4. Exceptions.

The provision of this 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.