


MEMORANDUM

September 25, 2017

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: **Action:** Expedited Bill 30-17, Weapons – Discharge of Bows - Amendments

Public Safety Committee recommendation (3-0): enact the Bill with an amendment.
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Expedited Bill 30-17, Weapons – Discharge of Bows - Amendments, sponsored by Lead Sponsor Council President Berliner, Councilmembers Leventhal, Katz, Rice, Elrich, Council Vice President Riemer, and Councilmembers Navarro, Hucker, and Floreen, was introduced on September 12, 2017. A public hearing was held on September 19 and a Public Safety Committee worksession was held on September 25.

Bill 30-17 would reduce the safety zone for archery hunters in the County.

Background

Chapter 443 of the 2017 Laws of Maryland (HB 313), enacted by the General Assembly in the last legislative session, reduced the safety zone in the County prohibiting bow hunting within 100 yards of a building designed for human occupancy without the owner's consent to within 50 yards of a building. See ©4-5. The State law also added a requirement that a bow hunter discharging a bow within 50 to 100 yards of a building do so using a tree stand.

County Code §57-6 prohibits bow hunting within 100 yards of a building designed for human occupancy. Bill 30-17 would make the County law consistent with the amended State law by referencing this State law. OMB estimated that the Bill would have no fiscal or economic impact on the County. See ©6-9.

Public Hearing

Both speakers, Peggy Dennis, representing the Montgomery County Civic Federation and Dr. Mark Eakin, representing the Animal Connection Deer Management Team (©10-11), supported the Bill. They both pointed to the County's overpopulation of deer and the safety of bow hunting in Maryland and Virginia. Dr. Eakin testified that an archery hunter would need to be shooting down within 20 yards of the deer, and that his group of hunters has removed over 600 deer in southern Rockville and Potomac with a perfect safety record. The Agricultural Advisory Committee submitted written testimony in support of the Bill. See, ©12.

Public Safety Worksession

County Police Captain Michael Wahl represented the Executive Branch. Dr. Mark Eakin, representing the Animal Connection Deer Management Team, answered questions from the Committee. A description of the Animal Connection Deer Management Team is at ©13-14. Robert Drummer, Senior Legislative Attorney, represented the Council staff. Captain Wahl told the Committee that the Counties that have reduced the safety zone for bow hunting to 50 yards have not received any reports of injuries to people, pets, or livestock from bow hunting other than injuries to hunters falling out of tree stands. The Committee discussed the need to require a hunter to report the failure to recover a wounded deer to the County Police. The Committee recommended (3-0) approval of the Bill with this reporting amendment.

Issues

1. Is the County required to be consistent with State law?

Md. Nat'l Resources Code, §10-410(g) establishes statewide safety zones where hunting a bird or mammal is prohibited near a "dwelling house, residence, church, or any other building or camp occupied by human beings" without the prior permission of the owner or occupant of the property. The County would be preempted by this State law from permitting hunting within the State safety zone because the County law would conflict with the State law by permitting an activity that was expressly prohibited by State law.

However, the County's larger safety zone does not conflict with the State safety zone. Both laws are intended to serve the same purpose – protection of residents from accidental injuries caused by hunting. In this case, the County and the State have concurrent authority to legislate in this area if the County law does not frustrate the purpose of the State law. See, *City of Baltimore v. Sitnick*, 254 Md. 303 (1969), where the Court held that a higher City minimum wage did not conflict with a lower State minimum wage. A County law providing additional safety to residents does not conflict with the State law with the same purpose.

2. Should a bow hunter be required to report the failure to recover a wounded deer to the County Police?

Many of the complaints received from residents about bow hunting deer center around unrecovered wounded animals. Dr. Eakin told the Committee that a deer struck by an arrow by one of their hunters normally dies within 30 seconds, but can travel up to 40 yards after being hit. A hunter will normally track the wounded animal to recover it. If a hunter cannot find the animal at sundown, the hunter will often return at sunrise to recover it. Although a reporting requirement would not obligate the Police to search for a wounded deer, it would help the County keep statistics on these occurrences and facilitate tracking the hunter responsible for a wounded deer that is eventually found on someone else's property. **Committee recommendation (3-0):** add an amendment to require a bow hunter to report the failure to recover a wounded deer to the County Police at the end of an unsuccessful search for the animal. See lines 14-15 at ©2.

3. Should the Bill be enacted?

Reducing the safety zone from 100 yards to 50 yards would increase the ability of property owners to use archery hunters to reduce the significant overpopulation of deer in the County. Based upon the testimony from the Police at the Committee worksession, it has not increased the risk of accidental injury to residents, pets, or livestock in the Counties that have reduced the safety zone to 50 yards. This lack of accidental injuries is likely because a bow hunter would be aiming at the ground from an elevated stand within 20 yards of the deer. A miss would go into the ground. The overpopulation of deer has increased deer-car collisions in the County. **Committee recommendation (3-0):** approve the Bill with the reporting amendment on lines 14-15.

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Expedited Bill No. 30-17
Concerning: Weapons – Discharge of
Bows - Amendments
Revised: September 25, 2017 Draft No. 2
Introduced: September 12, 2017
Expires: March 12, 2019
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President Berliner, Councilmembers Leventhal, Katz, Rice, Elrich, Council
Vice President Riemer, and Councilmembers Navarro, Hucker, and Floreen

AN EXPEDITED ACT to:

- (1) reduce the safety zone for archery hunters in the County; and
- (2) generally amend the laws governing the discharge of bows.

By amending

Montgomery County Code
Chapter 57, Weapons
Section 57-6

Boldface

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Deleted from existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 57-6 is amended as follows:

57-6. Discharge of bows.

(a) *Prohibition.* A person must not discharge a bow in the County:

(1) from, onto, or across a public road;

(2) [into or within 100 yards of] in violation of the archery hunting safety zone established in Md. Code, Natural Resources, §10-410, as amended, surrounding a building or camp designed for human occupancy without the owner or occupant's written consent; or

(3) from, onto, or across public or private property without the owner or occupant's written consent;

(b) *Exception.* Subsection (a) does not apply to target archery practiced in compliance with safety guidelines established in regulations adopted under method (2).

(c) A bow hunter must report the failure to recover a wounded deer to the County Police at the end of an unsuccessful search for the animal.

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Approved:

Roger Berliner, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 30-17

Weapons – Discharge of Bows - Amendments

DESCRIPTION:	County Code §57-6 prohibits bow hunting within 100 yards of a building designed for human occupancy. Bill 30-17 would make the County law consistent with the recently amended State law by referencing this State law.
PROBLEM:	Chapter 443 of the 2017 Laws of Maryland (HB 313), enacted by the General Assembly in the last legislative session, reduced the safety zone in the County prohibiting bow hunting within 100 yards of a building designed for human occupancy without the owner's consent to within 50 yards of a building. The State law also added a requirement that a bow hunter discharging a bow within 50 to 100 yards of a building do so using a tree stand. County law is now inconsistent with the State law.
GOALS AND OBJECTIVES:	To amend County law to be consistent with the recently amended State law.
COORDINATION:	Police, County Attorney
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	Class A Violation

Chapter 443

(House Bill 313)

AN ACT concerning

Montgomery County – Archery Hunting – Safety Zone

MC 10-17

FOR the purpose of altering the size of the safety zone for archery hunters in Montgomery County within which archery hunting may not take place except under certain circumstances; requiring archery hunters in Montgomery County to use a tree stand when hunting certain animals within a certain distance of certain buildings; and generally relating to archery hunting in Montgomery County.

BY repealing and reenacting, with amendments,
Article – Natural Resources
Section 10-410(g)
Annotated Code of Maryland
(2012 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Natural Resources

10-410.

(g) (1) Except as provided in paragraphs (2) and (3) of this subsection, a person, other than the owner or occupant, while hunting for any wild bird or mammal may not shoot or discharge any firearm or other deadly weapon within 150 yards, known as the “safety zone”, of a dwelling house, residence, church, or other building or camp occupied by human beings, or shoot at any wild bird or mammal while it is within this area, without the specific advance permission of the owner or occupant.

(2) A person, while hunting for any wild bird or mammal, may not shoot or discharge any firearm within 300 yards of a public or nonpublic school during school hours or at a time when a school-approved activity is taking place.

(3) (i) For archery hunters in Calvert County, Carroll County, Frederick County, Harford County, **MONTGOMERY COUNTY**, or St. Mary’s County, the safety zone described in paragraph (1) of this subsection extends for 50 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(ii) For archery hunters in Anne Arundel County [or Montgomery County], the safety zone described in paragraph (1) of this subsection extends for 100 yards from a dwelling house, residence, church, or any other building or camp occupied by human beings.

(4) During any open hunting season, a person, other than the owner or occupant, may not hunt or chase willfully any wild bird or mammal within the safety zone without the specific advance permission of the owner or occupant.

(5) In Harford County OR MONTGOMERY COUNTY, an archery hunter shall use a tree stand when hunting any wild bird or mammal within 50 to 100 yards of a dwelling house, residence, church, public or nonpublic school, or other building or camp occupied by human beings.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2017.

Approved by the Governor, May 4, 2017.



ROCKVILLE, MARYLAND

MEMORANDUM

September 18, 2017

TO: Roger Berliner, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget
Alexandre A. Espinosa, Director, Department of Finance

SUBJECT: FEIS for Bill No. 30-17, Weapons – Discharge of Bows, Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:mc

cc: Bonnie Kirkland, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Joy Nurmi, Special Assistant to the County Executive
Patrick Lacefield, Director, Public Information Office
David Platt, Department of Finance
Dennis Hetman, Department of Finance
Robert Hagedoorn, Department of Finance
Rich Harris, Office of Management and Budget
Felicia Zhang, Office of Management and Budget

Fiscal Impact Statement
Bill 30-17 Weapons-Discharge of Bows-Amendments

1. Legislative Summary

The proposed legislation would reduce from 100 yards to 50 yards the distance from a building that an individual can legally discharge a bow. The purpose of this bill is to conform with State law, which was amended by the General Assembly in the 2017 legislative session.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 30-17 is not estimated to change County revenues or expenditures.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

The proposed bill does not have an impact on revenues or expenditures.

4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.

Not applicable. Bill 30-17 does not have an impact on pension or insurance costs.

5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.

Not applicable.

6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.

Not applicable. Bill 30-17 does not authorize future spending.

7. An estimate of the staff time needed to implement the bill.

No staff time is needed to implement Bill 30-17.

8. An explanation of how the addition of new staff responsibilities would affect other duties.

None

9. An estimate of costs when an additional appropriation is needed.

Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

Not applicable.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Not applicable.

12. If a bill is likely to have no fiscal impact, why that is the case.

Bill 30-17 concerns the discharge of a bow, which will not have a fiscal impact on the County.

13. Other fiscal impacts or comments.


Not applicable.

14. The following contributed to and concurred with this analysis:

Capt. Michael Wahl, Montgomery County Police Department

Neil Shorb, Montgomery County Police Department

Richard Harris, Office of Management and Budget



Jennifer A. Hughes, Director
Office of Management and Budget

9/18/17
Date

Economic Impact Statement
Bill 30-17, Weapons – Discharge of Bows – Amendments

Background:

Bill 30-17 would reduce the safety zone for archery hunters in the County. Chapter 443 of the 2017 Laws of Maryland (HB 313), enacted by the General Assembly in the last legislative session, reduced the safety zone in the County prohibiting bow hunting within 100 yards of a building designed for human occupancy without the owner's consent to within 50 yards of a building. The State law also added a requirement that a bow hunter discharging a bow within 50 to 100 yards of a building do so using a tree stand. County Code §57-6 prohibits bow hunting within 100 yards of a building designed for human occupancy. Bill 30-17 would make the County law consistent with the amended State law by referencing this State law.

1. The sources of information, assumptions, and methodologies used.

This legislation does not have an economic impact as it codifies the County law to be consistent with the recently amended State law. There will be no economic impact to employment, spending, savings, investment, incomes, and property values as a result of this Bill.

2. A description of any variable that could affect the economic impact estimates.

This legislation does not have an economic impact.

3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.

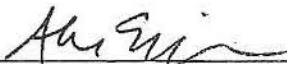
Please see the answer to question 1.

4. If a Bill is likely to have no economic impact, why is that the case?

Please see the answer to question 1.

5. The following contributed to or concurred with this analysis:

David Platt, Dennis Hetman, and Robert Hagedoorn, Finance.



Alexandre A. Espinosa, Director
Department of Finance

9/15/2017
Date

Testimony in Support of Expedited Bill 30-17,**Weapons - Discharge of Bows - Amendments**

Dr. C. Mark Eakin, Director of Animal Connection Deer Management Team

Good afternoon. I'm Dr. Mark Eakin of Colesville, MD, director of the Animal Connection Deer Management Team. We are all too well aware that the number of whitetail deer has skyrocketed in this area and continues to climb. Without enough predators, populations grow unchecked. Research indicates the deer population along the eastern seaboard is ten times higher than when Columbus arrived. County wildlife managers have reported well over 200 per square mile in some areas, when healthy levels are around 20-30 deer per square mile. These levels are unhealthy for the deer, have led to increased deer-car collisions, greater damage to landscape and garden vegetation, and increasing incidences of Lyme disease.

The deer population levels we are seeing in Montgomery County are not natural. As I don't expect there's much great interest in reintroducing wolves and mountain lions around here, it leaves people as the only practical means of controlling deer herds.

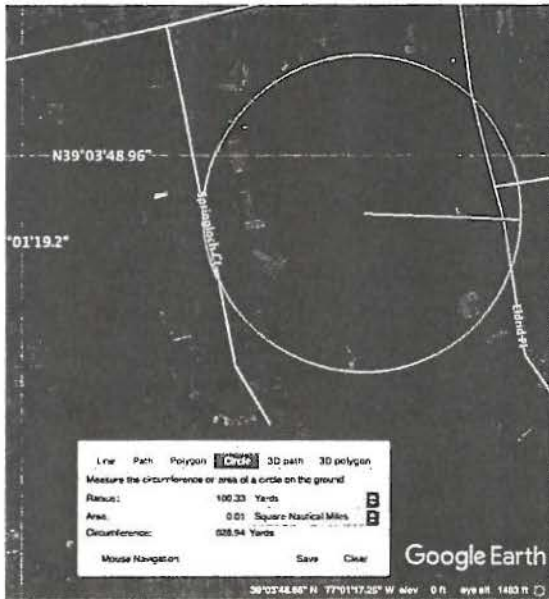
In its larger parks, Montgomery County uses managed shotgun hunts and sharpshooters to reduce deer populations. These aren't practical in smaller parks or on most private lands. Bowhunting is a practical and effective in these cases. This is why Animal Connections is one of two teams working with Montgomery Parks to use bowhunting to manage deer populations in two smaller stream valley parks. Unlike managed hunts and sharpshooters costing \$400-\$1,000 per deer, our services are free.

Since 2005, our volunteer bowhunters have safely reduced deer herds for Montgomery County residents. The 6-10 hunters on our team have removed over 600 deer from neighborhoods in southern Rockville and Potomac with a perfect safety record – and there are other teams like ours in the area.

But, the 100 yard "safety zone" inside which all residents must give advance permission for bowhunting to take place impairs our ability to help homeowners with their deer problems. The State of Maryland, at Montgomery County's urging, has now reduced this safety zone for archery from elevated tree-stands to 50 yards in Montgomery County. However, the Montgomery County regulation on discharge of bows has not yet been changed to match the new Maryland law. In contrast to firearms, bowhunting is a short-range activity, with most shots being taken within 20 yards of the hunter. The new Maryland 50-yard "safety zone" for archery only applies when bowhunters are shooting downward from an elevated tree stand. Adding to the safety of the activity and stopping arrows immediately after they pass through the deer.

We find that at least one in ten Montgomery County homeowners is opposed to hunting, making it nearly impossible to gain permission in most of the county with 1/4 to 1/3 acre lots. Even in communities with large undeveloped woodland tracts, it is often impossible to gain the permissions needed to control deer through bowhunting. In the attached figures, you will see two potential scenarios for a private wooded area. The current 100-yard limit requires permission from 12 neighbors for the owner of this large wooded lot

to use our services – despite the fact that most of these neighbors would never even know we were there. Maryland has now reduced the safety zone for bowhunting from an elevated tree stand to a much more reasonable 50-yard limit. Bill 30-17 would align the County regulation to that passed by Maryland, and allow this property owner to use our services to control deer on their private land.



100 yard "safety zone"



50 yard "safety zone"

It is clear that bowhunting is a safe and effective way to deal with the expanding deer population in Montgomery County. Adjusting the County regulations to match the new Maryland law will allow your residents to safely and effectively manage deer populations.

My thanks to the County Council for addressing this disparity between State and County regulations. I encourage you all to support Expedited Bill 30-17.

Thank you.



AGRICULTURAL ADVISORY COMMITTEE

September 18, 2017

The Honorable Roger Berliner
Montgomery County Council President
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Berliner: Expedited Bill 30-17 Weapons-Discharge of Bows

On behalf of the Montgomery County Agricultural Advisory Committee-AAC we want to thank the County Council for this opportunity to provide our comments in support of Expedited Bill 30-17 Weapons-Discharge of Bows.

The Agricultural Advisory Committee participated in the 2017 Maryland Legislative Session and provided testimony in support of House Bill 313 which provided the State enabling legislation to reduce the safety zone distance for bow hunting in the County.

This Expedited Bill will provide an additional tool for bow hunters to harvest more deer in the County by reducing the safety distance from 75 yards to 50 yards.

Thank you again for the considering the views of the AAC on this Expedited Bill 30-17.

Sincerely,

Doug Lechliden, Vice Chairman of the AAC

Cc: Isiah Leggett, County Executive



ANIMAL CONNECTION DEER MANAGEMENT TEAM

(ACDMT)

<http://acdm.org>

We are a group of seasoned veteran bowhunters that feel we can make a difference in the great state of Maryland. We will make every effort to ensure that your experience with us is a positive one.

Our Background

Most of the members of ACDMT are members of the Maryland Bowhunters Society. We also belong to other conservation organizations, and actively participate in the community. The Maryland Bowhunters Society is dedicated to promoting and preserving bowhunting; educating the non-hunting public about the role of the bowhunter in wildlife management and conservation; and educating bowhunters in safety, shooting skills, hunting techniques and landowner relations. The MBS strongly advocates ethical bowhunting within the laws of the jurisdiction hunted and in a sportsmanlike manner under the Rules of Fair Chase established by the Pope and Young Club.

ACDMT is comprised of people from all walks of life. Our ranks include police officers, doctors, scientists, business owners, accountants and retirees. We are parents, grandparents, sons, daughters, and members of local communities. We may be your neighbors, friends or even a relative.

Though we have diverse backgrounds, we all share a common goal – to use our unique skills to help the people that invite us into their communities, and also to help those in need.



Why ACDMT is needed?

Deer are a very adaptable species. In most suburban areas there are parks, lawns, woods, water and shelter that form an ideal habitat for deer. In some Washington DC suburbs, the deer population exceeds 400 animals per square mile, while the carrying capacity of the land is much smaller – perhaps 40 animals per square mile. This causes the deer to be thin, undernourished and prone to sickness. This high deer density also brings diseases, such as Lyme's disease, to the neighborhoods, increases car/deer accidents, and results in hundreds of thousands of dollars in damage to homeowners' trees and plants as the deer struggle to survive. The close proximity of homes to this habitat makes it extremely difficult to control the deer population by conventional means. Without suburban bowhunting, the deer population will spiral out of control.

How Safe is Bow Hunting?

Bowhunting is one of the safest sports there is. Statistics show bowhunting has less accidental injuries or death than jogging, bicycling, swimming, boating, or any other outdoor activity. Bowhunting is many, many times safer than common sporting activities such as football and baseball. Yes, there is some danger to the hunter since he is sitting approximately 15 feet up in a tree and could fall. But we all wear a safety harness to minimize the chance of this occurring. There is never any danger to another person or animal that may wander into the area we are hunting. The target animal is seen and identified, carefully watched waiting for the perfect shot, then the bow is drawn and after carefully aiming, the arrow is released. Shooting from an elevated position, the arrow sticks into the ground, even if we miss our target. We will not take a shot if we notice a pet, yours or any one else's, or another person in the area. No non-hunter has ever been injured by a bowhunter in the state of Maryland. It's that safe! If you have any more concerns about the safety of allowing a bowhunter on your land you can visit www.marylandbowhunterssociety.org and watch a short video on the safety of bowhunting.

How Will I Know When a Hunter is on My Property?

When we arrive to your property, we will hang a door tag on your front door indicating we are there. These door hangers resemble the "Do Not Disturb" signs you find at hotels. This tag will also have a phone number on it if you have any concerns or complaints. Your phone call will be kept confidential. After we complete the hunt on your property, we will remove the door tag. This way you will always know when we are hunting your property.

Why Use Corn to Lure the Deer When There Are So Many?

Using corn allows us to lure the deer to a spot where we can set them up for an accurate shot. 90% of the time, deer will run in the direction that they are facing when a sound startles them. By using corn, we are controlling the direction that they face so that there is less of a chance that the deer will run out in a road.

What Happens to the Deer When it is Harvested?

When a deer is shot with an arrow, it reacts to the sound it heard, not the shot it self. Deer react in different ways, some run, while others will just jump and stand there wondering what the sound was that startled it. The shot we take is while the deer is standing broadside to us. Since we are approximately 15 feet up in a tree, 90% of the time, the arrow goes completely through the deer and sticks into the ground with-in a few feet of where the deer was standing. The deer does not run off with an arrow sticking out of it. The deer bleeds internally and expires very quickly, usually within a minute or less. There will be very minimal blood. After the deer expires if it is not lying in a conspicuous location, we will continue to hunt if there are still deer in the area. If the deer does expire in a more visible location, we will move it immediately and then continue to hunt. No deer will be "dressed out" on your property. All deer are removed for this process.

What Happens to the Meat?

All of the deer meat is used and no deer will be wasted. We donate a large amount to a non-profit organization, Farmers and Hunters Feeding the Hungry (FHFH.ORG). FHFH covers the processing costs for donated venison and distributes this high protein, low fat meat source to local food banks, soup kitchens and shelters to feed those less fortunate. The meat processor, KS Kuts, located in Damascus, Maryland has worked with FHFH for years. On average, ACDMT harvests nearly 100 deer annually in local neighborhoods and supplies over 1,000 pounds of venison to those in need. If the hunter is in need of some venison for their own personal consumption, they will only take what they can use. If the property owner would like some venison, we will be more than happy to supply it. Monetary donations are welcomed by FHFH; indicate MD-09 on your tax-deductable contribution.



How many deer will we remove?

There is no set number that works for every property. We work diligently to bring the herd back down to a healthy population. We do not want to eradicate the deer in your area. We just want to manage the herd to a healthy level that everyone can benefit from.

How to contact ACDMT to manage the deer in your neighborhood

If you are interested in having experienced, ethical, and safe bowhunters work with you to manage the deer population on your property at no cost, please check out our website at <http://acdmf.org> where you use the "Contact Us" link to get in touch.