ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item
Meeting of May 22, 2010

DATE: April 23, 2010

SUBJECT: Amendment, Reenactment and Recodification of Chapter 9.2 (Food and Food Handling Code) of the Arlington County Code

C. M. RECOMMENDATION:

Advertise for a public hearing on June 12, 2010, to consider amending Chapter 9.2 of the Arlington County Code to incorporate the United States Food and Drug Administration, Centers for Disease Control and Prevention, and Food Safety and Inspection Service 2009 Food Code ("Food Code"), and to make other amendments to Chapter 9.2.

ISSUE: This is a request to advertise proposed amendments to Chapter 9.2 of the Arlington County Code to incorporate the most current version of the Food Code and to make other necessary changes. There is no fiscal impact and no issues have been identified.

SUMMARY: Food safety, including food-borne illness prevention, is a public health priority. The Food Code provides the basis for licensing, inspection and enforcement activities of all food service establishments across the nation. The 2009 Food Code is the first complete revision since 2005. This revision reflects the latest science, emerging food safety issues, and recommendation from the 2008 Conference for Food Protection. Adoption and implementation of the 2009 Food Code is important to achieve uniform regional and national food safety standards. Fairfax County and the City of Alexandria anticipate amending their local ordinances in the coming months to incorporate the 2009 Food Code.

BACKGROUND: In 1971, the Conference for Food Protection was established to discuss food safety. At the 1986 Conference for Food Protection, a food protection code was endorsed, which led the FDA to issue the first model Food Code in 1993. The Food Code now provides the basis for licensing, inspection and enforcement activities at all food service establishments across the nation. Arlington County first adopted a Food Code in 1997. In 2006, Arlington County adopted the 2005 Food Code.

DISCUSSION:

Significant enhancements to the 2009 Food Code include:

- Each provision in the Food Code is now designated as a "Priority Item," a "Priority Foundation Item," or a "Core Item", to assist the industry and regulatory community in

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prioritizing their food safety interventions and inspections. These designations are based on a qualitative risk assessment and replace the use of "Critical" and "Non-Critical" designations in previous editions of the Food Code.

- Cut leafy greens are now included among the foods that require time and temperature control for safety.
- Requirements have been added to improve food worker awareness of food allergen concerns in the food service and retail setting.
- Serving hamburger and other ground meats in an undercooked form upon customer request is no longer an option for items offered on children's menus.
- New definition and criteria for the non-continuous cooking of foods comprised of raw animal products to better address safety concerns.
- "Limited food establishment" is more clearly defined.
- Several requirements related to the effective cleaning and sanitizing of equipment and surfaces are enhanced or clarified.

FISCAL IMPACT: None. No tax support is required.

AN ORDINANCE TO AMEND, REENACT AND RECODIFY CHAPTER 9.2 (FOOD AND FOOD HANDLING CODE) OF THE ARLINGTON COUNTY CODE.

BE IT ORDAINED that Chapter 9.2 of the Arlington County Code is amended, reenacted, and recodified as follows, effective July 1, 2010:

Chapter 9.2 FOOD AND FOOD HANDLING CODE*

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* **Editor's Note:** Ord. No. 10-__, adopted June 12, 2010, amended Ch. 9.2 to read as herein set out.

Cross references – Building ~~e~~Code, Ch. 3; ~~e~~Electrical ~~e~~Code, Ch. 7; ~~f~~Fire ~~p~~Prevention ~~e~~Code, Ch. 8.1; ~~l~~Licenses, Ch. 11; ~~p~~Plumbing and ~~g~~Gas ~~e~~Code, Ch. 18; ~~p~~Peddlers, ~~v~~Vendors and ~~e~~Canvassers, Ch. 30; ~~p~~Public ~~d~~Dance ~~h~~Halls, Ch. 36; ~~e~~Consumer ~~p~~Protection, Ch. 50.

ARTICLE I. GENERAL PROVISIONS

§ 9.2-1.1. Title.

This Chapter shall be known as and may be cited as "The Food and Food Handling Code~~"~~ of Arlington County"~~, Virginia~~.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-1.2. Purpose.

This Chapter shall be liberally construed and applied to promote the purpose of safeguarding public health and ensuring that food is safe, unadulterated and properly presented when offered to the consumer.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06)

§ 9.2-1.3. ~~Adoption of the United States Food and Drug Administration/United States Public Health Service 2005~~ Incorporation of Prevailing Federal Food Code.

~~(a)~~ All ~~C~~chapters ~~1 through 8, inclusive~~, ~~and all~~ appendices and annexes of the current and prevailing United States ~~Food and Drug Administration/U.S. Public Health Service 2005~~ Food Code ("~~FDA~~ Food Code"), as adopted and promulgated by the ~~United States~~ Food and Drug Administration and Centers for Disease Control and Prevention of the U.S. Department

of Health and Human Services and the Food Safety and Inspection Service of the U.S. Department of Agriculture~~/ Public Health Service ("FDA/USPHS")~~, including such chapters, appendices and annexes as may hereafter be added and/or amended from time to time, but excepting those sections of the ~~FDA~~ Food Code identified in ~~Section~~§ 9.2-1.5., are hereby adopted and incorporated in their entirety into this Chapter as if fully set forth herein. In the event of conflict or inconsistency between the provisions of this Chapter and the ~~FDA~~ Food Code, the provisions of this Chapter shall prevail and control. When ~~used in the FDA~~ the provisions of the Food Code are applied through this Chapter, the term "Health Authority" shall mean the County Manager~~ as defined in § 9.2-1.4 of this Chapter~~.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-1.4. Definitions.

The following words and phrases, when used in this Chapter, including in the incorporated ~~FDA~~ Food Code, shall have the meanings given below, unless the context clearly indicates a different intention or it is otherwise expressly provided:

Base of ~~o~~Operation: A licensed ~~f~~Food ~~e~~Establishment that contains all of the necessary equipment and storage facilities to support the operation of a ~~m~~Mobile ~~f~~Food ~~u~~Unit.

Certificate: The document issued by the County Manager, or the document issued by another jurisdiction or private vendor that is accepted by the County Manager, which demonstrates that the individual identified on the ~~certificate~~document has been determined to be a ~~c~~Certified ~~f~~Food ~~m~~Manager or a ~~c~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager.

Certified ~~f~~Food ~~m~~Manager: A person who has passed an examination approved by the County Manager, or an examination in another jurisdiction that is accepted by the County Manager, and has received a ~~c~~Certified ~~f~~Food ~~m~~Manager's ~~c~~Certificate issued or recognized by the County Manager.

Certified ~~l~~Limited ~~f~~Food ~~m~~Manager: A person who has passed an examination approved by the County Manager, or an examination in another jurisdiction that is accepted by the County Manager, and has received a ~~c~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager's ~~c~~Certificate issued or recognized by the County Manager.

County Manager: The County Manager of Arlington County, Virginia, or his designated agent.

Food Establishment: A Food Establishment is an operation that:

1. stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport

people; market; vending location; conveyance used to transport people; institution; or food bank; and

2. relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

License: The document issued by the County Manager that authorizes a person to operate a ~~f~~Food ~~e~~Establishment.

Limited ~~f~~Food ~~e~~Establishment: A ~~f~~Food ~~e~~Establishment that serves only ~~hotdogs or frankfurter-type foods, prepackaged foods or foods that are not potentially hazardous foods~~ foods that are not potentially hazardous, require no preparation, or utilize a preparation process that presents limited food safety risk, as determined by the County Manager.

Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit: A ~~l~~Limited ~~f~~Food ~~e~~Establishment that is designed to be readily movable.

Mobile ~~f~~Food ~~u~~Unit: A ~~f~~Food ~~e~~Establishment that is designed to be readily movable.

~~*Permit*: The license issued by the County.~~

Person in Charge: The individual present at a Food Establishment who is responsible for the Food Establishment's operation at the time of an inspection.

Temporary Food Establishment: A Food Establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-1.5. Modifications to ~~FDA~~ the Food Code.

~~(a)~~ The following sections of the ~~FDA~~ Food Code~~, as amended,~~ are expressly no~~thereby adopted and~~ incorporated ~~in their entirety~~ into this Chapter ~~as if fully set forth herein~~:

(1) Section 8-802.10(A) of Annex 1 is amended to read as follows:

If admission to the ~~PREMISES~~premises of a ~~FOOD~~food ~~ESTABLISHMENT~~establishment is denied or other circumstances exist that would justify an inspection order under ~~LAW~~ law, to make an inspection that includes the recordation of information by any means of audio-visual recordation including (but not limited to) photography, tape-recording and videotaping.

(2) [Reserved.]

(3) [Reserved.]

(4) [Reserved.]

(b) Sections 2-102.11(B) and 2-102.20 are deleted from the ~~FDA~~ Food Code and are not adopted or incorporated into this Chapter and shall be of no effect in ~~the~~Arlington County.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

ARTICLE II. MOBILE UNITS

§ 9.2-2.1. General.

Mobile ~~f~~Food ~~u~~Units and ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Units shall comply with the requirements of this Chapter.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-2.2. Requirements for ~~t~~Types of ~~m~~Mobile ~~f~~Food ~~u~~Units.

(a) A ~~m~~Mobile ~~f~~Food ~~u~~Unit shall be equipped with a hand sink and a three (3) compartment sink. However, the County Manager may waive the requirement for a three (3) compartment sink if the menu items dispensed from the unit do not require extensive preparation and the unit has access to a three (3) compartment sink at the unit's ~~b~~Base of ~~o~~Operation.

(b) A ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit shall be equipped with a hand sink and a three (3) compartment sink. However, the County Manager may waive the requirement for a hand sink if only prepackaged foods are to be dispensed or if an alternate method to hand washing, approved by the County Manager, is used. Such alternate methods may include, but are not limited to, use of disposable hand-washing towelettes, disposable gloves, sanitizing solutions that meet the specifications of 21 C.F.R. § 178.1010 or other techniques approved by the County Manager. The County Manager may waive the requirement for a three (3) compartment sink if the ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit has access to a three (3) compartment sink at the unit's ~~b~~Base of ~~o~~Operation or only prepackaged foods are to be dispensed.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-2.3. Single-service ~~u~~Utensils.

Mobile ~~f~~Food ~~u~~Units and ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Units shall dispense only single-service utensils for use by ~~the~~ customers.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-2.4. Base of ~~o~~Operation.

Each Mobile ~~f~~Food ~~u~~Units and ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Units shall operate from a ~~b~~Base of ~~o~~Operation that possesses a ~~f~~Food ~~e~~Establishment ~~l~~License issued in accordance with this Chapter. ~~However, the County Manager may waive this requirement if the mobile food unit or limited service mobile food unit meets all construction standards applicable to the food items served by the unit.~~ The County Manager may allow a ~~m~~Mobile ~~f~~Food ~~u~~Unit or ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit to operate from a ~~b~~Base of ~~o~~Operation located outside the County of Arlington if the ~~b~~Base of ~~o~~Operation meets basic sanitation requirements and is licensed by another jurisdiction.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

ARTICLE III. COMPLIANCE PROCEDURES

§ 9.2-3.1. Licenses for ~~f~~Food ~~e~~Establishments.

(a) No person shall operate a ~~f~~Food ~~e~~Establishment who does not have a valid ~~l~~License issued to him by the County Manager. Only a person who complies with the requirements of this Chapter ~~shall~~may be entitled to receive or retain ~~such~~ a ~~l~~License. Licenses are not transferable.

(b) An annual application fee of one hundred dollars ($100.00) shall be assessed for each licensed ~~f~~Food ~~e~~Establishment. Such fee shall not be applicable to ~~f~~Food ~~e~~Establishments operated by the Arlington County Public Schools; however, such fees shall apply to private vendors subcontracted by the County to operate ~~f~~Food ~~e~~Establishments. The annual fee, with the exception of mobile units, shall be based on a calendar year and shall be due and payable in the month of December or upon initial application. The annual fee for mobile units shall be due and payable in the month of June or upon initial application. The application fee shall not be prorated. An additional fee of twenty-five dollars ($25.00) shall be assessed for ~~f~~Food ~~e~~Establishment renewal applications received after December 31 and for mobile unit renewal applications received after June 30 of the then-current calendar year.

(c) Establishments ~~failing~~that fail to file the required application for renewal of their respective licenses will be operating without a valid license and will be subject to immediate closure in accordance with ~~Section~~§ 9.2-3.8~~ of this section~~.

(Ord. No. 02-16, 6-22-02; Ord. No. 03-11, 4-26-03; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 08-20, 10-18-08, effective 11-1-08; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.2. Exemption.

The County Manager may exempt coffee and related beverage service and service areas and such one-time events or affairs from such provisions or requirements of this Chapter as the County Manager may deem advisable upon determining that the operation of such service, service areas, events or affairs will not adversely affect the public health.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06)

§ 9.2-3.3. Food ~~m~~Manager ~~c~~Certificate and ~~r~~Responsibility.

(a) It shall be unlawful to operate a ~~f~~Food ~~e~~Establishment unless it is under the immediate control of a ~~c~~Certified ~~f~~Food ~~m~~Manager; provided, however, that a ~~l~~Limited ~~f~~Food ~~e~~Establishment ~~shall~~will not be in violation of this subsection if ~~it~~that Limited Food Establishment is under the immediate control of a ~~c~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager.

(b) The ~~c~~Certified Food Manager or ~~c~~Certified Limited Food Manager shall be responsible for training food service personnel in sanitary food-handling techniques and proper methods of food protection, and for ensuring that good public health and food protection practices and sanitary techniques in manufacturing, storing, serving and transporting foods are used at all times on the premises under his control.

(c) ~~Except that a t~~Temporary ~~f~~Food ~~e~~Establishments shall not be required to be under the immediate control of a ~~c~~Certified ~~f~~Food ~~m~~Manager or ~~c~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.4. Issuance of Food Manager Certificate.

(a) Any person desiring to obtain a ~~c~~Certificate required by ~~Section~~§ 9.2-3.3 shall apply in writing on forms provided or accepted by the County Manager. Such application shall include the name and address of the applicant, and the signature of the applicant.

~~(1)~~ The County Manager may, by a specific contract~~,~~ issued in accordance with appropriate administrative procedures, designate a private vendor to issue, on the

County Manager's behalf, a food manager ~~c~~Certificate to any person who successfully complies with the provisions of this Chapter.

(b) A food manager ~~c~~Certificate shall be issued only to a person who has passed a food manager certification examination from a food protection manager certification program that is evaluated and listed by an accrediting agency recognized by the Conference for Food Protection.

(c) A food manager ~~c~~Certificate shall be issued in the name of the individual applicant, shall not be assignable or transferable, shall be valid for a period of five (5) years from the date of notification of the successful completion of an approved exam and shall remain the property of the issuing authority.

(d) A food manager ~~c~~Certificate~~d~~ ~~shall~~may be renewed for a five (5) year period upon the holder passing a food manager certification examination ~~from~~administered by a food protection manager certification program that is evaluated and listed by an accrediting agency recognized by the Conference for Food Protection.

(e) A limited food manager ~~c~~Certificate shall be issued only to a person who has passed a limited food manager certification examination approved by the County Manager.

(f) A limited food manager ~~c~~Certificate shall be issued in the name of an individual applicant, shall not be assignable or transferable, shall be valid only for a period of five (5) years from the date of notification of the successful completion of the approved exam and shall remain the property of the issuing authority.

(g) A limited food manager ~~c~~Certificate ~~shall~~may be renewed for a five (5) year period upon the holder passing a limited food manager certification examination approved by the County Manager.

(h) If ~~the~~ an applicant's ~~c~~Certificate has been revoked or suspended during the preceding five (5) years, the applicant shall retake and pass either a food manager certification examination from a food protection manager certification program that is evaluated and listed by an accrediting agency recognized by the Conference for Food Protection or a limited food manager certification examination approved by the County Manager, whichever is deemed appropriate by the County Manager.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.5. Suspension of ~~l~~License or ~~c~~Certificate in ~~e~~Emergencies.

(a) If he deems an emergency to exist, the County Manager may, without warning, notice or hearing, order the suspension of any ~~l~~License or ~~c~~Certificate issued ~~under~~pursuant to this Chapter if the holder of the ~~l~~License or ~~c~~Certificate does not comply with the requirements

of this Chapter, or if the operation of the ~~f~~Food ~~e~~Establishment does not comply with the requirements of this Chapter, or if the operation of the ~~f~~Food ~~e~~Establishment otherwise constitutes a substantial and imminent hazard to public health. Suspension ~~is~~shall be effective upon service of the notice required by subsection (b) of this section. When a license is suspended, all food-handling operations at the ~~f~~Food ~~e~~Establishment shall immediately cease. When a ~~e~~Certificate is suspended, food-handling operations shall immediately cease unless another ~~e~~Certified ~~f~~Food ~~m~~Manager or, where appropriate, ~~e~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager, is present and in control. If the reason for the suspension is eliminated prior to the suspension being sustained by the County Manager, the suspension shall be terminated.

(b) Whenever a ~~l~~License or ~~e~~Certificate has been ~~ordered~~ suspended, the holder of the ~~l~~License or ~~e~~Certificate or the ~~p~~Person in ~~e~~Charge shall be notified in writing that the ~~l~~License or ~~e~~Certificate is suspended effective upon service of the notice and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the County Manager by the holder of the ~~l~~License or ~~e~~Certificate within ten (10) days of notice to the holder of the License or Certificate. The holder of the ~~l~~License or ~~e~~Certificate shall be afforded an opportunity for a hearing within twenty (20) days of receipt by the County Manager of a request for a hearing ~~from the holder~~. If no written request for a hearing is filed within ten (10) days, the suspension ~~is~~shall be sustained. The County Manager may end a suspension at any time if the reason for the suspension no longer exists.

(c) The County Manager, in lieu of suspending a ~~l~~License, may suspend the applicability of the ~~l~~License to a specific commissary or specific products.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.6. Revocation of ~~l~~License or ~~e~~Certificate.

(a) The County Manager may, after providing the opportunity for a hearing, order the revocation of a ~~l~~License or ~~e~~Certificate issued ~~under~~pursuant to this Chapter for serious or repeated violations of any of the requirements of this Chapter or for interference with the County Manager in the performance of his duty.

(b) Prior to ordering the revocation, the County Manager shall notify, in writing, the holder of the ~~l~~License or ~~e~~Certificate or the ~~p~~Person in ~~e~~Charge of the specific reasons for which the ~~l~~License or ~~e~~Certificate is to be revoked, and that the ~~l~~License or ~~e~~Certificate shall be revoked on the tenth (10th) day following service of the notice unless a written request for a hearing is filed with the County Manager by the holder of the ~~l~~License or ~~e~~Certificate within such ten (10) day period. If no request for a hearing is filed within the ten (10) day period, the ~~l~~License or ~~e~~Certificate shall be revoked by order of the County Manager and the revocation shall be final.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.7. Service of ~~n~~Notices.

A notice required by this Chapter is properly served when it is delivered to the holder of the ~~l~~License or ~~c~~Certificate or to the ~~p~~Person in ~~c~~Charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the ~~l~~License or ~~c~~Certificate. A copy of the notice shall be filed with the records of the ~~Health Department~~Public Health Division of the Arlington County Department of Human Services.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.8. Closing of ~~f~~Food ~~e~~Establishments.

The County Manager shall order the closure of (i) any ~~f~~Food ~~e~~Establishment which is operated without the ~~l~~License required by ~~Section~~§ 9.2-3.1, or is operated without a ~~c~~Certified ~~f~~Food ~~m~~Manager being in control as required by ~~Section~~§ 9.2-3.3. The closure order shall be in writing, shall specifically state the reason for the closure and shall clearly specify the compliance requirements necessary to have the order rescinded. The Sheriff of ~~the~~Arlington County shall enforce the closure order until it is rescinded by the County Manager in writing. Upon receipt of satisfactory proof of compliance with the written requirements set forth in the closure order, the County Manager shall immediately issue a written rescission of the order.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.9. Hearings.

The hearings provided for in this Chapter shall be conducted by the County Manager at a time and place designated by him. Any oral testimony given at a hearing shall be reported or recorded. The County Manager shall make a finding based upon the hearing record and shall issue, sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished by the County Manager to the holder of the ~~l~~License or ~~c~~Certificate ~~by the County Manager~~.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-3.10. Application after ~~r~~Revocation.

Whenever a revocation of a ~~l~~License or ~~c~~Certificate has become final, the holder of the revoked ~~l~~License or ~~c~~Certificate may submit a written application for a new ~~l~~License or

~~e~~Certificate. The ~~f~~Food ~~e~~Establishment for which an application for a new ~~permit~~License is submitted after revocation shall meet all applicable provisions of this Chapter.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

ARTICLE IV. PENALTIES

§ 9.2-4.1. Penalties, ~~i~~Injunction, ~~e~~Civil ~~p~~Penalties and ~~e~~Charges for ~~v~~Violations.

(a) Any person willfully violating, or refusing, failing, or neglecting to comply with any provision of the ~~FDA~~ Food Code, or order of the County Manager, or any provision of this Chapter, shall be guilty of a Class 3 misdemeanor unless a different penalty is specified. Each day of violation shall constitute a separate offense.

(b) Any person violating, or failing, neglecting, or refusing to obey any provision of the ~~FDA~~ Food Code, or any lawful order of the County Manager, or any provision of this Chapter, may be compelled in a proceeding instituted in an appropriate court by the County Manager to obey and comply with such provisions of the ~~FDA~~ Food Code, order of the County Manager, or provision of this Chapter. The proceeding may be by injunction, mandamus, or other appropriate remedy.

(c) Without limiting the remedies which may be obtained pursuant to subsection (b) of this section, any person violating or failing, neglecting, or refusing to obey any injunction, writ of mandamus, or other remedy obtained pursuant to subsection (b) shall be subject, in the discretion of the court, to a civil penalty not to exceed ten thousand dollars ($10,000.00) for each violation. Each day of violation shall constitute a separate offense.

(d) With the consent of any person who has violated or failed, neglected, or refused to obey any provision of the ~~FDA~~ Food Code, or order of the County Manager, or any provision of this Chapter, the County Manager may provide, in an order issued by the County Manager against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit set forth in subsection (c) of this section. Such civil charges shall be in place of any appropriate civil penalty which could be imposed ~~under~~pursuant to subsection (c).

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

ARTICLE V. REVIEW OF PLANS AND SPECIFICATIONS

§ 9.2-5.1. Submission of ~~p~~Plans, ~~s~~Specifications and other data; ~~i~~Inspection prior to ~~o~~Operation; ~~f~~Fees.

(a) Whenever a ~~f~~Food ~~e~~Establishment is constructed or remodeled or whenever an existing structure is converted to use as a ~~f~~Food ~~e~~Establishment, plans and specifications for such construction, remodeling, or conversion shall be submitted to the County Manager for his review prior to commencement of such construction, remodeling or conversion. The County Manager shall verify that the plans and specifications conform to the requirements of this Chapter and the ~~FDA~~ Food Code. The plans and specifications shall include the intended menu, anticipated volume of food to be stored, prepared, and sold or served, the proposed layout and arrangement of the facilities, plumbing plans, mechanical plans, electrical plans, finish schedules, lighting schedules, and the types, model numbers, locations, dimensions, performance capacities and installation specifications of proposed fixed equipment and facilities. The County Manager may require additional plans or information, as needed, depending on the nature and extent of the proposed construction, remodeling or conversion. The County Manager shall approve the plans and specifications if they meet the requirements of this Chapter and the ~~FDA~~ Food Code. The County Manager's approval of any plans or specifications shall not ~~be viewed to be~~constitute a determination that ~~said~~ the plans or specifications are free from error. The owner shall have final responsibility for the accuracy and completeness of the plans and specifications, as well as for subsequent construction and installation. No ~~f~~Food ~~e~~Establishment shall be constructed, remodeled or converted except in accordance with plans and specifications approved by the County Manager.

(b) Whenever plans and specifications are required to be submitted and approved, the County Manager shall inspect the ~~f~~Food ~~e~~Establishment prior to its beginning operation in order to determine compliance with the approved plans and specifications and with the requirements contained in this Chapter and the Food Code.

(c) A fee of two hundred dollars ($200.00) shall be paid to the ~~County Manager~~Treasurer of Arlington County upon submission of plans.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-5.2. ~~Affect~~Effect of ~~r~~Repeal.

The repeal of Chapter 9.2 shall not affect any act, duty, penalty, requirement, right, obligation or offense established ~~under~~pursuant to Chapter 9.2 which was pending prior to the date of the repeal of Chapter 9.2.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)

§ 9.2-5.3. Validity of Chapter.

The provisions of this Chapter are severable, and if any provision of this Chapter or any application thereof is held invalid by a court of competent jurisdiction, that invalidity shall not

affect any other provision or application of this Chapter which can be given effect without the invalid provision or application.

(Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-__, 6-12-10, effective 7-1-10)