



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of June 12, 2010

**DATE:** June 4, 2010

**SUBJECT:** Amendment, Reenactment and Recodification of Chapter 9.2 (Food and Food Handling Code) 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 necessary amendments to Chapter 9.2.

**C. M. RECOMMENDATION:**

Adopt proposed amendments amending, reenacting, and recodifying Chapter 9.2 (Food and Food Handling Code) 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 and to make other necessary amendments.

**ISSUE:** This is a request to adopt 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 amendments. 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. That revision reflects the latest science, emerging food safety issues and recommendations 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 of all food service establishments across the nation. Arlington County first adopted a Food Code in 1997. In 2006, Arlington County adopted the 2005 FDA Food Code.

**DISCUSSION:**

County Manager: *MBma*  
County Attorney: *SM/BRC*  
Staff: Evelyn Poppell, Public Health, DHS  
Erica Thompson, Public Health, DHS  
Lyn Hainge, Public Health, DHS  
Reuben Varghese, Public Health, DHS

Significant enhancements to the 2009 Food Code include:

- Each provision in the FDA 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 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.

The other necessary amendments that are addressed in the ordinance, beyond the adoption of the Food Code, are designed to reformat aspects of Chapter 9.2 so that it is consistent with other Chapters of the Arlington County Code, to clarify definitions used throughout Chapter 9.2, and to confirm that the County adopts and will enforce the standards set forth in the current Food Code and future iterations thereof.

Advertisement of the proposed amendment, reenactment, and recodification of Chapter 9.2 was authorized by the County Board on May 22, 2010, and occurred on May 28, 2010, and June 4, 2010.

**FISCAL IMPACT:** None. No tax support is required.

1 AN ORDINANCE TO AMEND, REENACT AND RECODIFY CHAPTER 9.2 (FOOD  
2 AND FOOD HANDLING CODE) OF THE ARLINGTON COUNTY CODE.  
3

4 BE IT ORDAINED that Chapter 9.2 of the Arlington County Code is amended,  
5 reenacted, and recodified as follows, effective July 1, 2010:  
6  
7

8 Chapter 9.2 FOOD AND FOOD HANDLING CODE\*  
9

10 \_\_\_\_\_  
11 \* Editor's Note: Ord. No. 10-\_\_\_, adopted June 12, 2010, amended Ch. 9.2 to read as  
12 herein set out.  
13

14 Cross references – Building eCode, Ch. 3; eElectrical eCode, Ch. 7; fFire pPrevention eCode,  
15 Ch. 8.1; HLicenses, Ch. 11; pPlumbing and gGas eCode, Ch. 18; pPeddlers, vVendors and  
16 eCanvassers, Ch. 30; pPublic dDance hHalls, Ch. 36; eConsumer pProtection, Ch. 50.  
17 \_\_\_\_\_  
18  
19

20 ARTICLE I. GENERAL PROVISIONS  
21

22 § 9.2-1.1. Title.  
23

24 This Chapter shall be known as and may be cited as “The Food and Food Handling  
25 Code” of Arlington County, Virginia.  
26

27 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
28 effective 7-1-10)  
29

30 § 9.2-1.2. Purpose.  
31

32 This Chapter shall be liberally construed and applied to promote the purpose of  
33 safeguarding public health and ensuring that food is safe, unadulterated and properly presented  
34 when offered to the consumer.  
35  
36

37 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06)  
38  
39

40 § 9.2-1.3. ~~Adoption of the United States Food and Drug Administration/United States Public~~  
41 ~~Health Service 2005 Incorporation of Prevailing Federal Food Code.~~  
42

43 (a) ~~All Chapters 1 through 8, inclusive, and all appendices and annexes of the~~  
44 ~~current and prevailing United States Food and Drug Administration/U.S. Public Health Service~~  
45 ~~2005 Food Code (“FDA Food Code”), as adopted and promulgated by the United States Food~~  
46 ~~and Drug Administration and Centers for Disease Control and Prevention of the U.S. Department~~

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

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

13  
14  
15 § 9.2-1.4. Definitions.

16  
17 The following words and phrases, when used in this Chapter, including in the  
18 incorporated FDA-Food Code, shall have the meanings given below, unless the context clearly  
19 indicates a different intention or it is otherwise expressly provided:

20  
21 *Base of eOperation:* A licensed fFood eEstablishment that contains all of the necessary  
22 equipment and storage facilities to support the operation of a mMobile fFood uUnit.

23  
24 *Certificate:* The document issued by the County Manager, or the document issued by  
25 another jurisdiction or private vendor that is accepted by the County Manager, which  
26 demonstrates that the individual identified on the ecertified document has been determined to be  
27 a eCertified fFood mManager or a eCertified lLimited fFood mManager.

28  
29 *Certified fFood mManager:* A person who has passed an examination approved by the  
30 County Manager, or an examination in another jurisdiction that is accepted by the County  
31 Manager, and has received a eCertified fFood mManager's eCertificate issued or recognized by  
32 the County Manager.

33  
34 *Certified lLimited fFood mManager:* A person who has passed an examination approved  
35 by the County Manager, or an examination in another jurisdiction that is accepted by the County  
36 Manager, and has received a eCertified lLimited fFood mManager's eCertificate issued or  
37 recognized by the County Manager.

38  
39 *County Manager:* The County Manager of Arlington County, Virginia, or his designated  
40 agent.

41  
42 *Food Establishment:* A Food Establishment is an operation that:

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

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

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

7  
8 *License:* The document issued by the County Manager that authorizes a person to operate  
9 a ~~f~~Food ~~e~~Establishment.

10  
11 *Limited ~~f~~Food ~~e~~Establishment:* A ~~f~~Food ~~e~~Establishment that serves only ~~hotdogs or~~  
12 ~~frankfurter-type foods, prepackaged foods or foods that are not potentially hazardous foods~~ foods  
13 that are not potentially hazardous, require no preparation, or utilize a preparation process that  
14 presents limited food safety risk, as determined by the County Manager.

15  
16 *Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit:* A ~~L~~imited ~~f~~Food ~~e~~Establishment that is  
17 designed to be readily movable.

18  
19 *Mobile ~~f~~Food ~~u~~Unit:* A ~~f~~Food ~~e~~Establishment that is designed to be readily movable.

20  
21 *Permit:* ~~The license issued by the County.~~

22  
23 *Person in Charge:* The individual present at a Food Establishment who is responsible for  
24 the Food Establishment's operation at the time of an inspection.

25  
26 *Temporary Food Establishment:* A Food Establishment that operates for a period of no  
27 more than fourteen (14) consecutive days in conjunction with a single event or celebration.

28  
29 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
30 effective 7-1-10)

31  
32  
33 § 9.2-1.5. Modifications to ~~FDA~~the Food Code.

34  
35 (a) ~~—The following sections of the FDA-Food Code, as amended, are expressly~~  
36 nothereby adopted and incorporated in their entirety into this Chapter as if fully set forth herein:  
37

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

39  
40 If admission to the ~~PREMISES~~premises of a ~~FOOD~~food  
41 ~~ESTABLISHMENT~~establishment is denied or other circumstances  
42 exist that would justify an inspection order under ~~LAW~~law, to  
43 make an inspection that includes the recordation of information by  
44 any means of audio-visual recordation including (but not limited  
45 to) photography, tape-recording and videotaping.

1  
2 (2) [Reserved.]

3  
4 (3) [Reserved.]

5  
6 (4) [Reserved.]

7  
8 (b) Sections 2-102.11(B) and 2-102.20 are deleted from the ~~FDA~~-Food Code and are  
9 not adopted or incorporated into this Chapter and shall be of no effect in ~~the~~Arlington County.

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

13  
14  
15 **ARTICLE II. MOBILE UNITS**

16  
17 § 9.2-2.1. General.

18  
19 Mobile ~~f~~Food ~~u~~Units and ~~H~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Units shall comply with the  
20 requirements of this Chapter.

21  
22 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
23 effective 7-1-10)

24  
25  
26 § 9.2-2.2. Requirements for ~~t~~Types of ~~m~~Mobile ~~f~~Food ~~u~~Units.

27  
28 (a) A ~~m~~Mobile ~~f~~Food ~~u~~Unit shall be equipped with a hand sink and a three (3)  
29 compartment sink. However, the County Manager may waive the requirement for a three (3)  
30 compartment sink if the menu items dispensed from the unit do not require extensive preparation  
31 and the unit has access to a three (3) compartment sink at the unit's ~~b~~Base of ~~o~~Operation.

32  
33 (b) A ~~H~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit shall be equipped with a hand sink and  
34 a three (3) compartment sink. However, the County Manager may waive the requirement for a  
35 hand sink if only prepackaged foods are to be dispensed or if an alternate method to hand  
36 washing, approved by the County Manager, is used. Such alternate methods may include, but  
37 are not limited to, use of disposable hand-washing towelettes, disposable gloves, sanitizing  
38 solutions that meet the specifications of 21 C.F.R. § 178.1010 or other techniques approved by  
39 the County Manager. The County Manager may waive the requirement for a three (3)  
40 compartment sink if the ~~H~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit has access to a three (3)  
41 compartment sink at the unit's ~~b~~Base of ~~o~~Operation or only prepackaged foods are to be  
42 dispensed.

43  
44 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
45 effective 7-1-10)

1  
2 § 9.2-2.3. Single-service ~~u~~Utensils.

3  
4 Mobile ~~f~~Food ~~u~~Units and ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Units shall dispense only  
5 single-service utensils for use by ~~the~~ customers.

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

9  
10  
11 § 9.2-2.4. Base of ~~e~~Operation.

12  
13 Each Mobile ~~f~~Food ~~u~~Units and ~~l~~Limited ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Units shall operate  
14 from a ~~b~~Base of ~~e~~Operation that possesses a ~~f~~Food ~~e~~Establishment ~~l~~License issued in accordance  
15 with this Chapter. ~~However, the County Manager may waive this requirement if the mobile food~~  
16 ~~unit or limited service mobile food unit meets all construction standards applicable to the food~~  
17 ~~items served by the unit.~~—The County Manager may allow a ~~m~~Mobile ~~f~~Food ~~u~~Unit or ~~l~~Limited  
18 ~~s~~Service ~~m~~Mobile ~~f~~Food ~~u~~Unit to operate from a ~~b~~Base of ~~e~~Operation located outside the  
19 County of Arlington if the ~~b~~Base of ~~e~~Operation meets basic sanitation requirements and is  
20 licensed by another jurisdiction.

21  
22 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
23 effective 7-1-10)

24  
25  
26 **ARTICLE III. COMPLIANCE PROCEDURES**

27  
28 § 9.2-3.1. Licenses for ~~f~~Food ~~e~~Establishments.

29  
30 (a) No person shall operate a ~~f~~Food ~~e~~Establishment who does not have a valid  
31 ~~l~~License issued to him by the County Manager. Only a person who complies with the  
32 requirements of this Chapter ~~shall~~may be entitled to receive or retain ~~such~~ a ~~l~~License. Licenses  
33 are not transferable.

34  
35 (b) An annual application fee of one hundred dollars (\$100.00) shall be assessed for  
36 each licensed ~~f~~Food ~~e~~Establishment. Such fee shall not be applicable to ~~f~~Food ~~e~~Establishments  
37 operated by the Arlington County Public Schools; however, such fees shall apply to private  
38 vendors subcontracted by the County to operate ~~f~~Food ~~e~~Establishments. The annual fee, with the  
39 exception of mobile units, shall be based on a calendar year and shall be due and payable in the  
40 month of December or upon initial application. The annual fee for mobile units shall be due and  
41 payable in the month of June or upon initial application. The application fee shall not be  
42 prorated. An additional fee of twenty-five dollars (\$25.00) shall be assessed for ~~f~~Food  
43 ~~e~~Establishment renewal applications received after December 31 and for mobile unit renewal  
44 applications received after June 30 of the then-current calendar year.

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

4  
5 (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;  
6 Ord. No. 08-20, 10-18-08, effective 11-1-08; Ord. No. 10-\_\_, 6-12-10, effective 7-1-10)

7  
8  
9 § 9.2-3.2. Exemption.

10  
11 The County Manager may exempt coffee and related beverage service and service areas  
12 and such one-time events or affairs from such provisions or requirements of this Chapter as the  
13 County Manager may deem advisable upon determining that the operation of such service,  
14 service areas, events or affairs will not adversely affect the public health.

15  
16 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06)

17  
18  
19 § 9.2-3.3. Food ~~m~~Manager ~~e~~Certificate and ~~r~~Responsibility.

20  
21 (a) It shall be unlawful to operate a ~~f~~Food ~~e~~Establishment unless it is under the  
22 immediate control of a ~~e~~Certified ~~f~~Food ~~m~~Manager; provided, however, that a ~~l~~Limited ~~f~~Food  
23 ~~e~~Establishment shallwill not be in violation of this subsection if ~~#~~that Limited Food  
24 Establishment is under the immediate control of a ~~e~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager.

25  
26 (b) The ~~e~~Certified Food Manager or ~~e~~Certified Limited Food Manager shall be  
27 responsible for training food service personnel in sanitary food-handling techniques and proper  
28 methods of food protection, and for ensuring that good public health and food protection  
29 practices and sanitary techniques in manufacturing, storing, serving and transporting foods are  
30 used at all times on the premises under his control.

31  
32 (c) ~~Except that a~~Temporary ~~f~~Food ~~e~~Establishments shall not be required to be under  
33 the immediate control of a ~~e~~Certified ~~f~~Food ~~m~~Manager or ~~e~~Certified ~~l~~Limited ~~f~~Food ~~m~~Manager.

34  
35 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_, 6-12-10,  
36 effective 7-1-10)

37  
38  
39 § 9.2-3.4. Issuance of Food Manager Certificate.

40  
41 (a) Any person desiring to obtain a ~~e~~Certificate required by ~~Section~~§ 9.2-3.3 shall  
42 apply in writing on forms provided or accepted by the County Manager. Such application shall  
43 include the name and address of the applicant, and the signature of the applicant.

44  
45 (1)——The County Manager may, by a specific contract, issued in accordance  
46 with appropriate administrative procedures, designate a private vendor to issue, on the

1 County Manager's behalf, a food manager eCertificate to any person who successfully  
2 complies with the provisions of this Chapter.

3  
4 (b) A food manager eCertificate shall be issued only to a person who has passed a  
5 food manager certification examination from a food protection manager certification program  
6 that is evaluated and listed by an accrediting agency recognized by the Conference for Food  
7 Protection.

8  
9 (c) A food manager eCertificate shall be issued in the name of the individual  
10 applicant, shall not be assignable or transferable, shall be valid for a period of five (5) years from  
11 the date of notification of the successful completion of an approved exam and shall remain the  
12 property of the issuing authority.

13  
14 (d) A food manager eCertificated shall ~~may~~ be renewed for a five (5) year period upon  
15 the holder passing a food manager certification examination ~~from~~ administered by a food  
16 protection manager certification program that is evaluated and listed by an accrediting agency  
17 recognized by the Conference for Food Protection.

18  
19 (e) A limited food manager eCertificate shall be issued only to a person who has  
20 passed a limited food manager certification examination approved by the County Manager.

21  
22 (f) A limited food manager eCertificate shall be issued in the name of an individual  
23 applicant, shall not be assignable or transferable, shall be valid only for a period of five (5) years  
24 from the date of notification of the successful completion of the approved exam and shall remain  
25 the property of the issuing authority.

26  
27 (g) A limited food manager eCertificate shall ~~may~~ be renewed for a five (5) year  
28 period upon the holder passing a limited food manager certification examination approved by the  
29 County Manager.

30  
31 (h) If ~~the-an~~ applicant's eCertificate has been revoked or suspended during the  
32 preceding five (5) years, the applicant shall retake and pass either a food manager certification  
33 examination from a food protection manager certification program that is evaluated and listed by  
34 an accrediting agency recognized by the Conference for Food Protection or a limited food  
35 manager certification examination approved by the County Manager, whichever is deemed  
36 appropriate by the County Manager.

37  
38 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
39 effective 7-1-10)

40  
41  
42 § 9.2-3.5. Suspension of HLicense or eCertificate in eEmergencies.

43  
44 (a) If he deems an emergency to exist, the County Manager may, without warning,  
45 notice or hearing, order the suspension of any HLicense or eCertificate issued ~~under~~ pursuant to  
46 this Chapter if the holder of the HLicense or eCertificate does not comply with the requirements

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

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

21  
22 (c) The County Manager, in lieu of suspending a ~~H~~License, may suspend the  
23 applicability of the ~~H~~License to a specific commissary or specific products.

24  
25 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
26 effective 7-1-10)

27  
28  
29 § 9.2-3.6. Revocation of ~~H~~License or ~~e~~Certificate.

30  
31 (a) The County Manager may, after providing the opportunity for a hearing, order the  
32 revocation of a ~~H~~License or ~~e~~Certificate issued ~~under~~pursuant to this Chapter for serious or  
33 repeated violations of any of the requirements of this Chapter or for interference with the County  
34 Manager in the performance of his duty.

35  
36 (b) Prior to ordering the revocation, the County Manager shall notify, in writing, the  
37 holder of the ~~H~~License or ~~e~~Certificate or the ~~p~~Person in ~~e~~Charge of the specific reasons for which  
38 the ~~H~~License or ~~e~~Certificate is to be revoked, and that the ~~H~~License or ~~e~~Certificate shall be  
39 revoked on the tenth (10<sup>th</sup>) day following service of the notice unless a written request for a  
40 hearing is filed with the County Manager by the holder of the ~~H~~License or ~~e~~Certificate within  
41 such ten (10) day period. If no request for a hearing is filed within the ten (10) day period, the  
42 ~~H~~License or ~~e~~Certificate shall be revoked by order of the County Manager and the revocation  
43 shall be final.

44  
45 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
46 effective 7-1-10)

1  
2  
3 § 9.2-3.7. Service of ~~n~~Notices.  
4

5 A notice required by this Chapter is properly served when it is delivered to the holder of  
6 the HLicense or eCertificate or to the pPerson in eCharge, or when it is sent by registered or  
7 certified mail, return receipt requested, to the last known address of the holder of the HLicense or  
8 eCertificate. A copy of the notice shall be filed with the records of the ~~Health Department~~Public  
9 Health Division of the Arlington County Department of Human Services.

10  
11 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
12 effective 7-1-10)  
13

14  
15 § 9.2-3.8. Closing of ~~f~~Food eEstablishments.  
16

17 The County Manager shall order the closure of (i) any fFood eEstablishment which is  
18 operated without the HLicense required by ~~Section~~§ 9.2-3.1, or is operated without a eCertified  
19 fFood manager being in control as required by ~~Section~~§ 9.2-3.3. The closure order shall be in  
20 writing, shall specifically state the reason for the closure and shall clearly specify the compliance  
21 requirements necessary to have the order rescinded. The Sheriff of ~~the~~Arlington County shall  
22 enforce the closure order until it is rescinded by the County Manager in writing. Upon receipt of  
23 satisfactory proof of compliance with the written requirements set forth in the closure order, the  
24 County Manager shall immediately issue a written rescission of the order.  
25

26 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
27 effective 7-1-10)  
28

29  
30 § 9.2-3.9. Hearings.  
31

32 The hearings provided for in this Chapter shall be conducted by the County Manager at a  
33 time and place designated by him. Any oral testimony given at a hearing shall be reported or  
34 recorded. The County Manager shall make a finding based upon the hearing record and shall  
35 issue, sustain, modify or rescind any notice or order considered in the hearing. A written report  
36 of the hearing decision shall be furnished by the County Manager to the holder of the HLicense or  
37 eCertificate ~~by the County Manager.~~  
38

39 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
40 effective 7-1-10)  
41

42  
43 § 9.2-3.10. Application after ~~r~~Revocation.  
44

45 Whenever a revocation of a HLicense or eCertificate has become final, the holder of the  
46 revoked HLicense or eCertificate may submit a written application for a new HLicense or

1 eCertificate. The ~~f~~Food eEstablishment for which an application for a new ~~permit~~License is  
2 submitted after revocation shall meet all applicable provisions of this Chapter.

3  
4 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10- , 6-12-10,  
5 effective 7-1-10)

6  
7  
8 **ARTICLE IV. PENALTIES**

9  
10 § 9.2-4.1. Penalties, ~~i~~njunction, eCivil ~~p~~Penalties and eCharges for ~~v~~Violations.

11  
12 (a) Any person willfully violating, or refusing, failing, or neglecting to comply with  
13 any provision of the ~~FDA~~Food Code, or order of the County Manager, or any provision of this  
14 Chapter, shall be guilty of a Class 3 misdemeanor unless a different penalty is specified. Each  
15 day of violation shall constitute a separate offense.

16  
17 (b) Any person violating, or failing, neglecting, or refusing to obey any provision of  
18 the ~~FDA~~Food Code, or any lawful order of the County Manager, or any provision of this  
19 Chapter, may be compelled in a proceeding instituted in an appropriate court by the County  
20 Manager to obey and comply with such provisions of the ~~FDA~~Food Code, order of the County  
21 Manager, or provision of this Chapter. The proceeding may be by injunction, mandamus, or  
22 other appropriate remedy.

23  
24 (c) Without limiting the remedies which may be obtained pursuant to subsection (b)  
25 of this section, any person violating or failing, neglecting, or refusing to obey any injunction,  
26 writ of mandamus, or other remedy obtained pursuant to subsection (b) shall be subject, in the  
27 discretion of the court, to a civil penalty not to exceed ten thousand dollars (\$10,000.00) for each  
28 violation. Each day of violation shall constitute a separate offense.

29  
30 (d) With the consent of any person who has violated or failed, neglected, or refused to  
31 obey any provision of the ~~FDA~~Food Code, or order of the County Manager, or any provision of  
32 this Chapter, the County Manager may provide, in an order issued by the County Manager  
33 against such person, for the payment of civil charges for past violations in specific sums not to  
34 exceed the limit set forth in subsection (c) of this section. Such civil charges shall be in place of  
35 any appropriate civil penalty which could be imposed ~~under~~pursuant to subsection (c).

36  
37 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10- , 6-12-10,  
38 effective 7-1-10)

39  
40  
41 **ARTICLE V. REVIEW OF PLANS AND SPECIFICATIONS**

42  
43 § 9.2-5.1. Submission of ~~p~~Plans, sSpecifications and other data; ~~i~~nspection prior to eOperation;  
44 ~~f~~Fees.

1 (a) Whenever a ~~f~~Food ~~e~~Establishment is constructed or remodeled or whenever an  
2 existing structure is converted to use as a ~~f~~Food ~~e~~Establishment, plans and specifications for such  
3 construction, remodeling, or conversion shall be submitted to the County Manager for his review  
4 prior to commencement of such construction, remodeling or conversion. The County Manager  
5 shall verify that the plans and specifications conform to the requirements of this Chapter and the  
6 ~~FDA~~Food Code. The plans and specifications shall include the intended menu, anticipated  
7 volume of food to be stored, prepared, and sold or served, the proposed layout and arrangement  
8 of the facilities, plumbing plans, mechanical plans, electrical plans, finish schedules, lighting  
9 schedules, and the types, model numbers, locations, dimensions, performance capacities and  
10 installation specifications of proposed fixed equipment and facilities. The County Manager may  
11 require additional plans or information, as needed, depending on the nature and extent of the  
12 proposed construction, remodeling or conversion. The County Manager shall approve the plans  
13 and specifications if they meet the requirements of this Chapter and the ~~FDA~~Food Code. The  
14 County Manager's approval of any plans or specifications shall not ~~be viewed to be~~ constitute a  
15 determination that ~~said~~ the plans or specifications are free from error. The owner shall have final  
16 responsibility for the accuracy and completeness of the plans and specifications, as well as for  
17 subsequent construction and installation. No ~~f~~Food ~~e~~Establishment shall be constructed,  
18 remodeled or converted except in accordance with plans and specifications approved by the  
19 County Manager.  
20

21 (b) Whenever plans and specifications are required to be submitted and approved, the  
22 County Manager shall inspect the ~~f~~Food ~~e~~Establishment prior to its beginning operation in order  
23 to determine compliance with the approved plans and specifications and with the requirements  
24 contained in this Chapter and the Food Code.  
25

26 (c) A fee of two hundred dollars (\$200.00) shall be paid to the ~~County~~  
27 Manager/Treasurer of Arlington County upon submission of plans.  
28

29 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
30 effective 7-1-10)  
31

32  
33 § 9.2-5.2. ~~Affect~~Effect of ~~r~~Repeal.  
34

35 The repeal of Chapter 9.2 shall not affect any act, duty, penalty, requirement, right,  
36 obligation or offense established ~~under~~pursuant to Chapter 9.2 which was pending prior to the  
37 date of the repeal of Chapter 9.2.  
38

39 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
40 effective 7-1-10)  
41

42  
43 § 9.2-5.3. Validity of Chapter.  
44

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

1 affect any other provision or application of this Chapter which can be given effect without the  
2 invalid provision or application.  
3  
4 (Ord. No. 02-16, 6-22-02; Ord. No. 06-09, 6-10-06, effective 7-1-06; Ord. No. 10-\_\_\_, 6-12-10,  
5 effective 7-1-10)