



# ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of September 25, 2010**

**DATE:** September 15, 2010

**SUBJECT:** Request to Advertise an Ordinance to Amend Chapter 9.2 of the Arlington County Code (Food and Food Handling Code)

**C. M. RECOMMENDATION:**

Authorize advertisement for a public hearing by the County Board on October 23, 2010, to consider a proposed ordinance amendment to Chapter 9.2 of the Arlington County Code to increase the application fee for food establishment licenses from \$100.00 to \$285.00.

**ISSUES:** An ordinance amendment is required to increase the fee set forth in § 9.2-3.1 of the County Code. No issues have been identified.

**SUMMARY:** The Virginia Department of Health increased the application fee from \$100.00 to \$285.00 effective July 1, 2010. Every jurisdiction in Virginia except Arlington County has adopted this fee increase. Arlington County’s Public Health Division is locally administered and requires County Board approval to adopt the state increase.

**BACKGROUND:** The Public Health Division of the Department of Human Services licenses and regulates food service establishments in Arlington County by local ordinance. Each food establishment is required to obtain a license that is renewed annually. The application processing fee for each license is currently \$100.00. The Public Health Division proposes to increase the fee to \$285.00. The application fee was last increased in 2008.

In 1998, the County Board established a \$25 application processing fee to partially offset the costs of updating the Division’s database, providing a new risk assessment, and issuing an annual license to all food service establishments. The fee remained \$25 until 2002.

During the 2002 session of the Virginia General Assembly, the General Assembly enacted that year’s Appropriations Act, which authorized the State Health Commissioner to collect an annual fee of \$40 for all restaurants licensed in the state. All 35 Health Districts in Virginia, including

County Manager:			
County Attorney:			<b>47.</b>
Staff: Evelyn Poppell, Public Health, DHS, Erica Thompson, Public Health, DHS Lyn Hainge, Public Health, DHS, Reuben Varghese, Public Health, DHS			

the Arlington County Public Health Division, were expected to collect this new fee. State funding to all health districts was reduced in anticipation of funds generated by this new fee.

Since 2002, the Commonwealth has increased restaurant inspection fees twice and Arlington has followed suit to offset state funding reductions (see Table 1):

**Table 1: Restaurant Application Fees for Food Service Establishments by Year**

<b>Year</b>	<b>Application Fee</b>
1998 – 2001	\$ 25 (Arlington enacted fee locally)
2002	\$ 40 (State increase adopted by Arlington)
2003-2004	\$ 60 (Arlington enacted fee locally)
2005 – 2007	\$ 65 (Arlington enacted fee locally)
2008 – 2010	\$100 (State increase adopted by Arlington)*
2011 →	\$285 (State increase which Arlington proposes to adopt)

\*In 2008, for any locality that previously had a local permit/license fee as of January 1, 2008, the combination of local fee and state fee was capped at \$100.

The 2010 General Assembly authorized the State Health Commissioner to increase restaurant inspections again (2010 Appropriations Act [House of Delegates Bill 30]). The State Health Commissioner changed the fee to \$285 to more closely reflect the cost of inspecting and licensing food service establishments. All 35 Health Districts in Virginia, including Arlington, are expected by the Commonwealth to collect this new fee.

State funding to all health districts for fiscal year 2011 has already been reduced to reflect the revenue the Commonwealth expects will be collected with this new fee. The Commonwealth has already reduced fiscal year 2011 state funding to Arlington by \$99,245 to reflect this fee increase.

Thirty-three (33) of 35 health districts began charging the \$285.00 fee on July 1, 2010, as they are state-operated health districts and can implement fee changes without local government action. Fairfax County and Arlington County are the only two locally-administered health districts in the Commonwealth. By local ordinance, these two counties must adopt any fee increases before collection can begin. Fairfax County adopted the \$285 fee effective July 1, 2010.

Arlington County is the only jurisdiction in Virginia that has not increased its fee to \$285.

**DISCUSSION:** The Virginia Department of Health provides annual funding to all state-operated local health departments in Virginia in a cooperative manner with the locality, referred to as the Cooperative or CO-OP Budget. This roughly translates to a 55/45 split between the Commonwealth and the locality, up to a dollar cap for the state share. The Virginia Department of Health also provides CO-OP Budget funds to the two locally-administered health departments, Fairfax and Arlington. The state share of the CO-OP budget for the Arlington County Public Health Division for fiscal year 2011 is ~\$2,810,806. The County CO-OP budget share is ~\$2,299,750 in fiscal year 2011.

The Virginia Department of Health has already reduced its fiscal year 2011 CO-OP Budget allocation to Arlington County by \$99,245, with the expectation that Arlington will collect the new \$285 flat fee at restaurant (re)licensure time, which occurs at the end of each calendar year.

With the proposed increase from \$100 to \$285, Arlington County will align its fee structure with the remainder of the localities in the Commonwealth, but will still charge less than surrounding jurisdictions (see Table 2):

**Table 2: Health Department Food Establishment Licensure Fee Regional Comparisons**

<b>Health Department</b>	<b>Current Fee</b>
Arlington, VA*	\$100
Alexandria, VA	\$285
Fairfax, VA	\$285
Loudoun, VA	\$285
Prince William, VA	\$285
Montgomery County, MD	\$365-\$440 (based on # of seats)
Prince George’s County, MD	\$225-\$325-\$425 (based on risk)
District of Columbia	\$441-\$669 (based on # of seats)

\*The proposed fee still does not reflect actual service delivery cost but is the maximum allowed by the state.

NOTE: The \$285 fee would only apply to permanent food establishments (see Table 3).

**Table 3: Food Service Establishment Type and Number, and Current and Proposed Fees\***

<b>Food Service Establishment</b>	<b>Number</b>	<b>Current Fee</b>	<b>Proposed Fee</b>
Permanent food establishments	~ 1,100	\$100	\$285
Temporary food establishments (e.g., festivals)	~ <b>300</b>	\$100	\$100
Mobile food establishments (e.g., food carts)	~ <b>80</b>	\$100	\$100

\*All food establishment types (permanent, temporary, and mobile) licenses expire at the end of each calendar year and are renewed on an annual basis.

The state increase does not apply to temporary or mobile food establishments. This was done to preserve and encourage local special events in the community.

The Public Health Division had previously alerted the public and Arlington County food establishment owners and operators of the anticipated change. An official notification was sent (see attachment) on September 15, 2010. No issues have been identified to date.

**FISCAL IMPACT:** The proposed fee increase is projected to generate additional fee revenue (101.347153) of approximately \$203,500 (~ 1,100 food establishments x \$185 fee *increase*). The fee increase will offset the \$99,245 revenue reduction from the Commonwealth’s CO-OP budget allocation to Arlington (101.364101). Due to the 55%/45% (Commonwealth/Local) funding split required by the CO-OP budget agreement, net tax support of CO-OP programs will decrease by \$81,200.

**AN ORDINANCE TO AMEND CHAPTER 9.2 (FOOD AND FOOD HANDLING CODE) OF THE ARLINGTON COUNTY CODE TO INCREASE THE APPLICATION FEE FOR A FOOD ESTABLISHMENT LICENSE.**

**BE IT ORDAINED that Chapter 9.2 of the Arlington County Code is amended and reenacted as follows, effective on the date of adoption of this ordinance:**

\* \* \*

§ 9.2-3.1. Licenses for Food Establishments.

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

(b) An annual application fee of ~~one hundred dollars (\$100.00)~~two hundred eighty-five dollars (\$285.00) shall be assessed for each permanent licensed Food Establishment. A person who operates a temporary Food Establishment at a local festival, fair, or other special event and who is not otherwise licensed to operate a Food Establishment pursuant to this section shall be assessed an annual application fee of one hundred dollars (\$100.00). Mobile Food Units and Limited Service Mobile Food Units shall be assessed an annual application fee of one hundred dollars (\$100.00). Such fees shall not be applicable to Food Establishments operated by the Arlington County Public Schools; however, such fees shall apply to private vendors subcontracted by the County to operate Food Establishments. The annual fees, 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 Food 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 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 § 9.2-3.8.

\* \* \*

(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.

10-17, 6-15-10, effective 7-1-10; Ord. No. 10-\_\_\_, \_\_\_-\_\_\_-10, effective \_\_\_-\_\_\_-10)



DEPARTMENT OF HUMAN SERVICES  
Public Health Division – Community Health Protection Bureau  
800 S. Walter Reed Dr., Arlington, VA 22204  
TEL 703-228-5200 FAX 703-228-5267 [www.arlingtonva.us](http://www.arlingtonva.us)

TO: All Arlington County Food Establishment Owners and Operators

FROM: Evelyn Poppell, Bureau Chief  
Community Health Protection Bureau  
Arlington County Public Health Division

SUBJECT: **Application Processing Fee Increase – Food Establishment and Hotel Licenses**

DATE: September 15, 2010

I am writing to notify you that the Arlington County Public Health Division will ask the County Board to revise Chapter 9.2 of the Arlington County Code to:

**Increase the annual application-processing fee for food establishments and hotels from \$100 to \$285 on November 1, 2010. Such permits will be due for renewal after December 31, 2010.**

The new fees are a result of the 2010 Appropriations Act (House of Delegates Bill 30) and are intended to more closely reflect the cost of permitting and inspecting food establishments. The Act provided the authority for the Commissioner of Health to increase the annual application fees for establishments that are subject to inspection. A joint decision by the Commissioner of Health and Secretary of Health and Human Resources was reached to change the fees across the entire Commonwealth of Virginia. The State has already withheld approximately \$99,245 from the local budget, which is a portion of the amount they estimate that Arlington County should receive from this fee increase. Other localities in Virginia began charging the \$285.00 fee on July 1, 2010.

The proposed increase, if adopted by the County Board, would be applicable to permanent food establishments within Arlington County. To preserve local events within the community, individuals who participate in a local festival, fair, or other community temporary event where food is sold would not be subject to the higher fee. The current \$100 fee will remain unchanged at this time for those special events as well as for mobile units who operate in Arlington County.

It is expected that the County Board will consider this proposed ordinance amendment at its meetings in September and October. If you have questions or comments about the change, please call (703) 228-7400 or email [health@arlingtonva.us](mailto:health@arlingtonva.us).