



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of October 23, 2010**

DATE: September 29, 2010

SUBJECT: Adopt Amendment to Chapter 9.2 of the Arlington County Code (Food and Food Handling Code)

C. M. RECOMMENDATION:

Adopt ordinance amendments to Chapter 9.2 of the Arlington County Code to increase the annual licensure fee for permanent and mobile food establishment licenses from \$100.00 to \$285.00.

ISSUES: The Virginia State Health Commissioner has increased the food establishment licensing 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 required to collect this new fee. An ordinance amendment is required to increase the fees set forth in § 9.2-3.1 of the County Code.

BACKGROUND: The Arlington County 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 only establishments exempt from this requirement are temporary food establishments. The application processing fee for each license is currently \$100.00. The Public Health Division proposes to increase the fee for permanent and mobile food establishment licenses to \$285.00, to comply with the Commissioner's order. The application fees were last increased in 2008.

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

County Manager:

County Attorney:

BRC

Staff: Evelyn Poppell, Public Health, DHS
Erica Thompson, Public Health, DHS
Lyn Hainge, Public Health, DHS
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During the 2002 Virginia legislative session, the Virginia General Assembly enacted the Appropriations Act, which authorized the State Health Commissioner to collect an annual license renewal fee of \$40 for all food establishments licensed in the state. All 35 Health Districts in Virginia, including the Arlington County Public Health Division, were expected to collect this new fee. State funding to all health districts was reduced in anticipation of new funds generated by that new fee.

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

Table 1: Licensure Fees for Food Service Establishments by Year

Year	Licensure Fee
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)

*For any locality that previously had a local license fee, as of January 1, 2008, the fee charged to food service establishments can not exceed the fee set by the state.

The 2010 General Assembly authorized the State Health Commissioner to increase food establishment licensure fees again (2010 Appropriations Act [House of Delegates Bill 30], Chapter 874, Item 287). The State Health Commissioner changed the fee to \$285 to more closely reflect the cost of inspecting and licensing food establishments. All 35 Health Districts in Virginia, including Arlington County, are required to collect this new fee.

State funding to all health districts for fiscal year 2011 has already been reduced to reflect the revenue that the Commonwealth expects will be collected by localities with this increased 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 has already adopted the \$285 fee effective July 1, 2010.

Arlington County is the only jurisdiction in Virginia that has not raised 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 increased \$285 fee at food establishment re-licensure time, which occurs at the end of each calendar year for permanent food establishments, and in June for mobile food establishments.

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 non-Virginia jurisdictions (see Table 2):

Table 2: Health Department Food Establishment Licensure Fee Regional Comparisons

Health Department	Current Fee
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 will not apply to temporary food establishments (see Table 3).

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

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

* * Permanent and temporary food establishment licenses expire at the end of each calendar year. Mobile licenses expire on June 30 each year. All licenses are renewed on an annual basis.

The state increase does not apply to temporary food establishments.

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 on September 15, 2010, in anticipation of these amendments appearing on the October 23, 2010, agenda of the County Board.

No issues have been identified to date.

FISCAL IMPACT: The proposed fee increase is projected to generate an increase in fee revenue of approximately \$218,300 (1,180 food establishments x \$185 fee increase). This revenue will offset the reduction in the Commonwealth's CO-OP budget allocation to Arlington.

AN ORDINANCE TO AMEND AND REENACT A PORTION OF 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 § 9.2-3.1 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 licensed Food Establishment, Limited Food Establishment, Limited Service Mobile Food Unit, and Mobile Food Unit. 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, Limited Food Establishment, Limited Service Mobile Food Unit or Mobile Food Unit pursuant to this section shall be assessed an annual application fee of one hundred dollars (\$100.00). Such fees shall not be applicable to Food Establishments, Limited Food Establishments, Limited Service Mobile Food Units, and Mobile Food Units operated by the Arlington County Public Schools; however, such fees shall apply to private vendors subcontracted by the County to operate Food Establishments, Limited Food Establishments, Limited Service Mobile Food Units, and Mobile Food Units. The annual fee 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 ~~m~~Mobile u~~Units and Limited Service Mobile Food 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, Limited Food Establishment, Limited Service Mobile Food Unit, and Mobile Food Unit renewal applications received after December 31, and for ~~m~~Mobile u~~Unit and Limited Service Mobile Food 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-__, 6-12-10, effective 7-1-10; Ord. No. 10-__, __-__-10, effective __-__-10)

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