



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of October 15, 2011

DATE: September 23, 2011

SUBJECT: Adoption of Amendments to Chapter 9.2 of the Arlington County Code (Food and Food Handling Code)

C. M. RECOMMENDATION:

Adopt amendments to Chapter 9.2 of the Arlington County Code to decrease the annual licensure fees and plan-review fees for all food establishments from \$285.00 to \$40.00.

ISSUES: Amendments to the Food and Food Handling Code are needed to modify the licensure and plan-review fees for food establishments that are set forth in §§ 9.2-10 and 9.2-21 of the County Code. The fiscal impact was anticipated and previously accounted for in the approved FY2012 budget for the Department of Human Services and its Public Health Division. No issues have been identified.

SUMMARY: The Virginia General Assembly lowered the licensure fee for permanent food establishments to \$40 as part of FY2012 state budget amendments. These changes were signed into law at the state level by the Governor. The County Board adopted the fee reduction on an emergency basis on July 9, 2011. The public hearing regarding the proposed amendments was advertised on September 20 and 27, 2011. The Board's adoption of amendments to Chapter 9.2 will reconcile the County Code with licensure fees established by the General Assembly.

BACKGROUND: Pursuant to Chapter 9.2 of the County Code, the County Manager licenses and regulates food-service establishments in Arlington County. Each food-service establishment is required to obtain a license that must be renewed annually. In the 2011 legislative session, the General Assembly authorized - and the Commissioner of Health developed - maximum food establishment plan review and licensing fees of \$40 each. The licensure fee for each establishment is currently set at \$285 in the County Code. The fee of \$285 was set by the County Board in October 2010 after the General Assembly and the Commissioner of Health authorized and developed a statewide fee of \$285. It is that \$285 state fee that has been reduced.

On June 2, 2011, the Virginia Commissioner of Health and Secretary of Health and Human Resources developed modified fees of \$40 for plan review and \$40 for licensing across the entire

County Manager:

BMD/kma

County Attorney:

BRC

[Signature]

Staff: Evelyn Poppell, Public Health, DHS
Erica Thompson, Public Health, DHS
Lyn Hainge, Public Health, DHS
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Commonwealth, effective July 1, 2011. The Department of Human Services has been applying the \$40 fee since July 1, 2011. Arlington County, although a locally-administered health district, charges the food establishment plan review and licensure fees used by the Virginia Department of Health, without exception. The licensure fee and plan review apply to all food establishments (permanent, mobile, and temporary).

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. The reduction from the Arlington local cooperative budget was expected by County staff and was already accounted for in the approved FY 2012 budget for the Department of Human Services. The ordinance that the Board is asked to enact is attached hereto as **Attachment 1**.

On July 9, 2011, the County Board adopted these ordinance amendments on an emergency basis, and the action now recommended to the County Board by the County Manager will make these amendments permanent.

FISCAL IMPACT: None. The reduction was already accounted for in the FY 2012 budget.

AN ORDINANCE TO AMEND AND RE-ENACT §§ 9.2-10 and 9.2-21 OF THE CODE OF ARLINGTON COUNTY, VIRGINIA, CONCERNING THE LICENSURE AND PLAN-REVIEW FEES CHARGED TO FOOD ESTABLISHMENTS, TO TAKE EFFECT UPON ENACTMENT.

- I. **BE IT ORDAINED** that Chapter 9.2, Article III, Section 10, of the Arlington County Code is amended, reenacted, and recodified as follows, effective upon the enactment of this ordinance:

Chapter 9.2

FOOD AND FOOD HANDLING CODE

ARTICLE III.

COMPLIANCE PROCEDURES

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§ 9.2-10. 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 or annual License renewal fee of ~~two hundred eighty-five~~ forty dollars (~~\$285~~40.00) 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 or annual License renewal fee of ~~one hundred~~ forty dollars (~~\$100~~40.00). 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~~ fees specified above for Food Establishment and Limited Food Establishments shall be ~~based~~ assessed on a calendar-year basis and shall be due and payable in the month of December or upon initial application. The annual fee specified above for Mobile Food Units and Limited Service Mobile Food Units shall be due and payable in the month of June or upon initial application. ~~The~~ Neither an application fee nor a License renewal fee shall ~~not~~ be prorated. An additional fee of twenty-five dollars (\$25.00) shall be assessed for Food Establishment; and Limited Food Establishment; Limited Service Mobile Food Unit, and Mobile Food Unit renewal applications received after December 31, and for Mobile Food 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 issuance or renewal of their respective ~~L~~ licenses will be operating without a valid ~~L~~ license and will be subject to immediate closure in accordance with § 9.2-~~173~~8.

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- II. **BE IT ORDAINED** that Chapter 9.2, Article V, Section 21, of the Arlington County Code is amended, reenacted, and recodified as follows, effective upon the enactment of this ordinance:

Chapter 9.2

FOOD AND FOOD HANDLING CODE

ARTICLE V.

REVIEW OF PLANS AND SPECIFICATIONS

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§ 9.2-21. Submission of Plans, Specifications and Other Data; Inspection prior to Operation; Fees.

A. Whenever a Food Establishment is constructed or remodeled or whenever an existing structure is converted to use as a Food 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 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 Food Code. The County Manager's approval of any plans or specifications shall not constitute a determination that 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 Food 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 Food Establishment prior to it 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 plan and specification review fee of two hundred forty dollars (\$20040.00) shall be paid by the applicant to the Treasurer of Arlington County upon an applicant's submission of plans or specifications.

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- III. The remaining sections and subsections of Chapter 9.2 of the Code of Arlington not amended hereby shall remain in effect as previously enacted.