

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend and reordain Section 11-2-3 (ADOPTION OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION/PUBLIC HEALTH SERVICE 2005 FOOD CODE), Section 11-2-4 (DEFINITIONS) and Section 11-2-5 (MODIFICATIONS TO FDA FOOD CODE) of Article A (GENERAL PROVISIONS) and Section 11-2-51 (SUBMISSION OF PLANS, SPECIFICATIONS AND OTHER DATA; INSPECTION PRIOR TO OPERATION; FEES) of Article E (REVIEW OF PLANS AND SPECIFICATIONS) of Chapter 2 (FOOD AND FOOD ESTABLISHMENTS), Title 11 (HEALTH, ENVIRONMENTAL AND SANITARY REGULATIONS) of The Code of the City of Alexandria, Virginia, 1981, as amended.

WHEREAS, the health and safety of the public requires the regulation of food and food establishments located within the City of Alexandria; and

WHEREAS, existing provisions of the city code that safeguard public health in food establishments are based upon the 2005 Model Food Code of the United States Food and Drug Administration ("FDA"); and

WHEREAS, the FDA intends that its Model Food Code be updated and revised every four years, in order to incorporate the most current scientific knowledge and new technologies in the food packaging and food service industries; and

WHEREAS, the FDA has recently promulgated its 2009 Model Food Code, which incorporates nationally recognized public health standards designed to provide the greatest possible protection from and prevention of infectious and non-infectious food-borne diseases; and

WHEREAS, the regulatory scheme set out in the 2009 FDA Model Food Code is presently employed in numerous food industries, as well as the meat and poultry inspection systems of the federal government, and has been endorsed by the National Conference for Food Protection and the National Restaurant Association; and

WHEREAS, a new definition of "limited food establishment" is needed to reflect the wider array of food products and food preparation processes now being served in limited food establishments; and

WHEREAS, assessment of the food safety knowledge of Certified Food Managers should be required as part of the ongoing regulatory evaluation process,

WHEREAS, neighboring jurisdictions in Northern Virginia are planning to adopt the 2009 FDA Model Food Code, and the adoption of this code by the City of Alexandria will help to establish uniform standards for the regulation of food and food establishments in the region; now, therefore

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Subsection 11-2-3(a) of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 11-2-3 Adoption of the United States Food and Drug Administration/Public Health Service 2005<sup>9</sup> Food Code.

(a) Chapters 1 through 8, inclusive, and all appendices and annexes of the United States Food and Drug Administration/Public Health Service 2005<sup>9</sup> Food Code ("FDA Food Code, as adopted and promulgated by the United States Food and Drug Administration/Public Health Service ("FDA/USPHS"), including such chapters, appendices and annexes as may hereafter be amended from time to time, but excepting the portions of the FDA Food Code addressed in section 11-2-5(a)

and (b), 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 this chapter and the FDA Food Code, the provisions of this chapter shall control. When used in the FDA Food Code, the term "Health Authority" shall mean the director or his designee.

Section 2. That Subsection 11-2-4(g) of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 11-2-4 Definitions.

(g) "Limited food establishment" means a food establishment that serves only ~~hotdogs or frankfurter type foods, prepackaged foods or~~ foods that are not potentially hazardous ~~foods~~, require no preparation, or utilize a food preparation process that presents limited food safety risk as determined by the director.

Section 3. That Section 11-2-5 of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 11-2-5 Modifications to FDA Food Code.

(a) The portions of the FDA Food Code addressed in this subsection are not adopted by incorporation into this chapter. Rather, they are modified in the manner set out below, and their modified versions shall apply in the city:

~~(1) Paragraph 3-501.12 (A) of the FDA Food Code is modified to read as follows:  
Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less.~~

~~(2) Paragraph 3-501.13(A) of the FDA Food Code is modified to read as follows:  
Under refrigeration that maintains the FOOD temperature at 5°C (41°F) or less.~~

~~(3) Subparagraph 3-501.13(B)(3) of the FDA Food Code is modified to read as follows:  
For a period of time that does not allow thawed portions of READY TO EAT FOOD to rise above 5°C (41°F).~~

~~(4) Subparagraph 3-501.13(B)(4) of the FDA Food Code is modified to read as follows:  
For a period of time that does not allow thawed portions of a raw animal FOOD requiring cooking as specified under (3-401.11 (A) or (B) to be above 5°C (41°F) for more than four hours including:~~

~~(a) The time the food is exposed to the running water and the time needed for preparation for cooking, or~~

~~(b) The time it takes under refrigeration to lower the FOOD temperature to 5°C (41°F) as specified under Subparagraph 3-501.16(A)(2).~~

~~(5) Subparagraph 3-501.14(A)(2) of the FDA Food Code is modified to read as follows:  
Within a total of six hours from 57° (135°F) to 5°C (41°F) or less.~~

~~(6) Paragraph 3-501.14(B) of the FDA Food Code is modified to read as follows:  
POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) shall be cooled within four hours to 5°C (41°F) or less if prepared from ingredients at ambient temperature, such as reconstituted FOODS and canned tuna.~~

~~(7) Paragraph 3-501.14(C) of the FDA Food Code is modified to read as follows:  
Except as specified under ((D) of this regulation, a POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR SAFETY FOOD) received in compliance with LAWS allowing a temperature above 5°C (41°F) during shipment from the supplier as specified in (3-202.11(B), shall be cooled within four hours to 5°C (41°F) or less.~~

~~(8) Subparagraph 3-501.16(A)(2) of the FDA Food Code is modified to read as follows:  
At a temperature of 5°C (41°F) or less.~~

~~(9) Subparagraph 3-501.17(A)(1) of the FDA Food Code is modified to read as follows:  
5°C (41°F) or less for a maximum of seven days.~~

~~(401) Section 6-402.11 of the FDA Food Code is modified to read as follows:~~

Public toilet rooms shall be provided for CONSUMERS whenever seating for CONSUMERS is provided on the premises. CONSUMERS shall not be permitted to gain access to toilet rooms by passing through a kitchen, food preparation, food storage, or utensil washing area. Toilet rooms shall be conveniently located and accessible to EMPLOYEES during all hours of operation. Toilet rooms must be entirely separate and apart from any rooms or areas used for utensil washing or for the manufacture, storage, and handling of food products. Public and employee toilet facilities shall be installed according to and in the number required by the Virginia Uniform Statewide Building Code (VUSBC).

(442) Paragraph 8-304.10 (A) of the FDA Food Code is modified to read as follows:

A copy of the version of FDA Food Code adopted in Section 11-2-3 above shall be maintained for public inspection in the office of the Alexandria Health Department's Environmental Health Division. A link to the full text of the version of FDA Food Code adopted in Section 11-2-3 above shall be placed on the Alexandria Health Department's website.

(423) Paragraph 8-902.10(A) of Annex 1 of the FDA Food Code is modified to read as follows:

If admission to the PREMISES of a FOOD ESTABLISHMENT is denied or other circumstances exist that would justify an inspection order under 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.

(b) ~~Subparagraph 3-501.17(A)(2) and Paragraph 2-102.11(B) and Sections, 2-102.20 8-201.11, 8-201.12, and 8-303.10~~ of the FDA Food Code are not adopted or incorporated into this chapter and shall be of no effect in the city.

Section 4. That Subsection 11-2-51(a) of The Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended and reordained to read as follows:

Sec. 11-2-51 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 director for his review prior to commencement of such construction, remodeling or conversion. ~~The director 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 director may require additional plans or information, as needed, depending on the nature and extent of the proposed construction, remodeling or conversion.~~ The director shall approve the plans and specifications if they meet the requirements of this chapter and the FDA Food Code. The director's approval of any plans or specifications shall not be viewed to be a determination that said 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 director.~~

Section 5. That this ordinance shall become effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE, Mayor

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Second Hearing: May 15, 2010

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