

ORDINANCE NO. 2399

AN ORDINANCE to amend and reordain Section 15A-168, Division 8, Article X, Chapter 15A of The Code of the City of Alexandria, Virginia, 1963, as amended; which Chapter 15A relates to FOOD AND FOOD-HANDLING ESTABLISHMENTS, which Article X relates to COMPLIANCE PROCEDURES, which Division 8 relates to REMEDIES, which Section 15A-168 formerly related to APPEALS and which now relates to JUDICIAL REVIEW OF FINAL ORDERS, DECISIONS AND REGULATIONS.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 15A-168, Division 8, Article X, Chapter 15A of The Code of the City of Alexandria, Virginia, 1963, as amended, be and the same hereby is amended and re-ordained to read as follows:

Sec. 15A-168. Judicial review of final orders, decisions and regulations.

(a) Any person directly and either jointly or severally aggrieved by a final order or a final decision of the director is entitled to judicial review thereof under this chapter in the Circuit Court of the City of Alexandria.

(b) For the purposes of this section, only the following are deemed to be final orders or final decisions of the director under this chapter:

- (1) a decision to deny the grant of a permit, certificate or exemption applied for pursuant to section 15A-145;
- (2) a closure order issued pursuant to section 15A-149;
- (3) a hearing decision made pursuant to section 15A-150;
- (4) a decision to deny approval of plans and specifications, or any part thereof, submitted pursuant to section 15A-160;
- (5) an order made pursuant to section 15A-162; or
- (6) a decision to deny the approval required by section 15A-163.

(c) Proceedings for review shall be instituted by filing a notice of appeal and a petition for review with the court within thirty (30) days after the date of the final order or final decision and delivering a copy of the notice and the petition to the director. The filing of such an appeal shall not act to stay the order or the effect of the decision from which the appeal is taken. Within five (5) working days after receipt of the notice, the director shall file in the record of the suit a statement of the reasons, including any findings of fact and conclusions of law, upon which the order or decision appealed from was based. Further proceedings shall be in accordance with equity jurisprudence and procedure. The court may render its judgment upon the record or it may hear such additional evidence as it deems proper.

(d) The court may affirm the final order or final decision from which an appeal has been taken or it may remand the matter for further proceedings; or it may reverse or modify the order or

decision on appeal if the substantial rights of the appellant have been prejudiced because the findings, conclusions, reasons of the order or decision of the director are (1) in violation of constitutional provisions; (2) in excess of his or her lawful authority or jurisdiction; (3) made upon unlawful procedure; (4) affected by other error of law; (5) unsupported by the evidence on the record considered as a whole; or (6) arbitrary, capricious or an abuse of discretion.

(e) The validity of any regulation officially promulgated pursuant to section 15A-164 of this chapter may be determined upon petition for a declaratory judgment thereon addressed to the Circuit Court of the City of Alexandria by any person who might be adversely affected by its enforcement and who alleges that it is invalid and giving the ground or grounds relied upon for such allegation. The director shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the director to pass upon the validity of the regulation in question. The court shall declare the regulation invalid if it finds that it is (1) in violation of constitutional provisions; (2) in excess of the lawful authority or jurisdiction of the director; (3) made upon unlawful procedure; (4) affected by other error of law; (5) unsupported by the evidence on the record considered as a whole; or (6) arbitrary, capricious or an abuse of discretion. An appeal may be had from the decision of the court to the Supreme Court of Virginia as provided by law.

Section 2. That the title of and an informal memorandum explaining this ordinance shall be published in a newspaper of general circulation published in the city not later than five days following its introduction together with a notice containing the time and place for a public hearing. The city clerk shall have the full text of this ordinance printed in sufficient numbers to supply copies to meet request. The city clerk shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

CHARLES F. BEATLEY, JR.
Mayor

Introduction: 9/26/79
First Reading: 9/26/79
Publication: 9/29/79

Public Hearing: 10/13/79
Second Reading: 10/13/79
Final Passage: 10/13/79

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