

ORDINANCE NO. 4476

AN ORDINANCE to amend and reordain Section 11-2-3 (ADOPTION OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION/PUBLIC HEALTH SERVICE 1999 FOOD CODE) and Section 11-2-5 (MODIFICATIONS TO FDA FOOD CODE) of Article A (GENERAL PROVISIONS), Section 11-2-11 (GENERAL) of Article B (MOBILE UNITS), and Section 11-2-21 (PERMITS FOR FOOD ESTABLISHMENTS) and Section 11-2-25 (ISSUANCE OF FOOD MANAGER CERTIFICATE) of Article C (COMPLIANCE PROCEDURES) 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 govern the cleanliness and sanitation of food and food establishments are based upon the 1999 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 2005 Model Food Code, which incorporates nationally recognized health and sanitation 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 2005 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, the National Restaurant Association, and the Restaurant Association of Metropolitan Washington; and

WHEREAS, neighboring jurisdictions in Northern Virginia have adopted the 2005 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 Section 11-2-3 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 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 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.

(b) The director is hereby authorized to promulgate regulations consistent with this chapter that are designed to assist in the administration and enforcement of this chapter. In promulgating regulations, the director shall consider accepted standards of health, hygiene, sanitation, safety and physical plant management. Any regulations prepared by

the director shall not become effective until they have been presented to and approved by city council.

(c) A certified copy of the FDA Food Code shall be maintained by the director at the Environmental Health Division office of the health department and shall be available for review by members of the public.

**Section 2.** 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 4 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 6 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 4 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 4 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 7 days.

(10) 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).

(11) 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.

(12) Paragraph 8-802.10(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 Sections , 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 3.** That Section 11-2-11 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. 11-2-11 General.**

Mobile food units and limited service mobile food units shall comply with the requirements of this chapter. All mobile food units are to be clearly identified with the unit trade name and contact phone number conspicuously displayed on both sides and the back of the unit.

The permit issued under this chapter shall be posted in a conspicuous place so as to be visible to the public whenever the unit is not in motion.

**Section 4.** That Section 11-2-21 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. 11-2-21 Permits for food establishments.**

(a) No person shall operate a food establishment unless that person possesses a valid permit issued by the director. Only a person who complies with the requirements of this chapter shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every food establishment in a conspicuous place. Food establishment permits are issued for a calendar year and expire on December 31 regardless of the month of issue.

(b) An initial application fee and an annual renewal application fee shall be assessed for each permitted food establishment including temporary food stands operating less than 14 days. These fees shall be in the amounts established by the General

Assembly of the Commonwealth of Virginia and/or the Alexandria City Council. Such fees shall not be applicable to food establishments operated by the Alexandria City Public Schools. The application fees shall be based on a calendar year and shall be due and payable on or before December 31 or upon initial application. The fees shall not be prorated.

(c) Establishments failing to file the required application for renewal of the permit will be operating without a valid permit and will be subject to immediate closure in accordance with Section 11-2-29 of this chapter.

Section 5. That Section 11-2-25 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. 11-2-25 Issuance of food manager certificate.**

(a) Any person desiring to obtain a certificate required by section 11-2-24 shall apply in writing on forms provided or accepted by the director. Such application shall include the name and address of the applicant, the location and type of the proposed food establishment and the signature of the applicant. The director may designate a private vendor to issue, on the director=s behalf, a food manager certificate to any person who successfully complies with the provisions of this Chapter.

(b) A food manager certificate shall be issued only to a person who has passed a food manager certification examination from a food protection manager certification program that is evaluated and listed by a Conference for Food Protection recognized accrediting agency. The examination shall be conducted by the director or the director's designee. The designee may be a private vendor or vendors approved by the director as qualified to conduct the food manager certification examination.

(c) A limited food manager certificate shall be issued only to a person who has passed a limited food manager certification examination approved by the director.

(d) A food manager certificate, or a limited food manager certificate, shall be issued in the name of an individual applicant only, shall not be assignable or transferable, and shall be valid only for a period of five years from the date of notification of the successful completion of the approved exam.

(e) A food manager certificate shall remain the property of the issuing authority.

(f) A food manager certificate shall be renewed for a five (5) year period upon passing a food manager certification examination from a food protection manager certification program that is evaluated and listed by a Conference for Food Protection recognized accrediting agency.

(g) A limited food manager certificate shall be renewed for a five (5) year period upon passing a limited food manager certification examination approved by the director.

(h) If the applicant's certificate has been revoked or suspended during the preceding five years, the applicant shall retake and pass either a food manager certification examination from a food protection manager certification program that is evaluated and listed by a Conference for Food Protection recognized accrediting agency or a limited food manager certification examination approved by the director, whichever is appropriate. The director may, at his discretion, designate a specific vendor to administer the examination.

**Section 6.** That this ordinance shall become effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE  
Mayor

Final Passage: April 14, 2007