Addendum to Bell County Retail Food Sanitation Order 2016

To comply with the changes and mandates imposed by the passage and immediate effective date of SB 1089 (6/12/17), an act relating to the certification of food service workers, the Bell County Retail Food Sanitation Order 2016 (the Order) is hereby amended by this addendum.

Any reference to or mandate for, as written or implied in the Order for a food worker to obtain a Bell-County issued registration card who currently possesses a valid State of Texas accredited food handler certification as defined in SB 1089 is hereby void. Any penalties previously associated with the same are also void.

This addendum does not affect any portion of the Order related to food worker certification not specified SB 1089. Those items would hereby still be valid. Any penalties for those valid mandates or requirements are also still valid.

This addendum is presented to the Bell County Public Health District Board of Health on 9/11/17. This item requires no action by the Board of Health as the mandates are legally binding by the passage of SB 1089.
Addendum to Bell County Retail Food Sanitation Order 2016

As Presented to the Bell County Board of Health on 9/12/16, Section 2 C 2 of the Bell County Public Health District Retail Food Sanitation Order 2016 is hereby amended to reflect the following fees associated with Mobile Food Unit operation commissary/base-of-operations/central prep facility:

**Full Service:** $100.00

**Limited:** $50.00

These fees are effective 12/01/2019 and will reflect the fees from that point until such time as the alteration or adjustment of these fees becomes necessary as permitted in Section 2C of the Order.
Addendum to Bell County Retail Food Sanitation Order 2016

As presented to the Bell County Board of Health on 9/12/16, Section 2 C 2 of the Bell County Public Health District Retail Food Sanitation Order 2016 is hereby amended to reflect the following fees associated with Mobile Food Units.

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
</tr>
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<tbody>
<tr>
<td>Limited</td>
<td>$75.00</td>
</tr>
<tr>
<td>Full Service</td>
<td>$125.00</td>
</tr>
<tr>
<td>Additional Unit</td>
<td>$25.00</td>
</tr>
</tbody>
</table>

These amended fees are effective 9/1/16 and will reflect the fees from that point until such time as the alteration or adjustment of these fees becomes necessary as provided and permitted in Section 2 C of the Order.
BELL COUNTY PUBLIC HEALTH DISTRICT

RETAIL FOOD SANITATION ORDER 2016

ESTABLISHING THE PERMITTING AND ENFORCEMENT OF STATE LAWS AND RULES FOR FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, ROAD SIDE FOOD VENDORS, AND TEMPORARY FOOD ESTABLISHMENTS; ESTABLISHING A VARIABLE FEE SCHEDULE FOR ISSUING AND RENEWAL OF PERMITS FOR THESE ESTABLISHMENTS; REQUIREMENTS FOR A CERTIFIED FOOD MANAGER AND ACCREDITED FOOD HANDLER CERTIFICATIONS AS SPECIFIED, AND PROVIDING FOR THE ADMINISTRATIVE PROCESSES AND FEES ASSOCIATED WITH PROVIDING, REGULATING, AND ENFORCEMENT OF THESE PROVISIONS.

WHEREAS, Texas Health and Safety Code (THSC), Chapter 437.001 et. seq. provides counties and public health districts with the authority to enforce state rules adopted under statutes concerning food establishments, retail food stores, mobile food units, and temporary food service establishments; and

WHEREAS, THSC, Chapter 437 provides that public health districts may require or waive permits as deemed necessary, may require plan reviews, require inspections and may deny, suspend or revoke the permit of the food establishment, retail food store, mobile food unit, roadside food vendor, temporary food service establishment for non-compliance with state laws or rules; and

WHEREAS, THSC, Chapter 437 and 25 TAC (Texas Administrative Code), Chapter 228 (Texas Food Establishment Rules or TFER) permit that a public health district is authorized to conduct inspections necessary for the enforcement of state laws and rules; and

WHEREAS, the TFER allows public health districts to require certified food manager certifications at food establishments, and is provided authority to waive such requirements provided the waiver is based on a certified food manager not being necessary for the establishment to protect public health and safety; and

WHEREAS, the TFER provides for the minimal provisions and standards for food safety and sanitation that are applicable under a public health district; and WHEREAS, THSC, Chapter 437, establishes that a permit is required to operate a food establishment, mobile food unit, retail food store, roadside food vendor, or temporary food establishment, that the permit is not transferable, and in the event there is a change of owner/operator, the permittee must contact the Bell County Public Health District prior to starting or resumption of operations, provided the
regulatory authority has not determined an appropriate waiver to this requirement can be applied; and

**WHEREAS,** THSC §438. 46 (c) (1) (2) provides the public health district the authority to levy fees associated with food handler certification; and

**WHEREAS,** the TFER will require, effective 9/1/2016, that food employees working in a food establishment, mobile food unit, retail food store, roadside food vendor, or temporary food establishment have an accredited food handler certification; and

**WHEREAS,** the TFER permits the regulatory authority to impose additional requirements or restrictions, higher standards, or waivers for food establishments, mobile food units, retail food stores, roadside vendors, or temporary food establishments; and

**WHEREAS,** THSC §121.006 (a) and (d) (6) provide for the establishment and permissible levy of fees associated with environmental health programs; and

**WHEREAS,** THSC §121.0185 et. seq. provides the director of a public health district the authority to impose administrative penalties for violations of this order;

**THEREFORE, BE IT RESOLVED** that the Bell County Public Health District Administrative Board hereby adopts the following Bell County Public Health District Retail Food Sanitation Order 2016 as follows:
PART 1: BELL COUNTY PUBLIC HEALTH DISTRICT
FOOD AND FOOD ESTABLISHMENT RULES AND REGULATIONS

Section 1: Relationship to state regulations; definitions.

The definitions, the inspection of food establishments, retail food stores, mobile food units, roadside food vendors (classified as a mobile food unit), and temporary food establishments, the issuance, renewal, suspension, and revocation of permits to operate same, the permitted waivers and restrictions for certain permissible operations of same, other provisions of this order, and the enforcement of this order shall be regulated in accordance with and as permissible by the following, and copies of each shall be available at the Bell County Public Health District (BCPHD) Food Protection Division main office and satellite office:

A. State regulations:

1. 25 TAC, Chapter 228, (TFER); and

2. THSC, Chapters 437 and 438 (applicable sections as relating to this order) and;

3. THSC, Chapter 121 as applicable.

B. Definitions: The following definitions are provided for interpretation and application of this order, and where permitted, enhance definitions found in state regulations. Any definitions not listed are to be understood as defined by applicable state regulations.

1. “Permit” means the required Food Dealers Permit issued by BCPHD or cities where codified that are conditional to the food establishment meeting the requirements of applicable state laws and this order that specify the minimal operational standards for a food establishment.

2. “Suspension” means the temporary discontinuance of a permit issued by BCPHD or cities under conditions specified in this order. Suspension mandates immediate cessation of all facility operations directly related to the preparation and sale of food.

3. “Revoke” means to terminate the permit issued by BCPHD or cities under conditions specified in this order. Revocation will cause a continuance of the conditions of cessation of all operations instituted under a suspension.

4. Mobile food units are categorized as “Limited” or “Full Service” relating to the inherent risks associated with type of food and food service processes to be
conducted in the preparation and service of the food to the consumer. BCPHD has sole authority in classifying mobile units and will also mandate any and all requirements for and restrictions of operations as necessary to protect public health. This can include complete prohibition of operation or components of an operation. A mobile food unit must meet requirements of ready mobility as specified in the TFER to qualify as a mobile unit. A temporary food establishment will be considered a mobile food unit for the purposes of this order.

5. “Limited Mobile Food Unit” is a unit/temporary food establishment that poses minimal risk based on the type of food, such as low risk, precooked/packaged, non-TCS foods, minimal handling requirements prior to service, minimal or non-existent hot holding, or very limited cook-serve processes. Any preparation of the food prior to operation of and sales from the unit will also be a factor in this assessment.

6. “Full Service Mobile Food Unit” is a unit/temporary food establishment that has an inherently higher risk based on type of foods served and the risk of the preparation processes used. This usually involves any raw foods that must be cooked prior to service. This also can include increased risk processes such as reheating for long term hot holding, detailed multi-step preparation processes for TCS food service or other higher risk processes. Any preparation of the food prior to operation of and sales from the unit will also be a factor in this assessment.

7. “Commissary, Central Prep Facility, and Base of Operations” are synonymous terms and define the location where anything not done while the unit is on-site and operating is conducted. This location can be a commercial restaurant, other non-residential kitchens, or other approved locations that are permissible and will allow for the safety and sanitation necessary to protection of public health. BCPHD may waive this requirement so long as doing so is consistent with standards that will maintain protection of public health. This facility cannot be a private residential kitchen unless otherwise permitted by law. BCPHD reserves the right to refuse to allow the use of any facility that cannot meet minimal sanitation standards or requirements. If the mobile food unit is not granted a waiver for this requirement, then the unit must have the ability to use a facility as defined for nononsite operations. Such facility will require a permit issued by Bell County Public Health District unless otherwise waived.

8. “Food Establishment” is a facility that prepares, stores, displays, serves, or sells food as defined by the TFER (TCS, Non-TCS, packaged or un-packaged) intended for human consumption whether or not the consumption is on site. The term includes restaurants, taverns/clubs, retail food stores, grocery stores, convenience stores, mobile food units, temporary food establishments, warehouses, universities
or schools of higher education, mobile food unit commissaries, central prep facilities, or base of operations, or other establishments at the discretion of BCPHD. The term does not include those specifically excluded from this definition in the TFER, with the exception of a facility that sells prepackaged non-TCS foods. The term does not include school food service locations that are not a university or school of higher education. A school food service location will be required to meet standards for food handler certification/manager certification as defined in this order.

9. “Day Care” is a facility that meets the definitions and licensing standards under the State of Texas Child Protective Services Child Care Licensing Program. This facility is not considered a food establishment, but due to the risk of the population fed or served at the facility, is mandated to meet accredited food handler certification requirements as specified in this order. BCPHD may apply waivers of the food handler requirement on a case-by-case basis.

10. “Food Employee” (synonymous with food handler, food worker, food-service employee) is an individual, whether paid or not, whether full time employed or not, that works in a food establishment and is responsible, either in part or whole, for the storage, handling, sale, preparation or service of food, whether prepared on site or not or consumed on site or not. It includes employees who are solely responsible for the exchange of money/payment for the food where “handling” the food is part of that process, such as a checker. This also includes employees of a school or daycare that fulfill the same responsibilities. Volunteers for a non-profit operation are considered waived of this requirement and compliance is optional. BCPHD reserves the right to interpret the application of this definition on a case by case basis.

11. “Authorized Agent” is an employee of Bell County Public Health District who represents the District and member entities of the District in conducting the duties and responsibilities under the purview of the Health District Agreement and this order or as otherwise specified by city codes. As the agent represents those entities and is operating in the capacity conducting duties related to public health and service on their behalf, the agent is designated as and carries the privileges of a public servant for the purposes of enforcement of the laws, rules, and provisions of this order, and specific City Ordinances designated as the responsibility of BCPHD.
Section 2: Compliance procedures: Permits/Fees/Administrative Processes and Inspections.

In order to ensure compliance, BCPHD has the authority to enforce applicable state rules and laws regarding food safety, specific City Ordinances designated as the responsibility of BCPHD, the permitting and collection of fees for permits and administrating those rules, and permissible administrative processes for ensuring compliance as mandated in this order and state laws and rules. Any legal action taken to enforce the state laws or rules or provisions of this order shall be leveled against the individual(s) or entity (ies) as permitted in state laws, rules, and this order.

A. General. No food establishment shall operate unless the establishment is permitted by BCPHD or cities. Permits will only be issued as required in this order for an establishment that has met minimal requirements of this order and applicable state rules and laws. BCPHD may issue a permit under provisional status for establishments that do not meet minimal standards provided the operation will not pose a threat to public health. The facility will be required to meet minimal standards at a time determined by BCPHD or will require immediate cessation of the operations.

B. Permit.

1. Required. Prior to obtaining a permit, the establishment must get an inspection by BCPHD. Operating without a valid permit requires immediate cessation of the operation unless otherwise determined by BCPHD. If the establishment meets all minimal requirements to safely operate and protect public health, then an application for a Bell County Food Dealer’s Permit or applicable city permit application will be issued for the facility to the owner or owner’s agent for signature. The signed application must be presented with appropriate permit fee to receive the permit. All information necessary to adequately issue the permit must be present on the application. All permits will be valid for a period of one year unless otherwise determined at the discretion of BCPHD. The permit must be posted in the establishment and is the sole property or custodianship of BCPHD. The permit will have an expiration date associated with the following:

a. New facility/change of owner/operator. ONE (1) year from the permit application issue date.

b. Renewal. ONE (1) year from current expiration date.

2. Suspension/Revocation. BCPHD may suspend or revoke a permit if
the facility is found to be in violation of the state rules and laws or components of this order. BCPHD has sole discretion of use of these processes and may forgo such actions as deemed appropriate to the circumstance. The violations necessary to cause a suspension or revocation must be serious enough to warrant such actions. The suspension process includes those measures identified in this order, and may not be done unless approved by the Food Protection Division Supervisor or equivalent, Environmental Health Director or equivalent, or BCPHD District Director, or as mandated by state laws and rules. A revocation may only be done in the course of a hearing and must be preceded by a suspension. Suspensions may be done at the sole discretion of BCPHD for city issued permits with proper notification to the city. Any additional actions by the city are not under the authority to waive by BCPHD. If a permit is revoked during the hearing process, then the city that issued the permit will be notified of such action and the city will, at their discretion, conduct any additional provisions relating to the permit revocation.

3. Reasons for suspension/revocation. The permit may be suspended for the reasons identified. BCPHD may extend the reasons beyond these items if suspension is a means by which public health will be protected: any imminent health hazard as defined in the TFER, multiple, repeated, or serious violations that in total constitute conditions too dangerous to allow for continuance of the operation, any repetitive violations that, while not meeting conditions too dangerous to continue operation, have been consistent to indicate a more punitive measure is necessary to ensure compliance and deter future violations of the state laws and rules and provisions of this order, or interference with the authorized agent in performance of duties which lead to a termination of the inspection. When a revocation is necessary, the facility will have to meet requirements specified for a suspension and for reasons to be stated. The revocation is a sole consideration of the hearing officer or the officer’s representative responsible for conducting the hearing. A revocation order, unless determined unnecessary by the hearing officer/representative, may be considered if the hearing determines with reasonable, sufficient evidence, that the permit holder or his/her agent interfered physically, verbally, or otherwise with the inspection of the facility to the degree sufficient to cause termination of the inspection. Termination of the inspection is at the discretion of the authorized agent in conjunction with his/her immediate supervisor or higher. The revocation order may also be issued if it is determined in the hearing that there is reasonable, sufficient evidence that the operation of the food establishment will not be in the best interest of public health protection due to consistent, repetitive, flagrant, or intentional violations of the state laws and rules or provisions of this order that has resulted in previous permits suspensions within a period of 2 years from the date of the current suspension hearing.
4. **Clearing the suspension/reinstatement of a revoked permit.** The permit suspension may be cleared after the hearing by the officer/representative as determined by the evidence sufficient to show corrections made or that the facility/operator will be served best by a warning. If the permit is revoked a reinstatement of the permit is required for resumption of the facility operations that were stopped by the suspension/revocation. The facility must request an inspection for reissuance of the permit by means of a new application and associated fees. If the facility, despite the assurances of the operator, is found to still be out of compliance during the reinstatement inspection to the degree that would otherwise warrant a suspension, then the inspection will be terminated, the revocation shall remain and all procedures for a new hearing will have to be reinitiated.

5. **Hearing.** The hearing shall be requested, upon proper notification by BCPHD, by the owner or owner’s agent. This request shall be made to the BCPHD Director, or as otherwise required, who will then establish a date, time, and location for the hearing. The director shall preside as the hearing officer or shall designate a representative who has not been part of the suspension process. All parties involved in the hearing may bring witnesses, documents, legal representation, or anything else to speak to their side of the hearing. The parties involved have the right to be examined and cross-examined as necessary to ensure that the proceedings afford prudence to obtain a right and just determination of the facts presented at the hearing. The hearing officer or representative has the right to obtain information regarding the just cause standard for the hearing, but this cannot be in the form of being a part of the permit suspension process. The outcome of the hearing will be recorded and copies of the hearing process will be provided to the owner/agent as necessary. If the hearing results in a revocation or continuation of the suspension, then the owner/agent must be provided the continuance/revocation order by means necessary to ensure receipt of the order. The order will include a synopsis of the evidence, the witnesses/representatives present, the reason for the continuance/revocation and the minimal conditions necessary to reinstate the permit under each condition.

6. **Appeal of the hearing.** If the owner/representative of the facility desires to appeal the ruling, then they can do so by requesting a special hearing with the District Director, if not the original hearing officer. If the appeal is relative to a hearing that was presided by the director, the appeal will be forwarded to the Chair, Vice-chair, or other member of the Bell County Public Health District Administrative Board, and all parties pertinent to the special hearing. The Chair will be permitted to assign an individual in his/her stead. No representative of the board shall be assigned to the appeal process if they represent the city or area in which the facility under appeal operates. Any member of the Appeal Board has the
right to recuse themselves for any reason. The provisions for witnesses, evidence, legal representation, or other procedures as permitted in the original hearing will apply to the appeal hearing. This appeal decision shall be final and further actions on the part of the suspended facility will be at the expense of that entity.

7. **Exclusion from liability.** Unless granted and determined by a court of standing, any liability for damage, either reputation or financial, loss of income, inconvenience, or expense associated with any suspension, revocation, hearing, appeal, or other processes associated with items 2-6 of this section shall be the sole responsibility and obligation of the owner or owner’s agent. BCPHD, the members of the BCPHD Administrative Board, or any BCPHD authorized agent/representative/employee who was involved in any way either directly or remotely, are not liable or responsible for any financial or other obligations toward those liabilities.

C. **Fees.** BCPHD identifies the following fee schedule as permitted under this order and state laws and rules. These fees are mandated as part of the provisions for operating a food establishment or other necessary processes under the authority of the Health District. BCPHD may waive or reduce fees as deemed prudent under circumstances at its discretion. BCPHD may also establish certain administrative fees as necessary and permissible to serve the process of protection of public health. BCPHD may adjust fees as permissible under law for future needs without the necessity to re-establish a new order or formally amend this existing order. Any such changes will be posted as an addendum to the current Order. Such addendum will be added with a majority vote of the Health District Board quorum.

1. **Food Establishment fee (non-mobile).** The fees associated with this process are based on a sliding scale according to the number of food employees employed by the facility. The fee will cover a period of 1 year unless otherwise determined by BCPHD.

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Non-profit (if required)</td>
<td>No Charge</td>
</tr>
<tr>
<td>Small (up to 12 food employees)</td>
<td>$150.00</td>
</tr>
<tr>
<td>Medium (13-24 food employees)</td>
<td>$225.00</td>
</tr>
<tr>
<td>Large (25 or more food employees)</td>
<td>$300.00</td>
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2. **Mobile Food Units.** The fees associated with this process are based on the definitions of the two respective types of mobile units. Fees for additional units are a flat rate regardless of type of mobile unit.

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-profit (if required)</td>
<td>No Charge</td>
</tr>
</tbody>
</table>
Limited $100.00
Full Service $200.00
Each Additional Unit $50.00

3. Late Fees. Late fees will be determined based on a 30 calendar-day interval beginning from the date the permit application was issued (new/renewal/reinstatement) and will only allow for 2 late fees prior to permit suspension/revocation process or legal action. BCPHD will mandate closure of the facility for permits more than 90 days late. BCPHD reserves the right to waive late fees under special mitigating circumstances. The fees will be cumulative and must be paid along with the original permit fee. Receipt of the late fee will not be cause to adjust the expiration date. Notifications will be sent via certified mail/return receipt requested or may be delivered with receipt directly into the hands of the responsible party representing the facility. If permit is revoked per proper processes during a hearing for failure to pay, then the facility must pay the permit fee and any past due late fees to reinstate the permit.

30 days past due $75.00
60 days past due $75.00
90 days past due permit suspension, revocation, legal action

4. Childcare Facility Environmental Health Inspection. BCPHD will use a sliding scale fee for this service associated with the number of children the facility is licensed to have according to their Texas Daycare License. This fee will be billed annually in conjunction with their annual health inspection requirement for renewal of their Texas Child Care Facility License, or must be paid prior to the inspection of a new facility or change of owner of an existing facility. The inspection will not be done until payment is received. Head Start programs or other programs may be waived of the fee for this inspection at BCPHD discretion.

1-20 Children $30.00
21-99 Children $75.00
100 or more Children $100.00

5. Additional fees. BCPHD establishes additional fees for other services, administrative processes, or items as necessary to accommodate reasonable costs associated with those items. These items have precedent preceding this order and are hereby included and quantified.

BCPHD Accredited Food Handler Certification: $20.00
BCPHD Accredited Food Handler
“registration” fee/duplicate certificate fee $10.00/5.00
Open Records Request (manual) $15.00 plus
10 cts./page
Plan Review (as necessary) $25.00
Sanitizer Test Kits $10.00 Each
Foster Homes $30.00

6. **Other fees.** Other fees not listed within this order may be required by BCPHD as deemed necessary and permitted by law.

D. **Inspections.** BCPHD shall inspect food establishments as necessary to ensure compliance with state laws and rules and the provisions of this order.

1. **Inspection frequency.** BCPHD shall inspect the food establishment based on provisions permitted by state laws and rules or the provisions established in this order, whichever is determined to adequately protect public health at BCPHD discretion. The inspection frequency will be determined by a risk analysis, inspection history, the type of facility, number of employees, types of foods served, how they are prepared and handled, and the risk associated with the primary population served at the facility. The frequency may be increased or reduced as deemed appropriate by BCPHD and does not limit or restrict any additional inspections that may be necessary to ensure compliance by the facility.

2. **Types of inspections.** BCPHD will conduct any and all types of inspections necessary either by schedule or specific need. These include, but are not limited to permit, routine, complaint, follow-up, or other.

3. **Access.** BCPHD will be permitted access to a facility after adequate identification is provided by the authorized agent. This may include legal forms of identification, badges, personal recognition by a facility representative, or other legitimate means. Access will be permitted at any reasonable time unless the reason for inspection mandates “nonconventional” inspection times. Failure to allow access for reasons other than those deemed reasonable and appropriate by BCPHD may constitute interference with the inspection process and may be subject to a permit suspension. The person in charge at the time of the inspection shall provide, as possible, all documentations requested and necessary to ensure the establishment is in compliance with state laws and rules or the provisions of this order.

4. **Report of inspections.** All records will be documented as specified in the TFER, on the forms necessary to provide proper documentation, and the originals will be under the custodial care of BCPHD. The person in charge or present at the time of the inspection will be provided a copy of the documents generated at the inspection, unless previously arranged by the facility. All requirements spelled out
in the TFER regarding signatures, obligations to correct, or other specifications regarding the report of inspections will be noted as necessary on the inspection reports. With the exception of those elements prohibited by law for public disclosure, the inspection reports are public record and will be afforded all the obligations contained in that designation. The facility will be assigned a score calculated by the cumulative sum of points per violation subtracted from 100.

5. **Corrections.** Correction of violations will be determined based on risk or nature of the violation relating to impact on public health. The time frame for correction, unless otherwise codified, will be at the discretion of BCPHD in relation to protecting public health. If it is an imminent health hazard or other violation of a nature that poses a direct, potentially urgent threat to public health, it must be corrected immediately. The TFER has specified correction times for the various items, and these will be enforced as necessary. BCPHD will reserve the right to alter those times if components of the violation that dictate the correction time or pose the most risk are corrected, but other issues still remain that are minimal risk. A follow-up will be assigned by the inspector in relation to the public health risks of the uncorrected violations. Any score below 70 mandates an automatic follow-up unless significant corrections are made at the time of that same inspection. This mandate does not prohibit a follow-up to be assigned for other purposes including a score above 70.

E. **Condemnation of food, maintenance of equipment.** In the interest of protecting public health, BCPHD has authority to inspect food and equipment for any conditions that may be danger to public health.

1. **Condemnation of food.** BCPHD may condemn, and cause for the appropriate destruction of any food that is not from an approved source, deemed questionable as to the soundness or wholesomeness of the food, or is determined to be spoiled, putrefied, adulterated, or otherwise not safe for human consumption and cannot be otherwise rendered safe. This includes foods that have been shown, with quantitative, discernable, and empirical evidence, to have been subjected to time and temperature abuse, cross-contaminated to the degree that no solution is available to render the product safe, or is otherwise prohibited for consumption according to state laws and rules and provisions of this order. Refusal to destroy the product will require BCPHD to embargo the food under the provisions of law. If the food is embargoed, the facility, or any other individual will be prohibited from using the product and must provide, at the facility’s own expense, testing and documentation that show the food is safe to consume. If this is provided, then the food will be released for use; if not, then the embargo will remain in place. If a facility uses the food prior to proper release of the embargo, legal action will be taken by BCPHD up to and including petitions for criminal offenses allowed by law. If the facility requests to rescind the embargo without proper testing, then
BCPHD must be present to document the release of embargo and ensure the proper destruction of the food.

2. **Equipment.** BCPHD will require all repairs, additions, or upgrades, including complete replacement, to equipment or facilities to ensure food safety and compliance with state laws and rules and provisions of this order. A failure to maintain, upgrade, or replace equipment or facilities as required will cause the use of any and all elements at the disposal of BCPHD to ensure compliance. This includes officially restricting equipment from use, permit suspension, or request for legal actions. This can lead to mandatory shut down if the equipment is vital enough to the operation that its inability to be used constitutes an imminent health hazard.

**Section 3: Building plan review.**

If required by BCPHD, a plan review may be conducted for new, existing, remodel, or changes in type of operation of a food establishment that would imply construction or addition of equipment to meet the changes. This review shall consist of all measures necessary to ensure food safety are being employed and implemented by the establishment through the processes and the purposes listed for requiring the review. BCPHD does have the authority to require changes or additional requirements that will ensure consistency with minimal standards of state laws and rules and provisions of this order. The facility, if a plan review is not conducted, or if plans are not followed as submitted, may be refused a permit to operate and will be prohibited from opening until the changes are made or provisions are made to immediately eliminate any hazards associated with the shortfall.

A. **On-site Sewage Facility.** Any establishment that utilizes an on-site sewage facility is obligated to adhere to the rules and regulations regarding the evaluation, plan, application, permitting, design and operation of an on-site sewage facility. The facility must maintain and operate the system according to applicable rules and permitted specs. Failure to properly maintain or operate the system will constitute a violation of this Order and carries the appropriate means to abate any public health nuisances or imminent health hazards associated with the improper use or operation of the system. This can include legal action, cessation of operations, and permit suspension. These actions are separate and unique to this Order and do not constitute “double jeopardy” with regards to any separate violation of the On-Site Sewage Facility Rules.

B. **Other provisions/waivers.** BCPHD reserves the right to impose any additional requirements regarding the construction of the facility that will ensure the protection of public health. The provisions may be unique to the establishment and waivers to minimal standards may be applied as deemed appropriate by BCPHD. The mandatory compliance with the additional provisions is necessary for continuance of operation or construction.
Section 4: Accredited Food Handler Certification/Registration Required.

A. General. The Bell County Public Health District will require that all food employees, as defined by the TFER and this order, employed by food establishments permitted by the Bell County Health District and those employees responsible for foods that are sold in their facility, but are prepackaged, or ready to eat, shall be in possession of an accredited food handler’s certification or registration, as defined in this order, and said certification/registration must be posted in the facility and available for review by BCPHD as necessary. Exemptions of this certification are specified in the TFER and in other places (ANSI certification waiver in THSC) unless specifically required in this order.

1. Failure to comply. A food establishment that fails to ensure compliance with the requirement for employees to possess an accredited food handler’s certification or registration card (issued by BCPHD) or to maintain said certification on site as specified is in violation of this order.

2. Exemption from requirement. The registration requirement does not apply to an individual in possession of an ANSI accredited food handler certification or and individual in possession of a state recognized Certified Food Manager Certification. These exempted certifications must be maintained by the facility as mandated in section 4A (General) of this order. Failure to maintain the exempted certifications on site as required is a violation of this order.

3. Bell County Accredited Food Handler Certification. BCPHD will provide an accredited course and all food employees as previously identified shall be in possession of this certification or registered with BCPHD as required.

4. Recognizing other accredited certifications. BCPHD will recognize other state accredited certifications as meeting training and educational requirements, but will still require that the individual in possession of that certification register in order to obtain a BCPHD registration certificate. Any accredited food handler certification is acceptable, but a registration fee of $10.00 for non-BCPHD issue cards is required to document the certification in Bell County’s Food Handler database (a food handler registration card will be issued for proof of this registration and must be on site at the facility in accompaniment with the accredited certification). This database is used by BCPHD for budgeting purposes, by the cities for statistical processes, and is therefore part of the overall administrative processes of BCPHD. The fee associated with this process as listed in fees is in accordance with THSC 121.006 (a) and (d) (6). This fee will be in compliance with that standard and will not exceed the fee associated with a Bell County Public Health District class-issued card.
5. **Certificate Validity.** The accredited certificate issued by BCPHD shall be valid for 2 years in accordance with state laws and rules. Any accredited certificate issued as presented for registration as required in section 4 will be valid until the expiration date of the presented certificate.

6. **Other provisions.**

   a. The Bell County Public Health District Food Handler course will maintain its Texas Accreditation until such time as it is determined to no longer feasible or reasonable to continue with the accreditation. If the BCPHD accreditation is suspended or eliminated, food employees will not be indemnified from meeting the accredited food handler certification and BCPHD registration requirement.

   b. Unless conditions exist as in 6a, a permitted food establishment that fails to maintain the BCPHD issued accredited food handler certificates or fails to show employee registration with BCPHD is in violation of the TFER or the provisions of this order.

   c. A food employee who has an accredited food handler certification or registration issue by BCPHD or a certification as identified in section 4A2 is permitted to work in a food establishment in Bell County. An employee without said certification or registration is in violation of this order, unless conditions exist as in 6a or otherwise exempted.

   d. A food establishment that is identified as being in violation of the food handler requirements (Section 4) shall have a time for compliance of two weeks (14 days) from notification of the violation but may be granted additional time not to exceed 60 days as provided by the regulatory authority.

Section 5: Food Manager Certification Required.

A. **General.** A food establishment, unless exempted by provisions of the Texas Food Establishment Rules or otherwise determined by BCPHD, shall have at least one or more individual(s) with a state recognized Certified Food Manager Certification (CFM) employed by the establishment. The facility must be able to show evidence that the individual actually works at the facility by means of a schedule, other documentation that shows the individual has been present while the facility was operating, or is present at an inspection. Any other valid means by which to prove employment of that individual is at the discretion of the regulatory authority. An “owner” would also be considered an
employee and will meet the provision of this section but would only meet the criteria for ONE facility. Multiple facility ownership will have to have one per facility if required unless otherwise waived.

1. **Establishment to verify manager certification.** A food establishment that cannot verify that a CFM, as required, owns or is employed and working at the facility, is in violation of this order and the Texas Food Establishment Rules.

2. **Failure to maintain a certificate on site.** The establishment must maintain the recognized food manager certification on site for all establishments that are required to have such certification. It is a violation to fail to maintain such certification on site.

3. **Correction.** A food establishment that is identified as being in violation of the CFM requirements shall have a time for compliance not to exceed 60 days as provided by the regulatory authority. This provision will begin at time of notification of this violation. Additional time may be granted as deemed appropriate by BCPHD. A food permit issued by BCPHD may be withheld until verification that a CFM is available allowing for issuance of the permit. Late fees associated with failure to comply with renewals shall be implemented should the permit be continued to be withheld for failure to comply with CFM requirements.

4. **Permitted to work.** An individual who possesses and maintains a recognized CFM certification is permitted to work in a food establishment as provided by this order.

**Section 6: Remedies.**

A. **Penalties.** Any permit holder, responsible agent of the permit holder, or other person found guilty of violating any provision of this order shall be punished in accordance with state law.

1. **Class C misdemeanor.** A violation of any provision of this order is a Class C misdemeanor and violators are subject to a fine of up to $2000.00 (two thousand dollars) per violation per day for each violation. Each day the violation occurs constitutes a separate offense.

2. **Administrative penalties.** Administrative penalties may be imposed at the discretion of the BCPHD District Director under the standards and requirements illustrated in THSC §121.0185 et. seq. The decision to administer a penalty is at
the sole discretion of the BCPHD Director and will only occur through the means
of proper evidence to support the Director’s decision.

B. Legal actions.

1. Injunctions. A city attorney, county attorney, or district attorney may sue in
district court to enjoin a food establishment from operating without a permit if one
is required. Use of this process is at the request to said attorneys by BCPHD and
the decision to proceed with such suit is at the discretion of same attorneys.

PART 2: SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this order is, for any reason,
held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be
deemed a separate, distinct, and independent provision and such holding shall not affect the
validity of the remaining portions of this order. BCPHD may amend such item to meet the
tests of validity and constitutionality. The revision will serve to amend the aforementioned item
and be established as the new standard for the Order by a quorum vote of the board. Such
amendments will be posted to this order as approved and have an effective date determined by
BCPHD.
PART 3: EFFECTIVE DATE OF ORDER

That any persons, firm, or corporation violating any provision of this District Order shall be deemed guilty of a Class C misdemeanor, and upon conviction thereof, shall be punished by a fine as provided by law. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since the District Order has a penalty for violation, it shall not become effective until proper notice to the public by publication of the notice that the District Order exists. The provisions of this order shall take effect on September 1, 2016.

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE BELL COUNTY PUBLIC HEALTH DISTRICT ADMINISTRATIVE BOARD ON THIS DAY OF,

__________________________
Charlsie Barfield, Secretary
Bell County Public Health District

__________________________
Bill Schuman, Chair
Bell County Public Health District
Board of Health

__________________________
Bonnie Scurzi, Director
Bell County Public Health District