

BRAZORIA COUNTY COMMISSIONERS' COURT

REGULAR SESSION – SEPTEMBER 8, 2009

ORDER NO. 10 RE: TRAFFIC REGULATION CHANGE: PROHIBITION OF WIRELESS COMMUNICATION IN SCHOOL CROSSING ZONES

Motion by Commissioner Adams, seconded by Commissioner Payne that the following action be taken by the Court:

1. The Court under the authority of V.C.T.A., Transportation Code Section 251.159, orders the following traffic regulation change become effective immediately upon the signing of this order.
The use of a wireless communication device by a Vehicle operator is prohibited in school crossing zones. Violators are subject to a \$200.00 fine.

Be posted along roadway signs at the following locations:

- Silverlake Elementary 2550 CR 90, Pearland
 - Silvercreek Elementary 3003 Southwyck Parkway, Pearland
 - Don Jetter Elementary 2455 CR 58, Manvel
 - Fairview Middle School 12722 CR 190, Alvin
 - Frontier Elementary 5200 CR 48, Angleton
 - Wild Peach Elementary 3311 CR 353, Brazoria
 - Damon Elementary 1211 Mulcahy, Damon
 - FM 523 in front of the Angleton High School stadium
2. Further, that a certified copy of this order be sent to the County Engineer's Office and the Brazoria County Sheriff's Office.

Motion carried, all present voting aye.

ORDER NO. 11 RE: CONSIDER AMENDING ORDER NO. 35 APPROVING BRAZORIA COUNTY HEALTH DEPARTMENT REGULATIONS ON THE PERMITTING OF RETAIL FOOD STORES AND FOOD SERVICE ESTABLISHMENTS

Motion by Commissioner Adams, seconded by Commissioner Payne, that the following action be taken by the Court:

On September 11, 2007, Brazoria County Commissioners' Court adopted regulations on the Permitting of Retail Food Stores and Food Service Establishments.

The Court deems it appropriate to amend Article 2 – Definitions, of the Regulations dated September 11, 2007.

Now, therefore, it is hereby ordered by the Commissioners' Court of Brazoria County, Texas that the Amendment attached hereto, the same being hereby incorporated fully by reference herein, be and is hereby approved, effective immediately placed into the Order Regarding County Health Department Regulations on the Permitting of Retail Food Stores and Food Service Establishments dated September 11, 2007 and replacing the previous Article 2 of the Order dated February 11, 2007.

Further, that the attached regulations be filed in the Official Public Records of the County Clerk.

Motion carried, all present voting aye.

**BRAZORIA COUNTY HEALTH DEPARTMENT REGULATIONS
ON THE PERMITTING OF RETAIL FOOD STORES
AND FOOD SERVICE ESTABLISHMENTS**

ARTICLE 1

STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE AND METHODS

SECTION A. STATUTORY AUTHORIZATION

Texas Health and Safety Code, §437, *et seq.* authorizes local governmental units to adopt regulations designed to regulate food service establishments, retail food stores, mobile food units, and roadside food vendors in unincorporated areas of the County, including areas in the extraterritorial jurisdiction of a municipality, by requiring them to obtain a permit from the County.

Title 25, Texas Administrative Code, §229.370, *et seq.* establishes rules pertaining to permitting retail food establishments.

These Regulations are adopted by the Commissioners' Court of Brazoria County, Texas, acting in its capacity as the governing body of Brazoria County.

Therefore, the Commissioners' Court of Brazoria County, Texas, does ordain as follows:

SECTION B. AREA OF JURISDICTION

- (1) These Regulations shall apply to all of the area of Brazoria County, except for areas regulated by Federal and State agencies and the areas within the boundaries of the incorporated cities and towns of Brazoria County.
- (2) These Regulations shall also apply to those incorporated cities or towns that have executed cooperative agreements with the Commissioners' Court for coverage of these Regulations.
- (3) Non-profit organizations are not required to obtain a permit under these Regulations.

SECTION C. SEVERABILITY

It is the intention of these Regulations that the sections, paragraphs, sentences, clauses and phrases of these Regulations are severable; and if any section, paragraph, sentence, clause, or phrase of these Regulations shall be declared void, ineffective, or unconstitutional by a valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases hereof, since the same would have been enacted by this Court without the incorporation herein of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION D. INCORPORATION BY REFERENCE

The Rules of Food Service Sanitation and Rules on Retail Food Store Sanitation found in Texas Health and Safety Code, Chapter 437, and Title 25, Texas Administrative Code, §229.161, *et seq.* (Subchapter K Texas Food Establishments) and Title 25, Texas Administrative Code, §229.370, *et seq.* (Permitting Retail Food Establishments) or the latest edition or revision of said rules are incorporated herein by reference.

SECTION E. EFFECTIVE DATE

This document shall be in full force and effect from and after its passage and its publication as provided by law.

**ARTICLE 2
DEFINITIONS**

Unless specifically defined below, words or phrases used in these Regulations shall be interpreted to give them the meaning they have in Title 25, Texas Administrative Code, §229.162, and Title 25, Texas Administrative Code, §229.371, Texas Health & Safety Code, §437.001 and Chapter 438, and common usage and to give these Regulations its most reasonable application.

BED AND BREAKFAST ESTABLISHMENT – An establishment that provides food service other than to its overnight guests; the establishment must meet the rules and regulations applicable to retail food establishments; and for the purposes of these Regulations, such facilities are classified as food establishments.

BED AND BREAKFAST EXTENDED – An establishment with more than seven rooms for rent; or that provides food service other than breakfast to overnight guests; and for the purpose of these Regulations, such facilities are classified as food establishments.

BENEFIT – A fundraising effort at a defined time and for a limited time not to exceed 24 hours, to provide assistance for an individual or organization for a specific purpose. Individual means a person who manifests a demonstrable particular need. Organization means a school related activity, athletic youth groups, churches, and civic groups.

CERTIFIED FOOD MANAGER – A person who has demonstrated that they have the knowledge, skills and abilities required to protect the public from foodborne illness by means of successfully completing a food safety examination.

CHILD CARE CENTER – Any facility licensed by the Regulatory Authority to receive 13 or more children for child care, which prepares food for on-site consumption. A child care center is classified as a food establishment.

DEPARTMENT – The Texas Department of State Health Services.

FOOD – A raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

FOOD ESTABLISHMENT – An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a food service establishment; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; remote catered operations; conveyance used to transport people, institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; a restaurant; a grocery store; an operation that is conducted in a mobile, roadside, stationary, temporary, or permanent facility or location; group residence; outfitter operations; bed and breakfast extended and bed and breakfast food establishments; where consumption is on or off the premises; and regardless of whether there is a charge for the food and as further defined under Title 25, Texas Administrative Code, §229.371(6).

FOOD SERVICE ESTABLISHMENT – See definition of “Food Establishment” above.

FOR-PROFIT SCHOOL FOOD ESTABLISHMENT – A school food establishment operated on a for-profit basis by a private contractor. Such facilities are classified as a food establishment.

GROUP RESIDENCE – A private or public housing corporation or institutional facility that provides living quarters and meals. The term includes a domicile for unrelated persons such as a retirement home, correctional facility, or a long-term health care facility. Such facilities are classified as a food establishment.

MOBILE FOOD UNIT – A vehicle-mounted mobile food establishment designed to be readily moveable.

NON-PROFIT ORGANIZATION – A civic or fraternal organization, charity, lodge, association, proprietorship or corporation possessing a 501(C) exemption under the Internal Revenue Code; or religious organizations meeting the definition of “church under the Internal Revenue Code, §170(b)(1)(A)(I).

OUTFITTER OPERATION – Any operations such as trail rides or river raft trips where food is offered to patrons and which operates out of a central preparation location or food establishment. An outfitter operation is classified as a food establishment.

PERMIT HOLDER – The person that is legally responsible for the operation of the food establishment such as the owner, the owner’s agent, or other person; and who possesses a valid permit to operate a food establishment.

PERSON – An association, corporation, individual, partnership, other legal entity, government, or governmental subdivision, or agency.

POTENTIALLY HAZARDOUS FOOD – A food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of *Salmonella enteritidis*.

PUSHCART – A non-self-propelled mobile food unit limited to serving non-potentially hazardous food or potentially hazardous foods requiring a limited amount of preparation as authorized by the Regulatory Authority. A pushcart is classified as a mobile food unit.

RETAIL FOOD STORE – A food establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only.

REGULATORY AUTHORITY – The Brazoria County Environmental Health Department, the local enforcement body, or authorized representative having jurisdiction over the food establishment.

ROADSIDE FOOD VENDORS – A person who operates a mobile retail food store from a temporary location adjacent to a public roadway or highway. Potentially hazardous foods shall not be prepared or processed by roadside food vendors. A roadside food vendor is classified as a food establishment.

SCHOOL FOOD ESTABLISHMENT – A food service establishment where food is prepared and intended for service primarily to students in institutions of learning including, but not limited to, public and private schools, including kindergarten, preschool and elementary schools, junior high schools, high schools, colleges, and universities. A school food establishment is classified as a food establishment.

STICKER – Inspection sticker applied to mobile units.

TEMPORARY FOOD ESTABLISHMENT – A food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration that occurs no more than twice a year.

ARTICLE 3 ADMINISTRATION

SECTION A. PROMULGATION OF RULES

The Brazoria County Health Director shall have the power, with the approval of the Brazoria County Commissioners' Court, to prescribe and promulgate such rules and regulations consistent with any law of the State of Texas, as may be deemed necessary to protect the health and safety of the public, and to effectively perform the duties herein.

SECTION B. DUTIES AND POWERS

The Health Department of Brazoria County, Texas, is designated by the Commissioners' Court to be the permitting and regulatory authority for these Regulations and thus has the duty, and necessary powers, to administer and enforce these Regulations. The Environmental Health Department is designated by the Health Department as the permitting and regulatory authority, and shall have the following duties and necessary concomitant powers:

- (a) To enforce these Regulations and to make appropriate recommendations to proper County authorities when instances of noncompliance with these Regulations have been determined;
- (b) To make inspections of all food service establishments as needed to meet the requirements of these Regulations;
- (c) To collect all fees set by the Commissioners' Court or provided by law;
- (d) To make annual reports to the Commissioners' Court; and
- (e) To perform all other duties necessary to meet the requirements of these Regulations.

SECTION C. INTERPRETATION

In the interpretation and application of these Regulations, all provisions shall be (1) considered as minimum requirements; (2) liberally construed in favor of the government body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

**ARTICLE 4
GENERAL PROVISION**

SECTION A. MINIMUM STANDARDS FOR PERMITTING AND OPERATION

All food establishments shall be operated in accordance with the requirements specified in §§229.161 - 229.171 and §§229.173 - 229.175 of Title 25, Texas Administrative Code.

SECTION B. PERMITTING

A person who operates a food establishment as defined in these Regulations shall obtain a permit annually from the Regulatory Authority and pay a permit fee for each establishment unless specifically exempted.

Any person desiring to operate a food establishment, or desiring to renew a permit or to reapply for a permit which has expired or which has been revoked shall make written application for a permit on forms provided by the Regulatory Authority.

The Regulatory Authority shall issue a permit to the applicant if an inspection reveals that the proposed food establishment complies with the requirements of these Regulations. Each permit issued under the provisions of these Regulations shall be valid for the period of time stated, up to a maximum period of twelve (12) months.

A copy of the permitting requirements may be obtained at www.brazoria-county.com/environmental/foodestablishments.asp.

SECTION C. REVIEW OF PLANS

Submission of Plans

Any person applying for a permit to operate a food establishment must submit plans to the Regulatory Authority providing a rendering of the food preparation, storage, and sales areas in order to determine compliance with state laws and rules governing the applicant. Plans must include a description of the on-site sewage facility and water facility including permits, schematics and any other documentation identifying the type of facility, and specifications.

The County may deny the permit after initial inspection only if the applicant is not in compliance with the plans approved by the County.

Initial Inspection

The Regulatory Authority shall inspect the food establishment prior to its beginning operations to determine compliance with the approved plans and specifications.

If the Regulatory Authority finds on inspection that an applicant is not in compliance with State law and rules adopted under State law, the Regulatory Authority may re-inspect the applicant at a later date to determine if the applicant is in compliance.

SECTION D. PERMIT FEES

Before any permits shall be issued under the provisions of these Regulations, the applicant shall pay to the Regulatory Authority a fee for each establishment as scheduled herein. **Permit fees are nonrefundable.** All transactions are final.

Annual Food Establishment Permit

0 – 1,000 sq. feet	\$200.00
Over 1,000 sq. feet	\$300.00

Roadside / Mobile Vendor \$200.00

School Food Service - Based on square footage of kitchen/food operation as set out above

Day Care Facility \$150.00

Temporary Food Establishment \$40.00

Permit not to exceed 14 days; and valid for one event

Late Fee \$40.00

(if not received prior to opening of event) (in addition to permit fee)

Late Fees \$50.00
(if permit not renewed prior to expiration date)

Reinstatement Fee of Suspended Permit \$75.00

Re-inspection Fee \$150.00

Exemptions from Permit Fees

Food establishments permitted and inspected by the Regulatory Authority under the Texas Health and Safety Code, Chapter 437, provided the inspections are based on the requirements of Title 25, Texas Administrative Code, §229.373 relating to the Minimum Standards for Permitting and Operation, are exempted from obtaining a permit and from paying a fee.

Exemptions:

- a produce stand that only offers whole, uncut fresh fruits and vegetables;
- a food processing plant;
- a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization's bake sale;
- a Bed and Breakfast Limited Facility as defined in these Regulations;
- a private home;
- food establishments permitted and inspected under authority granted to Home-Rule or Type A General-Law Municipalities;
- federally-inspected food establishments on federal property;
- correction facilities under the inspection of the Texas Department of Criminal Justice;
- nursing homes under the inspection of the Health Facility Licensure Division in the Regulatory Authority and which do not serve food to the general public;
- food establishments on state campuses inspected by state college or university personnel in accordance with the requirements of Title 25 of the Texas Administrative Code §229.373 (relating to Minimum Standards for Permitting and Operation);
- food establishments licensed under the Health and Safety Code, Chapter 431, as manufacturers of food, provided the fee for licensure exceeds the permit fee required under Title 25, Texas Administrative Code §229.372 (relating to Permitting Fees and Procedures);
- food establishments under the inspection of the Texas Department of Mental Health and Mental Retardation;
- non-profit organizations as defined in these Regulations. Non-profit organizations which meet the definition of "manufacturers of food" under Health and Safety Code, Chapter 432, are not exempt from licensure in those categories;
- food and beverage vending machines; and
- mobile food units permitted and inspected under the authority granted to Home-Rule or Type A General-Law Municipalities and which operate only within their respective jurisdictions.

SECTION E. DURATION OF PERMIT

Permits, except temporary food establishments, shall be valid for one year from the date of issue, which becomes the anniversary date.

Permits expire immediately upon change in ownership.

Temporary permits shall be valid for 14 days from the effective date as indicated on the permit.

SECTION F. PERMIT PROCEDURES

If the license or permit category changes during the permit period, the permit shall be renewed in the proper category at the time of the renewal.

If ownership changes during duration of permit, the new owner must obtain a permit prior to opening under new management.

An establishment required to be licensed as a food manufacturer under the Health and Safety Code, Chapter 431, and also required to be permitted under Health and Safety Code, Chapter 437, will be issued only one license or permit. The license or permit fee to be paid will be the higher fee of the two applicable fees.

If a person owns two or more establishments, each establishment shall be permitted separately by listing the name and address of each establishment on separate application forms.

A copy of the permitting requirements may be obtained at www.brazoria-county.com/environmental/foodestablishments.asp.

Preliminary Inspection

Upon receipt of a permit application, the Regulatory Authority will set an initial/preliminary inspection date with the applicant. In the event the food establishment does not comply with all state and local laws and rules, a re-inspection will be required. Said re-inspection will cost the applicant additional funds.

Requirements for food establishments can be obtained from either the Regulatory Authority and/or its website at www.brazoria-county-environmental/foodestablishments.asp.

Once the food establishment complies and passes the preliminary inspection, a final inspection will be conducted by the Regulatory Authority after the establishment is allowed to open for business.

Mobile Food Units

Mobile food units shall be inspected for compliance with Title 25, Texas Administrative Code, §229.169 prior to issuance of a permit.

Permits for mobile food units, including pushcarts and roadside vendors, shall be displayed on the units at all times.

Mobile food units cannot be connected to septic systems, public sewage systems, water wells, permanent electrical connects (plug-in only) or have any other permanent-type connections other than at mobile units commissary (i.e., location where mobile unit is re-supplied with water, food supplies and general restocking of unit, and location where waste is disposed.

A mobile food unit shall not be altered to the extent that said unit cannot be readily moved. Each mobile food establishment shall come, on an annual basis, to the Brazoria County Environmental Health Department located at 451 N. Velasco, Suite 270, Angleton, Texas 77515, as proof that the mobile food establishment is readily moveable. Any mobile food establishment that violates this section will be required to have a re-inspection at the above-referenced location.

Temporary Food Establishments

The permit shall be valid for the duration of a single event not to exceed 14 consecutive days from the initial effective date specified in the permit application.

An organizer of an event at which a temporary food establishment is operated shall ensure a permit from the Regulatory Authority is obtained for each temporary food establishment. The application for a temporary food establishment must be submitted to the Regulatory Authority at least 30 days prior to the event.

A permit application shall specify the name and physical location of the event for which the permit is requested, the permanent address of the applicant, the initial effective date of the permit, and the foods to be prepared.

Non-profit Organizations

Non-profit organizations shall submit documentation from the IRS to qualify the establishment for the exemption from the permit fee.

Churches need only supply documentation upon request by the Regulatory Authority.

Non-profit organizations shall comply with the requirements of Title 25, Texas Administrative Code, §229.373. Any non-profit organization not meeting the definition of “non-profit organization” must obtain a permit, pay the required fee, and comply with these Regulations.

Certain Bed and Breakfast Establishments

A bed and breakfast establishment with seven or fewer rooms for rent that serves only breakfast to its overnight guests is not a food establishment for purposes of this chapter.

An owner or manager of a bed and breakfast establishment covered by this subsection shall successfully complete a food manager's certification course accredited by the Regulatory Authority.

A bed and breakfast establishment that has more than seven rooms for rent, or that provides food service other than breakfast to its overnight guests, is a food establishment for purposes of this chapter, but may not be required to meet all criteria applicable to a larger food establishment such as a restaurant.

A bed and breakfast establishment that provides food service other than to overnight guests is a food establishment for purposes of this chapter and is subject to all rules and regulations applicable to a food establishment.

SECTION G. POSTING OF PERMIT

The permit and sticker shall be posted in a location in the food establishment that is conspicuous to consumers (i.e. window, entranceway, checkout counter).

Permits for mobile food units, including pushcarts and roadside food vendors, shall be displayed on the units at all times.

SECTION H. PERMIT RENEWAL

The permit holder shall submit the annual permit fee for renewal prior to the expiration date of the current permit.

A person who files a renewal application after the expiration date shall pay an additional \$50.00 as a delinquency fee.

Failure to submit the renewal fee annually may subject the permit holder to the offense provisions under the Health and Safety Code, Chapter 437 and Title 25, Texas Administrative Code, §229.374.

SECTION I. CHANGE IN OWNERSHIP

In the event the food establishment changes ownership and/or control of the food establishment operation, a new food establishment permit must be obtained, regardless of the time remaining on the current permit.

In the event a new owner and/or new operator conduct business without a permit identifying the new ownership and/or management, said operator will be subject to violations and penalties set forth under Article 9 of these Regulations.

SECTION J. PERMIT AMENDMENT

Fee – A permit that is amended, including a change of name, ownership, or a notification of a change in location of a permitted food establishment required under Health & Safety Code, §437.0125, will require submission of fees as outlined in Article 4, Section D of these Regulations.

Change in Location – A permit is not transferable upon change of location with the exception of a permit issued to an operator of a mobile food unit or roadside food vendor.

SECTION K. INSPECTIONS

Authorized agents or employees of the Regulatory Authority may enter the premises of a food establishment under the Regulatory Authority's jurisdiction during normal operating hours to conduct inspections to determine compliance with state law, rules adopted under state law, and orders adopted by Brazoria County.

Preliminary Inspection

Upon receipt of a permit application, the Regulatory Authority will set an initial/preliminary inspection date with the applicant. In the event the food establishment does not comply with all state and local laws and rules, a re-inspection will be required. Said re-inspection will cost the applicant additional funds.

Requirements for food establishments can be obtained from either the Regulatory Authority and/or its website at www.brazoria-county/environmental/foodestablishments.asp.

Once the food establishment complies and passes the preliminary inspection, a final inspection will be conducted by the Regulatory Authority after the establishment is allowed to open for business.

Inspections

The Regulatory Authority will conduct random, non-scheduled inspections to ensure compliance with all state laws.

SECTION L. DETENTION

The authorized agent may detain an article of food that is located on the premises of a food establishment and is adulterated or misbranded under Chapter 431.

SECTION M. DENIAL, SUSPENSION, OR REVOCATION OF PERMITS

The Regulatory Authority may deny, suspend or revoke a permit to operate a food establishment if the Regulatory Authority finds that the food establishment is not in compliance with state law, rules adopted under state law, or orders adopted by the County.

A permit shall be denied, suspended, or revoked by delivery of a notice to the applicant or holder of the permit. The notice shall give the applicant or holder of the permit the reasons for denial, suspension, or revocation. A delivery of the notice may be accomplished by personally delivering it to the applicant or permit holder; by mailing a copy of the notice to the applicant or holder at the address indicated on the permit application; or by leaving a copy of the notice with a responsible person working at the food establishment.

The applicant or holder of the permit may request a hearing on the permit denial, suspension, or revocation by filing a request for hearing with the Regulatory Authority in writing within ten (10) days following the receipt of the notice of denial, suspension or revocation. If no request for hearing is received by the Regulatory Authority within the allotted time, the denial, suspension, or revocation is sustained.

If a timely request for hearing is received by the Regulatory Authority, a hearing will be conducted during which the applicant or holder may present evidence to show why the permit should not be denied, suspended, or revoked. Based upon the evidence of such hearing, the Regulatory Authority shall make a final decision, and shall uphold, suspend, modify, or rescind any notice or order considered in the hearing. A written report on the hearing decision shall be furnished to the applicant or the holder of the permit by the hearing officer.

In a case where a permit is suspended, the suspension will be lifted only when the permit holder abates all the defects which originally gave rise to the suspension. Failure to correct the defects within the time period given by the Regulatory Authority within ten (10) days of the receipt of suspension notice shall be sufficient cause for the suspension to become a final revocation of the permit.

Whenever a denial or revocation of a permit has become final, the applicant or holder of the revoked permit may make written application for a new permit. The applicant or holder of the revoked permit must meet all rules and requirements in compliance with state law, rules adopted under state law, or orders adopted by the County.

SECTION N. EMERGENCY SUSPENSION OR CLOSING ORDER

The Regulatory Authority shall suspend the license of a food establishment or order the immediate closing of the food establishment if:

The Regulatory Authority finds the food establishment is operating in violation of the standards prescribed by Texas Health & Safety Code, Chapter 437 and/or Title 25, Texas Administrative Code, §229.161, *et seq.*; and

The violation creates an immediate threat to the health and safety of the public.

An order suspending a license or closing a food establishment under this section is immediately effective on the date on which the license holder receives written notice or a later date specified in the order.

An order suspending a license or ordering an immediate closing of a food establishment is valid for 10 days after the effective date of the order.

SECTION O. REPORTING RESPONSIBILITIES OF THE REGULATORY AGENCY

The Regulatory Authority shall keep a permanent record of all permit fees and other monies collected. Fees collected shall be deposited to the credit of a special fund, in accordance with Health and Safety Code, §437.012(c). Fees deposited in this fund may only be expended for the issuance of permits and inspections required by these Regulations.

The County of Brazoria, through its Director of Health, shall file an audited statement detailing the receipts of funds collected under the provisions of these Regulations and all expenditures of funds and fund balances with the Texas Department of State Health Services on or before the 15th day of January each year.

Failure to submit the audited statement to the Texas Department of State Health Services by the required date suspends the Regulatory Authority from requiring the payment of fees for the issuance or renewal of a permit until the statement is filed.

**ARTICLE 5
CERTIFIED FOOD MANAGER**

SECTION A. REQUIREMENTS

Each Food Establishment in which food is prepared on-site, for sale to the public that holds a permit issued by the County shall have a Certified Food Manager on duty at all times during operating hours.

SECTION B. RESPONSIBILITIES

Responsibilities of a certified food manager include.

- (a) identifying hazards in the day-to-day operation of a food establishment that provides food for human consumption;
- (b) developing or implementing specific policies, procedures or standards aimed at preventing foodborne illness;
- (c) coordinating training, supervising or directing food preparation activities, and taking corrective action as needed to protect the health of the consumer;
- (d) training the food establishment employees on the principals of food safety; and
- (e) conducting in-house self-inspections of daily operations on a periodic basis to ensure that policies and procedures concerning food safety are being followed.

SECTION C. CERTIFICATION BY TRAINING AND FOOD SAFETY EXAMINATION

To be certified, a food manager must complete an accredited certification or recertification program and pass an examination that has been administered through a department accredited food management course.

SECTION D. POSTING CERTIFICATE

Certificate availability. The original food manager certificate shall be conspicuously posted at each food establishment.

SECTION E. EXEMPTIONS

A Food Establishment that handles only prepackaged food and does not prepare or package food is not required to have a Certified Food Manager.

A child care facility as identified in Section 42.002 of the Texas Human Resources Code is not required to have a Certified Food Manager requirement.

**ARTICLE 6
VIOLATIONS AND PENALTIES**

SECTION A. INJUNCTION

The District Attorney may sue in district court to enjoin a food establishment from operating without a permit if a permit is required.

SECTION B. CRIMINAL PENALTIES

A person commits an offense if the person operates a food establishment without a permit required by the County in which the entity is operating. An offense under these Regulations is a Class C Misdemeanor. Each day on which a violation occurs constitutes a separate offense.

SECTION C. PENALTIES

If ownership changes during duration of a permit and the new owner does not obtain a new permit, then the new owner is subject to a late fee and the permit fee. In the event the new owner does not obtain a new permit within 24 hours, the establishment will be closed until said permit is obtained.