

**EFFECTIVE DATE: JULY 1ST, 2026**



# **RETAIL FOOD PROTECTION PROGRAM**

**DISTRICT ORDER 2026-1**

DISTRICT ORDER No. 2026-1  
NORTHEAST TEXAS PUBLIC HEALTH DISTRICT

**REVISING THE PROVISIONS OF PRIOR DISTRICT ORDER No. 2024-2**

**AN ORDER OF THE BOARD OF DIRECTORS OF THE NORTHEAST TEXAS PUBLIC HEALTH DISTRICT ESTABLISHING THE PERMITTING AND ENFORCEMENT OF STATE LAW AND STATE RULES FOR FOOD ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, ROADSIDE FOOD VENDORS, AND TEMPORARY FOOD ESTABLISHMENTS; ESTABLISHING A VARIABLE FEE SCHEDULE FOR ISSUING OR RENEWING PERMITS; AND REQUIRING EMPLOYMENT OF CERTIFIED FOOD MANAGERS AND CERTIFIED FOOD WORKERS BY CERTAIN RETAIL FOOD ESTABLISHMENTS IN WHICH FOOD IS PREPARED OR OFFERED TO THE PUBLIC; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the Northeast Texas Public Health District to promote and protect the public health, safety, and welfare; and

**WHEREAS**, it is the intent of the Northeast Texas Public Health District to work with the Texas Department of State Health Services (DSHS) & the Mobile Food Industry through Interlocal Cooperation Contract pursuant to Texas Health and Safety Code, Section 437B provisions to safeguard public health and to provide to consumers food that is safe, unadulterated, and honestly presented by performing Mobile Food Inspection services as a Performing Agency on behalf of DSHS; and

**WHEREAS**, [the Texas Legislature passed SB 2844 \(2025\) transferring the exclusive permitting authority of all Mobile Food Units to the Texas Department of State Health Services \(DSHS\) effective July 1, 2026;](#) and

**WHEREAS**, [Texas Health and Safety Code, Section 437.002](#) et. seq. provides public health districts with authority to enforce state law and rules adopted under state law concerning food establishments, retail food stores, and temporary food establishments; and

**WHEREAS**, [Texas Health and Safety Code, Section 437.010](#) provides that public health districts may require permits, plan reviews, and inspections; and may deny, suspend, or revoke the permit of the food establishment, retail food store, and temporary food establishment if not in compliance with state laws or state rules; and

**WHEREAS**, [Texas Health and Safety Code, Section 437.012](#) (c) and (d) provides that fees collected by a public health district shall be deposited to the credit of a special fund

created by the cooperative agreement under which the district operates. Fees deposited as provided by this section may be spent only for conducting inspections required by this chapter and issuing permits; and

**WHEREAS,** [Texas Health and Safety Code, Section 437.012](#) (a) and (f), and the rules approved and adopted by the Health and Human Services Commission titled, “Inspection Fees for Retail Food Establishments – [25 Texas Administrative Code \(TAC\), Chapter §229, Subchapter Z,](#)” allow for the collection of a fee for providing food establishment inspections to TX HHS licensed care facilities and school food establishments; and

**WHEREAS,** [Texas Health and Safety Code, Section 437.0185](#) provides public health districts with authority to impose an administrative penalty on a person the district requires to hold a permit under Chapter 437.004 if the person violates state law and rules adopted under state law concerning food establishments, retail food stores, and temporary food service establishments; and

**WHEREAS,** [Texas Administrative Code Title 25. Part 1. Chapter §228,](#) Subchapter B, in accordance with [Texas Health and Safety Code, Chapter 438,](#) Subchapter G, Certification of Food Managers, supports demonstration of food safety knowledge, thereby reducing the risk of foodborne illness outbreaks caused by improper food preparation and handling techniques; and

**WHEREAS,** [Texas Health and Safety Code, Section 437.010](#) provides for the submission of plans and subsequent inspections necessary to determine if the applicant is in compliance with state law and rules adopted under state law governing the applicant; and

**WHEREAS,** “[Texas Food Establishment Rules,](#)” [25 TAC §228.222\(a\)](#) provides that the regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment, may prohibit the sale of some or all foods requiring time or temperature control for safety (TCS foods), and when no health hazard will result, may waive, or modify requirements of these rules; and

**WHEREAS,** [FDA Food Code 8-102.10](#) provides for additional requirements to prevent health hazards and for conditions not addressed by “Texas Food Establishment Rules;” and

**WHEREAS,** [FDA Food Code 8-301.11.1](#) requires a permit as a prerequisite for operation of a food establishment, [FDA Food Code 8-304.20](#) the regulatory authority permit is non-transferable and in the event a food establishment plans to remodel, change ownership, or change the nature of the operation, [FDA Food Code 3-201.11](#) the permit holder shall contact the Northeast Texas Public Health District prior to a remodel, a change of ownership, or a change in the nature of the operation including, but not limited to a change in menu, processing style, or concept;

**WHEREAS,** [Texas Health & Safety Code Section 121.043\(a\)](#) provides that a public health district may perform any health function that any of its members may perform unless otherwise restricted by law;

**WHEREAS**, [Texas Health & Safety Code Section 121.006\(a\)](#) states that a the administrative board of a public health district may adopt ordinances or rules to charge fees for public health services;

**WHEREAS**, the Board of Directors of the Northeast Texas Public Health District previously adopted District Order No. 2024-2, which established various regulations regarding food service establishments and related fees;

**WHEREAS**, it is important that Board of Directors know and update the regulations in District Order No. 2024-2 related to food service establishments and associated fees;

**THEREFORE, BE IT RESOLVED** that the Northeast Texas Public Health District Board hereby adopts the following Northeast Texas Public Health District Food Establishment Rules, Regulations, Fees, and orders as follows:

## Table of Contents

PART 1. RETAIL FOOD ESTABLISHMENTS.....	6
Section 1. General Provisions .....	6
Section 2. Fee Schedule.....	13
Section 3. Requirements Applicable to Certain Types of Food Establishments .....	13
Section 4. Plan Review of Facility, Operating Plans and Preliminary Inspections of Retail Food Establishments .....	19
Section 5. Permits and Fees .....	22
Section 6. Certifications, Active Managerial Control and Incentives .....	25
Section 7. Inspections.....	28
Section 8. Examination and Condemnation of Food; and Maintenance of Equipment.....	31
Section 9. Procedure When Disease Transmission or Infection is Suspected .....	32
Section 10. Enforcement and Administrative Penalty Procedures.....	33
Section 11. Appeals of Decisions Made Under Sections 1 through 10.....	35
PART 2. MOBILE FOOD VEHICLES .....	36
Section 1. General Provisions .....	36
Section 2. Process for Obtaining a Mobile Food Unit Permit.....	39
Section 3. Food Truck Parks.....	40
Section 4. Inspections.....	40
PART 3. SEVERABILITY .....	41
Section 1. That if any provision or any section of this District Order shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this District Order, which shall remain in full force and effect. ....	41
PART 4. PENALTY .....	41
Section 1. That any person, firm, or corporation violating any of the provisions 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. Any person, firm, or corporation violating any of the provisions of the District Order may also be subject to appropriate administrative penalties, if applicable. Since this 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. ....	41
Section 2. Implementation of Mobile Food Units revisions .....	42

# PART 1. RETAIL FOOD ESTABLISHMENTS

## Section 1. General Provisions

### A. State Regulations

- 1) Texas Department of State Health Services (TX DSHS), Consumer Protection Division, Food and Drug Section, Manufactured Food & Retail\_Unit: “Texas Food Establishment Rules,” [25 TAC §228](#).
- 2) Texas Health & Safety Code [Chapters 431](#) through [438](#) and amendments thereto.

### B. Definitions

- 1) **Accredited Food Handler Certification** – certification is obtained by completing a TX DSHS approved course teaching the principles of food safety to produce safe food products and prevent food borne illness.
- 2) **Accredited Food Safety Manager Certification** – certification is obtained by passing a TX DSHS approved certified food manager certification examination. Certification is valid for five (5) years.
- 3) **Administrative Hearing** – a non-judicial hearing conducted between the complainant and NET Health Chief Executive Officer or designated appointees.
- 4) **Administrative Penalty** – a civil penalty imposed by NET Health for a contravention of an act, regulation, or by-law. It is regulatory in nature, rather than criminal, is intended to secure compliance with a regulatory scheme, and can be employed with the use of other administrative sanctions such as demerit points and license suspensions.
- 5) **Bake Sale** – a fundraising event selling baked goods allowed by law of which all proceeds go toward the nonprofit organization.
- 6) **Baked Good** – foods that do not require time or temperature control for safety, such as breads, cakes and pastries that are cooked in an oven.
- 7) **Catered Event** – a catered feeding location where food is provided by a food establishment permitted by NET Health to provide a contracted amount of food directly to a private and pre- determined number of consumers. A catered event is not an agreement to provide foods prepared for an unknown number of consumers or provided for retail sale, by ticket or for service by the plate to consumers at a public event.
- 8) **Caterer** – a permitted food establishment, under inspection by NET Health, hired or contracted to provide food service for a pre-determined number of consumers

at a private event. A caterer must undergo a plan review to provide information to NET Health for the catering operations including: menu, processing style, transportation equipment, service equipment and storage.

- 9) Central Preparation Facility** - An approved and permitted retail food establishment or space where food is prepared, stored and packaged.
- 10) Commissary Facility** – a facility that is an approved and permitted retail food establishment that provides support to mobile food units, caterers, food manufacturers. A commissary can include a servicing area and a central preparation facility. Support services include adequate equipment, storage, parking, utility, and prep area for businesses using its facility.
- 11) Child Care Center/Facility** – any facility licensed by the regulatory authority to receive thirteen (13) or more children for childcare which prepares or serves food for on-site consumption. A childcare center is classified as a food establishment. [25 TAC Chapter §229](#) Subchapter Z, §229.471.
- 12) Core Item** – a provision in the FDA Food Code that is not designated as a Priority item or a Priority Foundation item and includes an item that usually relates to general sanitation, operational controls, sanitation operating procedures, facilities or structures, equipment design or general maintenance.
- 13) Cottage Food Production Operation** – An individual, operating out of the individual's home, or a nonprofit organization that:
- (a) produces at the individual's home or the home of an individual who is a director or officer of the nonprofit organization, as applicable, any food other than:
    - (i) meat, meat products, poultry, or poultry products;
    - (ii) seafood, including seafood products, fish, fish products, shellfish, and shellfish products;
    - (iii) ice or ice products, including shaved ice, ice cream, frozen custard, popsicles, and gelato;
    - (iv) low-acid canned goods;
    - (v) products containing cannabidiol or tetrahydrocannabinol; or
    - (vi) raw milk and raw milk products;
  - (b) has an annual gross income of \$150,000 or less from the sale of food described by Paragraph (A), as the department annually adjusts for inflation using the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics or its successor in function;

- (c) sells the foods produced under Paragraph (A) directly to consumers or to a cottage food vendor; and
- (d) delivers products to the consumer or cottage food vendor at the point of sale or another location designated by the consumer or cottage food vendor.

**14) Cottage Food Vendor** – a person located in this state who:

- (a) has a contractual relationship with a cottage food production operation; and
- (b) sells directly to consumers located in this state on behalf of the cottage food production operation a food other than a time and temperature control for safety food.

**15) Chief Executive Officer** – the director of the public health district.

**16) Donated Food Distributing Organizations.** (DFDOs) are charitable organizations under section 501(c) of the federal Internal Revenue Code that distribute food free of charge.

**17) Donor.** A person, corporation, association, or other organization that donates food to a Donated Food Distributing Organization.

**18) Donor Kitchen.** A kitchen that is used by a Donor to handle, store, or prepare food for donation through a Donated Food Distributing Organization and which is not a residential kitchen in a private home.

**19) Drinking water (TFER §228.2 (11))** - Traditionally known as "potable water" and that meets the standards set forth in [30 TAC Chapter §290](#), Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems). Drinking water includes the term "water" except where the term used connotes that the water is not potable, such as "boiler water," "mop water," "rainwater," "wastewater," and "non-drinking water."

**20) Event** – commonly termed as a “single event or celebration;” a unique public gathering of persons at which food products will be served directly to consumers, such as a festival, bazaar, carnival, circus, fund-raiser, public exhibition, celebration, sporting event, or other mass public gathering which can be civic, political, public or educational for which an appropriate regulatory authority would grant permission for the operation of the event. An event shall have a promoter, sponsor or coordinator that is responsible for the organization and facilitation of utilities to vendors throughout the event.

**21) Event Coordinator/Promoter** – person responsible for sponsoring or organizing and/or advertising the activities of the event and for facilitation of utilities to vendors throughout the event.

**22) Farmer** - A person or entity that produces agricultural products including, but not limited District Order 2026-1 (revision of prior orders as of 7-1-26)

to, fruits, vegetables, fungi, grains, fiber, honey, dairy products, meat, poultry, or eggs, by practice of the agricultural arts upon land that the person or entity owns, rents, leases, or to which the person or entity otherwise has access.

**23) Farm Stand** – a premises owned and operated by a producer of agricultural food products at which the producer or other persons may offer for sale produce or foods described by Subdivision [2-b \(A\) of Section 437.001 of the Texas Health and Safety Code](#).

**24) Farmers Market** – A designated location used for a recurring event at which a majority of the vendors are farmers or other food producers who sell food directly to consumers. A farmers’ market must include at least two vendors who meet the definition of “Farmer” as defined in this section and may include vendors who meet the definition of “Food Producer” as defined in this section. In addition, a farmers market may include vendors who are not “Farmers” or Food Producers,” provided that the “Farmers” and “Food Producers” constitute the majority of vendors who participate in the market throughout the year. [Reference 25 TAC §229.702\(3\)](#).

**25) FDA** – means the [U.S. Food and Drug Administration](#).

**26) Floor Plans** – a computer drafted professionally drawn to scale diagram or drawing of a room or building drawn as if seen from above. Equipment schedules; finish schedules; plumbing and electrical diagrams; and calculations may be requested along with any other information to complete a proper plan review.

**27) Food Establishment** - A food establishment is an operation that: stores, prepares, packages, serves, or vends food directly to the consumer, or otherwise provides food for human consumption, such as a restaurant, 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, vending machine location, self-service food market, conveyance used to transport people, institution, or food bank; and 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) A Food establishment includes:

- (i) an element of the operation, such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and
- (ii) an operation that is conducted in a mobile, stationary, temporary, or

permanent facility or location and where consumption is on or off the premises regardless if there is a charge for the food. A nonprofit organization

(b) A Food establishment does not include:

- (i) an establishment that offers only prepackaged foods that are not TCS foods;
- (ii) a produce stand that only offers whole, uncut fresh fruits and vegetables;
- (iii) a food processing plant, including one that is located on the premises of a food establishment;
- (iv) a cottage food production operation;
- (v) a honey production operation;
- (vi) a bed and breakfast limited as defined in this section; or
- (vii) a private home that receives catered or home-delivered food.

**28) Food Producer** – A person who grew, raised, processed, prepared, manufactured, or otherwise added value to the food product the person is selling. The term does not include a person who only packaged or repackaged a food product.

**29) Group Residence ([TFER §228.2\(17\)](#))**--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 care facility.

**30) Harvest Cut** – the raw cut to remove produce from the field and any erroneous foliage.

**31) Hazard Analysis Critical Control Point (HACCP) Plan** – a written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**32) Hold Order** – temporary detainment of foods believed to have been compromised or tampered with that must not be moved or destroyed until cleared by NET Health.

**33) Human Foods Program (HFP)** – Federal Program that became effective October 1, 2024. The [Human Foods Program](#) oversees all FDA activities related to microbiological food safety, food chemical safety and nutrition.

**34) Imminent Health Hazard** – significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product,

practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury. Examples include but are not limited to sewage or wastewater backup or improper discharge, breakdown of refrigeration system, lack of water, no hot water, an outbreak of foodborne illness, lack of electricity, pest infestation, lack of sanitation and control.

**35) Nonprofit Organization** –Defined in [§229.371 \(4\) of 25 TAC Part 1](#), A civic or fraternal organization, charity, lodge, association, proprietorship, or corporation possessing a 501 (c) exemption under the Internal Revenue Code; or a religious organization.

**36) Northeast Texas Public Health District (NET Health)** – is a Public Health District established, according to [Texas Health and Safety Code 121 Subchapter E](#), in 1994 by the City of Tyler and Smith County. All other incorporated cities of Smith County have opted in as a member of the Northeast Texas Public Health District for the services of the retail food inspection program.

**37) No Bare Hand Contact** – the use of a physical barrier between clean bare hands and ready to eat food items is required when handling foods (examples include, but are not limited to spoons, tongs, tissue paper, disposable food grade gloves, etc.).

**38) Permit** - means the document issued by NET Health that authorizes a PERSON to operate a FOOD ESTABLISHMENT.

**39) Person** - means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

**40) Preliminary Inspection** – a site visit and inspection conducted in preparation for submittal of an application for a Retail Food Establishment Permit.

**41) Priority Foundation Item.**

(a) "Priority foundation item" means a provision in this Code whose application supports, facilitates, or enables one or more PRIORITY ITEMS.

(b) "Priority foundation item" includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and "Priority foundation item" is an item that is denoted in this Code with a superscript Pf - Pf.

**42) Priority Item.**

(a) "Priority item" means a provision in this Code whose application

contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard.

(b) "Priority item" includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and

(c) "Priority item" is an item that is denoted in this Code with a superscript P-P.

**43) Promoter** – person responsible for sponsoring or organizing and/or advertising the activities of an event and for facilitation of utilities to vendors throughout an event.

**44) Public Health District** – a special district government entity established by two (2) or more counties and/or cities, as per Texas Health and Safety Code, [Title 2, Subtitle F, Chapter 121](#), Subchapter E. Any government entity including a school district may become a member of a public health district. A public health district will at a minimum provide the essential public health services listed for a local health department. A public health district may perform any public health function that any of its members may perform unless restricted by law.

**45) Producer** – defined pursuant to [19 USCS Section 2401 \(2\)](#). [Title 19. Customs Duties]. The term agricultural commodity producer means a person that shares in the risk of producing an agricultural commodity and that is entitled to a share of the commodity for marketing, including an operator, a sharecropper, or a person that owns or rents the land on which the commodity is produced.

**46) Ready to Eat Food** – foods that are in a form that is edible without additional preparation to achieve food safety. No further washing, cooking, or additional preparation by the food establishment or the consumer is required. These foods are intended for immediate consumption either for on-premises consumption or carry-out and it is reasonably expected to be consumed in that form.

**47) Remodel** – to change the structure, finishes, layout, or design of the originally approved floor plan of any retail food establishment.

**48) Revocation** – the permit issued is terminated for an indefinite period of time.

**49) Risk Category** – a hierarchical scale of the likelihood of foodborne illness to occur based on the menu, processing style and history of operations inside the food establishment.

**50) Sewage** - means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

**51) School Food Establishment** – A food establishment where food is prepared or served 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. [25 TAC §229, Subchapter Z, §229.471.](#)

**52) Suspension** – the temporary discontinuance or withdrawal of a permit issued by NET Health for the period of suspension.

**53) Temporary Food Establishment** – a food establishment that operates at a fixed location for a period of time of no more than fourteen (14) consecutive days in conjunction with a coordinated single event or celebration.

**54) Time/Temperature Control for Safety (TCS) Food** (formerly defined as Potential Hazardous Food) – food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

**55) Variance** – a written document issued by NET Health that authorizes a modification or waiver of one or more requirements of the Texas Food Establishment Rules if, in the opinion of NET Health, a health hazard or nuisance will not result from the modification or waiver.

**56) Vending Machines** – Self-service devices which, upon insertion of a coin, paper currency, token, card or key, dispenses unit servings of food, either in bulk or in packages, without the necessity of replenishing the device between each vending operation.

## Section 2. Fee Schedule

### A. The current NET Health Retail Food Permit Fee is in Exhibit A.

## Section 3. Requirements Applicable to Certain Types of Food Establishments

**A. Catered Event Requirements.** A Catered Event as defined in [Part 1 Section 1. B. 7\)](#) must follow the permitted chain of inspection and must include the following:

- 1) NET Health Permit. Any person hired to cater for a private event within NET Health jurisdiction must hold a valid NET Health Retail Food Establishment Permit.
- 2) Plan Review. A caterer must undergo a plan review before business begins or before adding catering services to retail food establishment. The plan review must provide information for the catering operations including: menu, processing style, transportation equipment, service equipment and storage of equipment and supplies.
- 3) Documentation. Caterers and event coordinators need to complete a contract

that includes an offer, acceptance, and consideration. This contract would describe the details for providing a specific amount of food and method of service directly to consumers at a private event.

- 4) Capacity to Contract. Caterers and event coordinators must be of legal age; must have the mental capacity to enter into an agreement and the contract must not violate the law.

**B. Donated Food Distributing Organizations.** All DFDOs within NET Health jurisdiction must register with the Environmental Health Department of NET Health.

**C. Farmers Market Requirement.** Regulations for Texas farmers markets are contained in [Title 25, Chapter 229.701-704](#) of the Texas Administrative Code.

- 1) Farmers Market Application Required. The purpose of this application is for verification the activity qualifies as a farmers market and to ensure foods and beverages requiring time or temperature control for safety are inspected and permitted accordingly. This applies to traditional in person and virtually organized farmers markets.
- 2) Farmers Market Coordinator Responsibilities. The Farmers Market Coordinator or person designated as the market promoter must submit application for any farmers markets located within NET Health jurisdiction to the Environmental Health Department. The farmers market coordinator shall provide a written statement describing the event and listing all proposed farmers market vendors.
  - (a) Display of Permits and Licenses. The farmers market must display NET Health Farmers Market Certificate. The farmers market coordinator must ensure all vendors seek and obtain and publicly display applicable permits or licenses from regulatory governing the foods or beverages offered for consumption.
  - (b) Facility Sanitation. The farmers market coordinator must ensure prevention of public nuisance or conditions that contribute to the spread of communicable disease.
  - (c) Utilities to Support Farmers Market Vendors. The farmers market coordinator must establish, coordinate and maintain utilities according to farmers market application submitted and approved by NET Health. Utilities including but not limited to maintaining access to potable water connections, backflow prevention, proper wastewater and grease disposal, electrical needs of vendors, toilet facilities, crowd control, trash control.
- 3) Farmers Market Vendors Operating at a Farmers Market Within NET

Health Jurisdiction.

(a) Permit Required. Vendors that offer consumable foods or beverages defined as TCS foods requiring time or temperature control for safety, are required to obtain a valid permit before operating at a farmers market within NET Health Jurisdiction.

(b) Application. Prior to operating, a Farmers Market Vendor Permit Application form must be obtained from NET Health and returned with the required fee as per [Part 1 Section 2](#) of this District Order. The application shall contain such information necessary for NET Health to determine adequate food safety operations will be implemented for public safety.

4) Types of Farmers Market Vendors Categories.

(a) Exemptions. Vendors that offer whole produce, cottage food producers operating under cottage law, or vendors offering shelf stable commercially manufactured foods that are labeled for individual sale to consumers, and it remains in original packaging.

(b) Low Risk. Packaged foods that require time or temperature control.

(c) Medium Risk. Ready to eat foods that require simple prep or assembly for service. Minimal menu items (5 or less) that are all ready to eat and require little preparation for service to the customer.

(d) High Risk. Foods that are ready to eat and require time or temperature control for safety and that will be reheated and served or reheated and held before being served.

(e) High Risk Complex Foods. Complex food preparation that requires time or temperature control for safety, are received or stored in the raw not ready to eat state and require preparation and cooking before being served.

5) Equipment. Equipment necessary to control risks known to contribute to foodborne illnesses must be provided to control contamination by environment or associated pathogens in foods, health and sanitation of food handlers, adequate temperature controls to denature pathogens or limit their growth and by sourcing foods from approved safe sources.

6) Handwashing and ware washing sinks. Refer to [Part 1 Section 3 E. 2\) \(d\)](#)

7) Duration. A Farmers Market Vendor Permit is valid for a maximum of one year.

**D. Mobile Food Vendors, and Food Truck Park.** Refer to [Part 2](#) of this District Order.

**E. Nonprofit Organizations.** Food establishments, the net earnings of which

are used in whole for charity, church funds or public welfare, **shall meet all requirements of this District Order with the exception of the fee and permit.** Application, review and inspections are performed to demonstrate food safety compliance necessary to protect public health.

- 1) Proof of 501(c). A valid copy of the 501(c) IRS determination letter must be submitted with application to apply the permit fee exemption.
- 2) Plan Review. Applications will be reviewed to review plans for menu, capacity for preparation of foods and beverages and the equipment layout to accommodate contamination prevention and volume. Reference Part 1, Section 4 of this District Order.
- 3) Posting of Certificate of Inspection and Inspection Report. NET Health will issue a Certificate of Inspection upon successful inspection completion. The Certificate of Inspection and most recent inspection must be prominently posted visible to the public consumers.
- 4) Compliance with Texas Food Establishment Rules. Reference TAC §228

**F. Self-Service Food Markets.** A market that is unstaffed and offers prepackaged non-TCS food and prepackaged refrigerated or frozen TCS food that is stored in equipment that complies with the Texas Food Establishment Rules. §228.225.

**G. Temporary Event Requirement.** A single event or celebration that offers food or beverages to the public is responsible for the health and welfare of the consumers. Permits and inspections are required if foods and beverages are offered to the public for consumption regardless if there is a charge for the foods and regardless of registration for entrance to the event. There are two (2) components required to organize such an event:

- 1) Coordinator Application for a Single Event or Celebration.
  - (a) Application Required. The purpose of the application is to verify the activity is a “single event or celebration.” When food vendors are invited to participate in the event, the event promoter or event coordinator defined in Part I, Section 1, B, (17) of this District Order must make an application to NET Health at least two (2) weeks prior to the date of the event. Applications received within two (2) weeks of the event date may be denied or charged a late fee as described in Part 1 Section 2 of this District Order.
  - (b) Responsibility of Event Coordinator. The event coordinator shall provide a written statement describing the event and listing all proposed temporary food

- establishments. The event coordinator of an event at which a temporary food establishment is operated shall ensure a permit is obtained for each temporary food establishment. The event coordinator must identify and ensure each vendor has utilities including but not limited to maintaining access to potable water connections, backflow prevention, proper wastewater and grease disposal, electrical needs of vendors, toilet facilities, crowd control, trash control, securing qualified temporary food vendors and coordinating the health and safety of the invited guests.
- (c) Limitations. Events shall occur once a month or less frequently per property. Events that occur daily, weekly, or more frequently than once a month are considered continuous operations and thus do not constitute a “single event or celebration.”
  - (d) Location Exception. For city or county owned locations, such as parks, or convention centers and like venues with Food Establishment Permits, more than one “single event or celebration” may occur at that location per month so long as the fees are paid for each event per [Part 1 Section 2](#) and the appropriate “single event or celebration” Coordinator’s Application and a Temporary Food Establishment Permit Application and if applicable a city or county issued special use permit verifies each “single event or celebration” is unique in the fact the single event or celebration is the only one of its kind.
- 2) Temporary Food Establishments Operating at a Single Event.
- (a) Permit Required. A temporary food establishment shall obtain a permit with NET Health prior to offering foods or beverages to the public. The single event permit is valid for one individual food booth or unit at one specific event and is valid for the dates and times of the coordinated event up to a maximum of fourteen (14) consecutive days from the initial effective date. After being secured as a food vendor for a “single event or celebration” contact must be made with NET Health to submit a Temporary Food Establishment Permit Application. Exception: A temporary food establishment event set up at a farmers’ market may be permitted to set up for the dates of the farmers’ market up to a maximum of one year.
  - (b) Application. Prior to operating a temporary food establishment, a Temporary Food Establishment Permit Application form must be obtained from NET Health and returned with the required fee as per [Part 1 Section 2](#) The application shall contain such information necessary for NET Health to determine if a permit should be issued and under what conditions the application shall be approved or disapproved. The Temporary Food Establishment Permit Application must be received by NET Health at least seven (7) calendar days prior to the event. Applications accepted less than seven (7) calendar days prior to an event must pay a one hundred dollar (\$100.00) late application fee. Applications submitted within three (3) business days prior to the event may be denied.

- (c) Liability. The owner/operator of a temporary food establishment has liability for the operation of the temporary food establishment. The owner/operator may be responsible should a patron/customer be harmed by the operation of the temporary food establishment. The owner and the operators involved in food preparation must take extraordinary care to prevent risk/hazard to the community.
- (d) Hand sinks and ware washing sinks for Temporary Food Establishments. An adequate supply of tempered potable water is required for each temporary food establishment to effectively wash hands and wash, rinse and sanitize utensils and food equipment throughout the event. Adequate supply will be determined based on types of foods offered and the duration of the event.
  - (i) Temporary Food Establishments that offer foods in packaged form may be exempt from ware washing and hand washing requirements if approved by NET Health.
  - (ii) Hand washing equipment must be at least a tempered container with spigot capable of constant waterflow into a catch basin to capture all wastewater generated. Hand sink locations must be accessible and convenient for use by food workers.
  - (iii) Low risk or Process 1 type foods and beverages offered at Coordinated Events shall have at a minimum three food grade tubs of adequate capacity to effectively wash utensils and food equipment.
  - (iv) Medium risk or Process 2 type foods and beverages offered at Coordinated Events with a duration of 4 hours or less shall have at a minimum three food grade tubs of adequate capacity to effectively wash utensils and food equipment.
  - (v) Medium risk or Process 2 type foods and beverages offered at Coordinated Events with a duration greater than 4 hours shall have at a minimum a three-compartment sink with hot and cold water under pressure to effectively wash utensils and food equipment. Each compartment must be able to accommodate food equipment needing to be washed.
  - (vi) High risk or Process 3 and Complex Menu Temporary Food Vendors must have adequate supply of hot and cold water under pressure plumbed to a three-compartment sink and to a hand sink. Water capacity shall be adequate last the duration of the event and all wastewaters shall be contained and discharged to prevent public nuisance or risk to health and safety.
- (e) Additional Requirements. NET Health may impose additional requirements to protect against health hazards related to the conduct of the temporary

food establishments and may prohibit the sale of some or all food that requires time/temperature control for safety.

- (f) **Complex Menu at a Temporary Food Establishment.** Process 2 or Process 3 foods received raw and prepared for service in a temporary food establishment presents a higher risk of contamination. Additional requirements shall be required to protect the health of the public. A plan review will be conducted to determine food worker training, prevention of contamination of ready to eat foods, prevention of contamination from the environment, and safe preparation, storage, and handling of foods.
- (g) **Requirements for Temporary Food Vendors.** A temporary food vendor attending greater than twelve (12) events per year is required to obtain a permit for a central food preparation/commissary with servicing area for equipment cleaning, storage, and supply storage.

#### Section 4. Plan Review of Facility, Operating Plans and Preliminary Inspections of Retail Food Establishments

- A. General.** The required plans and specifications related to the proposed layout shall include scope of work, site plan, overall building layout, equipment arrangement, plumbing plans, mechanical plans, lighting and finish materials of food areas, and the type and model of proposed fixed equipment and facilities. A commissary shall additionally submit plans showing refrigerated and dry storage areas reserved for mobile food unit use. The prepared plans and specifications shall be submitted to NET Health with any supporting documentation required by NET Health for review and approval before construction, remodeling or conversion begins. The regulatory authority or its designated agent or involved local authority shall approve the plans and specifications if they meet the requirements of these rules.
- B. Submission of Plans Required.** No food establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by NET Health. The Conference of Food Protection (CFP) Plan Review for Food Establishments shall be used to prepare plans and specifications for submittal to NET Health with a plan review application, menu, and appropriate fee before any food establishment within NET Health jurisdiction shall:
  - 1) be constructed;

- 2) undergo a major remodel;
- 3) change equipment arrangement or food flow;
- 4) change type or size of equipment;
- 5) change ownership; or
- 6) convert an existing structure, not previously used as a food establishment, into a food establishment or retail food store, fee specified in Part 1 Section 2 of this District Order.

**C. Size and Scale of Floor Plans.** Floor Plans must be submitted on at least 11-inch x 17-inch paper. Floor Plans submitted on paper larger than 11-inch x 17-inch paper must include an electronic copy. All Floor Plans must be scaled. The minimum scale shall be  $\frac{1}{4}$  inch.

**D. Revisions.** Changes to the original permitted design approved by NET Health must be submitted in like manner as the original set.

**E. Scalable and Readable Floor Plans.** Each new permit application must have an approved floor plan to submit for plan review. When an Architect or Engineer Stamp of approval is not required by the Texas Architectural Board or local ordinance, a computer drafted floor plan that has been professionally drawn to scale by draftsman or other similar credential must be submitted to NET Health to fulfill the needs for a proper and accurate plan review.

- 1) The floor plan and application must include details as indicated in (F) of this section.
- 2) Hand drawings, drawings that are not accurate, drawings that are incomplete or that are not scaled are prohibited and shall not be accepted or approved for plan review.

**F. Floor Plan Details:**

- 1) Required Detail.
  - (a) Seating capacity, projected daily meal volume and menu;
  - (b) The location of the refuse, recyclable, and/or returnable containers;
  - (c) Location of all food equipment. Each piece of equipment must be clearly labeled, marked, or identified. Food equipment schedule which includes the make and model numbers and listing of equipment that is certified or classified for sanitation by an ANSI accredited certification program (when applicable) may be requested to be submitted. Elevation drawings may be requested by NET Health;
  - (d) Identify auxiliary areas such as storage rooms, garbage rooms, toilets, employee

storage/breakroom, mop sink and/or curbed cleaning facility, any outlying wait stations, or satellite food service areas in relation to the food service and kitchen area must be detailed;

- (e) Entrances, exits, loading/unloading areas and delivery docks;
  - (f) Complete finish schedules for each room including floors, walls, ceilings, and baseboard coving;
  - (g) Plumbing schedule including location of floor drains, floor sinks, water supply lines, overhead waste-water lines, hot water generating equipment with capacity and recovery rate, backflow prevention, wastewater line connections;
  - (h) Calculations are required for sizing and location of the grease interceptor. When required by the building department or water pretreatment authority, must be installed outside the building whenever possible, but in no case can they be located where food is prepared or stored, or where utensils or tableware is washed or stored.
  - (i) Location and type of lighting fixtures;
  - (j) Source of potable water supply and method of sewage disposal; and
  - (k) The design must be compliant with plumbing, electrical and structural regulations to include the applicable provisions under the American Disabilities Act.
- 2) Flow Chart. A color-coded flow chart may be requested by NET Health demonstrating flow patterns for:
- (a) Food (receiving, storage, preparation, service)
  - (b) Dishes (clean, soiled, cleaning, storage); and
  - (c) Trash and garbage (service area, holding, storage, disposal).
- 3) Ventilation Schedule. A schedule of the location of vent hoods may be requested by NET Health.

## **G. Remodel**

- 1) Minor Remodel. A Minor Remodel as described herein does not require a plan review application to be submitted to NET Health. Examples of a minor remodel would be the “like-for-like” exchange of equipment, for similar equipment in design, function, use, and maintenance that requires no additional alteration or modification of existing layout or fixtures to install and occupies the same or similar footprint of the replaced equipment, or the basic repair of the finishes of the floors, walls, ceilings, or lights.
- 2) Major Remodel. A Major Remodel meeting this definition requires a Plan Review Application to be submitted in compliance with [Part 1 Section 4](#) When the scope of work for the proposed remodel of a food establishment rises to the level of requiring a major

remodel permit: such work requires a permit from the building authority; the food establishment is adding new permanent plumbing, drainage or direct electrical connections; installation of new equipment is proposed; the modification of existing structure to accommodate the new equipment is required; the food flow or order of operations is changing; extensive replacement of finishes such as wall, floor or ceiling materials or fixtures are planned; or other qualifying events are deemed a Major Remodel by NET Health. A Major Remodel made to the original approved floorplan without proper application for plan review by NET Health is subject to an administrative penalty.

- 3) Changing Food Flow or Location of Equipment. The original floor plan approved and permitted shall not be changed or altered without submitting proposed changes for review to NET Health.

## Section 5. Permits and Fees

**A. Nonprofit Organization Inspections and Issuance of Certificate of Inspection.** Refer to Part 1 Section 3 E of this District Order.

**B. Permit Requirement, Prerequisite for Operation.** No person shall operate a food establishment in NET Health jurisdiction without a valid permit issued by NET Health. Only a person who complies with these rules shall be entitled to receive or retain such a permit. No person holding a permit shall sell, lend, lease or in any manner transfer a food establishment permit.

**C. Permit Fees.** The annual permit fee shall be adjusted and increased by 3% unless otherwise modified by lawful order of the Board of Health. Refer to Part 1 Section 2 for the current fee schedule.

**D. Risk Categorization of Food Establishments.**

- 1) Risk Assessment. Food Establishments are periodically evaluated to determine an overall potential for causing foodborne illness. The three main factors assessed are inspection history, risk category associated with the food services, and demonstration of active managerial controls. The risk assessment is used to assist in assignment of the annual permit fee.
- 2) Risk Category. The purpose of classifying food establishments according to risk category is to allow the regulatory agency to prioritize inspections based on the risk assessment.
  - (a) Very Low Risk. This risk category typically involves the vending or service of foods that pose minimal risk of causing foodborne illness. Examples include pre-packaged foods and beverages requiring temperature control for safety. It can be assigned to food establishments based on risk assessment.

- (b) Low Risk. This risk category typically involves the preparation, vending or service of foods and beverages and involves no cooking to kill pathogens. Generally, the steps in this process are: Receive-Store-Prepare-Hold-Serve-Vend. It can be assigned to food establishments based on risk assessment.
- (c) Medium Risk. This risk category typically involves food preparation for same day service. Generally, the steps in this process are: Receive-Store-Prepare-Cook-Hold- Serve. It can be assigned to food establishments based on risk assessment.
- (d) High Risk. This risk category is typically assigned to food establishments that have complex food preparation. Generally, the steps in this process are: Receive-Store-Prepare-Cook-Cool-Reheat- Hot Hold-Serve. This high risk category is also assigned to food establishments that have:
  - (i) Any prepared foods that require a Variance and/or HACCP Plans as defined by [FDA Food Code §8-201.13](#);
  - (ii) Any foods prepared for highly susceptible populations; or
  - (iii) It can be assigned to food establishments based on risk assessment.
- (e) Very High Risk. This category is typically reserved for food establishments with high volume, service to a highly susceptible population; or conducting special processes. This category can be assigned to food establishments whose risk assessment determines poor managerial controls, poor inspection history.

**E. Permit Issuance.** Food establishments shall be inspected by NET Health immediately prior to the issuance of a permit. Upon successful completion of a permit approval/opening inspection, NET Health shall issue a permit to the applicant if its inspection reveals that the proposed food establishment complies with these rules.

**F. Valid permit.** A valid permit is one that is not expired, revoked, or suspended. The permit shall not be defaced, removed, or otherwise altered without written permission from NET Health. Any permit may be revoked or suspended by NET Health at any time if it is deemed food establishment is not operating in compliance with the provisions of this District Order or in any emergency when, in the judgment of NET Health, any food establishment has become a public health nuisance or menace.

**G. Conditions of Retention, Responsibilities of the Permit Holder.** The permit holder shall comply with the provisions of the Texas Food Establishment Rules

and the NET Health District Order; and

- 1) If required, submit, and comply with HACCP plan or variances;
- 2) Immediately contact the regulatory authority to report an illness of an employee as required by the Texas Food Establishment Rules;
- 3) Immediately discontinue operations and notify the regulatory authority if an imminent health hazard may exist;
- 4) Allow representatives of the regulatory authority access to the food establishment;
- 5) Replace existing facilities and equipment, as required by the Texas Food Establishment Rules, with acceptable replacements;
- 6) Comply with NET Health directives including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives issued to the permit holder's food establishment or in response to community emergencies;
- 7) Accept notices issued and served by NET Health according to law;
- 8) Be subject to the administrative, civil, injunctive, and criminal remedies authorized in law for failure to comply with these rules or a NET Health directive, including time frames for corrective actions specified in inspection reports, notices, orders, warnings, and other directives; and
- 9) Notify customers that a copy of the most recent establishment inspection report, valid framed food establishment permit, and other required signage and documents are available and/or posted in a conspicuous location visible to consumers.

**H. Permit Renewal.** Except for the initial permit issued, each permit fee shall be required and will cover a twelve (12) month period from the date of issuance, except for temporary food establishments which are limited to fourteen (14) consecutive days. Permit renewals are valid from the anniversary date. NET Health may renew a permit if the applicant is in compliance with the Texas Food Establishment Rules and all fees accrued are paid. Failure to submit the invoice balance before the expiration date will result in a late fee. A permit shall only be issued when all past due and delinquency fees have been paid. This applies to any delinquent penalties due under an order issued by NET Health.

**I. Permit Renewal Following Establishment Closure for More Than Three (3) Months.** Any person who voluntarily discontinues the operation of any food establishment for no longer than three (3) consecutive months may secure a

renewal of an existing permit before the permit expiration date by meeting all the requirements of this District Order. Under this provision, an additional permit fee will not be required. Upon discontinuing the operation of a food establishment or if there is a change of ownership, the owner shall notify NET Health in writing at least thirty (30) calendar days prior to the discontinuing of operations or change of ownership.

- J. Late Fee.** The permit holder shall submit payment of invoice prior to the expiration date of the permit. Failure to pay the annual permit renewal fee on a timely basis shall result in a late charge indicated in Part 1 Section 2 of this order. The annual renewal permit fee and the late charge must be paid prior to the expiration of the permit, or the establishment shall cease operations.

## Section 6. Certifications, Active Managerial Control and Incentives

**A. General.** It shall be unlawful for any person to work or accept employment in a food establishment, within NET Health jurisdiction without securing a food handler's training certificate. It shall be unlawful for any person in control of, operating or managing any food establishment, to employ or allow any person to work in a food establishment within NET Health jurisdiction unless that person has obtained a valid food handler's training certificate within 30 days of employment.

**B. Administration.** NET Health may administer a food handler's training course and certified food manager's training course and examination. Any person who is required to have a certificate shall attend and successfully complete a training approved by NET Health, TX DSHS, or by the American National Standards Institute (ANSI). It is the responsibility of the certified food manager of the food establishment to keep a certificate of completion of the training course for all employees of the food establishment available on site for compliance review by the inspector.

### **C. Food Handler Certification and Requirement.**

- 1) Required. Each person, within (30) thirty calendar days of becoming an employee, conditional, volunteer or otherwise, of a food establishment shall obtain a valid accredited food handler certification. Certification is obtained by completing an accredited food handler training course approved by TX DSHS.
- 2) Valid Certificate. A valid certificate is one that is not expired and is issued by

an accredited food handler training program approved by the Texas Department of State Health Services.

- 3) NET Health certification and certificate Issuance. Upon successful completion of a training course administered by NET Health, NET Health will issue a food handler's training certificate,
- 4) Expired Certificates. After the food handler certification expiration date, the person must complete a new accredited food handler's training course.
- 5) Exemptions. An employee of a food establishment that has satisfactorily passed an accredited food safety manager course and examination approved by the TX DSHS shall be exempt from this requirement for a food worker certification.

#### **D. Certified Food Manager Certification and Requirement.**

- 1) Certified Food Manager Certification. Certification must be obtained by successfully completing an Accredited Food Safety Manager Certification course and passing an examination. This course must be approved by the Texas Department of State Health Services and meet all requirements in [Texas Health and Safety Code, Chapter 438](#), Subchapter G, and [25 TAC §228.1](#) (relating to Certification of Food Managers).
- 2) Required. The words "certified food manager" means the person in charge or an individual who conducts, manages, operates, and maintains active managerial control of a food establishment. At least one certified food manager must be present during all hours of operation at each permitted food establishment. At the time a food establishment permit is issued, the appropriate number of certified food managers must be employed to cover all operation hours of the food establishment. The number of certified food managers is to be determined by the operating hours of the food establishment and the number of operating shifts. Failure to maintain at least one Certified Food Manager per establishment shall be considered an imminent hazard and cause for a permit to be suspended.
- 3) Responsibilities of a Certified Food Manager. Any food manager or person in charge of a food establishment within NET Health jurisdiction must hold a valid Certified Food Manager's certificate. The certified food manager has responsibilities that include but are not limited to:
  - (a) Maintaining employment records, food handler certifications and certified food manager certifications accessible to NET Health during inspections or audits.
  - (b) Identifying hazards in the day-to-day operation of a food establishment that provides food for human consumption;
  - (c) Developing or implementing specific policies, procedures, or standards to prevent foodborne illness;

- (d) Supervising or directing food preparation activities and ensuring appropriate corrective actions are taken as needed to protect the health of the consumer;
  - (e) Training the food establishment employees on the principles of food safety;
  - (f) Performing in-house self-inspections of daily operations on a periodic basis to ensure that policies and procedures concerning food safety have been implemented and are being followed;
  - (g) Demonstration of knowledge of [Chapter 2 of FDA Food Code](#) and
  - (h) Maintaining active managerial control.
- 4) Registration of certifications with NET Health. Registration of certifications into the NET Health database is voluntary.
- (a) Individuals that attend a Food Safety Manager Certification Program administered by NET Health will be automatically registered into the registry system by NET Health.
- 5) Certificate Reciprocity. A certificate issued to an individual who successfully completes an examination of an Accredited Food Safety Manager Program approved by the Texas Department of State Health Services shall be accepted as meeting the training and testing requirements under Health and Safety Code, Subchapter G
- 6) Certificate Posting. The original food manager certificate(s) of the primary retail food manager (s) shall be posted in a location in the food establishment that is conspicuous and visible to consumers. All certificates of other certified food managers need to be in an accessible location for NET Health review during inspections and audits.
- 7) Exemptions.
- (a) The following food establishments are exempt from the food manager certification requirements of this order:
  - (b) Establishments that offer only prepackaged foods that are not time/temperature control for safety (TCS);
  - (c) Child care facilities, as defined by [Section 42.002, Human Resources Code](#);
  - (d) Establishments that do not prepare or handle exposed time/temperature control for safety (TCS) foods as defined in [FDA Food Code](#) Chapter 1 Subpart 1-201 ; or
  - (e) Nonprofit organizations as defined in [25 TAC §229.371\(9\)](#) (relating to Permitting Retail Food Establishments).

- (f) Temporary food establishments not serving complex foods such as raw poultry or raw seafood.

## Section 7. Inspections

- A. Risk Based Inspections.** Inspections for the retail food program are based on Hazard Analysis at Critical Control Point (HACCP) principles. Compliance procedures concerning inspections are as follows:
- B. Inspection Report Form.** NET Health will use an inspection report form developed by the Texas Department of State Health Services that conforms to HACCP principles. The inspection report form design includes the following information.
- 1) The inspection report form identifies foodborne illness risk factors and Food Code interventions,
  - 2) It documents actual observations using the convention IN (in compliance), OUT (out of compliance), NA (not applicable), and NO (Not observed), and
  - 3) The inspection report form documents compliance and enforcement activities.
- C. Inspection Frequency.** An inspection frequency of a food establishment shall be based on a risk category associated with the types of foods and the food preparation procedures. Before a food establishment is placed into a risk category, a food establishment risk assessment must be assigned. Additional inspections of the food establishment shall be performed as often as necessary for the enforcement of these rules.
- D. Access.** NET Health agents, after proper identification, shall be permitted to enter any food establishment at any reasonable time, for the purpose of making inspections to determine compliance with these rules. The agents shall be permitted to examine records to obtain information pertaining to food and supplies purchased, received, or used, or to persons employed.
- E. Report of Inspections.** The inspection report is scored using a demerit system, with zero (0) demerits denoting no Priority Item/Priority Foundation Item/Core Item violations. This means that there may be violations that are not assigned point values. Whenever an inspection of a food establishment is made, the findings shall be recorded on the inspection report form set out as described in paragraph (E) of this section. The inspection report form shall summarize the

requirements of these rules and shall set forth a weighted point value for each requirement. The score will be reported in demerits. Inspection remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. A copy of the inspection report form shall be furnished to the person in charge of the food establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law. The inspection report from the most recent inspection shall be posted in a conspicuous place for the public to see in the food establishment. Inspection reports may be posted on the NET Health website.

#### **F. Correction of Violations.**

- 1) The food establishment shall, at the time of the inspection or as soon as possible, implement appropriate corrective actions for violation items found during an inspection.
- 2) The inspection report form shall indicate a notice of violation and specify a reasonable time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:
  - (a) If an imminent health hazard exists, such as, but not limited to, complete lack of refrigeration or surfacing wastewater, lack of electricity, pest infestation or sewage backup, the food establishment shall immediately cease food service operations and contact NET Health. Operations shall not be resumed until authorized by NET Health. The food establishment shall cease operations for a minimum of twenty-four (24) hours or until verified safe by NET Health.
  - (b) All Priority Item violations of three (3) point weighted items shall be corrected as soon as possible, but in any event, within three (3) calendar days following the inspection.
  - (c) All Priority Foundation Item violations of two (2) point weighted items shall be corrected as soon as possible, but in any event, within ten (10) calendar days following the inspection.
  - (d) All Core Item violations of one (1) point weighted items shall be corrected by the date and time agreed to or specified by NET Health, but no later than ninety (90) calendar days after inspection.
  - (e) NET Health may approve a longer time frame or a compliance schedule exceeding the time limitations specified under this section if the potential hazard involved, the complexity of the corrective action needed, or it is deemed no

health hazard exists or will result from allowing an extended schedule of compliance.

- (f) When the food establishment rating score exceeds thirty (30) demerits, corrective action on all identified violations shall be initiated immediately and corrected within forty-eight (48) hours. One (1) or more re-inspections will be conducted at reasonable time intervals to assure correction.
- (g) In the case of temporary food establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the temporary food establishment shall cease food service operations until authorized to resume by NET Health.
- (h) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of operations.

**G. Continuing Violations.** Each day or fractional part thereof that such violation(s) continues shall constitute a separate offense.

- 1) Re-inspection. At the end of the specified period of time, NET Health shall verify corrections of the violations, document the information on an inspection report, and record the inspection report into the NET Health database. Subsequent re-inspections required due to non-compliance may be subject to a re-inspection fee.
- 2) Written Plan of Corrective Action. NET Health may require a written corrective action plan or schedule of compliance to be submitted by the food establishment to the Environmental Health Department.
- 3) Repeat Violations. Repeated violations that occur over several routine inspections are subject to the application of administrative penalties.
- 4) Inspection Frequency Risk Assessment. The assigned inspection frequency can be increased or decreased based on the previous inspection history.
- 5) Suspension of Permit. NET Health shall suspend a permit based on an imminent health hazard, repeated critical violations, lack of a Certified Food Manager, and/or any other serious violation of State law for which NET Health is responsible to enforce. A suspended food establishment permit shall remain suspended for a minimum of twenty-four (24) hours to remediate the imminent health hazard.
  - (a) A retail food inspection supervisor of the Environmental Health Department of NET Health will confirm the hazard before suspension is effective when possible. Suspension is effective upon service of the written notice. When a permit is suspended, all food operations shall immediately cease and shall not resume until NET Health conducts a follow up inspection and determines that the health hazard has been resolved and the suspension should be lifted.

- (b) Whenever a permit is suspended, the holder of the permit or the person in charge of the food establishment at the time of suspension shall be notified in writing that the permit is, upon service of the notice, immediately suspended.
- 6) Immediate Cessation of Operations. Upon receipt of a notice of permit suspension the food establishment shall immediately cease operations. Nothing in this section shall prevent NET Health from requiring a food establishment to cease operations immediately pursuant to law. This is equivalent to a suspension.
- 7) Re-inspection Required After Permit Suspension. Prior to resuming operation after a permit suspension, the food establishment must be inspected to verify correction of any violations and for compliance with these rules.
- 8) Re-instatement. Upon successful completion of a re-inspection and payment of a permit re- instatement fee, NET Health shall re-instate the food establishment permit for the permit holder if its inspection reveals that the food establishment complies with these rules.

## Section 8. Examination and Condemnation of Food; and Maintenance of Equipment

**A. Procedures Concerning Examination and Condemnation of Food.** Food may be examined or sampled by NET Health as often as necessary for enforcement of these rules. NET Health shall issue a receipt for the samples. NET Health may, upon written notice to the owner or person in charge specifying reasons with particularity, issue a hold order on any food, which it believes is in violation of any of the “Texas Food Establishment Rules” or other relevant federal, state or local regulations. NET Health shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the food establishment. NET Health shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for an administrative hearing may be filed within ten (10) calendar days and that if no hearing is requested, the food shall be destroyed. An administrative hearing shall be held if so requested, and based on evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to

denature or destroy such food or to bring it into compliance with these rules.

**B. Maintenance of Equipment and Utensils.** All equipment and utensils used in the preparation, storage, and serving of food shall be kept in good repair and in proper working condition. NET Health may tag, which means to mark, identify or otherwise forbid the use of equipment or utensils found to be in violation of this subsection, and it shall be unlawful to use any equipment or utensils that have been so tagged, until approved to do so by NET Health.

## Section 9. Procedure When Disease Transmission or Infection is Suspected

**A. Necessary Actions.** When NET Health has reasonable cause to suspect the possibility of disease transmission from any food establishment, retail food store, mobile food unit, roadside food vendor or temporary food establishment employee, it may secure the morbidity history of the suspected employee or make any other investigation as needed and shall take appropriate action. NET Health may require any or all of the following measures:

- 1) The immediate exclusion of the employee from all food establishments;
- 2) The immediate closing of the food establishment concerned until, in the opinion of NET Health; no further danger of disease outbreak exists;
- 3) Restriction of the employee's services to some area of the food establishment, where there would be no danger of transmitting disease; and
- 4) Adequate medical and laboratory examination of the employee(s) and their bodily discharges.

**B. Removal of Restriction or Exclusion.** NET Health shall release a food employee or conditional employee from restriction or exclusion according to [Texas Health and Safety Code 438.033](#), and the conditions of [Chapter 2 of the FDA Food Code](#).

**C. Reporting of Communicable Diseases.** Certain persons shall report certain confirmed and suspected foodborne diseases to NET Health as required in [25 TAC 97.2 through 97.6](#) and [Chapter 2 of the FDA Food Code](#).

## Section 10. Enforcement and Administrative Penalty Procedures

**A. Remedies.** Violations of the Texas Food Establishment Rules, the permitting rules or relevant federal, state, or local laws are subject to the penalties and remedies listed in this District Order and otherwise provided by state law. NET Health employees are hereby authorized to enforce provisions herein and to issue citations for violations of this District Order.

**B. Penalties.** Any permit holder, responsible officer of the permit holder, or other person found guilty of violating any provision of this District Order shall be punished in accordance with applicable law.

- 1) Fines. A violation of any provision herein shall be classified as a Class C misdemeanor and violators are subject to a fine of up to two thousand dollars (\$2,000.00) per violation per day for each violation.
- 2) Administrative Penalties. Administrative penalties may be assessed pursuant to [Texas Health and Safety Code, Sections 437.0185-185.0186](#), which:
  - (a) Authorizes the Chief Executive Officer of NET Health to impose an administrative penalty on a person NET Health requires to hold a permit under [Texas Health and Safety Code, Section 437.003 or 437.004](#) if the person violates this District Order.
  - (b) Prohibits the amount of the penalty from exceeding five hundred dollars (\$500.00) per day and provides that each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount of the penalty is to be based on certain factors set forth by criteria such as history of previous violations, seriousness of the violation, hazard to the health and safety of the public, demonstrated good faith efforts to correct, economic harm to property or the environment, amounts necessary to deter future violations, enforcement costs relating to the violation, and any other matter justice may require.
  - (c) The violations shall be categorized by severity level from those with minor health and safety significance to the most serious violations.
  - (d) Five Levels of penalties for retail food establishments will be imposed not to exceed five hundred dollars (\$500.00).
    - (i) Level 1           \$100.00
    - (ii) Level 2          \$200.00
    - (iii) Level 3         \$300.00
    - (iv) Level 4         \$400.00
    - (v) Level 5          \$500.00

- (e) Authorizes the enforcement of the penalty to be stayed during the time the order is in judicial review if the person pays the penalty of the clerk of the court.
  - (f) Authorizes a person who cannot afford to pay the penalty to stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Procedure for a party who cannot afford to file security for costs.
  - (g) Authorizes a person, not later than the twentieth (20th) calendar day after the date the person receives notice of the penalty, to accept in writing the determination and pay the recommended penalty of the Chief Executive Officer or make a request for an administrative hearing on the occurrence of the violation, the amount of the penalty or both.
  - (h) Requires a court to order that penalty is not owed if the court does not sustain the findings that a violation occurred.
  - (i) Requires a court to order, when the court's judgment becomes final, that the appropriate amount be remitted to the person if the person paid the penalty to the clerk of the court and if the amount of the penalty is reduced or the penalty is not upheld by the court.
  - (j) Authorizes an administrative penalty to be imposed for a violation of this District Order under [Chapter 437, Texas Health and Safety Code](#), by the state under 437.018, or by the director of a public health district of a county under Section 437.185, but not both.
- 3) Service of Notice. A notice provided for in these rules is properly served when it is delivered to the holder of the permit, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder (owner). A copy of the notice shall be filed in NET Health records.
- 4) Administrative Hearing. NET Health shall conduct hearings provided for in this Section at a time and place designated by NET Health. Based on evidence of such hearing, NET Health shall make final findings and shall sustain, modify, or rescind any notice or order considered in the administrative hearing. Within ten (10) calendar days, NET Health shall furnish a written report of the hearing decision to the holder of the permit.
- 5) Revocation of a Permit. NET Health may, after providing an opportunity for an administrative hearing, revoke a permit for serious or repeated violations of any of the rule requirements of this District Order or for interference with NET Health in the performance of its duties. Upon revocation of a permit, operations of the food establishment shall cease immediately. Prior to revocation, NET Health shall provide written notice to the holder of the permit, or the person in charge of the food

establishment at the time of revocation, stating the reason(s) for the proposed revocation and that the permit shall be revoked at the end of ten (10) calendar days following service of such notice unless the holder of the permit files a written request for an administrative hearing with NET Health within such ten (10) calendar day period. If no request for an administrative hearing is filed within the ten (10) calendar day period, the revocation of the permit becomes final.

- 6) Application after Revocation. Whenever a revocation of a permit has become final, the holder may make a written application for a new permit. The applicant is required to meet any conditions of a new food establishment.
- 7) Injunction. Whenever NET Health has reason to believe that any person is engaging in, has engaged in, or is about to engage in any act or practice declared to be unlawful or in violation of this chapter, NET Health may bring an action pursuant to state law against each such person to restrain the unlawful act or practice by temporary restraining order, temporary injunction, or permanent injunction.
- 8) Public Record. NET Health may publish the permit, name, and address of any food establishment whose permit has been revoked or suspended, together with the reasons for the revocation or suspension.

## Section 11. Appeals of Decisions Made Under Sections 1 through 10

**A. Filing an Appeal.** Any person aggrieved by a decision of a NET Health employee concerning the granting or refusal to grant a permit, or any privilege as provided in Sections 1 through 10 may appeal such decision in writing to the Chief Executive Officer of NET Health within ten (10) calendar days after the decision. The Chief Executive Officer shall render a decision within thirty (30) calendar days after receipt of the appeal, either affirming the decision of the employee or entering an appropriate decision.

## PART 2. MOBILE FOOD VEHICLES

### Section 1. General Provisions

#### A. Purpose:

- 1) Texas House Bill (HB)2844, 89<sup>th</sup> Legislature, Regular Session, 2025, created Texas Health and Safety Code 437B, concerning Mobile Food Vendors (MFVs). HB2844 made significant changes to how MFVs are regulated, licensed, and inspected in Texas. This statute has created a statewide licensing and inspection program for MFVs that includes creation of a contract structure by which Local Health Departments (LHDs) may conduct MFV inspections within their jurisdictions and be reimbursed by DSHS, as included in the new rules.

#### B. State Regulations:

- 1) The Texas Department of State Health Services (DSHS), Consumer Protection Division, Food and Drug Section, Manufactured Food and Retail Unit adopted rules, Mobile Food Vendors 25 TAC §226.

#### C. Local Preemption.

- 1) A local authority may not adopt a rule or enforce requirements that conflict with 25 TAC §226.

#### D. Applicability:

- 1) Applicability of other statutes, rules, and regulations.
  - (a) MFVs must comply with all relevant laws and rules applicable to the preparation, holding, and service of food products in and from food vending vehicles, including:
    - (b) Texas HSC Chapter 431 (Texas Food, Drug, and Cosmetic Act);
    - (c) Texas HSC Chapter 437 (Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors);
    - (d) Texas HSC Chapter 437B (Mobile Food Vendors);
    - (e) Chapter 228 of this title (relating to Retail Food Establishments); and
    - (f) The United States Food and Drug Administration (FDA) 2022 Food Code (Food Code).
- 2) MFVs must comply with all laws, ordinances, or orders passed by a municipality, county, or public health district in which the MFV operates, as long as the laws, ordinances, and orders do not conflict with Texas HSC Chapter 437B. This includes fire codes, location rules and zoning codes in the jurisdictions where the MFV operates.

#### E. Inspections; Collaborative Agreement with Local Authority:

District Order 2026-1 (revision of prior orders as of 7-1-26)

- 1) **Texas HSC Chapter 437B.153.** DSHS may enter into a collaborative agreement with the local regulatory authority for conducting health inspections. DSHS shall reimburse the local regulatory authority acting under a collaborative agreement for the cost of conducting a health inspection using money collected for health inspection fees under Section [437B.058\(c\)](#).
- 2) **§226.8. Mobile Food Vendor Inspections.**
  - (a) **Mobile food vendor (MFV) categories.** DSHS assigns each MFV to a category based on the type of food served and how the food is prepared. Each category of MFV is described in the definition of "mobile food vendor (MFV)" in §226.2 of this chapter.
  - (b) **Reclassification.** When an MFV wants to sell food or beverages that require a different category than initially approved, the MFV must inform the department about the specific food or beverages to be sold. The local regulatory authority may conduct a health inspection to decide if a new category is needed.
  - (c) **Health inspection.** The local regulatory authority may require an MFV to appear at a location chosen by the local regulatory authority. The food vending vehicle must be fully functional at the time of inspection, including proper operation of handwash stations, warewash equipment, refrigeration units, and wastewater disposal systems. The following documentation must be available during inspection:
    - (i) Certified Food Protection Manager and Food Handler Certification;
    - (ii) central preparation facility (CPF) authorization (if required): a signed letter of authorization is required, to verify facility use, if the CPF is not owned by the mobile unit operator;
    - (iii) CPF inspection report (if required);
    - (iv) servicing area documentation and authorization: the MFV must keep the following records on the food vending vehicle:
      - a. records that show use of an approved water source and an approved sanitary sewage system; such records may include invoices, written agreements, or other available evidence;
      - b. a servicing area activity log that must show the date and time the MFV obtained potable water, properly disposed sewage and other liquid waste, or properly disposed grease or other cooking waste; and
      - c. a signed letter by DSHS or local regulatory authority, if applicable, giving authorization to use a servicing area, if the servicing area is not owned by the MFV; and
    - (v) a menu of all food items to be sold.

- (d) **Notice of location for inspections.** An MFV must provide DSHS, to the best of the vendor's knowledge, a list of all planned locations of operation along with an itinerary listing the dates and times the MFV plans to operate at these locations. The itinerary must be provided at least seven days before the first date listed in the itinerary. The MFV can share the itinerary on the MFV's social media or website. If the MFV does not post the itinerary on social media or the vendor's internet website, the MFV must send the itinerary to DSHS, in the form and way the department requires.
- (i) The local regulatory authority must be able to find and inspect an MFV using the provided itinerary. If an MFV cannot be located, then the local regulatory authority may require an MFV to come to a location designated by the regulatory authority.
  - (ii) If an MFV is not able to be located according to provided itinerary or does not appear for an inspection agreed upon by the local regulatory authority then the MFV's license may be subject to suspension or revocation.
- (e) **Refusal of inspection.** An MFV must allow inspection by a representative of the local regulatory authority during any hours of operation to check compliance with this chapter. An MFV's refusal of inspection or cooperation with a complaint investigation may result in suspension or revocation of a license. Refusal to allow an inspection by a local regulatory authority acting under a collaborative agreement with the local regulatory authority will be considered a refusal to allow the local regulatory authority to inspect.
- (f) **Driver's license required.** The MFV must provide the required valid driver's license or commercial driver's license upon request to the local regulatory authority during pre-licensing, routine health inspections, and investigations. Driver's licenses required for the operation of the food vending vehicle must be present during all hours of MFV operation.

## F. Enforcement:

### 1) Refusal, revocation, or suspension of a license; administrative penalties.

- (a) **Basis.** DSHS may refuse an application for a license or may revoke or suspend a license for violations of this chapter or for interference with a department representative in the performance of their duties under this chapter.
- (b) **Hearings.** DSHS will administer any hearings for the refusal, revocation, or suspension of a license are governed by §§1.21, 1.23, 1.25, and 1.27 of title 25 (relating to Formal Hearing Procedures) or under the provisions of the Texas Government Code Chapter 2001, Administrative Procedure Act.
- (c) **Reinstatement.** A former license holder may apply for reinstatement of a suspended license by demonstrating corrections and controls are implemented to prevent future violations. DSHS may reinstate the license after the department has determined the MFV no longer poses a risk to public health and safety. DSHS may also require employees of a MFV to successfully complete a department-accredited training course on food safety principles

before reinstatement of the license.

- (d) **Administrative penalties.** Administrative penalties in Texas Health and Safety Code §437.018, and in §229.261 of title 25 (relating to Assessment of Administrative Penalties), may be assessed for violations of chapter 437B by DSHS.

## G. Emergency Suspension:

- 1) **EMERGENCY SUSPENSION.** Texas Health and Safety Code Section 437B.204. DSHS may issue an emergency order to suspend a mobile food vendor license if the department has reasonable cause to believe a license holder's operations pose an imminent threat to the public's health and safety. An emergency suspension order is effective immediately without a hearing on notice to the license holder and must state the length of the suspension.
- 2) **RIGHT TO APPEAL.** Texas Health and Safety Code Section **437B.2045.** The department's suspension or revocation of a mobile food vendor license under this chapter and the appeal from that action are governed by the procedures for a contested case hearing under Chapter **2001**, Government Code.
- 3) **ADMINISTRATIVE PENALTY.** Texas Health and Safety Code Section 437B.205. A license holder who continues to operate after the department suspends or revokes the license holder's mobile food vendor license is subject to an administrative penalty in an amount the department determines.

## H. Investigations:

- 1) DSHS or a local regulatory authority may investigate a mobile food vendor on reasonable suspicion the vendor is violating the law or on receipt of a health or safety complaint. DSHS must record a complaint in the state's mobile food vendor database. The local regulatory authority shall report suspected violations of state law to DSHS and may recommend the department suspend or revoke a mobile food vendor license.
- 2) The mobile food vendor shall cooperate with DSHS or local regulatory authority during an investigation. Failure to cooperate with DSHS or local regulatory authority may result in suspension or revocation of a license.
- 3) Chapter 437B of the Texas Health and Safety Code may not be construed to impede DSHS or local regulatory authority when conducting an investigation of a reported foodborne illness.

## Section 2. Process for Obtaining a Mobile Food Unit Permit

### A. State Permitting Authority.

- 1) Pursuant to Texas Health and Safety Code Chapter 437B and DSHS requirements, all Mobile Food Units operating within the jurisdiction of the Northeast Texas Public Health District must obtain and maintain a valid permit issued directly by the Texas Department of State Health Services (DSHS). The District shall no longer issue local permits or assess local permitting fees for the operation of Mobile Food Units.

### Section 3. Food Truck Parks

**A.** An area designed to accommodate two or more mobile food units, that has been improved with an all-weather surface, with access to running water and restrooms, offering food and/or beverages for sale to the public as the primary use of the property, and functioning as a single business. All food truck parks shall comply with all applicable federal state and local laws. All mobile food units shall be removed from the food truck park upon closing of the park unless the central preparation/commissary facility is located in the food truck park. Any property owner and/or food truck park manager desiring to open a food truck park shall make application to NET Health. The application shall include the following:

1) **Site Plan.**

- (a) The location and description of each proposed permanent structure on the site, restrooms, and pads for mobile food units.
- (b) The surface material of driving lanes and mobile food unit pads.
- (c) Location of refuse containers.
- (d) Location and type of electrical outlets provided for each corresponding pad site; and if water is supplied for use by a mobile food unit, then a sanitary sewer connection is also required.

2) **Food Truck Park Manager.** There must be a designated on-site manager that is responsible for the orderly organization of mobile food units, the cleanliness of the site, and the site's compliance with all rules and regulations during business hours. The on-site manager shall not allow a public health nuisance to exist.

3) **Restrooms.** At least one permanent restroom within 500 feet of each mobile food unit must be made accessible to mobile food unit operators at all hours. Restroom(s) shall be equipped with flush type toilets that are properly plumbed according to law to a sanitary sewage system with sufficient capacity to meet the needs of the mobile food units. Restrooms shall be equipped with hand sinks; hot and cold water; soap and paper towels.

### Section 4. Inspections

**A. Compliance procedures concerning inspections are as follows:**

- 1) **Inspection Authority and Procedures.** As a Performing Agency for DSHS, NET Health shall conduct health and safety inspections of Mobile Food Units. All inspections shall strictly adhere to DSHS standards and documented procedures.

- (a) Inspectors must utilize the standardized DSHS 56-item Inspection Form for all evaluations.
  - (b) Inspectors must follow the current DSHS marking Instructions and the official Mobile Food Unit (MFV) Checklist.
- 2) **Mandatory Turnaround Times.** To maintain compliance with DSHS contractual obligations, NET Health shall adhere to the following mandatory inspection and reporting timelines:
- (a) Pre-licensing Inspections: Must be completed within five (5) business days of assignment from DSHS.
  - (b) Routine Inspections: Must be conducted once per year (annually).
  - (c) Complaint Investigations: Must be completed within three (3) business days of assignment from DSHS.
  - (d) Reporting to DSHS Retail Food Safety Operations: Completed inspections reports must be submitted to DSHA within three (3) business days of Inspection completion.
- 3) **Emergency Notifications.** NET Health personnel must notify DSHS within one (1) hour of observing any violations during an inspection that pose an imminent health hazard or require escalated enforcement actions, including but not limited to voluntary closures or emergency permit suspensions.

## PART 3. SEVERABILITY

Section 1. That if any provision or any section of this District Order shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this District Order, which shall remain in full force and effect.

## PART 4. PENALTY

Section 1. That any person, firm, or corporation violating any of the provisions 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. Any person, firm, or corporation violating any of the provisions of the District Order may also be subject to appropriate administrative penalties, if applicable. Since this 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 2026-1 (revision of prior orders as of 7-1-26)

District Order exists.

## Section 2. Implementation of Mobile Food Units revisions

**A. Revisions.** The revisions to this District Order concerning Mobile Food Units shall become effective on July 1, 2026 concurrently with the law changes and effective date of the DSHS Interlocal Cooperation Contract.

The NET Health Board of Health voted to approve this Order on the 28th day of May 2026, with an effective date of July 1, 2026.

Signed this **28th** day of May, 2026.

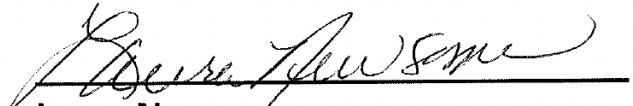
**ATTEST:**



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**Dr. Kent Boozer, D.D.S.**

Northeast Texas Public Health District  
Board Secretary

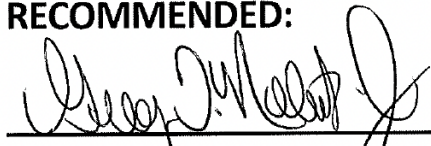


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**Laura Newsome**

Northeast Texas Public Health District  
Board Chair

**RECOMMENDED:**



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**George T. Roberts Jr., FACHE**

Northeast Texas Public Health District  
Chief Executive Officer



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**Gary Landers**

Northeast Texas Public Health District  
Board Attorney