

ORDINANCE NO. 3468

AN ORDINANCE AMENDING TITLE 8, CHAPTERS 8.04, 8.06, 8.08, 8.12, 8.16, 8.30, 8.54, 8.60, AND 8.62, OF THE SAN LUIS OBISPO COUNTY CODE REGARDING THE COUNTY ENVIRONMENTAL HEALTH SERVICES DIVISION, TO UPDATE REFERENCES, DELETE OUTDATED CODE SECTIONS, AND MAKE OTHER CLEAN UP AND REORGANIZATIONAL CHANGES

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1. The title to Chapter 8.04 is hereby amended as follows:

Chapter 8.04 – RETAIL FOOD FACILITIES AND DRINK ESTABLISHMENTS

SECTION 2. Section 8.04.005, entitled “Purpose and Applicability,” is hereby added to the San Luis Obispo County Code as follows:

Section 8.04.005 - Purpose and Applicability.

Part 7 of Division 104 of the California Health and Safety Code (sections 113700 et seq.), also referred to as the California Retail Food Code (“CRFC”) was signed into law on May 15, 2006 (SB 144 - Runner). The CRFC became effective on July 1, 2007 and requires that there be uniform Statewide food safety standards for retail food facilities (section 113705). These sections provide that a local enforcement agency shall have primary enforcement responsibility for the State and local standards in its jurisdiction.

The purposes of this chapter are to clarify and explain: (1) The CRFC for local implementation where necessary; (2) The Environmental Health Services Division’s role in enforcing State food safety standards for retail food facilities; and (3) implementation of a permit and cost recovery fee system for certain businesses and activities that are subject to the CRFC. This chapter does not override any local land use requirement or limitation.

SECTION 3. Section 8.04.010 of the San Luis Obispo County Code is hereby amended to read as follows:

Section 8.04.010 – Definitions.

Any words or phrases used in this chapter shall have the meanings ascribed to them in the California Retail Food Code (“CRFC”).

"Director" means the Director of the Environmental Health Services Division and their duly authorized environmental health specialists designated by the Health Officer to administer this part.

For the purpose of this chapter, the following words and phrases are defined, and shall be construed as hereinafter set out, unless it shall be apparent from the context that they have a different meaning:

Whenever any words or phrases used in this chapter are not defined herein but are defined in state acts, laws or codes, the definitions in such acts, laws or codes are incorporated in this chapter as though set forth herein in full and shall apply to such words and phrases used but not defined herein.

"Food and drink establishment" means any building, room or portion thereof, where food or drink intended for human consumption is cooked, mixed, prepared, served, sold, offered for sale, or given away at a fixed place or location.

"Food concession" means any person or organization who engages in the business or practice of serving food or drink at public events, circuses, fairs, or demonstrations for periods of less than one week duration. It also includes food demonstrators engaged in offering or serving without charge to the consumer, unpackaged bulk food to the public for the purpose of publicizing, advertising or promoting the sale of food, food products or food equipment. Food demonstrators shall not include any person operating a food vehicle that is otherwise under a public health permit and for which a valid permit has been obtained.

Food Market, Retail. "Retail food market" means any retail delicatessen, retail fruit and vegetable market, retail fish market, grocery store, retail meat market, retail packaged food store, or a combination of the above, or any place, or establishment where bakery products, meats, fish, shellfish, seafood, poultry, preserves, jelly, relish, creamed cheese, fruit, vegetables, or any other foods or food products, or beverages, whether in bulk, canned, wrapped, bottled, packaged, or in any other form, are sold or kept for sale at retail for consumption on premises other than where sold. Retail food market, however, shall not include any food salvager" as defined in this chapter.

"Food processing establishment," as used in this chapter, means any room, building, or place, or portion thereof, maintained, used or operated for the purpose of commercially storing, packaging, making, cooking, mixing, processing, bottling, canning, packing, or otherwise preparing or handling food or drink provided, however, that for fee purposes the term "food processing establishment" shall not include an establishment otherwise specifically mentioned in this chapter.

"Retail food vehicle" means any bakery distributor vehicle, fish peddler vehicle, food salvage distributor vehicle, fruit and vegetable vehicle, grocery distributor vehicle, industrial catering vehicle, itinerant restaurant vehicle, independent ice distributor vehicle, independent milk distributor vehicle, or the combination of the above, or any

~~vehicle not a processor-owned delivery vehicle from which animal food, bakery products, fish, shellfish, seafood, fruit, vegetables, meats, poultry, preserves, jelly, relish, milk or any other dairy products, food or food products, ice, or beverages, whether in bulk, canned, wrapped, bottled, packaged, or any other form, are sold or kept for sale at retail, or are distributed to the consumer. Vehicles used by a fixed location food market or restaurant having a valid license under this chapter to deliver food products from the licensed establishment to other locations shall not be required to have a separate permit under this chapter.~~

~~"Food vending machine" means any self-service device offered for public use, which upon the insertion of coins or tokens, or by other means dispenses unit servings of food, or drink, either in bulk, cups, or in packages, without the necessity of replenishing the device between each vending operation. For purposes of this chapter, however, "food vending machine" shall not include vending machines that dispense, exclusively, bottled drinks, gum, candy or other not readily perishable food when it is determined by the health officer that such vending machines do not require routine inspection for the protection of the public health. "Food vending machine location" means the room, enclosure, space, or area where one or more vending machines are installed or operated.~~

~~"Restaurant" means any coffee shop, cafeteria, short-order cafe, luncheonette, tavern, cocktail lounge, sandwich stand, temporary refreshment stand, soda fountain, private school cafeteria or eating establishment, in-plant or employee eating establishment, and any other eating establishment, organization, club, including veterans club, boardinghouse, or guesthouse, which gives, sells, or offers for sale, food to the public, guests, patrons, or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering functions. "Restaurant" does not include vending machines, vehicles, cooperative arrangement by employees who purchase food or beverages for their own consumption and where no employee is assigned full time to care for or operate equipment used in such arrangement, or private homes; nor does the term "restaurant" include churches, church societies, private clubs or other nonprofit associations of a religious, philanthropic, civic improvement, social, political, or educational nature, which purchase food, food products, or beverages, or which receive donations of food, food products, or beverages for service without charge to their members, or for service or sale at a reasonable charge to their members or to the general public at occasional fund-raising events, for consumption on or off the premises at which the food, food products, or beverages are served or sold, if the service or sale of such food, food products, or beverages does not constitute a primary purpose or function of the club or association, and if no employee or member is assigned full time to care for or operate equipment used in such arrangement.~~

SECTION 4. Section 8.04.015, entitled “Environmental Health Services Division to Enforce Retail Food Safety Regulations,” is hereby added to the San Luis Obispo County Code as follows:

8.04.015 – Environmental Health Services Division to Enforce Retail Food Safety Regulations.

The Environmental Health Services Division of the Public Health Department shall be the local enforcement agency for the CRFC and the regulations adopted in this chapter.

SECTION 5. Section 8.04.020 of the San Luis Obispo County Code is hereby amended to read as follows:

8.04.020 - Permit—Required.

- (a) It is unlawful for any person or entity to operate, firm, or corporation to sell, offer for sale, distribute, or have in possession for sale or distribution any food or drink intended for human consumption in any food or drink establishment, restaurant, food market, retail food processing establishment, or retail food vehicle, as defined in Section 8.04.010, in the county, unless possessing a valid permit to be obtained in the manner provided hereby. The permit shall be displayed prominently in or upon the place of business for which it is issued, or in the case of a retail food vehicle, shall be carried by the driver. a food facility without a valid permit which has not been suspended or revoked. The Environmental Health Services Division shall investigate and issue such permit when the person or entity operating the food facility conforms to the laws of the State of California, and the provisions contained herein, including the payment of all applicable fees. Inspections shall be based upon the provisions of the CRFC.
- (b) A separate permit shall be required for each place of business, concession, or vehicle used by permittee.
- (c) Any person or entity aggrieved by the denial of a permit may appeal such denial in accordance with section 8.04.110.

SECTION 6. Section 8.04.025 of the San Luis Obispo County Code is hereby amended to read as follows:

8.04.025 – Notice of Closure of Food Facility.

A food establishment may be ordered closed by the health officer when that establishment is operating without a valid health permit.

- (a) In addition to taking any legal action authorized by law to compel a facility owner or operator to cease operating without a permit, the Director may post a notice of closure at or on a food facility operating without a permit, advising the public that the facility

does not have a permit to sell, serve, dispense, store, or otherwise handle food.

(b) The Director may also post a notice of closure on a food facility:

(1) When the Director orders the facility to close due to an imminent health hazard that the food facility does not immediately correct.

(2) When the Director suspends or revokes the facility's permit.

(c) No person other than the Director shall remove a notice posted by the Director pursuant to this section.

SECTION 7. Section 8.04.030 of the San Luis Obispo County Code is hereby amended to read as follows:

8.04.030 - Permit—Fees.

All applications for permits shall be on a form supplied by the Environmental Health Services Division ~~county health department~~ and shall be accompanied by payment of an annual permit ~~the fees~~ as established by resolution of the board of supervisors.

SECTION 8. Section 8.04.040 of the San Luis Obispo County Code is hereby amended to read as follows:

8.04.040 - Permit—Prorating fees.

In the case of a new business requiring a permit under Section 8.04.020, or a transfer of ownership of an existing business, fees shall be prorated on a quarterly basis for the remaining part of the permit year; provided, however, no fee shall be reduced or prorated to an amount less than ~~five dollars~~ the hourly rate approved under section 8.04.030.

SECTION 9. Section 8.04.045, entitled "Mobile Food Facility Certification Inspection," is hereby added to the San Luis Obispo County Code as follows:

8.04.045 - Mobile Food Facility Certification Inspection.

The Director may require that each mobile food facility have an annual certification inspection at a location designated by the Environmental Health Services Division. A certification sticker shall be provided once the operator has successfully passed inspection and submitted proof of an approved commissary and paid any applicable fees. Failure of the operator to have and pass a certification inspection during the designated time period, when required, is subject to a fee up to 50% of the cost of the permit and closure until a permit and certification sticker are obtained.

SECTION 10. Section 8.04.050 of the San Luis Obispo County Code is hereby repealed in its entirety and replaced as follows:

8.04.050 - Permit—Renewal—Late Payment Fee.

(a) Renewal of the permit is deemed complete when the appropriate fee established under section 8.04.030 is paid. Late payment fees as set forth in the County fee schedule shall be added to the applicable fee for failure to renew the permit by the permit expiration date as set forth in the permit.

(b) A late payment fee as set forth in the County fee schedule shall be added to the applicable fee for failure to apply for a permit before opening for business in the case of a new business, transfer of ownership, or seasonal operation.

~~A fifty percent penalty shall be added to the applicable fee for failure to make application for yearly renewal within thirty days from the date of expiration of the prior permit, or for failure to apply for a permit before opening for business in the case of a new business, transfer of ownership or seasonal operation.~~

SECTION 11. Section 8.04.055, entitled “Fees for Unlicensed Activities,” is hereby added to the San Luis Obispo County Code as follows:

8.04.055 - Fees for Unlicensed Activities.

(a) The County may recover the cost of enforcement activities when they are not otherwise regulated by a permit as a health regulated business. The County may also recover any reasonable costs that it may incur in connection with the collection of such fees. The total amount of cost recovery may be assessed when the Director has issued an official inspection report requiring correction of a condition found to exist.

(b) The responsible person or entity may appeal the total amount of cost recovery or any portion thereof pursuant to the hearing and appellate process outlined in section 8.04.110.

SECTION 12. Section 8.04.060 of the San Luis Obispo County Code is hereby amended to read as follows:

8.04.060 - Permit—Exemptions from fees.

The fee schedule in Section 8.04.030 shall not apply to any nonprofit organization of a religious, political, philanthropic, civic improvement, social or educational nature, except that this fee schedule shall apply to all such organizations whose principal reason for existence is to engage in the activities of a retail food facility establishment.

The applicant shall submit proof to the Director of the applicant's non-profit status and good standing to do business in California.

SECTION 13. Sections 8.04.070 to 8.04.100 of the San Luis Obispo County Code are hereby deleted in their entirety.

~~8.04.070 - Permit—Transferability.~~

~~Health permits issued pursuant to the provisions of this chapter shall not be transferable from one person, firm, or corporation to another person, firm, or corporation or from one location to another location.~~

~~8.04.080 - Investigation by health department.~~

~~The health department shall investigate and issue such permit when the place of business conforms to the laws of the State of California, and the provisions contained herein. Inspections shall be based upon the provisions of Division 21 of the California Health and Safety Code and on rules and regulations of the State Board of Public Health and subsequent modifications thereof.~~

~~8.04.090 - Permit—Valid period.~~

~~Such permit shall be in force for the calendar year in which issued unless revoked for cause. Renewal of permits shall be applied for and issued in the same manner as for original issuance.~~

~~8.04.100 - Health officer's duties.~~

~~The health officer of the county, with the approval of the board of supervisors, may establish such rules or regulations as may be necessary for the proper and orderly administration of the provisions hereof.~~

SECTION 14. Section 8.04.110 of the San Luis Obispo County Code is hereby repealed and replaced as follows:

8.04.110 - Permit—Denial, Refusal, suspension or revocation.

(a) A hearing may be requested within fifteen (15) days after receiving: (1) notice that the Environmental Health Services Division proposes to deny, suspend or revoke a food facility permit; (2) notice that the Environmental Health Services Division will temporarily close a food facility due to an imminent health hazard or suspension or revocation of the food facility permit; or (3) notice of an invoice for cost recovery pursuant to section 8.04.055. The Director shall schedule a hearing within fifteen (15)

days of receiving the request for hearing. The hearing officer shall be an Environmental Health Services Division employee at the supervisor level or higher who was not involved in the underlying decision being appealed.

(b) Within fifteen (15) days of receiving notice of the hearing officer's decision, an appeal hearing may be requested before the Health Officer. The Environmental Health Services Division must schedule this appeal hearing within fifteen (15) days of receiving the appellant's request to appeal. Filing a request to appeal shall stay the decision of the Environmental Health Services Division hearing officer, unless the hearing officer determined that an imminent health hazard required closure of the facility.

(c) Upon receiving notice of the Health Officer's decision, the appellant may seek a final appeal hearing by filing written notice of final appeal, including the basis for appeal, with the Director within fifteen (15) days of receiving notice of the Health Officer's decision. The Director shall schedule a final appeal hearing within thirty (30) days of receipt of the notice of final appeal. The Director shall send, by certified mail, notice to the appellant of the date, time and location of the appeal hearing at least seven (7) days before the appeal hearing date. The Director shall select a hearing officer not employed by the San Luis Obispo County Health Agency to preside over the appeal hearing. Filing a notice of final appeal shall continue to stay the decision of the Environmental Health Services Division hearing officer, unless the hearing officer determined that an imminent health hazard required closure of the facility.

(d) At all hearings described by this section 8.04.110, the parties and their authorized representative may present such facts and evidence, and written or oral arguments as is necessary and appropriate. The standard of proof shall be preponderance of the evidence.

(e) For all hearings described by this section 8.04.110, the hearing officer shall issue a written decision within fourteen (14) days of the hearing. The hearing officer's written decision for the final appeal hearing shall advise of the right to appeal the written decision pursuant to California Government Code section 53069.4(b) within twenty (20) days from the date of service of the final written decision and shall advise of the alternative method to seek judicial review pursuant to California Code of Civil Procedure section 1094.5 within ninety (90) days from the issuance of the written decision.

~~(a) Permits shall be refused by the county health department upon a finding that any provisions of any health law of the State of California, or any of the provisions hereof have not been complied with.~~

~~(b) A permit may be immediately suspended, and the food establishment, or any portion thereof, may be ordered closed or inoperable by the health officer for~~

- violation of any provision of this title when, in his opinion, the danger to public health is so imminent, immediate and threatening as not to admit of delay. In the event of such suspension, the holder shall be given an opportunity for an office hearing before the health officer within forty-eight hours of the time of suspension. Upon conclusion of the office hearing, the hearing officer may decide to:
- (1) Dismiss the charges and reinstate the permit; or
 - (2) Reinstate the permit conditioned upon correction of the health violation; or
 - (3) Revoke the permit.
- (c) If, in the opinion of the health officer, the danger to public health is not so imminent, immediate and threatening as to admit of delay, the health officer shall send a notice of violation to the permittee and seek to achieve compliance informally by means of a correction schedule and reasonable inspections. If, as a result of subsequent inspection, it is determined that the permittee has failed to comply with the schedule and correct the noticed deficiencies, the health officer shall send a notice to the permittee advising the permittee of the remaining deficiencies and the convening of an office hearing to determine whether or not the permit should be revoked. Upon conclusion of the office hearing, the hearing officer may decide to:
- (1) Dismiss the charges; or
 - (2) Establish a correction schedule, or
 - (3) Revoke the permit.
- (d) All office hearings referred to herein shall be conducted in accordance with procedures adopted by the health department. The applicant or permittee may call and examine witnesses, introduce exhibits, question health officials and opposing witnesses on any matter relevant to the issues, and may rebut evidence against him. The hearing shall not be conducted according to technical rules relating to procedure, evidence or witnesses. All relevant evidence shall be admitted. The health officer shall insure that an informal record of the proceedings is maintained.
- (e) Whenever the issuance of a permit is refused, or a permit is revoked and the required office hearing has been held, the applicant or permittee may appeal from the action of the health officer to the board of supervisors by filing a notice of appeal with the clerk of the board within ten days of the action by the health officer. The clerk shall set the matter for hearing before the board at the earliest possible date and shall give reasonable notice of the time and place thereof to the applicant or permittee and to the health officer. The board of supervisors shall hear the evidence offered by the applicant or permittee and the health officer and shall forthwith decide the issue. Unless the board of supervisors rescinds the health officer's action by a majority vote, his decision shall be deemed affirmed.

SECTION 15. Section 8.04.120 of the San Luis Obispo County Code is hereby amended as follows:

8.04.120 - Permit—Prerequisite to business license.

No business license shall be issued ~~by the county~~ for any ~~food or drink establishment~~ food facility ~~by the county~~ for which a valid permit is required by this chapter and Chapter 8.12, until such person, firm, or corporation, or agent, or entity or employee of such person, firm, or corporation or entity can show possession of a valid permit from the ~~county health department~~ Environmental Health Services Division for which the business license is required.

SECTION 16. Sections 8.04.130 through 8.04.390 of the San Luis Obispo County Code are hereby deleted in their entirety.

8.04.130 – Floor construction.

~~The floors of every food or drink establishment shall be of smooth cement, smooth-surfaced wood or other impermeable surface, so laid and constructed as to be even and free from cracks and holes. The side walls and ceilings shall be well constructed of smooth finished, cleanable material without cracks or crevices therein or shall be well plastered, and finished with a smooth light-colored surface.~~

8.04.140 – Walls and ceilings—Painting.

~~If, for sanitary reasons, the health officer deems it necessary, the walls and ceilings shall be painted with a light-colored paint at least once a year.~~

8.04.150 – Floors, walls, ceilings, entrances.

~~All floors, walls, ceilings and entrances shall be so designed, constructed and maintained as to exclude rats, mice, vermin, flies and other insects.~~

8.04.160 – Ventilation—Lighting.

~~Every building, room or portion thereof used as or for a food or drink establishment shall be well ventilated by means of windows, or sky lights with louvers, or mechanical ventilation effectively used and operated. Every food and drink establishment shall be adequately lighted by natural or artificial light so that all parts of such establishment may be readily seen. No person shall sleep in any room used for the preparation, storage or serving of food.~~

8.04.170 – Kitchen ranges.

~~Every hood over a kitchen range shall be of metal equipped with a grease lip and ventilated with an approved ventilator or ventilating flue, so arranged, constructed and maintained as to carry off all odors to the outside air and kitchens shall be so ventilated as to insure good ventilation therefor, and freedom from any obnoxious, objectionable or offensive odors.~~

~~8.04.180 – Sinks.~~

~~No wooden sinks or wooden sinks lined with metal, shall be used in any food and drink establishment. All sinks shall be at least two-compartments, made of metal or porcelain and with attached metal drain boards. All sinks used for dish and glass washing in any food and drink establishment shall be supplied with hot and cold running water. All meat markets, bars, and all other food producing or distribution establishments shall be supplied with hot and cold running water.~~

~~8.04.190 – Refuse trays.~~

~~Refuse trays in all restaurants and eating establishments shall be made of metal or other impervious materials, and drain pipes from such trays shall be of metal and shall be kept in a clean and sanitary condition.~~

~~8.04.200 – Animals and fowl.~~

~~No parrots, dogs, cats or other animals shall be kept or permitted in any establishment where the foods herein mentioned are kept, sold or dispensed.~~

~~8.04.210 – Watercloset facilities.~~

~~Every food and drink establishment shall be provided with adequate water closet facilities for each sex in separate compartments, well-lighted and ventilated to the outside air. Floors of water-closet compartments shall be of smooth-finish cement, tile or other impervious material. No water closet compartment shall have direct communication with any kitchen, room, or any place where food or drink is prepared, stored or served unless it shall be separated therefrom by means of a properly lighted vestibule with ceiling height partitions and a full-length, solid-panel, self-closing door. All water-closet fixtures, compartments, and vestibules shall be kept in good order and repair and free from any accumulation of rubbish, waste matter or other material, and shall not be used as a storeroom for foodstuffs.~~

~~8.04.220 – Wash basins—Lavatories.~~

~~Every establishment shall be provided with suitable wash basins or lavatories with an adequate supply of running hot and cold water, soap, and clean individual towels, and shall be conveniently located in the dressing rooms or adjacent to the waterclosets.~~

8.04.230 – Dressing rooms for employees.

~~Every establishment shall be provided with suitable, well-lighted dressing rooms, for the employees or other persons working therein, for the changing and/or hanging of wearing apparel. Dressing rooms shall be separated from the kitchen, dining or storeroom by ceiling-height partitions.~~

8.04.240 – Food exposed to flies and vermin.

~~It is unlawful for any person, firm or corporation to sell, expose or offer for sale any article of food prepared for human consumption, which article of food is cooked, smoked or otherwise prepared and intended for human consumption without further cooking, washing or other preparation, unless such article or articles of food are covered or enclosed by glass or with some other approved substance or material in such a manner as to prevent the handling of any such article or articles of food by any person or persons other than the person or persons selling or offering or exposing for sale, and to prevent any such article or articles of food from coming in contact with any flies, insects, vermin, or other deleterious, unwholesome or unhealthy substance or commodities.~~

8.04.250 – Sugar containers.

~~No owner, operator or employee of any food or drink establishment shall use or permit the use of any sugar container designed for use of patrons of any such establishment which is not so enclosed as to make it impossible to insert a spoon or other item of tableware therein; provided, however, that nothing herein contained shall apply to the use of cube or lump sugar where the same is wrapped in paper or cellophane or other protective covering.~~

8.04.260 – Resale of partly consumed foods.

~~It is unlawful for any person, firm or corporation owning, conducting, operating or maintaining any food or drink establishment in the county to sell or offer for sale or to serve, or to cause or permit to be served for food, to or for any person, any article of food which has been previously served to any person, or which has been returned from the table, except the following: Unbroken rolls, muffins, buns, crackers,~~

~~undamaged fruits, olives, pickles, sugar syrup, condiments, and the like articles necessary for the general service on restaurant or lunch stands, table or counter.~~

~~8.04.270 – Refrigeration of pastries.~~

~~All custard and cream filled pastries shall be kept refrigerated at all times at a temperature not higher than fifty degrees Fahrenheit, except when actual sale is being made. The apparatus used in filling pastries shall be made of metal or rubber and cleaned before each use by means of boiling water or live steam or other suitable methods.~~

~~8.04.280 – Use of tobacco while handling food.~~

~~It is unlawful for any person to smoke or chew tobacco or to use tobacco in any manner while engaged in preparation, cooking, or handling of food.~~

~~8.04.290 – Protection of fruits and vegetables.~~

~~All fruits and vegetables must be kept at least eighteen inches above the floor level at all times, or else be protected by wood, metal or glass cases. Vegetables, fruits, or other products when delivered to establishments, shall not be left upon the sidewalk any longer than is absolutely necessary.~~

~~8.04.300 – Sanitation required.~~

~~All floors, walls, ceilings, stairs, or shelves, furniture, equipment, utensils, food-areaways, yards, alleys, waterclosets, dressing rooms, plumbing fixtures in or in connection with any food or drink establishment shall at all times be kept in good order and repair and be maintained in a clean, sanitary condition and free from all kinds of vermin, rubbish, debris, or filth.~~

~~8.04.310 – Previously used articles or utensils.~~

~~No article or utensil shall be used in the preparation of any food that has been previously used for any unclean purpose nor shall any chipped, cracked or broken cups, saucers, plates, or glasses be used in the serving of patrons of any food or drink establishments.~~

~~8.04.320 – Napkins, tablecloths, linens.~~

~~No napkin, tablecloth, or other dining room linens, shall be used for any purpose or use except by the patrons.~~

8.04.330 – Ice boxes—Refrigerators.

~~Ice boxes or refrigerators shall be scrubbed with hot water and some cleansing agent at least once each week and shall be kept in good order and repair, clean and sanitary at all times, and shall be properly drained.~~

8.04.340 – Garbage containers.

~~Metal receptacles with tight fitting covers for garbage and rubbish shall be provided. The contents shall be removed regularly and they shall be kept in good order and repair and thoroughly cleaned after emptying.~~

8.04.350 – Preparation of food—General.

~~No food shall be prepared in an unclean manner, nor shall any article or material be used in making or preparing of any food or drink that is spoiled, decayed, contaminated or unwholesome, or that does not comply with the laws of the State of California and the provisions hereof against adulteration.~~

8.04.360 – Rooms for preparation of food.

~~No food or food articles intended for human consumption shall be kept or prepared in any room or place where any drugs or chemicals are mixed, prepared, compounded, or used, or kept in unsealed, open or broken containers or receptacles.~~

8.04.370 – Sterilization of dishes.

~~In every place where food or drink is prepared, sold or offered for sale, all eating or drinking utensils such as knives, forks, spoons, cups, saucers, plates, bowls, and glasses shall, after being used, be cleaned and sterilized by:~~

- ~~(1) First removing all particles of food or foreign substances;~~
- ~~(2) Then thoroughly being washed in clean, hot water to which has been added a sufficient amount of soap or other cleansing agent;~~
- ~~(3) Then being rinsed in hot water near the boiling point.~~

8.04.380 – Sterilization of drinking glasses.

~~Drinking glasses shall be thoroughly washed and sterilized by:~~

- ~~(1) Emptying the unconsumed liquids of "dregs" into a separate slop-hopper or sink;~~

~~(2) Thoroughly washing the glass in warm water to which has been added a sufficient amount of cleansing detergent to dissolve and remove all grease, lipstick or foreign matter;~~

~~(3) Immersing the glass in a clean solution of water to which has been added an amount of chlorine to equal at least two hundred parts per million at all times, or by use of other chemical sterilizing agents approved by the county health department in suitable amounts;~~

~~(4) Not rinsing glasses with clear water after once sterilizing in chlorine solution. It is not permissible to place glasses, dishes, utensils, or similar articles on towels.~~

~~8.04.390 – Refrigerator pipes and suspended pipes.~~

~~Refrigerator pipes and suspended pipes shall be properly protected so as to prevent condensation from dropping into or on any foodstuffs or any receptacle or apparatus used in the preparation of food.~~

SECTION 17. Section 8.04.400 of the San Luis Obispo County Code is hereby amended to read as follows:

8.04.400 - Violation of closure order.

The willful reopening of a food and drink establishment *facility* after receipt of a notice of closure is punishable as a misdemeanor.

SECTION 18. The title of Chapter 8.06 of the San Luis Obispo County Code is hereby amended to read as follows:

Chapter 8.06 - PERMIT FEES AND PLAN APPROVAL FOR ENVIRONMENTAL HEALTH REGULATED ACTIVITIES

SECTION 19. Section 8.06.005, entitled “Health Officer and Environmental Health Services Division to Enforce Regulations,” of the San Luis Obispo County Code is hereby added as follows:

8.06.005 – Health Officer and Environmental Health Services Division to Enforce Regulations.

The Health Officer and the Environmental Health Services Division of the Public Health Department shall enforce the regulations adopted in this chapter. The Director is the Director of the Environmental Health Services Division.

SECTION 20. Section 8.06.010 of the San Luis Obispo County Code is hereby amended to read as follows:

8.06.010 - Construction plans required.

When a building permit is required to construct, convert, alter or remodel a retail food facility, restaurant, bakery, commissary, food establishment open to the outside air, retail dairy, roadside stand, retail food production and marketing establishment, public swimming pool, organized camp, public small water supply system, underground storage tank, or a body art facility, a noncommunity on-site sewage disposal system serving mobilehome parks or recreational vehicle campgrounds, three ~~four~~ sets of plans drawn to scale and accompanied by a complete set of schedules and specifications shall be submitted to the Health Officer and the Environmental Health Services Division ~~planning department~~. The chief building inspector shall furnish one complete set of plans to the health officer for his approval. The plans shall be approved, modified or rejected within ten working days after the receipt by the health department and the applicant shall be notified of such decision. ~~When required a~~ A building permit shall not be issued until the Health Officer or her/his duly authorized representative and the Environmental Health Services Division ~~health department has~~ve approved the plans for retail food facilities or public swimming pools. ~~When a building permit is not required to perform the above listed activities, three complete sets of plans shall be submitted to and approved by the health officer before work is initiated on the project.~~

SECTION 21. Section 8.06.030 of the San Luis Obispo County Code is hereby amended to read as follows:

8.06.030 - Penalty fee.

A ~~fifty percent~~ penalty, as established by resolution of the board of supervisors, shall be added to the applicable fee for failure to submit plans prior to initiating work on a project requiring construction plans.

SECTION 22. Section 8.06.040 of the San Luis Obispo County Code is hereby amended to read as follows:

8.06.040 - Stop work order.

Whenever any construction work is being performed without the prior approval of the plans by the ~~H~~Health ~~O~~fficer or her/his duly authorized representative or contrary to the ~~H~~Health ~~O~~fficer's or her/his duly authorized representative's approved plans, the ~~H~~Health ~~O~~fficer or her/his duly authorized representative may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to

be done, and any such persons shall forthwith stop such work until authorized by the Health Officer or her/his duly authorized representative to proceed.

SECTION 23. Sections 8.06.055 to 8.06.095 are hereby added to the San Luis Obispo County Code as follows:

8.06.055 - Permit—Required.

- (a) It is unlawful for a food facility, organized camp, public swimming pool, sewage pumping vehicle, solid waste collection vehicle, unified program facility, small water system, body art facility or other environmental health regulated business or facility to operate or otherwise be open for business without a valid permit which has not been suspended or revoked. The Environmental Health Services Division shall investigate and the Health Officer or her/his duly authorized representative shall issue such permit when the place of business conforms to the laws of the State of California, and the provisions contained herein including the payment of all applicable fees.
- (b) A separate permit shall be required for each place of business, concession, or vehicle used by permittee.
- (c) A permit or license is not transferable from one person or one place to another and shall be deemed voided if removed from the place or location specified in the written application and in the permit.

8.06.060 - Application.

Every applicant for a permit, license or registration required by the Environmental Health Services Division shall file a written application on a form prescribed by said Division. The application shall state the name and address of the applicant, the description of the property by street and number wherein or whereon it is proposed to conduct the business or activity for which the permit or license is required, the nature of the permit or license for which application is made, the character of the business or activity proposed to be conducted and any other information as the Environmental Health Services Division may require.

8.06.065 - Annual Permit Fee for Environmental Health Related Activities.

Every person applying for a permit, license or registration for a food facility, organized camp, public swimming pool, sewage pumping vehicle, solid waste collection vehicle, unified program facility, small water system, body art facility or other environmental health regulated business or facility for which an annual or one time permit, license or

registration is required by state law or regulation or under the provisions of this Code and issued by the Health Officer or her/his duly authorized representative shall at the time of making application for the permit, license or registration pay the permit, license or registration fees, as set forth by resolution of the board of supervisors.

8.06.070 – Renewal of Permit, License, or Registration.

(a) A permit, license, or registration issued pursuant to chapter 8.06 shall expire on the last day of each year and shall be renewed annually by payment of the annual permit fee to the Environmental Health Services Division, which fee shall be established by resolution of the board of supervisors, and due and payable each year by the expiration date of the permit.

8.06.075 – Late Payment Fee.

(a) Any fee which is not paid by the annual permit expiration date, or for invoiced fees other than annual permits, thirty (30) days from the invoice date, is delinquent.

(b) In any case where a fee is delinquent, a late payment fee established by resolution of the board of supervisors shall be added to and collected with the required fee.

(c) The imposition of or payment of the late fee imposed by this section shall not prevent the imposition of any other penalty prescribed by this code or any ordinance nor prosecution for violation of this code or any ordinance.

(d) The late payment fee may be waived by the Health Officer or her/his duly authorized representative in case of error made by Environmental Health Services Division staff or in case of circumstances beyond the control of the applicant.

8.06.080 – Fees.

The fee for each permit, plan review, license or registration issued, or investigation performed pursuant to the provisions of this chapter is set forth annually by resolution of the board of supervisors.

8.06.085 – Refunds.

The Health Officer or her/his duly authorized representative may authorize the refunding of any Environmental Health Services fee for the most recent permit fee cycle, which was erroneously paid or collected when no fee was due.

8.06.090 – Recovery of Emergency Response Expenses and Unlicensed Activities.

- (a) Hazardous Incident Response Team expenses and costs and the costs of emergency response services incurred by the Environmental Health Services Division may be recovered by the Health Officer or her/his duly authorized representative.
- (b) The County may recover the cost of enforcement activities when they are not otherwise regulated by a permit as a health regulated business. The County may also recover any reasonable costs that it may incur in connection with the collection of such fees. The fee may be assessed when the Health Officer or her/his duly authorized representative has issued an official inspection report requiring correction of a condition found to exist.
- (c) The responsible person or entity may appeal the total amount of cost recovery or any portion thereof pursuant to the hearing and appellate process outlined in section 8.06.095.

8.06.095 - Permit—Denial, suspension or revocation.

- (a) A hearing may be requested within fifteen (15) days after receiving: (1) notice of denial, suspension or revocation of a permit; (2) notice of temporary closure due to an imminent health hazard or suspension or revocation of a permit; or (3) notice of an invoice for cost recovery pursuant to section 8.06.090. The Director shall schedule a hearing within fifteen (15) days of receiving the request for hearing. The hearing officer shall be an Environmental Health Services Division employee at the supervisor level or higher who was not involved in the underlying decision being appealed.
- (b) Within fifteen (15) days of receiving notice of the hearing officer's decision, an appeal hearing may be requested before the Health Officer. The Environmental Health Services Division must schedule this appeal hearing within fifteen (15) days of receiving the appellant's request to appeal. Filing a request to appeal shall stay the decision of the hearing officer, except in cases regarding pool closure.
- (c) Upon receiving notice of the Health Officer's decision, the appellant may seek a final appeal hearing by filing written notice of final appeal, including the basis for appeal, with the Director within fifteen (15) days of receiving notice of the Health Officer's decision. The Director shall schedule a final appeal hearing within thirty (30) days of receipt of the notice of final appeal. The Director shall send, by certified mail, notice to the appellant of the date, time and location of the appeal hearing at least seven (7) days before the appeal hearing date. The Director shall select a hearing officer not employed by the San Luis Obispo County Health Agency to preside over the appeal hearing. Filing a notice of final appeal shall continue to stay the decision of the

Environmental Health Services Division hearing officer, unless the Health Officer determined that an imminent health hazard required closure of the facility. Cases regarding pool closure shall not be stayed.

(d) At all hearings described by this section 8.06.095, the parties and their authorized representative may present such facts and evidence, and written or oral arguments as is necessary and appropriate. The standard of proof shall be preponderance of the evidence.

(e) For all hearings described by this section 8.06.095, the hearing officer shall issue a written decision within fourteen (14) days of the hearing. The hearing officer's written decision for the final appeal hearing shall advise of the right to appeal the written decision pursuant to California Government Code section 53069.4(b) within twenty (20) days from the date of service of the final written decision and shall advise of the alternative method to seek judicial review pursuant to California Code of Civil Procedure section 1094.5 within ninety (90) days from the issuance of the written decision.

SECTION 24. Chapter 8.08 of the San Luis Obispo County Code is hereby deleted in its entirety.

Chapter 8.08 – SEASONAL FARM LABOR CAMPS

8.08.010 – Definition.

~~As used in this chapter a "seasonal farm labor camp" means any place where more than one tent or camp car or trailer coach or any other type of shelter is erected or maintained or occupied or intended to be occupied for living and/or sleeping purposes for a period of not to exceed six months of continuous occupancy by persons performing or intending to perform farm labor, or any place where five or more such persons live and/or sleep. —~~

8.08.020 – Permit to conduct or operate.

~~It is unlawful to construct, reconstruct, maintain, commence the operation of, or operate a seasonal farm labor camp upon any public or private property in the county without first having made application to the health officer of the county, and receiving from him a permit to do so. Such permits shall be valid for a period of not more than six months.~~

8.08.030 – State code adoption.

~~To secure uniformity of standards and to facilitate the administration of the provisions hereof, Sections 2417 through 2421, inclusive, of Division 2, Part 9, Chapter 1, Article 4 of the Labor Code of the State of California are adopted and made a part of this chapter.~~

8.08.040 – Enforcement.

~~The health officer of the county and his duly appointed representatives shall have authority to enforce the provisions hereof.~~

SECTION 25. The following definitions in San Luis Obispo County Code section 8.12.110 are hereby amended as follows:

"Medical solid waste" means waste which is not biohazardous, such as paper towels, paper products, articles containing nonfluid blood and other medical solid waste products commonly found in the facilities of medical waste generators pursuant to California Health and Safety Code, Chapter 2, Section ~~25023.8~~ 117700.

"Medical waste" means biohazardous waste, sharps waste, and/or waste ~~which is~~ generated or produced, as a result of the diagnosis, treatment or immunization of human beings or animals, in research pertaining thereto or in the production or testing of biologicals pursuant to California Health and Safety Code, Chapter 2, Section ~~25023.2~~ 117690.

SECTION 26. The title to Chapter 8.16 is hereby amended as follows:

Chapter 8.16 - SEPTIC TANKS TRUCKS

SECTION 27. Section 8.16.010 of the San Luis Obispo County Code is hereby amended to read as follows:

8.16.010 - Disposal of material from cesspool or septic tank.

No person or entity shall engage in the cleaning, pumping, hauling or disposing of material from a septic tank, cesspool, or any other tank or pit used for the collection of human excrement without first having obtained a permit in writing from the ~~county health department~~ Health Officer or her/his duly authorized representative. All applications for permits shall be on a form supplied by the ~~county health department~~ Environmental Health Services Division of the Public Health Department and shall be in accordance with chapter 8.06. ~~accompanied by the following fees:~~

(1) ~~Those engaged in the business of activities designated herein:~~

Sewage pumpers	
one vehicle	\$25.00
each vehicle over one	10.00
Chemical toilet supplier	50.00

(2) ~~Those not engaged in the business of but who perform the activities designated herein resulting from the use, operation or occupancy of their private property shall pay one-half the fee or fees designated in subsection (1) of this section.~~

SECTION 28. Section 8.16.020 of the San Luis Obispo County Code is hereby amended to read as follows:

8.16.020 - Equipment—Inspection.

- (a) No permit will be issued to any person *or entity*, unless written application has been made and all trucks, tanks, conveyances and equipment used for the aforementioned purposes have been inspected and passed upon by the ~~H~~Health ~~O~~fficer or *her/his* duly authorized representatives.
- (b) A valid certificate from the County Sealer of Weights and Measures certifying the capacity of the tank may be required.
- (c) The applicant shall have up to date written operating procedures and demonstrate they are knowledgeable of the operation of the equipment and of the proper procedures for cleaning and inspecting a septic tank to the satisfaction of the Health Officer or her/his duly authorized representative. A permit may be denied if the Health Officer or her/his duly authorized representative determines, based on substantial evidence, that the applicant does not have written operating procedures or fails to demonstrate that they are knowledgeable of the operation of the equipment and of the proper procedures for cleaning and inspecting a septic tank.
- (d) An annual certification inspection shall take place at a location designated by the Environmental Health Services Division. A certification sticker shall be provided and placed on the driver's side of the tank once the operator has successfully passed inspection. An applicant may receive a replacement certification sticker upon proof that the sticker has been damaged and payment of an applicable fee. It shall be

unlawful for anyone to place a certification sticker on any equipment other than the equipment specified in the permit.

SECTION 29. Section 8.16.030 of the San Luis Obispo County Code is hereby amended to read as follows:

8.16.030 - Equipment—Requirements.

- (a) All trucks or other conveyances must be *clean, in good repair, and* provided with ~~nonleakable~~ *leakproof* metal tanks *or other approved material*. All tanks are to be equipped with ~~property and nonleakable~~ *watertight* valves and tight fitting covers so as to prevent spillage or drippage ~~while in transit to the disposal site~~.
- (b) *The tank capacity and the name, address, and phone number of the permittee shall be displayed on both sides of the truck or tank, in letters not less than three (3) inches high. Such lettering shall be permanently affixed by painting, permanent decal, or other approved method.*
- (c) *A vacuum hose shall be provided and maintained in a leakproof condition.*
- (d) *A dedicated water hose for cleaning purposes shall be available. All hose and pipe used in cleaning shall be flushed back into the tank being cleaned and not onto the ground or premises. The hose shall be equipped with backflow prevention assembly when necessary to prevent backflow of contaminated water into the customer's water system.*
- (e) *A minimum of one-gallon bleach or other approved sanitizer, hand cleaning/disinfectant, and a shovel shall be provided on the truck or other conveyance for cleaning and sanitizing purposes.*

SECTION 30. Section 8.16.050 of the San Luis Obispo County Code is hereby amended to read as follows:

8.16.050 - Disposal of human excrement.

- (a) *All waste shall be disposed of in an approved waste disposal system.*
- (b) No person shall dispose of any of the cleanings containing human excrement from septic tanks, cesspools or pits in or upon any place, area, stream or watercourse where it may become offensive or a menace to public health.

SECTION 31. Section 8.16.070 of the San Luis Obispo County Code is hereby amended to read as follows:

8.16.070 - Permit required for disposal of cleanings. Reports to Health Officer.

(a) Whenever a person cleans a septic tank, chemical toilet, cesspool, or sewage seepage pit, that person shall promptly record the event and make the records available for inspection by the Health Officer or her/his duly authorized representative. Upon request, the permitted person or entity responsible for that activity shall file a complete and accurate report for all such events. Said reports shall contain the location of septic tanks, chemical toilets, cesspools, and sewage seepage pits cleaned, the date of each cleaning, location of the disposal site, where sewage effluent or other material has been finally disposed of, and any other information which the Health Officer or her/his duly authorized representative may require.

(b) The report shall be signed by the permitted person or an officer of the permitted entity. The Health Officer or her/his duly authorized representative may require, before or after their initial receipt of a report, that any such report be sworn to before a notary. The permit of any person or entity who fails to submit sworn and/or notarized reports when required to do so may be revoked. Making a false statement or a material omission in a required report is a violation of this Chapter, whether the report was or was not required to be sworn.

All persons shall be required to obtain a permit from the county health department before making any disposition of any cleanings or sludge from septic tanks, cesspools or pits.

SECTION 32. Section 8.30.010 of the San Luis Obispo County Code is hereby amended to read as follows:

8.30.010 – Purpose.

The provisions of this chapter are enacted pursuant to California Health and Safety Code sections 116800 et seq. and Title 17 of the California Code of Regulations section 7584, which authorize the implementation of a cross connection control program to protect against backflow through service connections into the public water supply. In the County of San Luis Obispo, the Environmental Health Services Division of the Public Health Department is designated to carry out this program. The Environmental Health Services Division shall implement the provisions of this chapter for a Public Water Supplier. Public Water Supplier program participation is governed by a contract entered into

pursuant to California Health and Safety Code section 116805 and Title 17 of the California Code of Regulations section 7584, or where the Environmental Health Services Division has local primacy agency delegation (LPA) for the administration and enforcement for the small water systems as provided for in the LPA delegation.

The purpose of this chapter is:

- ~~(1) To protect the public water supply against actual or potential cross-connections by isolating within the premises contamination or pollution that may occur because of some undiscovered or unauthorized cross-connection on the premises;~~
- ~~(2) To eliminate existing connections between drinking water systems and other sources of water that are not approved as safe and potable for human consumption;~~
- ~~(3) To eliminate cross-connections between drinking water systems and other sources of water or process water used for any purpose whatsoever which jeopardize the safety of the drinking water supply;~~
- ~~(4) To prevent the making of cross-connections in the future;~~
- ~~(5) To encourage the exclusive use of public sources of water supply;~~
- ~~(6) To protect the drinking water supply within the premises where plumbing defects or cross-connections may endanger the drinking water supply available on the premises.~~

~~It is the intent of this chapter to recognize that there are varying degrees of hazard and to apply the principle that the degree of protection should be commensurate with the degree of hazard.~~

SECTION 33. The following definitions in Section 8.30.020 of the San Luis Obispo County Code are hereby amended and added to read as follows:

"Approved check valve" means a check valve meeting the specifications and approval of a recognized, approved testing agency for backflow prevention ~~devices~~ assemblies;

"Approved double check valve assembly" means an assembly of at least two independently acting approved check valves including tightly closing shut-off valves on each side of the check valve assembly and suitable leak detector drains plus connections available for testing the water tightness of each valve. The entire assembly shall be made in the factory of the manufacturer and shall meet the specifications and approval of a recognized, approved testing agency for backflow prevention assemblies devices. To be approved, these assemblies devices must be readily accessible for maintenance testing;

"Approved reduced pressure principle backflow prevention assembly device" means a device approved by a recognized and approved testing agency for backflow prevention assemblies devices. The entire assembly shall be made in the factory of the manufacturer and shall incorporate two or more check valves and an automatically operating differential relief valve located between the two checks, two shut-off valves, and equipped with necessary appurtenances for testing. The assembly device shall operate to maintain the pressure in the zone between the two check valves less than the pressure on the public supply side of the assembly device. At cessation of normal flow, the pressure between check valves shall be less than the supplied pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere, thereby providing an air-gap in the assembly device. To be approved, these assemblies devices must be readily accessible for maintenance and testing and installed in a location where no part of the valve will be submerged;

"Department" means the ~~health department~~ Environmental Health Services Division of the Public Health Department of the County of San Luis Obispo;

"Plumbing hazard" means a plumbing type cross-connection in a consumer's potable water system that has not been properly protected by a vacuum breaker, air-gap separation or other assembly or device. The term "plumbing hazard" includes but is not limited to cross-connections to toilets, sinks, lavatories, wash trays, domestic washing machines and lawn sprinkling systems;

"Recognized, approved testing agency for backflow prevention assemblies" means the University of Southern California Foundation for Cross Connection and Hydraulic

Research or an equivalent, recognized testing agency which applies similar standards of laboratory and field testing to evaluate the function of backflow prevention assemblies.

"Standard" means an official rule, unit of measurement, way of operating or best practice which is promulgated by a recognized authority or organization, including, but not limited to, Federal and State governments and agencies and industry organizations such as the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, American Society of Sanitary Engineers (known as ASSE International), the American Water Works Association and the International Association of Plumbing and Mechanical Officials

"Water supervisor" means the consumer, or a person on the premises appointed by the consumer who is charged by the consumer with the responsibility to the consumer of maintaining the consumer's water system free from cross-connections and other sanitary defects, as required by regulations and laws. A certified backflow prevention ~~assembly device~~ tester may not act as a water supervisor unless he is a full-time employee of the consumer, and has the day-to-day responsibility for the installation and use of pipelines and equipment on the premises and for the avoidance of cross-connections;

SECTION 34. Section 8.30.030, subsection (c), of the San Luis Obispo County Code is hereby amended to read as follows:

(c) Backflow prevention ~~assemblies devices~~ shall be installed on the service connection to any premises that have cross-connections. It shall be the responsibility of the consumer to provide, test, and maintain protective ~~assemblies devices~~ as required.

SECTION 35. Section 8.30.040 of the San Luis Obispo County Code is hereby amended to read as follows:

8.30.040 - Type of protection.

The protective ~~assembly device~~ required shall depend on the degree of hazard. In determining the degree of hazard and the type of backflow prevention to be required, the following criteria shall be used:

- (1) An air-gap separation shall be used where there is a health hazard. The air-gap shall be located as close as practicable to the meter and all piping between the meter and the receiving tank shall be entirely visible. If these conditions cannot reasonably be met, the public water supply shall be protected with an approved reduced pressure principle backflow prevention ~~assembly device~~, providing the alternative is acceptable to the department;

- (2) An air-gap separation or a reduced pressure principle backflow prevention ~~assembly device~~ shall be used where there is a system hazard or a plumbing hazard or any combination of the above. If an air-gap separation is used, the air-gap shall be located as close as practicable to the meter and all piping between the meter and receiving tank shall be entirely visible. Where there is no meter the protective ~~assembly device~~ shall be located on the service connection pipeline at a point on the consumer's property nearest the public water supply pipeline;
- (3) In all other cases of cross-connection, there shall be required a double check valve assembly;
- (4) Notwithstanding any other provisions of this section, at the service connection to any sewage treatment plant, sewage pumping station or storm water pumping station, the public water supply shall be protected by an air-gap separation. The air-gap shall be located as close as practicable to the meter and all piping between the meter and receiving tank shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected with an approved reduced pressure principle backflow prevention ~~assembly device~~, providing this alternative is acceptable to the department. Final decision in this matter shall rest with the State Department of Public Health;
- (5) Notwithstanding any other provisions of this section, on any premises where the Environmental Health Services Division ~~county health department~~ determines that a special hazard exists, the public water supply shall be protected by such approved backflow prevention ~~assembly devices~~ as designated by the Environmental Health Services Division ~~department~~.

SECTION 36. Section 8.30.050 of the San Luis Obispo County Code is hereby amended to read as follows:

8.30.050 - Frequency of inspection of protective assemblies devices.

It shall be the duty of the consumer on any premises on which backflow protective ~~assemblies devices~~ are installed to have competent inspections made upon installation, and at least once a year thereafter, or more often in those instances where successive inspections indicate defective operation. These ~~assemblies devices~~ shall be repaired, overhauled, or replaced at the expense of the water user whenever they are found to be defective. Records of such tests, repairs, and overhaul shall be kept and submitted to the department.

SECTION 37. Section 8.30.060 of the San Luis Obispo County Code is hereby amended to read as follows:

8.30.060 - Qualification and certification of person to inspect and maintain backflow prevention assemblies devices.

- (a) No person shall be qualified to inspect and maintain backflow prevention assemblies devices unless his/her qualifications have been established to the satisfaction of the department as hereinafter required. To determine the qualifications of any person to inspect and maintain backflow prevention assemblies devices, the department shall ~~have the authority to conduct examinations as necessary. Upon successful completion of such examination and such training as the department shall prescribe, the person so examined shall receive from the department a "Certificate of Competence."~~ Any limitations or conditions imposed by the department on the examinee in the inspection and maintenance of backflow prevention devices shall be stated upon the face of the certificate issued to the examinee. require documentation of a current American Water Works or American Backflow Prevention Association certificate or other approved certifying agency certificate be submitted. Such certification shall be submitted to the department along with a current report of calibration of their test gauge equipment. The department shall make available to consumers, a list of persons qualified to inspect and maintain backflow prevention assemblies devices. Every person, after receiving a "Certificate of Competence" from the department, shall be issued such identification as the department shall deem appropriate; Qualified testers shall be issued a County of San Luis Obispo tester identification (I.D.) card and such identification shall be kept in the immediate possession of every qualified tester person holding a certificate of competence while said qualified tester person is inspecting or maintaining any backflow prevention assembly device in the County of San Luis Obispo.
- (b) Every person desiring to qualify to inspect or maintain backflow prevention assemblies devices shall make application to the department. Upon approval of the application, a County of San Luis Obispo issued tester I.D card will be mailed to the new applicant. At the time of making application, every person shall pay a fee of ten dollars, which fee shall not be refundable. Said fee shall cover the expense of the department in processing the applications, certificates of competence, and any documents of identification required by the department.
- (c) Every person holding a County of San Luis Obispo tester I.D. card certificate of competence issued by the department under the provisions of this section shall be required to renew the I.D. card certificate every three years. The requirements for reexamination may be waived at the discretion of the Director department.
- (d) Every person receiving a County of San Luis Obispo tester I.D. card certificate of competence under the provisions of this section shall be responsible for the

competency and accuracy of all inspections and maintenance performed by him on any backflow prevention assembly device.

- (e) Every person issued a County of San Luis Obispo tester I.D. card must annually submit a current report of calibration of their test gauge equipment.

~~Any person issued a certificate of competence who violates or fails to comply with any of the provisions of this chapter or willingly falsifies inspection or maintenance reports submitted to the department shall, in addition to the penalties prescribed in Chapter 1.04 of the San Luis Obispo County Code, have the certificate immediately revoked, and shall not be considered for recertification for a period of two years.~~

- (f) Every person issued a County of San Luis Obispo tester I.D. card shall abide by and be subject to the most recent San Luis Obispo County Cross-Connection Program Policy and Procedures. Any person issued a County of San Luis Obispo tester I.D. card who fails to abide by the terms and provisions of the San Luis Obispo County Cross-Connection Program Policy and Procedures may be subject to administrative discipline, according to the enforcement procedures specified in the Cross-Connection Program Policy and Procedures.

- (g) Any person issued a County of San Luis Obispo tester I.D. card who violates or fails to comply with any of the provisions of this chapter or willingly falsifies inspection or maintenance reports submitted to the department shall, in addition to the penalties prescribed in Chapter 1.04 of the San Luis Obispo County Code, have the tester I.D. card immediately revoked, and shall not be considered for recertification for a period of two years.

SECTION 38. Section 8.30.070 of the San Luis Obispo County Code is hereby amended to read as follows:

8.30.070 - Booster pump—Regulation of.

When it becomes necessary, because of low pressure or special operating conditions, to install a booster pump on the service of any premises, such pump shall be equipped with a low pressure cutoff switch designed to shut off the pump when the pressure on the inlet side is twenty-five P.S.I.G. or lower. It shall be the duty of the consumer to maintain the cut-off assembly device in proper working order, and to certify to the department at least once a year that the assembly device is operable.

SECTION 39. Section 8.30.080, subsections (b) and (c), of the San Luis Obispo County Code are hereby amended to read as follows:

- (b) Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, wherever practicable, be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and fire fighting purposes, approved backflow prevention assemblies devices shall be installed to protect such individual drinking water lines as are not used for fire fighting purposes. The users of such drinking water systems shall be further protected as prescribed by the state and county health departments.
- (c) Potable water pipe lines connected to equipment for industrial processes or operations shall be disconnected therefrom if practicable. Where disconnection is not practicable, an approved backflow prevention assembly device, the type or kind depending on the degree of hazard, shall be located in the feedline to the process piping or equipment, beyond the last point from which drinking water may be taken. In the event the particular processed liquid is especially corrosive or apt to prevent reliable action of the backflow prevention assembly device, an air-gap separation shall be provided. These assemblies devices shall be repaired, overhauled or replaced whenever they are found to be defective. Records of tests, repairs, and replacement shall be kept and submitted to the department.

SECTION 40. Section 8.30.100 of the San Luis Obispo County Code is amended to read as follows:

8.30.100 - Penalties for noncompliance.

The water purveyor shall have the authority to immediately discontinue service to any premises where cross-connection or other hazards to the water system are found to exist, and shall not again render service to said premises until such conditions are eliminated in accordance with this chapter. Any consumer who willfully violates any of the provisions of this chapter or alters, or bypasses or renders inoperative any backflow prevention assembly device installed under the provisions of this chapter shall, in addition to immediate discontinuance of water service, be subject to penalties prescribed in Chapter 1.04 of the San Luis Obispo County Code. Service shall not again be rendered until such violation or noncompliance has been corrected.

SECTION 41. Section 8.54.010 of the San Luis Obispo County Code is hereby amended to read as follows:

8.54.010 - Citation authority.

The ~~D~~irector of ~~the~~ the Environmental Health Services Division of the Public Health Department of the County of San Luis Obispo and ~~her~~/his authorized deputies shall have

the authority to issue citations for violations of ~~this code~~ Title 8 of the San Luis Obispo County Code and state law pursuant to the procedures set forth in Chapter 1.08.

SECTION 42. Section 8.60.010 of the San Luis Obispo County Code is hereby amended to read as follows:

8.60.010 - Health Officer and Environmental Health Services Division to enforce state laws and regulations relating to public swimming pools. Swimming pool permits.

~~It is unlawful for any person, firm or corporation to operate, or open to the public, a public or semipublic swimming pool as defined in Title 17 of the California Administrative Code, Sections 7774 and 7775, unless possessing a valid health permit issued by the county health department.~~

The Health Officer and the Environmental Health Services Division of the Public Health Department shall enforce state laws and regulations relating to public swimming pools, including the building standards published in the state building standards codes; standards for pool sanitation and safety in Article 5 of Part 10 of Division 104 of the California Health and Safety Code (commencing with section 115920); and related state regulations (see Title 22, California Code of Regulations, sections 65501 to 65551, and Title 24, California Building Code, chapter 31B, sections 3101B to 3162B.).

SECTION 43. Section 8.60.020 of the San Luis Obispo County Code is amended to read as follows:

8.60.020 - Permit issuance and plan review.

~~All of the general procedures governing plan review and the issuance, renewal, transferability, suspension and revocation of health permits set forth in Chapter 8.04 of this code are incorporated by reference.~~

- (a) It shall be unlawful for any person to operate a public swimming pool without a valid permit issued by the Health Officer or her/his duly authorized representative. A permit is not valid unless required fees, including any related late payment fees, have been paid.
- (b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000 or imprisonment not to exceed six months, or both. Each day that a person violates subsection (a) is a separate violation.
- (c) The County may also enforce any violation of subsection (a) by an action for injunctive relief.

(d) All of the general procedures governing plan review and the issuance, renewal, transferability, suspension and revocation of health permits set forth in Chapter 8.06 of this code are incorporated by reference.

SECTION 44. Section 8.60.030, entitled "Notice of closure," is hereby added to the San Luis Obispo County Code as follows:

8.60.030 - Notice of closure.

(a) If the Health Officer or her/his duly authorized representative determines that a public swimming pool is operating without a valid permit, the Health Officer or her/his duly authorized representative may order the public swimming pool to close immediately. In addition to taking any legal action authorized by law to compel a facility owner or operator to cease operating without a permit, the Health Officer or her/his duly authorized representative may post a notice of closure at or on a public swimming pool location that is operating without a permit, advising the public that the pool does not have a permit to operate.

(b) The Health Officer or her/his duly authorized representative may also post a notice of closure on a public swimming pool:

(1) When the Health Officer or her/his duly authorized representative orders the pool to close due to an imminent health hazard that is not immediately corrected.

(2) When the Health Officer or her/his duly authorized representative suspends or revokes the facility's permit.

(c) No person other than the Health Officer or her/his duly authorized representative shall remove a notice posted by the Health Officer or her/his duly authorized representative pursuant to this section.

(d) An order issued pursuant to subsection (b) may be appealed according to the provisions set forth in Chapter 8.06. An appeal shall not stay the closure of the pool.

SECTION 45. Section 8.62.005, entitled "Health Officer and Environmental Health Services Division to enforce state laws and regulations relating to organized camps," is hereby added to the San Luis Obispo County Code as follows:

8.62.005 - Health Officer and Environmental Health Services Division to enforce state laws and regulations relating to organized camps.

The Health Officer and the Environmental Health Services Division of the Public Health Department shall enforce state laws and regulations relating to organized camps.

SECTION 46. Section 8.62.010 of the San Luis Obispo County Code is amended to read as follows:

8.62.010 - Organized camp permits.

It is unlawful for any person, ~~firm or corporation~~ or entity to operate an organized camp as defined in Health and Safety Code Section ~~13897~~ 18897 unless possessing a valid health permit issued by the ~~county health department~~ Health Officer or her/his duly authorized representative.

SECTION 47. Section 8.62.020 of the San Luis Obispo County Code is amended to read as follows:

8.62.020 - Permit issuance.

All of the general procedures governing the issuance, renewal, transferability, suspension and revocation of health permits set forth in Chapter ~~8.04~~ 8.06 of this code are incorporated by reference.

SECTION 48. The Board of Supervisors has considered the amendments to Title 8 that are proposed with respect to the matter described above. The Board of Supervisors, as a result of its consideration and the evidence presented at the hearing on said matter and pursuant to CEQA Guidelines 14 CCR §§15060(c)(3) & 15378, finds the ordinance amendments are not a "project" and thus not subject to Section 21000 et seq. of the California Public Resources Code ("CEQA"); Even if the ordinance amendments are a "project", the Board of Supervisors, as a result of its consideration and the evidence presented at the hearing on said matter, determines that this activity is exempt from review pursuant to CEQA Guidelines 14 CCR §15061(b)(3) which provides that an activity is not subject to CEQA review where it can be seen with certainty that there is no possibility that it may have a "significant effect on the environment." The Board of Supervisors finds that it can be seen with certainty that there is no possibility that the adoption of the amendments to Title 8 as stated above may have a significant effect on the environment because there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment. The Board of Supervisors hereby approves this adoption of the above amendments to Title 8 in accordance with the California Environmental Quality Act (CEQA) and the County's regulations implementing said Act.

SECTION 49. If any section, subsection, clause, phrase or portion of these ordinance amendments is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality

of the remaining portion of these ordinance amendments. The Board of Supervisors hereby declares that it would have passed these ordinance amendments and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 50. In accordance with Government Code Section 25131, after reading of the title of the ordinance amendments, further reading of the ordinance amendments in full is waived.

SECTION 51. These ordinance amendments shall take effect and be in full force and effect thirty (30) days after its passage; and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

INTRODUCED at a regular meeting of the Board of Supervisors held on the 15th day of March, 2022, and **PASSED and ADOPTED** by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 5th day of April, 2022, by the following roll call vote, to wit:

AYES: Supervisors Dawn Ortiz-Legg, Lynn Compton, John Peschong,
Debbie Arnold and Chairperson Bruce S. Gibson

NOES: None

ABSENT: None

ABSTAINING: None

Bruce S. Gibson

Bruce S. Gibson
Chairperson of the Board of Supervisors of the
County of San Luis Obispo, State of California

ATTEST:

Wade Horton
Ex-Officio Clerk of the Board of Supervisors of the
County of San Luis Obispo, State of California

BY: Niki Martin
Deputy Clerk