

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

103



**FROM:** Department of Environmental Health

**SUBMITTAL DATE:**  
June 17, 2013

**SUBJECT:** Revision of Ordinance No. 567 Relating to the Regulation of Food Handlers.

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Introduce and set for public hearing a revision to Ordinance No. 567 relating to the regulation of food handlers; and
2. Authorize the Clerk of the Board to place an advertisement for public hearing in the appropriate local publications; and
3. Upon the close of the public hearing, adopt the revision to Ordinance No. 567.

**BACKGROUND:** The proposed amendment to Ordinance 567 is necessary to accurately reflect current procedures for regulating food handlers, specifically the process for allowing an online version of the food handler training and examination. Additional proposed changes relate to the timeframe for obtaining training and certification; further clarification of exemptions for volunteers; the appeal process; and general formatting and wording corrections.

Steve Van Stockum  
Director of Environmental Health

**FINANCIAL  
DATA**

Current F.Y. Total Cost: \$ N/A  
Current F.Y. Net County Cost: \$ 0  
Annual Net County Cost: \$ 0

In Current Year Budget: Yes  
Budget Adjustment: No  
For Fiscal Year: 13/14

**SOURCE OF FUNDS:** No Funding Necessary

Positions To Be Deleted Per A-30	<input type="checkbox"/>
Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
Steven C. Horn, MPA

**County Executive Office Signature**

FORM APPROVED COUNTY COUNSEL  
DATE 6/18/13  
BY: ERIC STOPHER  
Departmental Concurrence

Dep't Recomm.:	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Policy
Per Exec. Ofc.:	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Policy

**Prev. Agn. Ref.:** Item 3-17; 4/23/13 | **District:** all | **Agenda Number:**

RECEIVED RIVERSIDE COUNTY  
JUN 20 2013

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## REGULATING FOOD HANDLERS

The Board of Supervisors of the County of Riverside ordains as follows:

**Section 1.** Ordinance 567 is amended in its entirety as follows:

“ORDINANCE NO. 567

## REGULATING FOOD HANDLERS

Section 1. PURPOSE AND INTENT. It is the purpose and intent of this ordinance to attain a uniform standard by requiring all food handlers in the County of Riverside to demonstrate through process of examination that they possess an adequate knowledge of the health and safety principles and practices within the food industry.

Section 2. DEFINITIONS. As used in this ordinance, the following words and phrases shall have the following meanings:

- a. "Food Handler Certificate" – A statement issued by the Department certifying that a person has satisfactorily demonstrated his or her competency in food safety principles and practices.
- b. "Food Handler Training Materials" - The manual prepared and distributed to food handlers by the Department that describes acceptable procedures and safe and healthy practices pertaining

1 to the retail food service industry, or any other format of  
2 training as approved by the Department.

3 c. "Department"- Riverside County Environmental Health  
4 Department, its Director or his/her designated representative.

5 Section 3. FOOD HANDLER CERTIFICATE REQUIRED. No person  
6 shall engage in any work, occupation or employment which requires the handling of any  
7 food, liquor or material intended for human consumption or the handling of any dishes or  
8 other articles used in the preparation or service of food or drink for human consumption, who  
9 does not hold or produce a Food Handler Certificate as required by this ordinance within 7  
10 days after engaging or serving in such work, occupation or employment. No owner, manager  
11 or agent of such owner, or person in charge of any establishment or business shall retain in  
12 the employ thereof for the performance of such services, any person who does not hold and  
13 produce a Food Handler Certificate as required by this ordinance within 7 days of  
14 commencing work as a food handler.

15 Section 4. EXEMPTION. Any person who engages or serves or seeks  
16 employment relating to domestic or household work or to temporary, occasional or  
17 intermittent functions of bona fide not for-profit organizations, or students in public or  
18 private schools under the age of 16 engaged in school food operations shall be exempt from  
19 the provisions of Section 3 of this ordinance. However, any volunteers, including, but not  
20 limited to, those listed above, working for more than 25 days per year shall be required to  
21 obtain the food handler certificate. Any volunteers not possessing a valid Food Handler  
22 Certificate must work under direct supervision of a certified food handler at all times.

23 Section 5. APPLICATION FOR FOOD HANDLER CERTIFICATE.  
24 Any person who is engaged or intends to engage in an occupation or employment for which a  
25 Food Handler Certificate is required by Sections 3 or 4 of this ordinance, shall file with the  
26 Department an application for such certificate or a renewal in such form as the Department  
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1 may require. The application shall be accompanied by a non-refundable fee, as referenced in  
2 Ordinance No. 640, and a valid photo identification.

3 Section 6. QUALIFICATION FOR FOOD HANDLER CERTIFICATE.

4 To qualify for the issuance or renewal of a Food Handler Certificate as required by Sections  
5 3 or 4 of this ordinance, the applicant shall have demonstrated his or her knowledge of  
6 acceptable practices in the safe and sanitary preparation, service, storage, distribution and  
7 sale of food and beverages and the proper sanitation of equipment and facilities. Such  
8 demonstration of knowledge shall be by satisfactorily passing an examination conducted by  
9 the Department on those subjects listed above and based on the practices and procedures set  
10 forth in the Food Handler Training Materials. A copy of the latest edition of the Food  
11 Handler Training Materials shall be made available by the Department to those persons  
12 applying for a Food Handler Certificate or renewal.

13 Section 7. ISSUANCE OF FOOD HANDLER CERTIFICATE. When

14 qualified pursuant to Section 6 of this ordinance, the applicant shall be issued a Food Handler  
15 Certificate containing the following information: certificate number, name, expiration date  
16 and attesting signature. Such certificate shall expire at the end of the month that occurs 2  
17 years after the date it was issued.

18 Section 8. DUPLICATE FOOD HANDLER CERTIFICATE. Duplicate

19 Food Handler Certificates may be issued at any of the Environmental Health offices with  
20 valid photo identification and payment of appropriate fees as outlined in Ordinance 640.  
21 Duplicate certificates are also available with payment of the online fee at no additional cost.

22 Section 9. REVOCATION OF FOOD HANDLER CERTIFICATE. The

23 Food Handler Certificate may be revoked by the Department upon evidence indicating  
24 repeated or continuing violations of accepted practices and procedures in the preparation,  
25 service, storage, distribution, or sale of food or beverages, lack of ability to demonstrate  
26 knowledge of these practices and procedures, or upon evidence indicating falsification of  
27 information required for issuance of such certificate.  
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1                    Section 10.    APPEAL. Any person who has an application for a Food  
2 Handler Certificate denied or revoked by the Department, may appeal such denial or  
3 revocation by filing a written notice of appeal with the Department, within 10 days after the  
4 date of denial or revocation. A written notice of appeal should briefly set forth the reasons  
5 why the denial or revocation is not proper. The Department shall give notice of the time and  
6 place of the hearing to the appellant. Such appeal shall be heard by a hearing officer who  
7 may affirm, amend or reverse the decision or take such other action as it deems appropriate.  
8 In conducting the hearing, the hearing officer shall not be limited by the technical rules of  
9 evidence.

10                   Section 11.    DISPLAY OF FOOD HANDLER CERTIFICATE. Any  
11 person required to have a Food Handler Certificate shall immediately submit such certificate  
12 to his or her employer. It shall be the duty of every employer to keep on continuous display  
13 at the place of employment the Food Handler Certificates of all persons employed therein so  
14 they may be viewed by the Department at inspections. A current list of all employees shall  
15 also be provided for comparison when requested by the Department. Upon termination of  
16 employment, each unexpired certificate shall be returned to the employee.

17                   Section 12.    VIOLATION. The remedies provided by this Ordinance are  
18 cumulative and in addition to any other remedies available at law or in equity.

19                   a.        ADMINISTRATIVE CITATIONS AND PENALTIES. In addition to  
20 the remedies and penalties contained in this Ordinance, and in  
21 accordance with Government Code Section 53069.4, an enforcement  
22 officer may issue an administrative citation for any violation of this  
23 Ordinance. The following procedures shall govern the imposition,  
24 enforcement, collection and administrative review of administrative  
25 citations and penalties.  
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1 (1) Content of Citation. The administrative citation shall be issued  
2 on a form approved by County Counsel and shall at a minimum  
3 contain the following information:

- 4 (a) Date, location and approximate time the violation was  
5 observed.  
6 (b) The ordinance violated and a brief description of the  
7 violation.  
8 (c) The amount of the administrative penalty imposed for  
9 the violation.  
10 (d) Instructions for the payment of the penalty, and the time  
11 period by which it shall be paid and the consequences  
12 of failure to pay the penalty within this time period.  
13 (e) Instructions on how to appeal the citation.  
14 (f) The signature of the enforcement officer.  
15 (g) The failure of the citation to set forth all required  
16 contents shall not affect the validity of the proceedings.

17 (2) Service of Citation.

- 18 (a) If the proprietor, owner, employee, certificate holder,  
19 agent, occupant or other person who has violated the  
20 Ordinance is present at the scene of the violation, the  
21 enforcement officer shall attempt to obtain their  
22 signature on the administrative citation and shall deliver  
23 a copy of the administrative citation to them.  
24 (b) If the proprietor, owner, employee, certificate holder,  
25 agent, occupant or other person who has violated the  
26 Ordinance is a business, and the business owner is on  
27 the premises, the enforcement officer shall attempt to  
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1 deliver the administrative citation to the business owner  
2 or proprietor. If the enforcement officer is unable to  
3 serve the business owner on the premises, the  
4 administrative citation may be left with the manager or  
5 other supervising employee of the business.

6 (c) If no one can be located at the property, then the  
7 administrative citation shall be posted in a conspicuous  
8 place on or near the property and a copy mailed by  
9 certified mail, return receipt requested to the owner of  
10 the business, occupant and/or other person who has  
11 violated the Ordinance.

12 (d) The failure of any interested person to receive the  
13 citation shall not affect the validity of the proceedings.

14 (3) Administrative Penalties.

15 (a) The penalties assessed for each violation shall not  
16 exceed the following amounts:

- 17 i. \$100.00 for a first violation;  
18 ii. \$200.00 for a second violation of this Ordinance  
19 within one (1) year from the date of the first  
20 violation; and  
21 iii. \$500.00 for each additional violation of this  
22 Ordinance within one (1) year from the date of  
23 the first violation.  
24 iv. If the violation is not corrected, additional  
25 administrative citations may be issued for the  
26 same violation. The amount of the penalty shall  
27 increase at the rate specified above.  
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1 v. Payment of the penalty shall not excuse the  
2 failure to correct the violation nor shall it bar  
3 further enforcement action.

4 vi. The penalties assessed shall be payable to the  
5 County of Riverside.

6 (4) Administrative Appeal

7 (a) Notice of Appeal. The recipient of an administrative  
8 citation may appeal the citation by filing a written  
9 notice of appeal with the Department. The written  
10 notice of appeal must be filed within twenty (20) days  
11 of the service of the administrative citation as set forth  
12 in Section 12.a.2. Failure to file a written notice of  
13 appeal within this time period shall constitute a waiver  
14 of the right to appeal the administrative citation. The  
15 notice of appeal shall be submitted on the  
16 Administrative Citation Appeal forms, that are  
17 available at all Environmental Health offices, and shall  
18 be accompanied by payment of the full penalty  
19 assessment, and shall contain the following  
20 information:

- 21 i. A brief statement setting forth the appellants  
22 interest in the proceedings;
- 23 ii. A brief statement of the material facts which the  
24 appellant claims supports their contention that  
25 no administrative penalty should be imposed or  
26 that an administrative penalty of a different  
27 amount is warranted;
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1                   iii.     An address at which the appellant agrees notice  
2                             of any additional proceeding or an order relating  
3                             to the imposition of the administrative penalty  
4                             may be received by mail.

5                   iv.     The notice of appeal must be signed, under  
6                             penalty of perjury, by the appellant.

7                   (b)     Administrative Hearing. Upon a timely written request  
8                             by the recipient of the administrative citation, an  
9                             administrative hearing shall be held as follows:

10                  (c)     Notice of Hearing. Notice of the administrative hearing  
11                             shall be given at least ten (10) days before the hearing  
12                             to the person requesting the hearing. The notice may be  
13                             delivered to the person or may be mailed to the address  
14                             listed in the notice of appeal.

15                  (d)     Hearing Officer. The administrative hearing shall be  
16                             held before the Director of the Department of  
17                             Environmental Health or his/her designee. The hearing  
18                             officer shall not be the enforcement officer who issued  
19                             the administrative citation or said enforcement officer's  
20                             immediate supervisor. The Department may contract  
21                             with a qualified provider to conduct administrative  
22                             hearings or to process administrative citations.

23                  (e)     Conduct of the Hearing. The Enforcement Officer who  
24                             issued the administrative citation shall not be required  
25                             to, but may, participate in the administrative hearing.  
26                             The contents of the enforcement officer's file in the  
27                             case shall be admitted as prima facie evidence of the  
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1 facts stated therein. The hearing officer shall not be  
2 limited by the technical rules of evidence. If the person  
3 requesting the appeal fails to appear at the  
4 administrative hearing, the hearing officer shall make  
5 his or her determination based on the information  
6 contained in the notice of appeal and the Enforcement  
7 Officer's file.

8 (f) Hearing Officer's Decision. The hearing officer, based  
9 upon the evidence submitted, shall either dismiss or  
10 uphold the citation. The citation recipient shall receive  
11 a refund of the full penalty assessment if the citation is  
12 dismissed. The hearing officer's decision following the  
13 administrative hearing shall be personally delivered to  
14 the person requesting the hearing or sent by first class  
15 mail. The hearing officer may allow payment of the  
16 administrative penalty in installments, if the person  
17 provides evidence satisfactory to the hearing officer of  
18 an inability to pay the penalty in full. The hearing  
19 officer's decision shall contain instructions for  
20 obtaining review of the decision by the superior court.

21 (5) Review of Administrative Hearing Officer's Decision.

22 (6) Notice of Appeal. Within twenty (20) days of the date of the  
23 delivery or mailing of the hearing officer's decision, a person  
24 may contest that decision by filing an appeal to be heard by the  
25 Superior Court. The failure to file the written appeal and to pay  
26 the court filing fee within this period shall constitute a waiver  
27 of the right to an appeal and the decision shall be deemed  
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1 confirmed. A copy of the notice of appeal shall be served in  
2 person or by first class mail upon the issuing agency by the  
3 contestant.

4 (7) Conduct of Hearing. The conduct of the appeal is a subordinate  
5 judicial duty and may be performed by traffic trial  
6 commissioners and other subordinate judicial officials at the  
7 direction of the presiding judge of the court. The appeal shall  
8 be heard de novo, except that the contents of the issuing  
9 agency's file in the case shall be received in evidence. A copy  
10 of the document or instrument of the issuing agency providing  
11 notice of the violation and imposition of the administrative  
12 penalty shall be admitted into evidence as prima facie evidence  
13 of the facts stated therein. The court shall request that the  
14 issuing agency's file on the case be forwarded to the court, to  
15 be received within fifteen (15) days of the request.

16 (8) Judgment. The court shall retain the court's filing fee  
17 regardless of the outcome of the appeal. If the court finds in  
18 favor of the contestant, the amount of the fine or penalty shall  
19 be reimbursed to the contestant by the local agency. Any  
20 deposit of the fine or penalty shall be refunded by the issuing  
21 agency in accordance with the judgment of the court. If the fine  
22 or penalty has not been deposited and the decision of the court  
23 is against the contestant, the issuing agency may proceed to  
24 collect the penalty pursuant to the procedures set forth in this  
25 Ordinance, or in any other manner provided by law.  
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1                    Section 2.      This ordinance shall take effect thirty (30) days after its adoption

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3                    BOARD OF SUPERVISORS OF THE COUNTY OF  
4                    RIVERSIDE, STATE OF CALIFORNIA

5                    By: \_\_\_\_\_  
6                                    Chairman

7                    ATTEST:

8                    CLERK OF THE BOARD:

9  
10                  By: \_\_\_\_\_  
11                                    Deputy

12                  (SEAL)

13                  APPROVED AS TO FORM

14  
15                  June 18, 2013

16                    
17                  By: \_\_\_\_\_  
18                                    ERIC STOPHER  
19                                    Deputy County Counsel

20                  ELS:md  
21                  06/18/13  
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SUMMARY OF PROPOSED ORDINANCE NO. 567.4

AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
AMENDING ORDINANCE NO. 567 REGULATING  
FOOD HANDLERS

This summary is presented pursuant to California Government Code Section 25124(b); a certified copy of the full text of Ordinance No. 567.4 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside located at 4080 Lemon Street, 1<sup>st</sup> Floor, Riverside, California.

Ordinance No. 567.4 amends Ordinance 567, regulating Food Handlers, in order to reflect the availability of an on-line training and examination option available to the public. Additionally, it mandates timeframes for obtaining the training and examination for new applicants for certification; , clarifies exemptions available, and provides a detailed description of the appeal process for both the denial of a certificate and/or a citation for failure to adhere to certification guidelines.

Ordinance 567 was adopted by the Board of Supervisors of Riverside County on November 29, 1977, and last amended November 24, 2009. The Riverside County Board of Supervisors approved a Form 11 allowing for the RFP process and choice of State Food Safety to provide on-line testing and examination services for the Riverside County Department of Environmental Health on November 27, 2012. A Form 11 to initiate the revision of Ordinance 567 was approved on April 23, 2013.