MEMORANDUM
PLACER COUNTY HEALTH AND HUMAN SERVICES
Environmental Health, Public Health, and Animal Services

TO: Honorable Board of Supervisors

FROM: Jeffrey S. Brown, M.P.H., M.S.W., Director of Health and Human Services
Wesley G. Nicks, REHS, Environmental Health Division Director

DATE: February 23, 2016

SUBJECT: Placer County Retail Food Facility Placard Program

ACTION REQUESTED:

1. Adopt an Ordinance to amend Placer County Code, Chapter 8 to add Article 8.30 to establish the Placer County Retail Food Facility Placard Program.

BACKGROUND:

On February 9, 2016, your Board introduced an ordinance to amend Placer County Code, Chapter 8 to add Article 8.30 to establish the Placer County Retail Food Facility Placard Program. Staff now brings forward the ordinance for adoption. The Health and Human Services Department, Environmental Health Division is enhancing its food inspection program to provide a color-coded placard system at all permanent food facilities as defined in section 113849 of the California Health and Safety Code ("Retail Food Code"). The purpose of a color-coded based compliance program is to provide information on food safety for the public to easily see.

The color-coded placard system is designed to minimize the occurrence of the most critical risk factors associated with foodborne illness: Inadequate cooking, improper food holding temperatures, poor personal hygiene, food from unsafe or unknown source, contaminated food or equipment. This program will also help achieve rapid compliance as food facilities that receive a yellow CONDITIONAL placard have a powerful incentive to correct violations as soon as possible.

The Environmental Health Division introduced the placard program to the food industry through mailers and by conducting County-wide workshops. Eighty-one food facility operators and owners attended the placard workshops. Surveys collected from the workshops show 98% of the attendees did not oppose implementation of the placard program.

FISCAL IMPACT:

The program will have no direct fiscal impact.

ATTACHMENT:

Ordinance

Before the Board of Supervisors
County of Placer, State of California

Ordinance No.: _____

In the matter of:
Amendments to Placer County Code Chapter 8 to Add Article 8.30 to Establish the Placer County Retail Food Facility Placard Program

The following **ORDINANCE** was duly passed by the Board of Supervisors of the

County of Placer at a regular meeting held _____, by the

following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

_____
Chair, Board of Supervisors

Attest:

_____
Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Placer County Code Chapter 8 is hereby amended to add Article 8.30 entitled "Retail Food Facility Placarding Program" as follows:

Article 8.30 RETAIL FOOD FACILITY PLACARD PROGRAM

8.30.010 Title.

The ordinance codified in this article shall be known as the "Placer County Retail Food Facility Placarding Program" and may be so cited.

8.30.020 Purpose and intent.

The purpose of this article is to establish local requirements for retail food facility color-coded placarding. The provisions of this article are authorized pursuant to Sections 113709 and 113713 of the California Health and Safety Code. California Health and Safety Code, section 113709 authorizes a local governing body to adopt an evaluation or grading system for food facilities and section 113713 authorizes enforcement of the Retail Food Code by the Enforcement Agency as defined in section 8.30.030 of this article.

8.30.030 Definitions.

As used in this article:

"Compliance Agreement" is a written agreement between the facility owner or agent and the Enforcement Agency specifying a compliance solution and a time frame for each uncorrected violation

"Director" shall mean the Environmental Health and Animal Health Director of the Environmental Health Division for Placer County.

"Enforcement Agency" shall mean the Environmental Health Division for Placer County.

"Facility Owner" shall mean the person who owns or operates the food facility.

"Facility Owner's Agent" shall mean any agent, employer or employee who is working for or within the food facility.

"Food Facility" shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provide food for human consumption at the retail level and as further defined in the California Retail Food Code Section 113789.

"Placard" shall mean for purposes of this article a color-coded placard that describes the compliance status of a food facility as of the most recent inspection.

"Re-Inspection" shall mean an inspection of any retail food facility by the Enforcement Agency to determine compliance with an inspection report following a Routine Inspection, or any interim inspection conducted to determine compliance with specific regulations or legal requirements.

"Retail Food Code" shall mean the California Retail Food Code, California Health and Safety Code Section 113700 et seq.

"Routine Inspection" shall mean an inspection of any retail food facility by the Enforcement Agency to determine compliance with all applicable federal, state, and local laws and regulations pertaining to the protection of public health.

8.30.040 Incorporation and adoption of Retail Food Code.

All definitions, authority, scope, responsibilities, requirements, standards, conditions, exemptions, procedures and penalties described within the California Retail Food Code, California Health and Safety Code Section 113700 et seq. ("Retail Food Code") are hereby adopted and incorporated by reference.

8.30.050 Conflicts with other laws.

Laws and regulations enacted by the State of California that surpass the requirements of this Article and pertain to the Retail Food Code shall take precedence.

8.30.060 Placard color code.

A color-coded placard will describe the compliance status of a food facility as determined during the most recent Routine Inspection or Re-Inspection. The placard colors as described below will serve to represent the compliance status as verified by Routine Inspection or Re-inspection.

Green: The green "Pass" placard will be issued when no major violations are present at the conclusion of the Routine Inspection. All major violations must be corrected or mitigated at the time of the Routine Inspection. Minor violations must be corrected within the time frame indicated on the inspection report. A Re-Inspection may be conducted if any minor violations are not corrected.

Yellow: The yellow "Conditional Pass" placard will be issued when one or more major violations are present and remain uncorrected after the Routine Inspection is completed, or there has been a failure to comply with a Compliance Agreement. A Re-Inspection may be conducted to verify compliance.

Red: The red "Closed" placard is issued when an imminent threat to public health and safety is observed. Examples of imminent health hazards include but are not limited to: operating a food facility without a current valid health permit, surfacing sewage, no hot water, rodent/insect infestation or other unsanitary conditions. The red "Closed" placard must remain posted and the facility closed until a Re-Inspection is conducted to confirm that the imminent health hazard no longer exists.

8.30.070 Posting of placard.

(a) Upon completion of a Routine Inspection or Re-Inspection, the Enforcement Agency shall post the placard color that is consistent with the outcome of the same.

(b) The placard shall be posted so as to be clearly visible to the general public and to patrons entering the food facility. "Clearly visible to the general public and to patrons" for purposes of this article shall be:

(1) Posted in the front window of the food facility within five (5) feet of the front door, or

(2) Posted in a display case mounted on the outside front wall of the food facility within five (5) feet of the front door, or

(3) Posted in a location approved by the Enforcement Agency that will ensure adequate notice to the general public and to patrons.

(c) In the event that a food facility is operated in the same building as a separately permitted or licensed business or in the event that a facility shares common patron entrance with a separately permitted facility or licensed business, or in the event of both, the Enforcement Agency shall post the placard in the initial patron contact area or in a location approved by the Enforcement Agency.

8.30.080 Validity of placard.

A placard shall remain valid from the time of issuance until a new placard is issued at the time of the next Routine Inspection or Re-Inspection.

8.30.090 Damage or removal of placard prohibited.

The placard shall not be defaced, marred, camouflaged, hidden or removed. Removal of the placard may result in the suspension or revocation of the food facility's operational permit issued by the Enforcement Agency. In the event of suspension of the permit to operate, the facility shall be subject to Re-Inspection and associated fees to ensure compliance.

8.30.100 Operation of food facility without placard is prohibited.

It shall be unlawful to operate a food facility unless the placard is posted in accordance with this article.

8.30.110 Enforcement.

(a) Upon a finding by the Enforcement Agency that a food facility permit holder has violated any provisions of this article, the Enforcement Agency may issue an administrative order requiring that the violation be corrected.

(b) For any repeat violation of this section, a food facility permit holder may be subject to a fine of up to five hundred dollars ($500.00) per violation.

(1) Notice of the fine shall be served by certified mail with a description of the underlying violation(s) and supporting facts. The notice shall set forth the right to lodge an appeal to the Director, or his or her designee, contesting the imposition of the fine.

(2) Appeals must be in writing, and shall set forth the factual basis for disputing the violation(s). If a food facility permit holder would like to request a hearing for its appeal, that request must be stated in the appeal. Appeals must be addressed to the Director and must be received within fifteen (15) days of the date appearing on the notice of the fine.

(3) After reviewing the appeal, the Director shall prepare his or her decision in writing and send it to the food facility permit holder via certified mail. The

decision shall constitute a final administrative order with no additional right to appeal.

(4) If the fine is not paid within thirty (30) days form the date appearing on the notice of the fine or the notice of decision from the Director after the appeal, the fine may be referred to a collection agency and may affect the status of the food facility's operating permit.

SECTION 2: This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with government code section 25124.