

**TOWN of HINGHAM
REGULATION**

**“SUPPLEMENTARY RULES & REGULATIONS FOR FOOD
ESTABLISHMENTS AND FOOD SERVICE PERSONEL”**

Section 1. Authority:

In accordance with applicable provisions of MGL Chapter 111, Section 127A and under the authority of MGL Chapter 111, Section 31 and any other powers enabling the Board of Health of Hingham to adopt regulations, these rules and regulations as a supplement to the Commonwealth of Massachusetts State Sanitary Code, from time to time in force and effect are hereby adapted and adopted, and previous Supplemental Rules and Regulations are hereby amended and restated in their entirety effective January 1, 2015 pursuant to a unanimous vote of the Board.

Section 2. Statement of Purpose:

To protect the health and safety of the public who consume food and edibles prepared and/or provided by food establishments or other entities within the Town of Hingham, the Hingham Board of Health finds it necessary to promulgate these Supplementary Rules & Regulations to augment the safeguards of the Massachusetts State Sanitary Code and the Federal Food Code, as newly revised.

Section 3. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Accredited Food Safety Program: a training course on food safety and protection recognized by the Massachusetts Dept. of Public Health, Food Protection Program.

Board: the Hingham Board of Health or its designated representative.

Certified Food Production Manager: an individual with knowledge of foodborne illness prevention and the Massachusetts State Sanitary Code and Federal Food Code, who has received training and passed the certification examination from an Accredited Food Safety Program.

Critical Item Violation: a violation of the Massachusetts State Sanitary Code or Federal Food Code that has the potential to seriously affect the public health.

Federal Food Code: a uniform set of provisions, established and regularly updated by the United States Food and Drug Administration that address the safety and protection of food offered at retail and food service establishments.

Food Establishment: a facility or location that stores, prepares, packages, serves, vends or otherwise provides food for human consumption.

Food Handler: an owner, operator, employee or individual working with unpackaged food, food equipment or utensils, or food contact surfaces.

Hand Wash Sink: a dedicated sink for the washing of a food handler's hands and distal arms located within a food service facility that is designated or approved by the Board for hand washing.

Mobile Food Operations: a movable or transportable food service facility that stores, prepares, packages, serves, vends or otherwise provides food for human consumption where consumption occurs off premises from the facility.

Non-Critical Item Violation: an infringement or misapplication of the Massachusetts State Sanitary Code or Federal Food Code that has the potential to adversely affect the public health.

Order of Correction: a written notice from the Board identifying a Critical Item Violation, Non-Critical Item Violation or violations that must be corrected within a timeline specifically identified in the order.

Person In Charge: an owner, operator or delegated employee of a food service facility who is directly responsible for overseeing the operations of the facility and its employees.

Residential Kitchen: a kitchen in a private home or equivalent food service facility used for preparation or packaging of food for consumption by the public.

State Sanitary Code: state regulation titled "State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments" (105 CMR 590.00) promulgated by the Massachusetts Department of Public Health.

Temporary Food Establishment: a facility or location that stores, prepares, packages, serves vends or otherwise provides food for human consumption on an incidental basis. The operator of a temporary food establishment must have a valid Food Establishment operation, located in Hingham or elsewhere, that serves as the central location from which the temporary food establishment's food is disseminated.

Section 4. Concurrent Regulations:

- A. All Food Establishments, Mobile Food Operations and Residential Kitchens shall abide by all applicable requirements identified in the Massachusetts State Sanitary Code. The consequences of non-compliance to the State Sanitary Code are identified herein, pursuant to these supplemental rules and regulations.
- B. All Food Establishments connected to the public sewer system or septic system shall abide by all applicable requirements identified in the Town of Hingham, "Fats, Oil, and Grease Pretreatment Systems" (FOG-Regulation). The consequences of non-compliance to the FOG regulation are identified within the FOG-Regulation, however, the administrative procedures identified herein shall apply toward any sanction taken against a Food Establishment permit due to a FOG-Regulation infraction.
- C. All Food Establishments that generate rubbish or recyclables shall abide by all applicable requirements identified in the Town of Hingham, "Recycling and Dumpster Requirements within the Town of Hingham" (Dumpster-Regulation). The consequences of non-compliance to the Dumpster-Regulation are identified within the Dumpster-Regulation,

however, the administrative procedures identified herein shall apply toward any sanction taken against a Food Establishment permit due to a Dumpster-Regulation infraction.

Section 5. Required Permits:

- A. A Food Establishment, Mobile Food Operation, Residential Kitchen or Temporary Food Establishment operating in Hingham must possess a valid permit to operate issued by the Board, and pay the appropriate permit fee.
- B. An applicant for a Food Establishment permit, Mobile Food Operation permit, Residential Kitchen permit or Temporary Food Establishment permit shall identify a Person In Charge.
- C. A permit to operate a Food Establishment, Mobile Food Operation or Residential Kitchen shall be annual, and expire on December 31st of the calendar year. Such permits may be renewed.
- D. A Temporary Food Establishment permit is only valid for the date(s), time and location specifically identified on the permit.
- E. Food service facility permits in Hingham are listed as the following categories:

FOOD ESTABLISHMENT:

- i. Food Service Grocery Class I
- ii. Retail Food Class II
- iii. Food Service (with liquor license) Class III
- iv. Food Service (without liquor license) (take-out) Class IV
- v. Prepackaged Food or Limited Food Preparation (incidentals) Class V
- vi. Caterer
- vii. Milk Storage
- viii. Frozen Desert Manufacturer

MOBILE FOOD OPERATION:

- ix. Mobile Food Service
- x. Milk Vehicle

RESIDENTIAL KITCHEN:

- xi. Residential Kitchens

TEMPORARY FOOD ESTABLISHMENT:

- xii. Temporary Food Permit

Section 6. Critical Item Infractions:

- A. Non-compliance to any requirement of the State Sanitary Code or Federal Food Code may constitute a Critical Item Violation.
- B. There shall be a Person In Charge of a Food Establishment, Mobile Food Operation, Residential Kitchen or Temporary Food Establishment on the premises during all hours of operation. In the absence of the Person In Charge, there shall be an alternate, acting as the Person In Charge, on the premises during all hours of operation.

- C. Every Person In Charge or an alternate serving as the Person In Charge, shall be certified as a Certified Food Production Manager. Failure to adhere to this requirement would constitute a Critical Item Violation.
- D. All Food Handlers shall clean their hands and exposed portions of their arms immediately upon entering a food preparation area at the Hand Sink located closest to that preparation area before engaging in food preparation. This requirement is necessary regardless of whether the Food Handler will be donning gloves or not. Failure to adhere to this requirement would constitute a Critical Item Violation.
- E. All Mobile Food Operations shall offer a waste container and recycling receptacle for public use that the operator shall empty at his own expense. Mobile food operators shall control waste and collect recyclables in a manner that complies with the Town of Hingham Recycling and Dumpster regulations. Failure to adhere to this requirement would constitute a Critical Item Violation.

Section 7. Enforcement:

- A. Enforcement of this regulation shall be by the Board.
- B. Any citizen who desires to register a complaint pursuant to this regulation may do so by contacting the Board through the Hingham Health Department and the Board shall conduct an investigation.

Section 8. Inspections:

- A. It is the policy of the Board that all Food Establishments, Mobile Food Operations and Residential Kitchens will be inspected at least twice (2) yearly to assess compliance to the State Sanitary Code and these regulations. Said inspections will be unannounced and conducted during normal business hours.
- B. A Temporary Food Establishment is subject to unannounced inspection during the time that food preparation or food service is occurring. A condition of unimpeded access to an inspector is integral to a Temporary Food Establishment permit.
- C. After inspection, the Board's agent will complete an inspection report, (a 'Food Establishment Inspection Report'), identifying any Critical Item Violation or Non-Critical Item Violation identified during inspection. Said inspection report shall serve concurrently as an Order of Correction.
- D. Failure of a Person In Charge to sign receipt of an inspection report issued by the Board may result in a suspension of the food service facility's permit to operate.

Section 9. Violations:

- A. A written Order of Correction will be given to the Person In Charge of a Food Establishment, Mobile Food Operation, Residential Kitchen or Temporary Food Establishment by the Board, specifying the date and time of the inspection, the Critical Item Violation(s) and Non-Critical Violation(s) found, and information describing the right of the permit holder to an administrative hearing regarding the Order if such is requested in writing and filed with the Board within (10) days of the receipt of the Order.

- B. All violations listed in the Order of Correction shall be corrected within ten (10) days of the date of the written Order or within a period of time that has been specifically identified in the Order. Failure to comply with an Order within the correction period may result in suspension or revocation of the food service permit and cessation of food service facility's operation. A follow-up inspection at the end of the correction period will be conducted to ensure compliance with the Order of Correction.
- C. If a food service facility fails to correct a violation within the correction period, the permit holder and the Person In Charge of record will report for an administrative meeting with the Executive Health Officer. If, after this meeting, the permit holder fails to implement the written directives of the Executive Health Officer to correct the violations within ten (10) days of the administrative meeting or whatever period permitted by the Executive Health Officer, the permit holder will be required to show cause before the Board why said food service facility permit should not be suspended or revoked in accordance with the State Sanitary Code.
- D. Any person that violates any provision of this regulation may be fined or sanctioned under applicable laws as a civil offense. Fines and sanctions may include the following:
- i. Non-Critical Item Violation: Written warning
 - ii. Critical Item Violation: \$50 fine
 - iii. Uncorrected Critical Item Violation: \$200 fine and/ or probation
 - iv. Reoccurring Critical Item Violation: \$500 fine and/or probation or suspension

Each Critical Item Violation shall constitute a separate fine.

Each day or portion thereof during which a violation continues may constitute a separate offense.

- E. The Board may additionally order the immediate suspension or revocation of a food service facility permit for any the following reasons:
- (1) Any violation of this regulation deemed to be of an extraordinary serious nature;
 - (2) Repeated or reoccurring violations of this regulation;
 - (3) Interference with an agent of the Board in the performance of his or her official duty pursuant to this regulation;
 - (4) Failure of a permit holder to comply with a written directive relative to this regulation;
 - (5) Failure to adequately maintain required records or logs pursuant to this or other applicable regulation; or
 - (6) Keeping or submitting any misleading or false record, log or document required by this or other applicable regulation.

The effective date and length of a suspension will be determined by the Board.

- F. Any person violating the provisions of this regulation may be liable to the Town of Hingham for any loss, expense or damage, including consequential damage, caused by such violation.

Section 10. Variances:

- A. The Board may vary the application of any provision of this regulation with respect to any particular variance request when, in the Board's opinion, the enforcement thereof would represent manifest injustice, provided that the decision of the Board shall not conflict with the intent and spirit of this regulation.
- B. A request for a variance shall be submitted in writing. The Board may ask for supporting evidence in order to consider the variance request. The request shall not be deemed complete until all such requested evidence has been received by the Board and certified as such by the Executive Health Officer.
- C. Any variance granted under this section may be subject to such qualifications, revocation, suspension, or expiration as the Board expressed in granting the variance. A variance granted may be revoked, modified or suspended in whole or in part, only after the holder has been notified in writing and has been given an opportunity to be heard in conformity with Section 9 of this regulation.

Section 11. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

Section 12. Effective Date:

This regulation was adopted by unanimous vote of the Town of Hingham Board of Health on May 19, 2015 and is to be in full force and effect on and after **July 1, 2015**.

A summary explanation of this regulation shall be published in a newspaper of this town and a copy thereof shall be deposited in the Office of the Town Clerk.

HINGHAM BOARD OF HEALTH

Kirk Shilts, D.C., Chairman
 Peter Bickford, Member
 Stephan White, Member