

## **CHAPTER 2 FOOD SERVICE ESTABLISHMENTS**

### **SECTION 1 DEFINITIONS**

**2.1.001 FOOD ESTABLISHMENT:** An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food. (105 CMR 590.000 State Sanitary Code Chapter X)

**2.1.002 SPECIAL INSPECTIONS:** shall include any inspections in excess of two (2) follow ups of a routine inspection and may be subject to special inspection fees in accordance with the current Board of Health fee schedule.

**2.1.002 INDEPENDENT FOOD SAFETY PROFESSIONAL:** Shall mean a Massachusetts Registered Sanitarian or a Food Safety Professional who is knowledgeable about food borne disease prevention, HACCP principles, food safety & sanitation and code requirements.

### **SECTION 2 SANITARY WASTE AND GREASE DISPOSAL**

**2.2.001** A 5,000 gallon grease trap shall be required for all new food service establishments and shall be required for all existing food service establishments contemplating an increase in seating capacity or a change in type of operation. All newly constructed, renovation facilities or a change of ownership of a food service establishment must install an at a “Minimum” a properly sized industrial type grease trap/s, or comply with alternative and innovative methods of grease removal approved by the Health Department.

**2.2.002** Grease traps shall be designed using standards pursuant to the Massachusetts State Environmental Code, Title 5, 310CMR15.000 (inclusive), Water Pollution Control Regulations, 314 CMR12.08 or any other applicable Federal, State, County, or Local Laws, By-Laws, and Rules and Regulations.

**2.2.003** All establishments shall comply with this regulation as determined by the Board of Health. The Board of Health may grant an extension of time if, in its opinion, a documented hardship exists. However, no extension of time shall exceed one (1) year. Failure to comply shall be deemed just cause for administrative action which may include but not be limited to fines, permit suspension or revocation, probation, or other administrative action deemed necessary by the Board of Health.

**2.2.004 GREASE TRAP MAINTENANCE:** It shall be the responsibility of the permit holder to maintain interior or exterior grease traps by having grease traps inspected and serviced or cleaned 1x a month by a professional licensed cleaning and disposal grease trap company in accordance with the Massachusetts State Environmental Code, Title 5 standards, other applicable health regulations, or as determined by manufacturers, or the Board of Health.

**2.2.005 EXTERIOR GREASE DUMPSTERS / CONTAINERS:** Exterior grease dumpsters or containers must be located in a suitable area and must be constructed on a level surface large enough to fit all dumpsters, or containers and grease dumpsters and enclosed so as to not create an offensive nuisance to the general public. Enclosure must be not less than six (6) feet in height. In cases where enclosure is not possible, dumpsters must be properly maintained so as to not create a nuisance or become offensive to the public.

**2.2.006 SANITARY WASTE MAINTINANCE:** All onsite sewage disposal systems shall be properly maintained, serviced and inspected yearly by a Massachusetts licensed Title V inspector as approved by the Department and the New England Interstate Water Pollution Control Commission (NEIWPCC). All inspection reports shall be maintained and provided to the Health Department upon request.

**2.2.007 SANITARY WASTE/GREASE BACKUPS/CEASE AND DESIST OPERATIONS:** Any establishment that experiences a sanitary waste or grease backup in the interior or exterior of its facility (including but not limited to toilets, floor drains, prep sinks) is to immediately “Cease and Desist” all operations, including any drive through services. Establishments are required to immediately notify the Board of Health and or its appointed Health Agent during normal business hours from 8:00 am to 4:00pm after normal business hours, immediately notify the Police Department at (978) 664-3131.

**2.2.008 SANITARY WASTE/GREASE BACKUPS CLEANUPS:** All establishments shall be required to have a professional cleaning service company properly clean and sanitize all affected interior and or exterior areas of a sanitary waste/grease backup and shall be inspected by the Board of Health and or its appointed Health Agent prior to resuming operations. All cleaning service invoices shall be required to be submitted to the Board of Health and or its appointed Health Agent.

**2.2.009 SANITARY WASTE/GREASE BACKUPS PENALTIES:** Any failure to comply with this regulation establishments may be subjected to either fines pursuant to Chapter 1 Section 19 of the North Reading Board of Health Regulations and or Chapter 1 Section 1.1009(2) “Cost Recovery” whereas the Board of Health may assess cost recovery charges to any person as defined in Chapter 1 for costs incurred by the Board of Health to abate a nuisance deemed to cause a threat to public health or the environment, or a charge may be assessed for any emergency actions taken by the Board of Health to abate an imminent threat to public health or the environment, or if the Board of Health is called or respond to an emergency.

### **SECTION 3 MINIMUM PLAN REQUIREMENTS**

**2.3.001** All food service establishments shall be subject to Plan Review whether it be for new construction, rehabilitation, renovation, remodeling, changes in use, etc. Plans shall identify the facility and layout. All its equipment must be appropriately labeled, and identify its designated location within the facility plan layout. Equipment must be commercial grade and have National Sanitation Foundation (NSF) or equivalent rating. If equipment is used or aged it must state the name, age, and condition of such equipment.

**2.3001(A)** All food establishment must meet the minimum standards of hand wash sink, service sink, ware washing sink, food preparation sink and cold, hot holding equipment. All minimum plan requirements are applicable and subject to change.

**2.3.002** Employee toilet facilities that are adequate and conveniently located shall be provided by all food service establishments. Each food service establishment with a seating capacity of over fifty (50) patrons shall provide toilet facilities for employees that are separate from the toilet facilities provided for patrons. Separate facilities must be provided for male and female patrons and at least one (1) unisex toilet

facility for male and female employees, if allowed by law. This regulation shall apply to all newly constructed facilities and significantly renovated facilities.

**2.3.003 HAND WASHING FACILITIES:** Each food service establishment shall be provided with adequate and conveniently located hand washing facilities for its employees. Hand washing units shall be equipped with hot and cold or tempered running water, hand cleansing soap or detergent from a dispensing unit, and sanitary towels from a dispensing unit or other hand drying devices. Common towels are prohibited. Hand washing facilities shall be located in the food preparation area and other areas as deemed necessary and in sufficient quantity as determined by the Board of Health. These hand washing facilities must be clearly identified as "Food Handler Hand Washing Facility Only".

The hand wash sinks in the common restrooms designed for use by patrons, or employees, cannot be considered as hand washing facilities for food preparation areas to be used by food handlers.

**2.3.004 FLOOR DRAINS:** Must be installed in a number and in locations sufficient for ease of cleaning, and to prevent puddling. Floor drains shall comply with the current Board of Health floor drain regulations.

**2.3.005 EXTERIOR DUMPSTERS:** Exterior dumpster facilities must be identified on all plans and must be constructed on a level six (6) inch thick minimum, concrete surface large enough to fit all dumpsters and grease dumpsters and enclosed so as to not create an offensive nuisance to abutters and the general public. Enclosures must be not less than six (6) feet in height and cleanable surfaces. In cases where enclosure is not possible, dumpsters must be properly maintained so as to not create a nuisance or become offensive to the public.

**2.3.006 ACCESSORY EXTERIOR FACILITIES:** Any accessory exterior facilities utilized by the establishment in any manner, must be identified on the facility layout plan.

**2.3.007** All facility layout plans for newly constructed facilities must be professionally prepared, drawn to scale, and stamped by a certified engineer. No work may commence until an approval is granted by the Health Department. Existing facilities may prepare renovation plans that can be easily read and understood, however, a professionally prepared plan may be requested by the Health Department.

**2.3.008** All current food service establishments shall provide an up to date facility layout plan to the Health Department prior to the issuance of the establishments next permit renewal, if required by the Health Department.

**2.3.009** These requirements shall apply to those facilities currently under review or proposed, and shall be required of facilities that expand, remodel, or renovate, as determined by the Health Department.

## **SECTION 5 IDENTIFICATION OF PREPARED FOODS/TEMPORARY CATERING**

**2.5.001** Food item(s) offered for sale in the Town of North Reading which are prepared in a central location other than at the place so offered for sale, or consumption, whether it be inter or intra state, shall be labeled with the date of preparation, expiration sale date, ingredients, and the name and address of the person responsible for food item(s) preparation.

**2.5.002** Permit required: Any caterer performing service in the Town of North Reading, unless currently permitted by the Board of Health, for such operation shall be required to obtain a permit from the Board of Health prior to conducting a catering operation in the Town of North Reading. A proper application and fee must be submitted to obtain a permit. A permit may be issued if the Health Department deems it appropriate.

**2.5.003 CONSUMER ADVISORY NOTICE REQUIREMENT:** All establishments if required are to provide a Consumer Advisory Notice, shall post the following notice on all menus, in not less than an 11 font size.

**CONSUMER ADVISORY NOTICE**

*“Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.”*

**2.5.003(A) ALLERGEN AWARENESS ADVISORY REQUIERMENT:** All establishments if required are to provide an Allergen Awareness Advisory notice, shall post the following notice on all menus, in not less than an 11 font size.

***ALLERGEN AWARENESS ADVISORY***

*“Before placing your order please inform your server if a person in your party has a food allergy”*

**SECTION 6 ESTABLISHMENT OWNERSHIP**

**2.6.001** Food service establishments owned by a person as defined in Chapter 2, Section 1.001 shall be required to demonstrate proper ownership of the facility to the Board of Health.

**2.6.002** Food service establishments operated by a person that is not the owner of the facility shall be required to submit to the Board of Health a copy of their rental or leasing agreement if requested. Permit holders are solely responsible for maintaining compliance with all applicable laws, rules, and regulations, a lease or rental agreement may not supercede the permit holders responsibility for maintaining compliance with all applicable laws, rules, or regulations whether they are Board of Health regulations or, other ordinances, rules, or regulations.

**SECTION 7 INSURANCE REQUIREMENTS**

**2.7.001** All food service establishments shall be required to obtain and maintain insurance for the purpose of emergency abatement action that may be deemed necessary by the Board of Health to prevent nuisances, sources of filth, and causes of sickness which may, in its opinion, be injurious to the public health, and safety. Such insurance shall be in the minimum amount of one hundred thousand (\$100,000) dollars.

**SECTION 8 ADMINISTRATIVE PROCEDURES FOR FOOD SERVICE ESTABLISHMENTS**

**2.8.001** All permits for food service establishments shall expire December 31<sup>st</sup> of each calendar year and are “NON-TRANSFERABLE”, “NON-ASSIGNABLE”, and “NOT FOR SALE”. All permits must be renewed thirty (30) days prior to expiration. It is the permit

holder's responsibility to obtain a proper renewal application and submit it for review and approval.

2.8.002 All food retail, service, caterer, mobile and residential kitchen establishments shall be required to attend a mandatory refresher training program organized by the Health Department. Successful completion of this program will be an annual requirement in November/December of each calendar year in order to renew the food permit.

**2.8.003** The Health Department may from time to time issue an order for food service establishments to employ the services of an independent food safety and sanitation consultant's services if the Health Department deems through any routine food service inspection(s) that the food service establishment, assigned person in charge or the certified food manager is not demonstrating proper knowledge and responsibility in accordance with 105 CMR 590.003(A) Assignment of Responsibility, 105 CMR 590.00(B) Demonstration of Knowledge or the Federal Food Code Section 2-103.11 Person in Charge-Duties.

Any fees for services shall be the responsibility of the licensee(s), applicants, or persons, in accordance with Chapter 1, Section 4.001.

**2.8.004 SPECIAL INSPECTIONS:** shall mean any inspection conducted which is not routine, and is out of the ordinary. This shall include but not be limited to inspections to resolve court cases, inspections of code violations in Food Establishments, Markets, Restaurants, etc. or any inspection conducted after normal working hours of the Health Department. In the case of Food Service Establishments, Special Inspections shall be any inspection as defined by Chapter 1, Section 1.1.009 of these regulations. Special inspections are subject to special inspection fees.

**2.8.005 MINIMUM FOOD PROTECTION/TRAINING CERTIFICATION:** All food service establishments must assign a Person in Charge (PIC) during all operating business hours. The (PIC) must be knowledgeable in food safety, sanitation and the prevention of food borne illness pursuant to the Massachusetts and 2013 Federal Food codes. Each establishment's (PIC) must pass a recognized food safety exam recognized by the Massachusetts Department of Public Health. Each establishment (PIC's) shall be the establishments head chef or a direct food handler and must be responsible for overseeing the food establishments day to day operations and the receiving, handling, storage, preparation and serving of food within the establishments. Failure to comply may result in an establishment being order to be closed.

The following exemptions apply to this section (2018/105 CMR 590, Article X)

1. Temporary food establishments operated by a non-profit organization.
2. Daycare operations which serve only snacks.
3. Food establishments which sell only pre-packaged foods that do not require time/temperature control for food safety.
4. Satellite and elderly feeding sites.
5. Food establishments which prepare and serve USDA meat and poultry products containing 120 PPM nitrite level, 3.5% brine concentration such as frankfurters.

**2.8.006 ALLERGEN AWARENESS TRAINING FOR CERTIFIED FOOD MANAGERS:**

All food service establishments by February 1, 2011, that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall have on staff a certified food protection manager who has been issued a Massachusetts certificate of allergen awareness training by an allergen awareness training verification program recognized by the Department. The certificate will be valid for 5 years.

**2.8.007 REQUIRED INTEGRATED PEST MANAGEMENT (IPM)** All food establishments must employ a licensed pest control contractor for year round service to assure good integrated pest management practices. Receipts for services must be kept for one year. These receipts must be kept on the premises for the inspector's review.

## **SECTION 9 ADOPTION OF STATE AND FEDERAL FOOD CODE**

**2.9.001 As of October 5, 2018,** the Board of Health adopts the new Massachusetts State Sanitary Code 105CMR590.000, as approved by the Massachusetts Department of Public Health Council on September 12, 2018 and amendments and incorporation of the 2013FDA food Code and 2015 supplement as a local regulation. Said Sanitary code and Federal food code may be enforced by the Board of Health and violations of said codes are subject to penalties as described in Chapter 1, section 19 of the North Reading Board of Health rules and regulations.

**2.9.002** The Board of Health will continue to permit and inspect food establishment food that would otherwise be exempt pursuant to 105 CMR 590.001(3) "Food Establishment does not Include – An establishment that offers only prepackaged foods that are not time/temperature control for safety foods".

## **SECTION 10 PENALTIES**

**2.10.001** Any person holding a permit for an establishment or individual permit may be subject to penalties and enforcement action in accordance with Chapter 1, Section 19 of the North Reading Board of Health Rules and Regulations.

## **SECTION 11 CAPITAL IMPROVEMENTS**

**2.11.001** The Board of Health may from time to time require any establishment to make capital improvements if it deems necessary for compliance with rules and regulations or is deemed to be in the best interest of public health protection.

## **SECTION 12: Restriction on Sale of Hemp and Hemp –Derived Cannabidiol (CBD)**

2-12.001 in accordance Section 9 of this regulation, the following products are not approved for sale in the Commonwealth pursuant to M.G. L. c.128 §117(c) and FDA and DPH policy guidance and shall not be permitted within any commercial establishment operating within the Town of North Reading:

- (a) Any food product containing the cannabinoid known as "CBD"
- (b) Any product containing CBD derived from hemp that makes therapeutic/medical claims;
- (c) Any product that contains hemp as dietary supplement
- (d) Animal feed that contains any hemp products
- (e) Unprocessed or raw hemp plant material, including the flower that is meant for end use by a consumer.

**2-12.002** – Any licensed food establishments or other business operating within the Town found to be in noncompliance with this Section shall be subject to penalties and fines in accordance with the Health Department Rules and Regulations Chapter 1 “Administrative Procedures”

## **SECTION 13 THROUGH 21**

Reserved for future regulations, amendments, etc.

## **SECTION 22 SEVERABILITY**

**2.22.001** If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations which shall remain in full force and effect and to this end the provisions of these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised by-laws, or ordinances of the North Reading, these rules and regulations will be binding upon all parties concerned.