



TOWN OF HALIFAX COMMONWEALTH OF MASSACHUSETTS

Board of Health

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Halifax Board of Health

Food Establishment Plan Review

New food establishments and those to be remodeled must comply with the following Plan Review Guidance, as described in the State and Federal Food Codes.

Preamble

Food-borne illness in the United States is a major cause of personal distress, preventable death, and avoidable economic burden. CDC estimates that each year roughly 1 in 6 (48 Million people) in the USA gets sick, 128,000 are hospitalized and 3,000 die of foodborne diseases.

There have been numerous recent outbreaks of Hepatitis A spread through food handlers in Massachusetts due to bare hand contact with ready-to-eat foods.

The Town of Halifax is rapidly changing, resulting in a significant increase in food establishments. This increase in food establishments makes it more challenging for the Halifax Board of Health to fulfill its educational and oversight responsibilities.

1.01 Purpose

In order to protect the public health, there is a need to enforce the regulations for food establishments found in the State Food Code and Federal Food Code. The purpose of these regulations is to prevent foodborne illness originating from food establishments in Halifax by being aware of the importance of a well-designed food establishment and reviewing the plans before they are built.

1.02 Scope of Authority

The Town of Halifax Board of Health adopts the following regulation pursuant to authorization granted by M.G.L. s.31 and s.122 and the State's Sanitary Code. Also, M.G.L. c. 111 s.31 is an unusually broad grant of authority, empowering boards of health to adopt reasonable health regulations. The power of boards of health to adopt regulations under section 31 is extensive and provides a comprehensive, separate, additional source of authority for health regulations (Benes et. al.1995).

1.03 Fee Schedule

There will be sliding scale fee from \$50 to \$250, reflecting square footage and number of seats.

<500 sq. ft. to 1,000 sq. ft. or, <10 seats = \$50. (Re-review fee = \$25.

1,000 to 10,000 sq. ft. or 11 to 50 seats = \$75. (Re-review fee = \$35.)

Antonia J. Gaynor
Coun Clerk

>10, 000 to 50,000 sq. f. or 51 to 100 seats = \$100. (Re-review fee = \$50.)

> 50, 000 sq. ft. or over 100 seats = \$250. (Re-review fee = \$125.)

1.04 Requirements from the State and Federal Food Code Basis for Plan Review

105 CMR: Department of Public Health

105 CMR 590.000: State Sanitary Code Chapter X--Minimum Sanitation Standards for Food Establishments

590.011: Plan Submission and Approval (federal 1999 Food Code Chapter 8-2)

Plan Approval or Disapproval. In addition to requirements set forth in FC 8- 201 Facility and Operating Plans: **8-201.11 When Plans Are Required.**

A PERMIT applicant or PERMIT HOLDER shall submit to the REGULATORY AUTHORITY properly prepared plans and specifications for review and approval before:

1. (A) The construction of a FOOD ESTABLISHMENT;
2. (B) The conversion of an existing structure for use as a FOOD ESTABLISHMENT; or
3. (C) The remodeling of a FOOD ESTABLISHMENT or a change of type of FOOD ESTABLISHMENT or FOOD operation as specified under ¶ 8-302.14(C) if the REGULATORY AUTHORITY determines that plans and specifications are necessary to ensure compliance with this Code.

Plan approval shall be granted or denied within 30 calendar days after the submission of said plans. If the board of health does not approve or disapprove said plans within such time, the plans shall be deemed to have been approved. Approval shall be denied only if such plans establish that the proposed food establishment will violate the provisions of 105 CMR 590.000 or other applicable laws, ordinances, or regulations.

Disapproval of such plans shall be deemed an order to which the procedure provided in 105 CMR 590.015 shall apply.

105 CMR 590.012 (J) 2: Notification of Changes

Permit to Operate - federal 1999 Food Code Chapter 8-3

(2) Submit plans in accordance with 105 CMR 590.011 any time an establishment is being remodeled or a new operation added and shall promptly submit to the board of health an application if a new or amended permit is required.

FDA Food Code 2009: Chapter 8 - Compliance & Enforcement

(H) Conditions for Issuance.

(1) FC 8-303.20 is stricken and replaced by the following: The board of health may renew a permit for an existing food establishment or may issue a permit to a new owner of an existing food establishment after a properly completed application is submitted, reviewed, and approved, the fees are paid, and an inspection shows that the establishment is in compliance with 105 CMR 590.000. In the case of a renewal application, the inspection must have been conducted within the time interval established by the board of health pursuant to FC 8-401.10 and 105 CMR 590.013(A).

(2) **Refusal to Issue a License: Grounds and Notice of Refusal.** The board of health may refuse to issue a permit, initial or renewal, based on one or more of the following grounds. Each of the following grounds shall constitute full and adequate grounds to refuse to issue a permit. The notice of refusal shall provide

the grounds upon which the denial is based and shall notify the applicant of the right to a hearing provided in 105 CMR 590.015(B).

- (a) Failure to submit a permit application in accordance with the board of health's procedures;
- (b) Failure to submit the required permit fee;
- (c) Denial of entry of agents of the board of health or the Department or any attempt to impede the work of a duly authorized agent of the board of health or the Department;
- (d) Providing false or misleading statements to the board of health or the Department;
- (e) The applicant operated the facility without a permit; 11/24/
- (f) The applicant or, if the applicant is a corporation, a corporate officer or the owner of the facility, has been convicted of, plead guilty or no lo contendere to, or has, in a judicial proceeding, admitted facts sufficient to find that s/he is guilty of a crime relating to the processing, storage, distribution or sale of food in connection with the business;
- (g) The applicant or, if the applicant is a corporation, a corporate officer or the owner of the facility has engaged in conduct that endangers the public health;
- (h) Failure to pay any federal, state, or local taxes as required by law, pursuant to M.G.L. c. 62C, § 49A;
- (i) Failure to comply with local regulations/ordinances related to the operation of the facility;
- (j) Failure to comply with provisions of 105 CMR 590.000;
- (k) Such other reasons not stated in 105 CMR 590.012(H)(2)(a) through (j), which pose a risk to public health and safety.

To download a copy of the Massachusetts Food Code, go to:

<http://www.mass.gov/eohhs/docs/dph/regs/105cmr590.pdf>

To download a copy of the 2013 Federal Food code, go to:

<http://www.fda.gov/downloads/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/UCM374510.pdf>

To obtain a printed copy of the 2013 FDA Food Code, please contact:

U.S. Department of Commerce

National Technical Information Service

5301 Shawnee Road, Alexandria, VA 22312

Phone: 1-800-553-6847 Refer to report number PB2013-110462 ISBN 978-1-935239-02-4

For further information on understanding the importance of a well-designed food establishment for the purposes of preventing food borne illness, see *Environmental Engineering*, Salvato, Nemerow and Agardy, chapter 1. Control of Communicable Disease and chapter 8. Food Protection; in particular the section on Regulations of Restaurants, Meat and Poultry, and Other Food Establishments.

1.05 Penalties

Failure to comply with provisions of this regulation will result in levy of fines of not less than \$20.00, but no more than \$1,000.00. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation.

Note: Effective 1992, under Chapter 111: Section 31 (violation of health regulation) maximum fines increased from \$100 to \$1,000.

1.06 Severability

Each provision of this regulation shall be construed as separate to the end that, if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

Adopted March 2, 2016 by the Town of Halifax Board of Health

Signed

John Delano, Chairman

John W. Delano

John Weber, Co-Chairman

John L. Weber

Alan Dias, Clerk

Alan Dias

A True Copy Attest
Robert G. Haynes
Town Clerk