

MINIMUM SANITATION STANDARDS FOR FOOD ESTABLISHMENTS
TOWN OF TEWKSBURY
BOARD OF HEALTH

1. PURPOSE

- 1.1. The Tewksbury Board of Health is responsible for the protection of the public and environmental health and welfare within the Town of Tewksbury. In an effort to protect the public, the following regulations are promulgated to supplement those set forth in Chapter X of the State Sanitary Code, 105 CMR 590, *Minimum Sanitation Standards for Food Establishments*, et. seq.

2. AUTHORITY

- 2.1. These regulations are adopted under the authority of Massachusetts General Laws (M.G.L.) Chapter 111, Section 31.

3. DEFINITIONS

Unless otherwise noted below, the following terms shall have the following definitions throughout this Regulation. The definition for any italicized word used in this Regulation can be found in this Section.

- 3.1. ***Board***: means the Tewksbury Board of Health.
- 3.2. ***Daily Operations***: includes all activities involved in the daily operations of a food establishment, including but not limited to preparation of food, cooking and serving of food, storing food and cleaning the food establishment.
- 3.3. ***Department***: means the Tewksbury Health Department.
- 3.4. ***Director***: means the Director of the Tewksbury Health Department.
- 3.5. ***Food Establishment***:
- 3.5.1. Food Establishment means an operation that:
- 3.5.1.1. stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people not including farm trucks; market; vending location; conveyance used to transport people; institution; food bank; residential kitchen in a bed-and-breakfast operation; residential kitchen for a cottage food operation; and
- 3.5.1.2. relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.
- 3.5.2. Food establishment includes:
- 3.5.3. An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or

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satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

- 3.5.3.1. 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.
- 3.5.4. Food establishment does not include:
 - 3.5.4.1. An establishment that offers only prepackaged foods that are not time/temperature control for safety foods;
 - 3.5.4.2. An operation stand that only offers whole, uncut fresh fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45°F (7.2°C) or below;
 - 3.5.4.3. A food processing plant; including those that are located on the premises of a food establishment;
 - 3.5.4.4. A residential kitchen if only food that is not time/temperature control for safety food, is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;
 - 3.5.4.5. A residential kitchen that prepares food for distribution to a charitable facility in accordance with M.G.L c. 94, § 328;
 - 3.5.4.6. An area where food that is prepared as specified in 105 CMR 590.001(C)(1): Food Establishment(3)(d) is sold or offered for human consumption;
 - 3.5.4.7. A residential kitchen, such as a family daycare provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the FC-regulatory authority;
 - 3.5.4.8. A private home that receives catered or home-delivered food; and
 - 3.5.4.9. Cooking classes that are held for educational purposes only.

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4. GENERAL REQUIREMENTS

- 4.1. Chapter X of the State Sanitary Code, *105 CMR 590.000, MINIMUM SANITATION STANDARDS FOR FOOD ESTABLISHMENTS*, is hereby adopted as most recently amended as a local regulation for the Town of Tewksbury, with the following changes:

- 4.1.1. 105 CMR 590.016 (Criminal Penalties) is replaced by Section 6: Enforcement Remedies of this Regulation, and
- 4.1.2. Amend 105 CMR 590.002B to require that each food establishment shall employ a *person in charge throughout the daily operations of the food establishment*, who shall be an on-site manager or supervisor and is 18 years of age or older and who by being a certified food protection manager has shown proficiency of required information through passing a certification examination that is part of an accredited program recognized by the Department [of Public Health].
- 4.2. Amendments to these regulations shall take effect upon publication of a notice of their adoption in a local newspaper.
- 4.3. The Board of Health's Administrative and Organizational Regulations apply unless specifically stated otherwise in these regulations.
- 4.4. All seasonal food establishments must contact the Department to schedule a pre-opening food safety inspection at least two weeks prior to planned opening for the season.
- 4.5. A seasonal food establishment shall not open for business until it has passed the pre-opening food safety inspection.

5. PERMITS

- 5.1. No person may operate a food establishment except with a valid permit from the Department.
- 5.2. Applications for a permit shall be made on forms prescribed by and available from the Department. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications
- 5.3. All seasonal and year-round food establishments shall apply for the annual renewal of their Food Establishment Permits by December 1st.
- 5.4. The Food Establishment Permit is effective from January 1 through December 31 of the following year.

6. ENFORCEMENT

- 6.1. If there is a violation of this Regulation, the Department will issue a written order to the *Permit Holder* to correct the offending deficiencies.
- 6.2. If the Permit Holder fails to comply with an Order, or if the Department or its authorized agent determines that the severity of the situation so warrants, the Board of Health may schedule a Show-Cause hearing for the purpose of determining whether or not the permit should be suspended or revoked.
- 6.3. Critical Violations as defined by 105CMR 590.001B and adopted by the Board of Health are considered to be those hazardous to the public health and shall be cause for the immediate issuance of a citation with a fine for \$100.00 or other action as authorized by state or local regulations.
- 6.4. If the *Director* determines that there is an immediate risk or threat to the public health, safety or welfare, the *Director* may order the immediate closure of the

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food establishment so that the offending conditions be immediately abated at the sole expense of the Permit Holder.

7. VARIANCE

- 7.1. The *Board* may vary the application of any provision of this Regulation with respect to any particular case when, in its opinion, the enforcement thereof would do manifest injustice; provided that the decision of the *Board* shall not conflict with the purpose of this Regulation. The *Board* may place reasonable conditions on any variance.
- 7.2. Copies of all variances shall be available to the public.

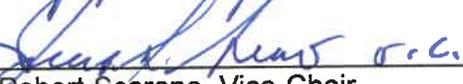
8. SEVERABILITY

- 8.1. If any provision of this Regulation is declared by a court of competent jurisdiction to be invalid or not enforceable, the other provisions shall not be affected but shall continue in full force and effect.

Approved at the Tewksbury Board of Health Meeting held on March 17, 2022 and shall take effect on April 15, 2022.



Raymond Barry, Chair



Robert Scarano, Vice-Chair



Maria Zaroulis, Clerk

Anthony Boschetti, Member

Charles Roux, Member

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