

# **TOWN OF MAYNARD**

## ***RULES AND REGULATIONS***

### **BOARD OF HEALTH**

#### **REGULATION TO ENSURE THE SANITARY AND SAFE OPERATION OF FOOD ESTABLISHMENTS**

##### **AUTHORITY**

This regulation is adopted by the Maynard Board of Health under the provisions of Massachusetts General Laws, Chapter 111, Section 31 and 127A in the exercise of its power to protect the health and welfare of the public.

##### **PURPOSE**

The Maynard Board of Health recognizes that a comprehensive food protection program is supported by a partnership effort between industry and food regulatory officials. Together, educated food handlers and effective inspection programs can reduce the incidence of high-risk practices which can lead to foodborne disease.

Other benefits of food manager training include providing industry with a more professional approach to food safety, improving communication between industry and regulators, increasing consumer confidence in their food supply and avoiding negative economic impacts often associated with foodborne disease. Food establishments which have trained food handlers are also more likely to be in compliance resulting in less inspection and enforcement time spent by the Board of Health.

Food manager certification requirements will ensure that managers have knowledge of the principles and practices of food sanitation with the primary purpose of preventing foodborne illness and protecting the public health in accordance with Chapter X of the State Sanitary Code, 105 CMR 590.000, Minimum Sanitation Standards for Food Establishments.

According to *Injury Facts 2017*, choking is the fourth leading cause of unintentional injury death. Training to respond to choking incidents will further the protection of public health and welfare.

Accordingly, the Board of Health declares that the purpose of this regulation is to require that Food Establishments' operations are safe and sanitary and that training requirements proactively protect consumers from choking and other hazards, thereby protecting the public health and welfare.

##### **DEFINITIONS**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section. Any terms not specifically defined herein are to be construed in

accordance with the definitions of Chapter X of the State Sanitary Code, 105 CMR 590.000.

### **Board**

The Town of Maynard Board of Health.

### **Certified Food Protection Manager**

An individual who has demonstrated proficiency in the understanding of food safety risks and ways to prevent foodborne illnesses in compliance with the Code, who has successfully completed a certification examination that is part of an accredited program recognized by the Department.

### **Code**

Refers to Chapter X of the Massachusetts State Sanitary Code, 105 CMR 590.000.

### **Hours of Operation**

Any and all times during which personnel are on the premises of a Food Establishment, including the hours prior to opening the Food Establishment and the hours after closing the Food Establishment.

### **Person in Charge**

An individual, at least 18 years of age, who is the permit holder or is employed by the Food Establishment and has supervisory and management responsibility and the authority to direct and control food preparation and service and who is a Certified Food Protection Manager.

### **Department**

Refers to the Massachusetts Department of Public Health

### **Edible Marijuana Products**

A marijuana product that is to be consumed by humans by eating or drinking.

### **Food Establishment**

(1) An operation that:

- (a) 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; market; vending location; conveyance used to transport people not including farm trucks; institution; food bank;

residential kitchens in a bed-and-breakfast operations; residential kitchens for a cottage foods operations; and

(b) 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.

(2) A Food Establishment includes:

(a) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(b) 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) Notwithstanding the exclusions set forth in the definition of Food Establishment in 105 CMR 590.001, the following operations shall be considered Food Establishments in the Town of Maynard:

(a) An establishment that offers only prepackaged foods that are not time/temperature control for safety foods.

(b) An establishment that manufactures and/or offers Edible Marijuana Products for sale to consumers.

### **Person**

Individual, partnership, corporation, and association or other legal entity.

## **GENERAL REQUIREMENTS**

### **Permits Required**

No person shall operate a Food Establishment, as defined herein, without a permit issued by the Board.

All Food Establishments defined in this regulation must submit an application, permit fee, and all information required in the Code and these Regulations. Permits will be issued for the calendar year, expiring on December 31 of each year, subject to an annual fee set from time to time by the Board. No permit fee will be pro-rated.

All Food Establishments shall be operated in accordance with and be subject to the Code and these Regulations, as they may be amended from time to time.

### **Person in Charge Required**

Each Food Establishment shall employ a sufficient number of Persons in Charge to ensure that the Food Establishment and its employees are complying with the Code, these Regulations and all applicable laws concerning the operation of the Food Establishment.

At the time of permit application, the Board will determine the number of Persons in Charge that must be present on site during Hours of Operation based on the nature and size of the operation.

The permit holder shall ensure that the number of Persons in Charge required by the Board are on site and in charge during all Hours of Operation. Unless otherwise specified by the Board, there shall be at least one Person in Charge on duty during all Hours of Operation.

The permit holder of a cottage food operation and/or residential kitchen operation, as those terms are defined in the Code must be a Person in Charge.

The permit holder shall be responsible for all violations of the Code, these Regulations and all applicable laws concerning the operation of the establishment, even if the permit holder is not on site at the time of the violation.

The Person in Charge shall be responsible for all violations of the Code, these Regulations and all applicable laws concerning the operation of the establishment during his/her designated shift, even if he/she is not on site at the time of the violation.

Once a Person in Charge terminates employment, a Food Establishment shall have sixty (60) days to employ a new Person in Charge or have an individual enrolled in a Department-approved food manager certification program in food safety. During said period of time, the permit holder shall exercise best efforts to ensure that the Food Establishment is properly supervised at all times and a vacancy in the position of Person in Charge shall not relieve the permit holder of liability for any and all violations occurring at the Food Establishment.

No person shall use the title "Certified Food Protection Manager", or in any way represent themselves as a manager certified in food safety unless he/she holds a current certificate pursuant to these Regulations.

### **Requirement for Anti-Choking Procedures**

Every Food Establishment permitted to serve food on the premises in the Town of Maynard shall have on its premises, when food is being served, an employee trained in manual procedures approved by the Department to remove food so lodged in a person's throat. Each trained employee must hold a certificate of training approved by the Department. Each such Food Establishment shall make adequate provisions for insurance to cover employees trained in rendering such assistance. No food service permit shall be issued or renewed unless the applicant presents proof of compliance with this Regulation.

### **VIOLATIONS AND PENALTIES.**

This Regulation may be enforced by any agents of the Board.

In addition to the enforcement procedures and penalties set forth in 105 CMR 590.014, whoever violates any provision of this regulation may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then any person who violates any provision of this by-law shall be subject to the following penalties:

- First Offense:           Written warning
- Second Offense:       \$100 fine
- Third Offense:         \$200 fine
- Fourth or  
Subsequent Offense: \$300 fine

Subsequent offenses shall be determined as offenses occurring within two years of the date of the first noticed offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Board may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Board shall not preclude enforcement through any other lawful means.

**SEVERABILITY**

If any provision or subpart thereof contained in this Food Permit Regulation is found to be invalid or unconstitutional by a court of competent jurisdiction, the validity of all remaining provisions or subpart thereof shall not be so affected but shall remain in full force and effect.

**EFFECTIVE DATE**

This Regulation shall take effect immediately upon passage by the Board.

---

---

---