

TOWN OF AUBURN BOARD OF HEALTH

CODE OF REGULATIONS

Chapter 10: FOOD PROTECTION

10.001: Authority:

Chapter 10 of the Town of Auburn Board of Health Code of Regulations: FOOD PROTECTION is hereby adopted pursuant to the Authority granted to Boards of Health under Massachusetts General Law Chapter 94, §146 and Chapter 111, §§ 31 & 122.

10.002: TITLE AND ADOPTION OF REGULATION

These amendments shall be known as The Town of Auburn Board of Health Code of Regulations Chapter 10. Chapter 10 shall be titled Food Protection

These amendments shall replace section 10 and 15 of the Town of Auburn Board of Health Code of Regulations and shall supersede all preexisting Town of Auburn Board of Health regulations pertaining to public food service, food storage and retail food sales.

These amendments are hereby adopted by vote of the Board of Health of the Town of Auburn on October 21, 2013.

The Town of Auburn Board of Health hereby adopts and incorporates by reference 105 CMR 590.000: STATE SANITARY CODE CHAPTER X – MINIMUM SANITATION STANDARDS FOR FOOD ESTABLISHMENTS and any documents or regulations as referenced by the code with the amendments stated in this Town of Auburn Board of Health Code of Regulations Chapter 10

10.003 PURPOSE

The purpose of the Town of Auburn Board of Health Code of Regulations Chapter 10 FOOD PROTECTION is to ensure the integrity of foods served to the public, enhance food safety, prevent illnesses known to be transmitted through food and exacerbated by poor food handling practices, and ensuring Honest Presentation.

10.004: DEFINITIONS

Annual Event Permit: A permit issued by the Auburn Board of Health that allows the holder to serve foods at temporary events in the Town of Auburn for the duration of time the permit is active subject to the conditions of Section 10.005E of this code

Food Establishment: The definition of food establishment as defined in 105 CMR 590.002 is hereby adopted with the addition of the following statements:

1. Food establishment shall include those establishments identified in 105 CMR 590.002: "Definitions" as well as the following establishments
 - a. Vending Machines vending any potentially hazardous foods
 - b. Transfer facilities: any locations where food is off loaded from vehicles to be redistributed or reallocated to other transport vehicles regardless of whether repackaging is practiced.
 - c. Food Storage areas and facilities

Exceptions:

- a. Waiting rooms or other areas where coffee and minimal snacks are offered to waiting customers provided no potentially hazardous foods are offered.
2. Establishments defined as "Food Establishments" shall be defined as such regardless of whether or not a fee is charged.

Vending Sales: Sale of packaged or prepared foods from a self-service dispensing machine

10.005: PERMITTING

A. General Permitting Requirements

1. Any food establishment including but not limited to all operations offering to the public, whether for a fee or not; food service, retail food sales, frozen desserts sales, milk and/ or cream, food manufacturing, food repackaging, food storage, food transfer or shipping, catering, or mobile food sales, whether intended to be permanent or temporary in nature, shall apply for a permit from the Auburn Board of Health prior to operation, and shall not operate prior to the granting of such permit.

Exception: Operations preparing non-dairy, non-yogurt based frozen desserts shall be exempt from permitting for "Frozen Dessert"

2. All food permits issued by the Auburn Board of Health are subject to conditions and limitation as set forth in 105 CMR 590.000.

3. No permit issued by the Auburn Board of Health shall be transferable as to permit holder or location.

B. Permit renewals

1. It shall be the responsibility of the permit holder to ensure that any application for any permit renewal including applicable fees be submitted prior to expiration of existing permits.
2. Permit renewal applications received after expiration of existing permits will be charged a late fee as set by the Board of Health
3. Any food establishment operating after expiration of their permit who has not properly renewed that permit shall be deemed "Operating Without a Permit" and shall be in violation of 105 CMR 590.000. In addition to late fees as described in Town of Auburn Board of Health Code of Regulations Ch. 10 § 10.005 B. 2. The Auburn Board of Health shall exercise enforcement as allowed in 105 CMR 590.000

C. Vending sales:

1. Any location offering sales of foods from self-service machines that vend or offer Potentially Hazardous foods shall apply for and be granted a permit by the Auburn Board of Health prior to operation.

D. Applications:

Any required application for permits shall be provided by the Auburn Board of Health upon request; shall be filled out in its entirety; and shall be submitted with any supporting documentation as requested on the application form or by agents of the Auburn Board of Health. The Board shall have up to 30 days to review applications and render decisions; decisions shall be in writing either by issuance of a permit or a written reason for denial.

E. All food establishments requiring permits from the Auburn Board of Health shall display current permits in a location conspicuous to the public.

F. **Annual Event Permit:** The Town of Auburn shall establish an Annual Event Permit. An establishment to whom an Annual Event Permit has been lawfully issued shall entitle the holder to serve foods at short term events that may or may not be held on the locality of the primary food service location. A holder of an Annual Event Permit is not required to apply for or be granted a temporary food permit for temporary events but shall comply with the following:

1. Only establishments holding a food service permit at a permanent location can apply for an Annual Event Permit
2. Any applicant for an Annual Event Permit must provide copies of a current food service permit and the most recent inspection from the Municipal jurisdiction where the principal food establishment is located.
3. An application with appropriate application fee must be submitted to the Office of the Board of Health and, following a review and approval, the Annual Event Permit awarded prior to serving at any event not covered by the establishment's primary permit
4. Though separate permits will not be required for each temporary event, any holder of an Annual Event Permit shall, at least 7 days prior to serving at an event, notify the Auburn Board of Health of their intention to serve at the event and supply the name of the event, the location of the event, the duration of the event, the Certified Food Handler who will be responsible for food service at the event, and an intended menu for the event.
5. The Annual Event Permit or a legible copy shall be at the location of the temporary event and readily available for review by agents of the Auburn Board of Health
6. Any person who will be serving at a temporary event who does not hold an Annual Event Permit shall apply for a temporary food service permit at least 2 weeks prior to the event.

10.006: CERTIFICATIONS, REQUIREMENTS

- A. Any establishment offering any food service that includes Potentially Hazardous Foods (PHFs) as defined in the FDA 1999 Food Code - Chapter 1§ 1-2 DEFINITIONS, Subpart 1-201 Applicability and Terms Defined shall have a certified food protection manager, who has been trained and holds current proof of training, on site during all times that any PHF is being prepared, served or otherwise made available to the public.
- B. Any establishment offering any food service that includes Potentially Hazardous Foods (PHFs) shall have an allergen awareness certified person, who has been trained and holds current proof of training, on site during all times that any food is being prepared, served or otherwise made available to the public.

C. All food establishments requiring trained persons to be on site shall display current food handler certifications and proof of current allergen training in a location conspicuous to the public.

D. Any training or certification required by 590.003(A)(2): Assignment (Certified Food Protection Manager), 590.009(E)(1): Person trained in manual procedures to remove foods lodged in a person's throat, 590.009(G)(3): Person trained in allergen awareness, §23.005(A) of these amendments, and any other training or certification required of the code or these amendments shall be current according to the provider of the training or by the code, whichever is stricter.

10.007: FACILITY

A. Rodent/ Pest Control:

Any holder of a Board of Health issued permit shall maintain the facility free from rodent, insect or other infestation and additionally shall comply with the following:

1. Any establishment holding a foodservice permit or a retail food permit selling loose or open foods shall have a current maintenance contract with a Massachusetts licensed pest control company requiring at minimum, monthly inspections; and shall keep current reports of findings, conditions and records of pesticide applications or other treatments on site. These records shall be made available to the Board of Health or their agent during the establishment's hours of operation and other reasonable times.
2. Any holder of a retail food permit selling only prepackaged foods (no loose sales or repackaging) shall have immediate contact with a Massachusetts licensed pest control company and shall have the establishment inspected by the pest control company at least once every 3 months.
3. Any records required in §§ 1&2 above must retain such records on site for no less than 1 year

B. Requirements for Grease Separation and Disposal:

1. Internal Grease Interceptors: Food processing or food service facilities which are newly proposed or constructed or, existing facilities which will be renovated to include or expand a food service facility, or any change of occupant who intends to continue food service in an existing facility where an internal grease trap does not currently exist shall be required to design , install, operate and maintain an internal grease interceptor

2. Exterior Grease Interceptors:

Food processing or food service facilities which are newly proposed or constructed, or existing facilities which will be renovated to include or expand a food service facility, or any change of occupant who intends to continue food service in an existing facility where an external grease interceptor does not currently exist shall be required to submit a written determination from the Auburn Sewer Commissioner as to whether an external grease interceptor will be required.

3. Maintenance:

The grease interceptors required in §10.007 B.1&2 shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate and impair the efficiency of the grease interceptor provided that in no case shall the time between cleanings exceed 3 months. A written record of cleaning and other maintenance shall be kept on site.

4. Grease Disposal

Any establishment generating or utilizing significant amounts of grease, oils, fats or generating animal waste shall separate such oils, fats, grease or animal byproducts from other wastes and shall maintain a current contract with a rendering company licensed in the Commonwealth of Massachusetts and the Town of Auburn.

C. Disposal and waste containment

1. Indoor Containers

Solid waste, garbage and other materials for disposal and removal shall be held in durable, easily cleanable, insect-resistant, and rodent-resistant containers that do not leak and do not absorb liquids.

2. Outdoor Containers

Containers for outdoor storage of solid waste, garbage and other materials for disposal and removal, including dumpsters, compactors, and compactor systems, shall be of adequate size to contain the accumulation of waste and shall be easily cleanable, shall be provided with properly-fitting lids, doors, or covers, in good repair and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

D. Physical Facilities

1. Toilet Facilities: Toilet facilities shall be installed according to applicable law, shall be at least one and not less than the number required by law, shall be conveniently located, and shall be accessible to employees at all times.
2. Hand Washing Facilities: Hand-washing facilities shall be installed according to applicable law, shall be at least one and not less than the number required by law, and shall be conveniently located in each food preparation area to permit use by all employees in food preparation and ware-washing areas. Each hand-washing facility shall be accessible to and usable by employees at all times. Hand-washing facilities shall also be located in or immediately adjacent to toilet rooms or their vestibules.

10.008: FOOD PRESENTATION AND PROTECTION

A. Foods shall not be brought out for processing and left out of a controlled temperature environment in quantities that cannot be processed and returned to a controlled temperature environment within a 30 minute time period. Any foods left out longer than 30 minutes shall be handled and thereafter discarded as required under the 1999 Federal Food Code §3.501.19 and 105 CMR 590.004(H)

B. Any repackaged foods in storage shall be appropriately labeled with the contents and a "Use-by", "packaged on" or other appropriate use limitation date. All employees having access to that product shall be trained on the labeling to identify content and condition. Foods are not to be left in storage after the spoilage date is passed.

C. For any testing required in 105 CMR 561.000 "Frozen Deserts and Frozen Desert Mixes," To ensure that proper procedures are followed, the samples shall be taken and transported by a representative of a certified laboratory, or an agent of the Auburn Board of Health.

D. Food items that are spoiled or that are in damaged containers that may affect the product and those food items are being detained by the food establishment because of spoilage, container damage, or other public health considerations, shall be adequately labeled stating that the food item is not for human consumption and shall be segregated and held in designated areas pending proper disposition.

E. Food and containers of food shall not be stored under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water has accumulated or beneath other sources of contamination.

F. Food Transportation

1. All food transportation vehicles, including carts, trucks, vans and trailers shall be kept clean, free of vermin and in good repair.
2. During transportation all food shall be in covered containers or completely wrapped or packaged so as to be protected from contamination except raw agricultural products that will be prepared for consumption in such a manner to remove the danger of possible contaminants.
3. All potentially hazardous food shall be kept at safe temperatures during transportation.

10.009: REGULATIONS SPECIFIC TO MOBILE FOOD AND TEMPORARY FOOD OPERATIONS

In addition to the requirements of 105 CMR 590.009(B) Mobile Food Operations and 105 CMR 590.009(C) Temporary Food Establishments food vendors shall comply the following:

- A. Water to fill water supply tanks for mobile food operations or temporary food operations shall be supplied from a DEP certified public water supply and be serviced using a potable water quality hose.
- B. Mobile food operations or temporary food operations shall present locations of sanitary facilities that will be available to the operators throughout the duration of the event or adequately spaced along their routes.
- C. Any application for a mobile food vender selling Ice cream, Ice cream treats or frozen desserts in any of its forms shall first comply with 520 CMR 15.000 prior to permitting by the Auburn Board of Health.

10.010: AUTHORITY FOR ENFORCEMENT

- A. The Town of Auburn Board of Health shall enforce this code in the same manner in which local health rules and regulations are enforced.
- B. The Worcester Superior Court and Worcester County Housing Court shall have jurisdiction in equity to enforce the provisions of this code and any actions brought to enforce said provisions shall be advanced for speedy trial.

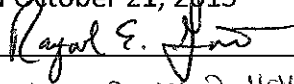
10.011: Severability

If any provision of Chapter 10 of the Town of Auburn Board of Health Code of Regulations shall be declared invalid for any reason whatsoever, that decision shall not affect any other portion of Chapter 10 of the town of Auburn Board of Health Code of Regulations, which shall remain in full force and effect; and to this end the provisions of

Chapter 10 of the Town of Auburn Board of Health Code of Regulations are hereby declared severable.

AS ADOPTED BY VOTE OF THE
AUBURN BOARD OF HEALTH

ON October 21, 2013



MARLOW D. HOWARD