



TOWN OF HOPEDALE

Board of Health

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FOOD CODE REGULATIONS

Section 1 - Authority

This regulation is promulgated pursuant to the authority granted to the Hopedale Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states that "Boards of Health may make reasonable health regulations."

Section 2 - Definitions

Board: The Board of Health of the Town of Hopedale and its authorized agent(s).

Cottage Foods: Non-time/temperature control for safety baked goods, jams, jellies, and other non-time temperature control for safety foods produced at a properly permitted residential kitchen food establishment for sale directly to the consumer.

Food Establishment: For the purposes of these regulations, "Food Establishment" is defined herein to match the definition within 105 CMR 590.001 under "Food Establishment." In addition, a Food Establishment shall also include an establishment that offers only prepackaged foods regardless of whether they serve time/temperature control for safety foods.

Frozen Dessert Machine: For the purposes of these regulations, "Frozen Dessert Machine" is defined herein to mean any piece of equipment that vends "Frozen Dessert" as defined in 105 CMR 500.003. As defined therein, these regulations apply specifically to frozen desserts that are considered time-temperature control foods.

Grease Trap: Also referred to as a "Grease Interceptor" by 248 CMR 10.00 ("Uniform State Plumbing Code"), is a device designed to remove dissolved and/or suspended grease and waste oil from wastewater and which bears the seal of acceptance of P.D.I. (Plumbing and Drainage Institute).

Mobile Food Operation: A Food Establishment that does not have a fixed location of operation, which includes but is not limited to food trucks, ice cream trucks, food carts, and other such operations.

Permit Holder: An individual that has successfully applied for and been approved to possess a Food Establishment Permit from the Town of Hopedale. For the purposes of these regulations, unless otherwise specified, a Permit Holder shall refer to an individual that possesses either a temporary, annual, mobile food, and/or a residential kitchen food establishment permit.

Permitted Offal Hauler: Any offal hauler that holds a current permit issued by the Hopedale Board of Health to remove, transport, and dispose of garbage, offal, or other offensive substances.

Wholesale: Sale to other than the ultimate consumer.

Section 3 - Permitting

A. 105 CMR 590.000, Chapter X of the State Sanitary Code, Food Establishment Regulations, as most recently amended, is hereby adopted as a local regulation for the Town of Hopedale.

B. No person shall operate a food establishment without first obtaining a permit from the Hopedale Board of Health. All food permits shall expire on the date established in the Annual Fee Schedule. **Permits are not transferable.**

C. **All permit applications** for a Food Establishment in the Town of Hopedale shall include, at a minimum, all documentation as noted on the application document as approved by the Board. Failure to provide all necessary paperwork shall be deemed adequate reason to deny the permit application. All documentation must be up to date, and all certification attached must be issued by an accredited institution approved by the Massachusetts Department of Public Health. This documentation may include, but is not limited to, the following:

- (1) A copy of every Food Manager Certification held by staff, or Food Handler Certification (Serv-Safe Certifications).
- (2) A copy of every Allergen Awareness Certification held by staff.
- (3) A copy of every Choke Saver Certification (if applicable) held by staff.
- (4) A Worker's Compensation Insurance Affidavit.
- (5) Copy of Certificate of Liability Insurance showing Town of Hopedale as certificate holder.
- (6) A sign-off or form of approval from any applicable municipal departments whose involvement is necessary for the proper operation, construction, or renovation of the Food Establishment or any equipment therein. This documentation may be provided within a reasonable timeframe after the submission of all other documentation so long as said timeframe does not exceed a period approved by the Board. **The permit will not be issued until all such documentation is presented and approved by the Board.**
- (7) A Plan Review application (if applicable) as specified under Section 3(6).
- (8) If the permit sought is a Mobile Food Establishment Permit, a CORI/SORI form must be submitted.
- (9) If the permit sought is a Mobile Food Establishment Permit, a copy of a valid driver's license and a copy of the registration of the vehicle to be used as the Mobile Food Establishment.

D. **Every permit holder** must possess current copies of these local food regulations, 105 CMR 590.000 in both its original form and in the form of the Merged Food Code e guidance document published by the Massachusetts Department of Public Health, and any other regulations the Board may reasonably require.

E. **A Plan Review** shall be required for all new establishments, the remodeling of an existing establishment including the installation of any new equipment, and for establishments that are changing ownership. Plans and specifications for all new establishments and of all proposed and/or repaired/renovated equipment, walls, floors, ceilings, shelving, etc. are considered a part of the Plan Review application.

F. **It is the responsibility of the permit holder to renew their food establishment permit annually.** As a courtesy to permit holders, permit renewal reminder notices may be sent by the Board of Health.

G. Mobile Food Operations shall provide a copy of the food permit for their base of operations upon initial application and annually thereafter indicating approval of said facility by the Board for use by the Mobile Food Operation's Permit Holder. Mobile Food Operation Permit Holders shall also supply annually to the Board and local Police Department (if applicable) a list of stops and times of operation within the permitting town.

H. Any application for a **temporary food** permit shall be submitted to the Board no less than fourteen (14) days before the event. Applications received less than fourteen (14) days prior to an event will **not** be accepted by the Board.

I. Existing establishments that are transferring to a new owner, and in which there will be no modifications of the type of product offered, nor modification of the facility, must submit a Plan Review AND a Food Permit application a minimum of fourteen (14) days prior to the transfer date. **Food establishment permits are non-transferrable.** Establishments previously grandfathered must be brought into compliance with these regulations. Establishments operating under a variance must resubmit a variance request in writing as outlined in Section 9 of these regulations.

J. No food establishment shall add **any form of food service** without the written approval of the Board. Application for the approval of any such additional service(s) must be done in writing and submitted for review to the Board.

K. **Prior to commencement of operations**, any Food Establishment applying for a permit for the first time or after a significant span of time of discontinued operations (as determined by the Board), will be subject to a pre-operation inspection. At the time of the inspection, the Food Establishment shall demonstrate sufficient readiness to begin operations and shall have no significant violations as deemed by the Board. The Food Establishment Permit will not be issued until such a time as the Board has deemed its operational capacity to be sufficient through the conduct of this pre-opening inspection and any subsequent re-inspections necessary to correct violations to these and other applicable regulations.

Section 4 - Equipment and Physical Facilities

A. **All food equipment** installed in a food establishment, including refrigeration and freezer units, cooking equipment, hot and cold holding units, and tables used for the preparation of food must be National Sanitation Foundation (NSF) approved.

B. **All equipment** shall meet all applicable local and state laws and statutes, including but not limited to 527 CMR 1.00 ("Fire Code") for vent hoods and other fire prevention systems, 248 CMR 10.00 ("Uniform State Plumbing Code") for plumbing fixtures, and 527 CMR 12.00 ("Massachusetts Electrical Code").

C. **All restrooms** shall be equipped with a covered trash receptacle.

D. Approval by the Board is required for all new or **replacement equipment**. Failure to obtain approval shall be deemed a violation of these regulations. In addition to the penalties defined in Section 7E, the Board may require the removal of any and all equipment that does not obtain approval.

Section 5 - Grease Interceptors

A. All Food Establishments in possession of an internal grease trap that connects to a public waste disposal system must be inspected monthly by the Permit Holder, their designated representative, or a Licensed Offal Hauler. Said grease traps must be cleaned/emptied by either the Permit Holder, their designated representative, or a Licensed Offal Hauler every four (4) months or when an inspection reveals that the contents of the grease trap exceed 25% of its maximum capacity, whichever is sooner. All Food Establishments in possession of an external grease trap that connects to a public waste disposal system must be pumped every four (4) months at a minimum by a Licensed Offal Hauler. Service records for both forms of grease trap must be maintained on-site and be accessible for review by the Board or its agent(s).

(1) Exceptions to the requirement for the proposed cleaning schedule for internal grease traps may be issued by the Board on a case-by-case basis, provided the Permit Holder submits a written request for an exception to Section 5B of these regulations alongside an explanation why the requirement is not necessary to protect the public health and the integrity of the public waste disposal system, or would otherwise constitute a manifest injustice. The Board will issue a decision in writing, a copy of which must be maintained on-site of the Food Establishment for review on request by the Board, as well as the office of the Board of Health.

B. Any inspections conducted of internal grease traps as specified in Section 5B must be recorded and kept on-site of the Food Establishment for review on request by the Board. Such records will, at minimum, have a time and date of the inspection, the level of grease noted at time of inspection, what corrective action(s) were taken (if any), and the initials of the individual who conducted the inspection. This documentation shall be retained on site for a period of no less than two (2) years.

C. All Food Establishments in possession of a grease trap that connects to a private septic system, whether internal or external, shall conform to the requirements for maintenance and repair of said grease trap as specified in 310 CMR 15.00 ("Title V").

D. **New or remodeled food establishments** that prepare food with a seating capacity in excess of 75 seats must install an external grease trap with a minimum capacity of 1,500 gallons.

E. **Waste grease** and oil shall not be disposed of by the sanitary sewer. All waste oil and grease must be collected in an appropriate container provided by an approved vendor. The container must be stored on an impervious surface such as concrete or pavement.

Section 6. - Operations

A. Every Food Establishment Permit Holder (annual, seasonal, or temporary) shall employ at least one (1) full-time equivalent person in charge who shall be an on-site manager or supervisor and is at least 18 years of age, and who by being a certified food protection manager has shown proficiency of required information through passing a test that is part of an accredited program recognized by the Massachusetts Department of Health. Each food service establishment shall be required to have a certified food protection manager on staff at all times that food is being prepared and served. Documentation of successful completion must be on file in the Board of Health office as well as on-site at the Food Establishment, readily available during inspection. One approved course must be taken every five (5) years. If the certified food protection manager is transferred, terminated, or terminates employment, the Permit Holder shall notify the Board in writing and shall have sixty (60) days to employ a replacement. The Board may grant an extension not to exceed an additional sixty (60) days to comply with this requirement if deemed necessary.

B. Residential Kitchens preparing only Cottage Foods are exempt from the requirements to maintain a Food Manager Certification as specified in Section 6A. However, they shall at minimum possess a Food Handler Certification. No food establishment may sell their products wholesale without first coming into compliance with 105 CMR 500.00, "Good Manufacturing Practices for Food," and must have a valid Wholesale License issued by the Massachusetts Department of Public Health (MDPH).

C. All Food Establishments shall have a means of **cleaning up vomiting** and diarrheal events, as well as other hazardous bodily fluid spills. Tools necessary to properly clean such events must be readily accessible to staff at all times, and a written procedure for how to address such an event shall be maintained on the premises and provided during an inspection.

D. All caterers licensed by the Board must maintain a record of catered functions which include at least the following: date, person (name, address, and telephone number), contracting services, menu, food preparation staff, wait staff, and approximate number of persons served. All establishments which accommodate catered functions must retain for a minimum of 90 days a record of the name and address of the caterer, date of event, person in charge of the function, and number of people in attendance.

E. All Food Establishments shall be required to contract with a **Massachusetts licensed pesticide applicator for pest control services**. Said contract shall specify monthly inspections of the establishment by the contractor and elimination of any infestations, if encountered, at a minimum. Each establishment shall make available for review by the Board a copy of said contract and all receipts of pesticide application undertaken by the licensed applicator, as well as any existing work logs and records of investigations by said contractor.

F. In the event of a conflict between these regulations and any other local, state, or federal laws, bylaws, and regulations, the more stringent set of laws, bylaws, and regulations shall apply.

Section 7 - Inspections and Enforcement

A. Routine inspections of Food Establishments shall be conducted by an agent of the Board every six (6) months. The Board may choose to adopt a risk-performance

based inspection schedule prioritizing more frequent inspections based upon its assessment of a Food Establishment's history of compliance with these regulations, and the Food Establishment's potential as a vector of foodborne illness. The Board may charge additional fees proportional to an increase in number of inspections of the Permit Holder. Whenever an inspection of a Food Establishment is made, the findings shall be recorded on a printed inspection report form. This inspection report shall be deemed an Official Order to Correct the violations noted therein. Time permitted for compliance shall depend upon the nature of the violation and shall be noted within the inspection report form.

B. Corrected violations will be confirmed via a re-inspection of the Food Establishment, conducted following the permitted time noted on the original inspection form, at the discretion of the Board.

C. Any outstanding violations found during the re-inspection will need to be corrected and confirmed at a second re-inspection. The Permit Holder will be charged a fee as established in the Annual Fee Schedule for this re-inspection. The time permitted for compliance shall depend on the nature of the violation and shall be noted within the inspection report form.

D. Any outstanding violations found during a second re-inspection will need to be corrected and confirmed at a third re-inspection. The Permit Holder will be charged a fee established in the Annual Fee Schedule in addition to the fee listed in Section 7C. In addition, the Permit Holder will be required to come before the Board, whereupon a correction plan must be submitted to the satisfaction of the Board. Failure to correct violations by the time of the third re-inspection may be deemed by the Board as sufficient cause to suspend or revoke the Food Establishment Permit. The time permitted for compliance shall depend on the nature of the violation and shall be noted within the inspection report form.

E. The Board reserves the right to impose additional fees for specific violations for reasons including but not limited to the following:

- (1) The violation creates an imminent health hazard as defined in 105 CMR. 590.
- (2) The violation in question is of sufficient severity as decided by the Board to constitute a significant risk to health and safety.
- (3) The violation in question has recurred in prior inspections, or existing records indicate that the Food Establishment has been fined in the past for said violation and the violation has recurred.
- (4) The violation relates to possession or operation of a piece of equipment that does not possess approval by the Board.

F. Fees imposed in Section 7E shall match the value established in the Annual Fee Schedule. Every day a violation that imposes a fee as specified in Section 7E persists shall be considered to be a separate violation.

G. Payment of all incurred fees is the responsibility of the Permit Holder. Until such a time as all outstanding fees are paid, the Permit Holder will not be eligible for renewal of their Food Establishment Permit.

H. For the purposes of these regulations, inspections conducted to address general or illness complaints do not count as a re-inspection.

Section 8 - Frozen Dessert

A. 105 CMR 500.00 ("Good Manufacturing Practices for Food") is hereby adopted as a local regulation for the Town of Hopedale.

B. In the event of a conflict between these regulations and 105 CMR 500, the more stringent regulations shall apply.

C. Any individual, company, or other organization wishing to operate a Frozen Dessert Machine in the Town of Hopedale must first obtain a Food Establishment permit appropriate to their type of establishment.

D. Any Food Establishment operating in the Town of Hopedale that wish to operate a Frozen Dessert Machine must obtain a Frozen Dessert Permit from the Board.

E. All Frozen Dessert Machines must conform to the requirements for equipment as specified in these regulations, in addition to requirements for equipment as specified in other applicable local, state, and federal laws, bylaws, and regulations.

F. Frozen Dessert Permit applications must be submitted with all applicable documentation by [timeframe] of each calendar year. A Frozen Dessert Permit will be valid for a period of no longer than one (1) year and shall remain valid for a period of time as established in the Annual Fee Schedule.

G. Frozen Dessert Permits are non-transferable.

H. Frozen Dessert Machines shall be tested at a frequency and to the specifications outlined in 105 CMR 500.

I. A copy of all testing reports and all other documentation required by 105 CMR 500 shall be submitted to the Board, and a copy of such documentation shall be retained on site for a period of no less than two (2) years and shall be available upon request by the Board.

Section 9 - Variance

Any request for a variance from these regulations must be submitted in writing to the Board. The Board shall within 30 days of receipt of the request for variance hold a public meeting, at which time the applicant must demonstrate to the Board, by clear and convincing evidence, that there will be no adverse effect on the public health by the granting of the variance request. All decisions rendered by the Board shall be made in writing and shall be kept on file in the office of the Board of Health.

Section 10. - Severability

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

Section 11 - Effective Date

This regulation shall take effect on **June 1, 2023** and so remain in effect until modified, amended or revoked by the Hopedale Board of Health.

After a public hearing held on **May 18, 2023**, this regulation was adopted by vote of the Hopedale Board of Health to be in full force and effect on the day noted above.

✓ 
Walter Swift

✓ May 18, 2023
Date

✓ 
Jason MacDonald

✓ May 18, 2023
Date

✓ 
Mary Watson

✓ May 18, 2023
Date