

CHAPTER 2

FOOD SERVICE ESTABLISHMENTS

SECTION 1 DEFINITIONS

2.1.001 BEST MANAGEMENT PRACTICES (BMP's): for the purposes of Chapter 2 Regulations shall mean cultural or engineering or management techniques or prohibition of activities that has been determined and accepted to be an effective and practical means of preventing or reducing the discharge of FOG to the wastewater system.

2.1.002 FOG (Fats, Oils and Grease): shall mean organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measureable using analytical test procedures established in the United States Code of Federal Regulations 40 CFR 136, as may be amended from time to time.

2.1.003 FOOD SERVICE ESTABLISHMENT (FSE): shall mean any establishment/operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption which includes but is not limited to restaurants, bars, café's, coffee shops, lunch counters, cafeterias, hotels, institutional facilities, school kitchens, catering and other commercial kitchens, bakeries and grocery markets.

2.1.004 GREASE TRAP/INTERCEPTOR: for the purposes of Chapter 2 Regulations shall mean an exterior water tight device designed and installed to separate and retain for removal, by manual (passive) means, deleterious, hazardous or undesirable matter such as FOG from wastewater and permits wastewater to discharge into a sanitary sewage disposal system by gravity.

2.1.005 POTENTIALLY HAZARDOUS FOODS (PHFs): shall mean a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms sufficient to cause a foodborne illness.

2.1.006 SPECIAL INSPECTIONS: shall include any inspections in excess of two (2) follow ups of a routine inspection and is subject to special inspection fees in accordance with the current Board of Health fee schedule.

2.1.007 VENTILATION: shall mean any device that would maintain clean air by creating a suitable air exchange to cause the elimination of all contaminants which may affect the health, safety, and well being of the public or occupants of an establishment. These ventilation devices shall include but not be limited to smoke filtering devices, HVAC systems, or other suitable state of the art technology, and shall be required as deemed necessary by the Board of Health.

SECTION 2 FOG CONTROL PROGRAM AND WASTE DISPOSAL

2.2.001 FOG CONTROL PROGRAM: Fats, oils and grease (FOG) have become a significant problem for wastewater collection and treatment systems. FOG can coat, congeal, accumulate and cause problematic backups and blockages in sewer pipes and in public sewers. These blockages may result in costly repairs. Therefore the Board of Health has updated its Grease Disposal Regulations in accordance with the Town of Billerica Sanitary Sewer Rules and Regulations in order to regulate FOG discharge and establish minimum pretreatment requirements. An exterior grease trap is required for all FSEs.

2.2.001 (a) EXEMPTION – A FSE determined by the Board of Health to have no immediate adverse impact on the sewage disposal system may be granted a waiver by the Board of Health from the exterior grease trap installation requirements. An exterior grease trap may not be required for the following FSEs having a limited operation:

- (1) facilities serving only beverages (not including coffee) or
- (2) facilities serving beverages (not including coffee) and prepackaged food items or ready to eat non-Potentially Hazardous Foods or
- (3) a facility with no food preparation or
- (4) a facility with only the reheating and hot holding of non-Potentially Hazardous Foods or
- (5) a facility where no significant amount of FOG is generated

This waiver does not relieve the Food Service Establishment of the necessity of complying with the State Plumbing Code or any other applicable federal, state, or local statutes, ordinances, by-laws or regulations.

2.2.002 GENERAL PROVISIONS AND ENFORCEMENT

2.2.002 (1) EMPLOYEE TRAINING: All food service establishment staff are required to be trained on FOG management and maintenance practices. The following training is required and will constitute appropriate “Certification”:

(a) Food Service Managers must attend a Billerica FOG Program Training Class approved by the Board of Health. At least one staff member who maintains this certification must be working during operational hours. Proof of Certification will be required as part of the Permit renewal for FSEs.

(b) All other food service staff and Septic/FOG Hauler staff must read the self –training materials provided by the Board of Health and receive any additional training by management staff as needed. The business will keep a staff training log sheet with the names, signatures, and date the staff member received training. This log will be kept on site and must be available for viewing at any time by the Board of Health. Review of training logs will be part of the Board of Health FOG Inspections.

(c) Certification is valid until and unless changes or otherwise modified by the Board of Health.

2.2.002 (2) BEST MANAGEMENT PRACTICES (BMPs): Each FSE shall implement BMPs in its operation to prevent or reduce the discharge of FOG to the wastewater system.

2.2.002 (2) (a) BMPs shall be posted conspicuously in the food preparation and dishwashing areas.

2.2.002 (3) RIGHT OF ENTRY: Authorized agents of the Town are permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, testing, and determining whether the user is complying with all requirements of the FOG Control Program.

2.2.002 (4) RECORD KEEPING: All records related to the maintenance of grease traps and the disposal/removal of FOG shall be retained for a period not less than three (3) years and be made available to the Board of Health upon request.

2.2.002 (5) FOG DISCHARGE PERMIT: All FSEs shall obtain a FOG Discharge permit to discharge wastewater into the sewer system.

2.2.002 (6) If an establishment is in violation of proper grease trap maintenance, the Board of Health may require the facility to install a grease trap monitoring system at the owner’s expense.

The data from this monitoring device must be submitted to the Board of Health monthly on a set and agreed upon schedule.

2.2.003 DESIGN AND CONSTRUCTION OF GREASE TRAPS

2.2.003 (1) DISPOSAL WORKS CONSTRUCTION PERMIT issued by the Board of Health shall be required for the installation of an exterior grease trap. No person shall construct, upgrade, modify, expand or repair a grease trap without said permit. In the event it is discovered during installation of the grease trap that site conditions differ from those contained in the approved design plans, the original permit is void, installation shall stop immediately and the installer shall notify the Board of Health.

2.2.003 (2) PREPARATION OF PLANS: Exterior grease traps shall be designed by a Massachusetts Registered Professional Engineer in accordance with the provisions set forth in the State Environmental Code, Title 5 and the State Plumbing Code and the Town of Billerica Sanitary Sewer Rules and Regulations.

2.2.003 (2) (a) The grease trap capacity shall be calculated in accordance with the System Sewage Flow Design Criteria set forth in 310CMR15.203 of the State Environmental Code, Title 5.

2.2.003 (2) (b) Facilities other than those listed in 310CMR15.203 with unique design features that result in significantly different design flows shall apply to the Board of Health for a determination of design flow. Determinations may be based upon actual meter readings of established flows from existing or similar facilities and or sizing formulas set forth in 248CMR10.09 of the State Plumbing Code. At a minimum, the grease trap shall have a capacity of not less than 1,000 gallons and shall have sufficient capacity to provide at least a 24 hour detention period for the kitchen flows.

2.2.003 (3) GENERAL CONSTRUCTION REQUIREMENTS:

2.2.003 (3) (a) Exterior grease traps shall be installed on a separate building sewer serving kitchen flows into which grease will be discharged.

2.2.003 (3) (b) Interior and exterior grease traps shall be readily accessible for inspection and maintenance.

2.2.003 (3) (c) Exterior grease traps shall require a vent which shall be piped to the inside of an establishment in compliance with 248 CMR10.16 (5) (e) of the State Plumbing Code.

2.2.003 (3) (d) Alarms and/or remote monitoring devices shall be installed and connected to new exterior grease traps. Internet access to remote monitoring devices shall be provided to the Board of Health.

2.2.003 (3) (e) Food waste/garbage grinders are prohibited in all Food Service Establishments.

2.2.003 (3) (f) The use of innovative/alternative technologies requires the approval of the Board of Health. At a minimum the proposed alternative grease removal system must have the approval of the Massachusetts Board of Examiners of Plumbers and Gas Fitters.

2.2.003 (3) (g) Drain screens shall be installed on all drainage pipes in all FSEs deemed by the Board of Health to generate and discharge FOG.

2.2.004 GREASE TRAP PUMPING AND ROUTINE MAINTENANCE

2.2.004 (1) Exterior Grease traps shall be inspected monthly by the owner/operator and shall be cleaned by a septage/offensive substances hauler licensed by the Board of Health whenever the level of grease is 25% of the effective depth of the trap or at least every three (3) months, whichever is sooner. The owner/operator shall keep all inspection and pumping records for a period of three (3) years and make them available for inspection by the Board of Health.

2.2.004 (1) (a) EXEMPTION If the exterior grease trap is equipped with an approved remote monitoring device, pumping frequency can be based upon the monitoring program. The monitoring device must be set to alert the owner/operator when the grease level reaches 25% capacity.

2.2.004 (2) All grease traps located within the establishment must be inspected and cleaned thoroughly once a month at a minimum by a qualified service company. Interior grease traps can be serviced by properly trained establishment staff approved by the Board of Health. Employees that service these systems must complete a self-training packet provided by the Board of Health and follow the inspection, service, and documentation requirements. If interceptors are serviced by establishment staff, an inspection of the interceptor must be conducted once per year by a professional.

2.2.004 (3) Establishments can petition the Board of Health to adjust the maintenance schedule for interior and exterior grease traps. The petition must be in writing and include six months of maintenance reports and supporting documentation from a licensed septage hauler and/or plumber with a detailed explanation for the adjustment to the cleaning frequency. Variances to the above stated maintenance schedule will be approved at the discretion of the Board of Health and reviewed on a yearly basis. The Board may specify additional FOG Management requirements as a condition of the approval.

2.2.004 (4) All food service establishments must keep maintenance logs for all interior and exterior grease traps and must make these documents available to the Town of Billerica upon inspection.

2.2.004 (5) FOG SIGNAGE All FSEs that have interior grease traps must have proper FOG signage in accordance with the State Plumbing Code. A laminated sign shall be stenciled on or in the immediate area of an interior grease trap in letters one-inch high. The sign state the following exact language:

IMPORTANT this grease trap/interceptor shall be inspected and thoroughly cleaned on a regular and frequent basis. Failure to do so could result in damage to the piping system and the municipal or private drainage system(s).

2.2.004 (6) Biological and/or chemical treatments are not permitted for use in both interior and exterior grease traps in the Town of Billerica unless approved by the Board of Health. It will be the responsibility of the establishment owner to provide adequate supporting documentation for review by the Board.

2.2.004 (7) All establishments that handle FOG must have spill cleanup stations and/or kits with grease absorbent pads and/or cat litter or a similar product to cleanup FOG spills and prevent (slip, trip and fall) injury in the workplace.

2.2.004 (8) COMMERCIAL COOKING EXHAUST SYSTEM MAINTENANCE All hoods, fans, ducts and other like appurtenances must be maintained in accordance with 527CMR11.00 Board of Fire Prevention Regulations. Filters shall be cleaned as frequently as necessary to prevent the accumulation of FOG in the hood system. FOG collected from the hood cleaning process shall not be disposed of into any kitchen sink, mop (floor) sink or floor drain. FSE's should coordinate hood cleaning with the routine pumping of their grease trap (s).

2.2.004 (9) DRAIN CLEANING All floor drains, floor (mop) sink drains and kitchen sink drains shall be cleaned by a professional drain cleaning service once a year at a minimum. Maintenance records shall be kept for said cleaning for three (3) years and be made available for review by the Board of Health.

2.2.004 (10) FOG DISPOSAL The disposal of FOG into the building drainage and wastewater system is prohibited. Waste FOG shall be collected in an appropriate recycling container and stored in a secure location away from storm drains approved by the Board of Health. The waste FOG shall be removed by a grease hauler approved by the Board of Health.

2.2.004 (11) Decanting or discharging of removed FOG back into the exterior grease trap, for the purpose of reducing the volume to be hauled is prohibited.

2.2.005 EXTERIOR DUMPSTERS: Exterior dumpsters must be located in a suitable area and must be constructed on a level four (4) inch thick minimum, concrete surface large enough to fit all dumpsters and grease dumpsters and enclosed so as to not create an offensive nuisance to abutters and the general public. Enclosure must be not less than six (6) feet in height.

SECTION 3 MINIMUM PLAN REQUIREMENTS

2.3.001 All food service establishments shall be subject to Plan Review whether it be for new construction, rehabilitation, renovation, remodeling, changes in use, etc. Plans shall identify the facility and layout. All its equipment must be appropriately labeled, and identify its designated location within the facility plan layout. Equipment must be commercial grade and have National Sanitation Foundation (NSF) or equivalent rating. If equipment is used or aged it must state the name, age, and condition of such equipment.

2.3.002 RESTROOMS FACILITIES : Each food service establishment with a seating capacity of over fifty (50) patrons shall provide toilet facilities for employees that are separate from the toilet facilities provided for patrons. Separate facilities must be provided for male and female patrons and at least one (1) unisex toilet facility for male and female employees, if allowed by law. In addition, food service establishments must comply with the following:

- (a) Toilet facilities shall comply with the Americans with Disabilities Act.
- (b) Patron and employee toilet facilities shall be located within the restaurant in an area that is easily accessible and does not require the patron to walk through a food preparation area.
- (c) The number of toilets, urinals, and handsinks in the restroom facilities shall be the number required by the State Plumbing Code.

2.3.003 HAND WASHING FACILITIES: Each food service establishment shall be provided with adequate and conveniently located hand washing facilities for its employees. Hand washing units shall be equipped with hot and cold or tempered running water, hand cleansing soap or detergent from a dispensing unit, and sanitary towels or other hand drying devices. Common towels are prohibited. Hand washing facilities shall be located in the food preparation area and

other areas as deemed necessary and in sufficient quantity as determined by the Board of Health. These hand facilities must be clearly identified as “Food Handler Hand Washing Facility Only”. The hand wash sinks in the common restrooms designed for use by patrons, or employees, cannot be considered as hand washing facilities for food preparation areas to be used by food handlers.

2.3.004 Floor drains must be installed in a number and in locations sufficient for ease of cleaning, and to prevent puddling.

2.3.005 EXTERIOR DUMPSTERS: Exterior dumpster facilities must be identified on all plans and must be constructed on a level four (4) inch thick minimum, concrete surface large enough to fit all dumpsters and grease dumpsters and enclosed so as to not create an offensive nuisance to abutters and the general public. Enclosures must be not less than six (6) feet in height.

2.3.006 ACCESSORY EXTERIOR FACILITIES: Any accessory exterior facilities utilized by the establishment in any manner, must be identified on the facility layout plan.

2.3.007 All facility layout plans for newly constructed facilities must be professionally prepared, drawn to scale, and stamped by a qualified individual. No work may commence until an approval is granted by the Health Department. Existing facilities may prepare renovation plans that can be easily read and understood.

2.3.008 All current food service establishments shall provide an up to date facility layout plan to the Health Department prior to the issuance of the establishments next permit renewal, if required by the Health Department.

2.3.009 These requirements shall apply to those facilities currently under review or proposed, and shall be required of facilities that expand, remodel, or renovate.

SECTION 4 TRANSIENT VENDORS

2.4.001 Any hawker, peddler, or transient vendor who offers food or drink for sale as defined by Chapter X of the Massachusetts Sanitary Code shall obtain a permit from the Board of Health and said permit shall identify the food items allowed for sale and shall identify the person as defined in Chapter 1 Section 1.006 responsible for preparation of food items allowed for sale. All applicable regulations shall be complied with.

Any hawker, peddler, or transient vendor who fails to obtain a valid permit from the Board of Health shall be ordered to immediately cease and desist the operation of food sales. Failure to comply with a valid order by the Health Department could necessitate police assistance to terminate the non-permitted vendor activities, and may cause further legal action, as deemed appropriate.

Massachusetts issued Hawker and Peddlers permits do not supersede any required town permits including but not limited to Board of Health permits. It is the responsibility of the person obtaining a permit to comply with any applicable laws.

Health permits must be obtained by the vendor prior to any vendor activity at least forty-eight (48) hours in advance. Payment of the required fees must be by check to the Town of Billerica.

SECTION 5 IDENTIFICATION OF PREPARED FOODS/TEMPORARY CATERING

2.5.001 Food item(s) offered for sale in the Town of Billerica which are prepared in a central location other than at the place so offered for sale, or consumption whether it be inter or intra

state, shall be labeled with the date of preparation, expiration sale date, ingredients, and the name and address of the person responsible for food item(s) preparation.

2.5.002 Permit required: Any caterer performing service in the Town of Billerica, unless permitted by the Board of Health, shall be required to obtain a permit from the Board of Health prior to conducting a catering operation in the Town of Billerica. A proper application and fee must be submitted to obtain a permit. A permit may be issued if the Health Department deems it appropriate.

2.5.003 CONSUMER ADVISORY NOTICE REQUIREMENT: All establishments if required to provide a Consumer Advisory Notice, shall post the following notice on all menus, in not less than an 11 font size.

CONSUMER ADVISORY NOTICE

“Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.”

SECTION 6 ESTABLISHMENT OWNERSHIP

2.6.001 Food service establishments owned by a person as defined in Chapter 1, Section 1.006 shall be required to demonstrate proper ownership of the facility to the Board of Health.

2.6.002 Food service establishments operated by a person that is not the owner of the facility shall be required to submit to the Board of Health a copy of their rental or leasing agreement. Permit holders are solely responsible for maintaining compliance with all applicable laws, rules, and regulations.

SECTION 7 INSURANCE REQUIREMENTS

2.7.001 All food service establishments shall be required to obtain and maintain insurance for the purpose of emergency abatement action that may be deemed necessary by the Board of Health to prevent nuisances, sources of filth, and causes of sickness which may, in its opinion, be injurious to the public health, and safety. Such insurance shall be in the minimum amount of one hundred thousand (100,000) dollars.

SECTION 8 ADMINISTRATIVE PROCEDURES FOR FOOD SERVICE ESTABLISHMENTS

2.8.001 All permits for food service establishments expire May 31st of each year and are “NON-TRANSFERABLE”, “NON-ASSIGNABLE”, and “NOT FOR SALE”.

(a) Food Service Permits can not be transferred from one person to another person, from one food establishment to another, or from one type of operation to another.

(b) Permits must be renewed thirty (30) days prior to expiration.

(c) It is the permit holder’s or pending new owner’s responsibility to obtain a proper application or renewal application and submit it for review and approval.

2.8.002 Consultant’s services may be employed by the Board of Health as deemed necessary and in the best interest of public health protection.

The Board may engage consultant services to assist the Board of Health in reviewing, assessing, training, or evaluating any project, proposal, activity or function which is subject to the authority, approval or other purview of the Board of Health pursuant to any statute or regulation. The

selection of such consultant services shall be determined by the Board of Health. Any fees for services shall be the responsibility of the licensee(s), applicants, or persons, in accordance with Chapter 1, Section 4.001.

2.8.003 SPECIAL INSPECTIONS: shall mean any inspection conducted which is not routine, and is out of the ordinary. This shall include but not be limited to inspections to resolve court cases, inspections of code violations in Food Establishments, Markets, Restaurants, etc. or any inspection conducted after normal working hours of the Health Department. In the case of Food Service Establishments, Special Inspections shall be any inspection in excess of two (2) follow ups of a routine inspection. Special Inspections are subject to special inspection fees.

2.8.004 MINIMUM FOOD PROTECTION/TRAINING CERTIFICATION: All food service establishments must assign a Person In Charge (PIC) that must be knowledgeable about food safety and the prevention of food borne illness. Each establishment must also have at least one (1) person who is eighteen (18) years of age who has passed a recognized food safety exam. This person must be responsible for overseeing the day to day preparation of food. The following exemptions apply to this section:

- 1) Daycare operations which prepare and/or serve only snacks.
- 2) Food establishments which sell only pre-packaged foods.
- 3) Food establishments which prepare and serve USDA meat and poultry products containing 120 PPM nitrite level, 3.5% brine concentration such as frankfurters.
- 4) Or other establishments with limited food sales and preparation as determined by the Board of Health.

SECTION 9 ADOPTION OF STATE AND FEDERAL FOOD CODE

2.9.001 The Board of Health adopts the Federal FDA Food Code and the Massachusetts State Sanitary Code 105CMR590.000 by reference, and any revisions now or in the future, as a local regulation.

SECTION 10 PENALTIES

2.10.001 Any person holding a permit for an establishment or individual permit may be subject to penalties and enforcement action in accordance with Chapter 1, Section 19 of the Billerica Board of Health Rules and Regulations.

SECTION 11 CAPITAL IMPROVEMENTS

2.11.001 CAPITAL IMPROVEMENTS: The Board of Health may from time to time require any establishment to make capital improvements if it deems necessary for compliance with rules and regulations or is deemed to be in the best interest of public health protection.

SECTION 12 THROUGH 21

Reserved for future regulations, amendments, etc.

SECTION 22 SEVERABILITY

2.22.001 If any paragraph, sentence, phrase or word of these rules and regulations shall be declared invalid for any reason whatsoever, the decision shall not affect any other portion of these rules and regulations which shall remain in full force and effect and to this end the provisions of

these rules and regulations are hereby declared severable. Notwithstanding the provisions that may be in conflict with the Massachusetts General Laws, the revised by-laws of the Town of Billerica, these rules and regulations will be binding upon all parties concerned.