



Town of Lexington

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ARTICLE XIII, Food Establishments [Adopted effective 3-7-2000; amended effective 10-9-2001; effective 7-17-2002; effective 1-15-2003; effective 6-13-2007; effective 9-1-2024]

§ 155-96. Authority

These regulations are promulgated pursuant to Massachusetts General Law Chapter 111, Section 31 and any amendments and assertions thereto.

§ 155-97 Purpose

The Lexington Board of Health seeks to enhance the protection of the foods served to the public by enhancing food safety and in doing so reducing foodborne illness by implementation of a risk and intervention- based food safety program.

§ 155-98 Definitions

Board of Health: Lexington Board of Health

Certified Food Protection Manager: An individual employed by a food establishment who has attended training and passed a certified food protection managers exam recognized by the Massachusetts Department of Public Health Food Protection Program.

Food Establishment: An operation, that either stores, prepares, packages, or otherwise provides food, including an operation that offers only prepackaged foods that are not times/temperature control for safety foods.

Pest Control Service: A Pest Control Service licensed to perform pest control elimination, consultation, and application of pesticides.

§ 155-99 Compliance with state and local regulations required.

- A. All food establishments, as defined under 105 CMR 590.001, shall at all times maintain compliance with 105 CMR 590.000, Minimum Sanitation Standards for Food Establishments, State Sanitary Code, Article X, 2013 Food Code, Supplement to the 2013 Food Code or Annexes 2013 and all local health regulations.
- B. All temporary food services, including charity events, church suppers, ice cream trucks, and similar operations, shall comply with the regulations required for temporary food establishments under 105 CMR 590.010.
- C. Staff from food establishments holding a permit from the Lexington Board of Health will be required to attend trainings on food safety and related issues provided by the Lexington Board of Health.

- D. 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.
- E. Permit renewal applications received after the expiration of existing permits will be charged a late fee in accordance with the Lexington Board of Health fee schedule at the time of application.

§ 155-100. Certified Food Protection Manager

In addition to the requirement set forth in 105 CMR 590.000, et seq (the “Food Code”), and any other federal, state, or local law, all food establishments, as defined in 105 CMR 590.002, holding permits issued by the Board of Health pursuant to 105 CMR 590.014, shall comply with the following requirement:

- A. There shall be at least one (1) person who shall be at least eighteen (18) years of age, and certified as a food protection manager by demonstrated proficiency of required information through certification by an accredited program recognized by the Massachusetts Department of Public Health, and who is approved by the local authority to hold the position of food protection manager for the establishment. It is expected that this individual will act as the Person in Charge (PIC).
- B. The PIC meeting the above referenced criteria shall be on duty and present at the establishment at all times that the establishment is open which includes, but is not limited to, all operations, receiving, prepping and serving food. This certified food protection manager shall have the authority, and will be expected to enforce the regulations of the State and federal food codes, including the supervision of the establishment employees.
- C. If a certified food manager position should become vacant during the term of any food service permit, the permit holder shall immediately notify the Board of Health in writing. The notice to the Board of Health shall include a statement of how the permit holder will ensure adequate protection of public health and safety during the period of vacancy.
- D. A certified food protection manager certificate is not transferable from one person to another.

§ 155-101. Pest control elimination.

- A. All food establishments, excluding temporary, mobile, packaged food and limited retail establishments, shall have a current maintenance contract with a Massachusetts licensed pest control company requiring at a minimum, monthly inspections; and shall maintain on the premises all reports of findings, conditions, or other treatment from pest management services. These reports will be made available to Lexington Board of Health agents during inspections of the facilities involved.
- B. All food establishments except temporary and limited retail establishments, which have at any time an infestation of insects, rodents, birds or other pests, will establish an integrated pest management (IPM) program to prevent future problems from the pest involved. The IPM program must be approved by the Lexington Board of Health or its agent.
- C. Any food establishment that, in the judgment of a Lexington Board of Health agent, exhibits high risk for a pest infestation, including but not limited to, ongoing problems with sanitation, facility maintenance, or other factors contributing to the harborage of

pests, will implement an IPM program to prevent infestations of insects, rodents, birds, or other pests. The IPM program must be approved by the Lexington Board of Health or its agent.

- D. Any records required in § 155. 101 (A)-(C) must be retained on-site for no less than 2 years.

§ 155-102. Variances

- A. To the extent permitted under the State Food Code, a variance of this Regulation may be granted if, in the opinion of the Board, a health hazard or nuisance will not result from the variance. All variance applications shall be in writing and shall describe how the public health hazards addressed by this Regulation will be alternatively addressed by the applicant. No variance request will be granted unless the applicant shows that: (1) enforcement of this Regulation would be manifestly unjust; and (2) the applicant has established that a level of public health protection at least equivalent to that provided under this Regulation can be achieved without strict application of the Regulation.
- B. Any variance granted by the Board of Health shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the Board.
- C. Any variance may otherwise be revoked, modified, or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard in conformity with the requirements for an order and hearing in 105 CMR 590.015.

§ 155-103. Violations and penalties; nonprofit corporations fee exemption.

- A. Failure to comply with all state and local health regulations may result in the imposition of fines in accordance with this article and Lexington Town Bylaws Chapter 1 or suspension or revocation of a permit to operate a food establishment in the Town of Lexington.
- B. The term "nonprofit corporation," as mentioned in MGL c. 94, § 328, shall refer only to charitable organizations such as religious organizations, food pantries, and charitable organizations are exempt from the permit fee.

§ 155-104. SEVERABILITY.

Each part of these regulations is construed as separate to the end, and if any section, item, sentence, clause, or phrase is held invalid for any reason, the remainder of these regulations shall continue in full force and effect.