CHAPTER 2
FOOD SERVICE ESTABLISHMENTS

SECTION 1 DEFINITIONS

2.1.001 FOOD ESTABLISHMENT: shall mean any food service establishment where food is prepared, retail food store which means any establishment where food and food products are offered to the consumer and intended for off-premises consumption, mobile food units, caterer, or residential kitchen. (105CMR590.000 State Sanitary Code Chapter X)

2.1.002 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.

2.1.003 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 SANITARY WASTE AND GREASE DISPOSAL

2.2.001 It has been determined that grease has become a major contributing factor to the cause of municipal sewer backups and clogging of subsurface sewage disposal systems. Both of these factors can be remedied by installation of a properly sized and installed grease trap. Exterior grease traps of industrial capacity and use shall be designed, installed, and constructed in all Food Service Establishments which generate grease at any phase of its operation in the Town of Billerica to prevent the discharge of such pollutants into the Town of Billerica Municipal Sewer System or an on-site subsurface sewage disposal system. Other alternative and innovative approved methods of grease removal (such as interior grease interceptors and automatic grease removal devices) and disposal may be used if approved by the Health Department. All newly constructed facilities must install industrial type grease traps if feasible.

2.2.002 Grease traps shall be designed using standards pursuant to the Massachusetts State Environmental Code, Title 5, 310CMR15.000 (inclusive), Water Pollution Control Regulations, 314CMR12.08 or any other applicable Federal, State, County, or Local Laws, By-Laws, and Rules and Regulations.

2.2.003 All establishments shall comply with this regulation on or before June 30, 1998. The Board of Health may grant an extension of time if, in its opinion, a documented hardship exists. However, no extension of time shall exceed two (2) years. Failure to comply shall be deemed just cause for administrative action.

2.2.004 GREASE TRAP MAINTENANCE: It shall be the responsibility of the permit holder to maintain grease traps in accordance with the Massachusetts State Environmental Code, Title 5 standards or other applicable health regulations. (see Chapter 5, Section 5.6.002(5))

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 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.