

Section 18.2

Requirement of a Registered Sanitarian for the design of Food Establishments

A. Statement of Purpose

Whereas: CDC estimates that 76 million people get sick, more than 300,000 are hospitalized, and 5,000 Americans die each year from foodborne illness.

Whereas: Sanitarians administer environmental health programs for both public and private agencies and organizations in food protection and safety, water protection, air quality, noise, industrial and land pollution, sewage disposal, hazardous and toxic substances, solid waste management and institutional health.

Therefore: Additional precautions must be undertaken to ensure the protection of public health through the sanitary and proper design of all new and remodeled food establishments.

B. Authority

This regulation is promulgated under the authority granted to the Malden Board of Health under Massachusetts General Laws Chapter 111, Section 31 that “[b]oards of health may make reasonable health regulations.”

C. Definitions

For the purposes of this regulation, the following words shall have the meanings respectively ascribed to them by this section:

- (1) Board: The Board of Health of the City of Malden.
- (2) Certified Professional-Food Safety (CP-FS): An individual holding the credential Certified Professional-Food Safety issued under the by-laws of the National Environmental Health Association.
- (3) Food Establishment: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.
This includes;
 - (i) satellite or catered feeding location; catering operation if the operation provides food directly to the consumer or to a conveyance used to transport people, market, vending location, conveyance used to transport people, institution or food bank; and
 - (ii) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or deliver service that is provided by common carriers.

(4) Person: Any individual, firm, partnership, association, corporation, company or organization of any kind including, but not limited to an owner, operator, manager, proprietor or person in charge of any building, establishment, business, or restaurant or retail store, or the business agents or designees of any of the foregoing.

(5) Sanitarian: An individual, licensed by the Commonwealth of Massachusetts as a Registered Sanitarian as described in 255 CMR 2.000 through 5.000 and whose license is current and in good standing.

D. Approval of Plans

When a plan is required as designated in the 2013 FDA Food Code, Section 8-201.11, sub-sections A through C, and also at change of ownership if the establishment has been permitted for 5 years or more, said plan shall be stamped and signed by a Registered Sanitarian or CP-FS and submitted to the Board for approval. The aforementioned stamp and signature shall attest to the proper and sanitary design of the proposed food establishment and compliance with section 8-201.12, sub-sections A through F of the 2013 FDA Food Code.

E. Enforcement:

Failure to submit plans that have been stamped and signed by a Sanitarian or CP-FS shall result in denial of approval of said plans.

F. Variance

1. The Board of Health may vary the application of any provision of any of these regulations with respect to any particular case when the Board of Health finds the enforcement thereof would do manifest injustice.
2. Every request for a variance shall be made in writing to the Board of Health and shall state the specific variance sought and the reasons thereof.
3. Any variance granted must be in writing with a copy available to the public at all reasonable hours in the office of the Town Clerk and in the office of the Board of Health. Any variance granted must be posted on the premises in a prominent location for the duration that the variance is in effect.

G. Severability

1. If any section, paragraph, sentence, clause, phrase, or word of this regulation is declared invalid for any reason, that decision will not be applicable to the remaining portions of these regulations.

H. Effective Date

This regulation shall take effect on November 20, 2017

City of Malden
Board of Health

Dr. Kunwar Singh, Chairman
Dr. Kourtney Nickerson
D.J. Wilson, Esquire