

## TOWN OF BELMONT

# Regulation Pertaining to Certification of Managers in Food Safety

### Section I Authority

The Belmont Board of Health, pursuant to the authority granted under Massachusetts General Laws, Chapter 111, Section 31 hereby adopts the following regulation to protect the public health of the community.

### Section II Purpose

The Belmont Board of Health recognizes that an ideal food protection program is supported by a partnership effort between industry and food regulatory officials. Educated managers and food handlers along with an effective inspection program can reduce the incidence of high-risk practices which can lead to food borne illness.

The Belmont Board of Health first promulgated regulations pertaining to the certification of managers in food safety that became effective January 31, 1997. State regulations were subsequently passed that became effective on October 13, 2000, requiring each establishment to have one individual or full-time equivalent trained in food safety. This has proven to be inadequate **so to further protect the public**, the Board of Health is now updating its previous regulation.

### Section III Definitions

Board: The Board of Health in the Town of Belmont

Certified Food Manager: An individual employed by a food establishment who has taken a course in food safety and demonstrated his/her knowledge by passing an exam as described in Section 5

Food Establishment: Any place where food is prepared and intended for individual portion service. The term includes any such place, regardless of whether consumption is on or off the premises, and regardless of whether there is a charge for the food. The term includes, but is not limited to restaurants, caterers, nursing and retirement homes, hospitals, private clubs, industrial cafeterias, public and private educational institutions and delicatessens in retail food stores that cook and/or offer prepared food in individual service portions.

Full-time Equivalent: An individual, or combination of individuals, who work a total of at least thirty-five hours per week.

Any terms not specifically defined herein are to be construed as in accordance with the definitions of the Federal Food Code and Chapter X of the State Sanitary Code 105 CMR 590.000.

#### **Section IV     Requirements**

- 1) All food establishments shall have a certified food manager on the premises during all of the hours that the establishment is open. Additionally, this certified food manager shall have the authority, and will be expected, to enforce the regulations of the State and federal food codes, including the supervision of other establishment employees.
- 2) 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 and the permit holder shall have sixty (60) days to fill the position. 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.
- 3) All existing permit holders shall achieve compliance with this regulation within 90 days after the effective date of this Regulation. New establishments must be in compliance within thirty days after opening.

#### **Section V     Certification**

- 1) Certification shall be achieved by attending a food safety and sanitation course and attaining a passing grade on an exam provided by the Educational Testing Services (Food Protection Certification Program) or the Educational Foundation of the National Restaurant Association (ServSafe-Registered Trademark) or an equivalent exam recognized by the Massachusetts Department of Public Health and approved by the Board.
- 2) The certificate(s) shall be posted on the premises.
- 3) The certification shall be valid for the time indicated on the certificate, or five years, whichever is less.
- 4) Certificates are not transferable from one person to another.

#### **Section VI     Variances**

A variance 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 and nuisances 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.

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 of health.

A 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.

## **Section VII Enforcement and Penalties**

### **1. Permit Suspension or Revocation**

The Board of Health may suspend or revoke any permit issued pursuant to these regulations for any violation of these regulations, or any other applicable General Law, regulation or by-law. Such revocation or suspension may take place in accordance with the procedures set forth in 105 CMR 590.14 and 105 CMR 590.15.

### **2. Non-Criminal Disposition**

This regulation may be enforced by any Town police officers or agents of the Town's Board of Health.

Whoever violates any provision of this regulation may be penalized by a non-criminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law. If non-criminal disposition is elected, then any person who violates any provision of this regulation shall be subject to a penalty in the amount of twenty-five dollars (\$25.00) per day for each day of violation, commencing ten days following day of receipt of written notice from the Board of Health. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

### **3. Other**

Whoever violates any provision of this regulation may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be one thousand dollars (\$1,000). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

The Board of Health may enforce these Regulations or enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

### **Section VIII Severability**

Each provision of this Regulation shall be construed as separate to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

### **Section IX Effective Date**

This regulation will become effective as of March 1, 2007.

### **Belmont Board of Health**

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David B. Alper, D.P.M.

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Donna S. David, R.N., M.N.

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Robert M. Eisendrath, M.D.

This Regulation was reviewed and approved as to form by Town Counsel on February 7, 2007.

A Public Hearing regarding this Regulation was held on November 8, 2006.

The Promulgation of this Regulation was advertised in the Belmont Citizen-Herald on  
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