



Town of Berkley

Massachusetts

Offices of

Board of Health

One North Main Street

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Regulation Requiring Permits for Establishments that offer Only Prepackaged Foods that are not Time/Temperature Control for Safety.

A. Purpose:

Whereas the Berkley Board of Health is responsible for inspecting food establishments within the Town of Berkley, and the Massachusetts Department of Public Health has adopted the 2013 FDA Food Code with amendments made by the FDA in 2015 and additional amendments adopted by DPH in 2018 as the 105 CMR 590: State Sanitary Code, Chapter 10 – Minimum Standards for Food Establishments, which states that “An establishment that offers only prepackaged foods that are not time/temperature control for safety foods” is not considered a food establishment:

Whereas the Berkley Board of Health maintains the opinion that the products sold in these types of establishments still pose enough of a risk to consumers that it warrants permitting and inspection by the Board of Health.

Now, therefore, for the health and safety of the public, it is the intention of the Berkley Board of Health to regulate establishments that offer only prepackaged foods, which are not time/temperature control, for safety.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Berkley Board of Health by Massachusetts General Laws Chapter 111, Section 31 which states “Boards of Health may make reasonable health regulations”.

C. Definitions:

Pre-packaged foods: For the purpose of this regulation “Pre-packaged foods” means foods that are sold in the same package as was received at the store. These packages may not be opened and repackaged, and do not need time/temperature control for safety.

Time/Temperature control for Safety food: A food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation (Formerly "Potentially Hazardous Food" (PHF)).

D. Permits Required:

A Retail Food Establishment Permit shall be required for the sale of Pre-packaged foods that are not time/temperature control for safety.

E. Effective Date:

This regulation shall be effective January 1, 2019 and will coincide with annual permitting. The fee for the permit will correspond with the current fee schedule for the "Retail Food" Permits.

F. Violations:

It shall be the responsibility of the establishment, permit holder, and/or his or her designee to ensure compliance with this regulation.

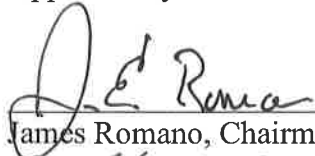
G. Enforcement:


Enforcement of this regulation shall be by the Berkley Board of Health or its designated agent(s).

H. Severability:

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

Approved by unanimous vote of the Board of Health on 2/26/2019.


James Romano, Chairman


Steven Rapoza, Member


Daniel Fournier, Clerk