

What's Cookin'

**Residential Kitchens:
*Bed & Breakfast &
Cottage Food Operations***

Presented by

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Two Types of Residential Kitchens

Bed & Breakfast Operations
Cottage Food Operations





Source

THE MERGED FOOD CODE

105 CMR 590.000

*State Sanitary Code Chapter X:
Sanitation Standards for Food
Establishments*

2013 FDA Food Code, 2015 Amendments

105 CMR 590.010

Chapter 10

Guidance on Retail Operations

Applicable Regulations

Under 105 CMR 590.000, permitted retail residential kitchens must comply with all applicable municipal laws, zoning ordinances, and most sections of the Retail Food Code for conducting a business from one's home residence.

Exceptions to compliance with requirements of the Food Code include, but may not be limited to:

- FC 2-102.12 Food Manager Certification
- 105 CMR 590.011(A) Anti-choking Procedures
- 105 CMR 590.011 (C) Food Allergy Awareness Requirements
 - Poster, Menu boards, Food Allergen Awareness Training (except that under 590.002 (D); FC 2-103.11: Person in Charge Duties: They must ensure that (N) EMPLOYEES are properly trained in FOOD safety, including food allergy awareness, as it relates to their assigned duties.
- FC 8-2 Plan Submission and Approval
 - Although a plan is not necessary, an intended menu must be submitted to the board of health with the application for permit (590.010(E)(2)(b).

Definitions

“Residential Kitchen” - means a kitchen in a private home.

“Cottage Food Operation” means:

A person who produces cottage food products only in the home kitchen of that person’s primary domestic residence, and only for sale directly to the consumer.

“Cottage Food Products” means:

Non-TCS baked goods, jams, jellies, and other non-TCS foods produced at a cottage food operation.

Note: The term “Cottage Food” was added to the Food Code because the term is nationally recognized.

Definitions Cont'd.

"Food establishment" means an operation that:

stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant; satellite or catered feeding location; market; vending location; institution; food bank; residential kitchen in a bed-and-breakfast operation; residential kitchen for cottage food operation and, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people not including farm trucks.

Definitions Cont'd.

Food establishment **does not include**

- (d) A **residential kitchen** if only non-TCS food is prepared for sale or service at a function such as a religious or charitable organization's bake sale (if allowed by law)

and if the consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;

- (e) A **residential kitchen** that prepares food for distribution to a charitable facility in accordance with M.G.L c. 94, § 328;

Definitions Cont'd.

Food establishment **does not include** cont'd.

- (g) A **residential kitchen**, such as a family daycare provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed six (6), breakfast is the only meal offered, the number of guests served does not exceed 18, and the consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the FC-regulatory authority;
- (i) Cooking classes that are held for educational purposes only

Definitions Cont'd.

"Food Employee" means

an individual working with unpackaged food, food equipment, or utensils, or food contact surfaces, with the exception of farm workers handling uncut fruits and vegetables, unprocessed honey, pure maple products, or farm fresh eggs which are stored and maintained at 45° F (7.2° C) or below.

This could include the owner, individual having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or any other person working in a food establishment.

Person in Charge Mandated

590.002 (A); FC 2-101.11 Person in Charge – Assignment

- The permit holder shall be the person in charge (PIC) or shall designate a PIC and shall ensure that a PIC is present at the food establishment at all hours of the operation.
- The owner, or person(s) in charge shall designate an alternate person to be in charge at all times when they can't be present. The alternate, when acting as the PIC, shall be responsible for all duties specified in FC 2-103.11 (PIC Duties) and must be adequately trained by the PIC to ensure that the establishment operates in compliance with 105 CMR 590.00: State sanitary code chapter X: Minimum sanitation standards for food establishments.

590.002(B); FC 2-102.11 Person in Charge – Demonstration

- (A) Complying with this Code by having no violations of PRIORITY ITEMS during the current inspection;
- (B) Being a certified FOOD protection manager who has shown proficiency of required information through passing a test that is part of an ACCREDITED PROGRAM; (**Cottage Food Operations are exempt**)
- (C) Responding correctly to the inspector's questions as they relate to the specific FOOD operation.

EXAMPLE:

2-102.11 (C) (9) Describing foods identified as major allergens and the symptoms that a major food allergy could cause in a sensitive individual who has an allergic reaction.

CFPM Exemptions – 590.002 (C); FC 2-102.12 Knowledge

590.002 (C) FC 2-102.12 **shall not apply to:**

- (a) Temporary food establishments operated by non-profit organizations such as, but not limited to, school sporting events, firemen's picnics, grange and church suppers and fairs;
- (b) Daycare operations which serve only snacks;
- (c) **Food establishments restricted to the sale of pre-packaged food and limited preparation of non-time/temperature control for safety food**, and meat and poultry products processed under USDA supervision with a nitrite level of at least 120 PPM and a minimum brine concentration of 3.5%;
- (d) Satellite feeding sites, which receive prepared meals from commissaries for immediate service;
- (e) Elderly meal site locations where each Nutrition Project serves congregate meals in compliance with the requirements set forth in 651 CMR 4.00 and limits the site supervisors to the preparation of reheating commercially pre-cooked individually quick frozen (IQF) entrees, cooking commercially prepared dry pasta products for immediate service, and preparing salads and/or side dishes from fresh and/or frozen fruits and vegetables for immediate service.

590.010 Chapter 10: Guidance on Retail Operations

- ❖ Caterers
- ❖ Mobile Food Operations
- ❖ Temporary Food Establishments
- ❖ Public Markets and Farmers Markets
- ❖ Residential Kitchens
 - Bed and Breakfast Operations
 - Cottage Food Operations
- ❖ Schools and USDA Nutrition Programs
- ❖ Leased Commercial Kitchens (Shared Kitchens or Incubators)
- ❖ Innovative Operations

Permitting and approval requirements, as well as exemptions can be found here.



Chapter 10: Guidance on Retail Operations 105 CMR 590.010

(E) Residential Kitchens: Bed-and-Breakfast Operations

- (1) Exempt Bed-and-Breakfast Operations. No permit from the board of health is required if a bed-and-breakfast operation that prepares and offers food to guests meets the following criteria:
- (a) The home is owner-occupied;
 - (b) The number of available guest bedrooms does not exceed six;
 - (c) Breakfast is the only meal offered;
 - (d) The number of guests served does not exceed 18; and
 - (e) The consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the board of health.
- (2) Bed-and-Breakfast Approval.
- (a) Except as specified in 105 CMR 590.010(E)(1), a bed-and-breakfast operation shall not sell or serve food unless it has been approved to do so and has obtained a valid permit from the board of health.
 - (b) Bed-and-breakfast operations that require a food establishment permit shall comply with the minimum requirements of 105 CMR 590.010(E), except they shall be exempt from FC 8-2 "Plan Submission and Approval" in which case only an intended menu shall be submitted to the board of health with their application for permit.
 - (c) Bed-and-breakfast operations which require a permit shall be inspected by the board of health upon application for an original permit, within the six months prior to renewal of a permit, and at least once a year for the enforcement of 105 CMR 590.000.
 - (d) Food preparation and protection: Residential kitchens in bed-and-breakfast operations.
 1. Food shall be prepared and protected in accordance with 105 CMR 590.000.
 2. Food, utensils and equipment shall be stored in a manner to avoid contamination.
 3. The following food handling practices for time/temperature control for safety foods are prohibited: cooling and reheating prior to service, hot holding for more than two hours, and service of leftovers.
 4. All food temperature requirements shall be met as contained in 105 CMR 590.000. Hot and cold holding equipment shall be provided to maintain time/temperature control for safety foods at temperatures required by 105 CMR 590.000.

(F) Residential Kitchens: Cottage Food Operations

- (1) Exempt Cottage Food Operations. No permit from the board of health is required if an on-farm or off-farm cottage food operation only sells:
- (a) Whole, uncut fresh fruits and vegetables;
 - (b) Unprocessed honey;
 - (c) Pure maple products; or
 - (d) Farm fresh eggs which are stored and maintained at 45°F (7.2°C) or less.
- (2) Cottage Food Operation Approval.
- (a) Except as specified 105 CMR 590.010(F)(1), a cottage food operation shall not sell or serve food unless it has been approved to do so and has obtained a valid permit from the board of health.
 - (b) A board of health shall review a permit application for a cottage food operation as specified by administrative guidelines of the Department. The board may approve an application that conforms with the guidelines and with applicable sections of the 2013 Food Code.





(E) Residential Kitchens: Bed-and-Breakfast Operations

(1) Exempt Bed-and-Breakfast Operations

No permit from the board of health is required if a bed-and-breakfast operation that prepares and offers food to guests meets the following criteria:

- (a) The home is owner-occupied;
- (b) The number of available guest bedrooms does not exceed six;
- (c) Breakfast is the only meal offered;
- (d) The number of guests served does not exceed 18; and
- (e) The consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and inspected by the board of health.

Sample statement: *These products are homemade and not subject to local health inspection*

Residential kitchens in bed-and-breakfast operations

(2) Bed-and-Breakfast – Needs Approval

- (a) Except as specified in 105 CMR 590.010(E)(1), a bed-and-breakfast operation shall not sell or serve food unless it has been approved to do so and has obtained a valid permit from the board of health.
- (b) Bed-and-breakfast operations that require a food establishment permit shall comply with the minimum requirements of 105 CMR 590.010(E), except they shall be exempt from FC 8-2 "Plan Submission and Approval" in which case only an intended menu shall be submitted to the board of health with their application for permit.
- (c) Bed-and-breakfast operations which require a permit shall be inspected by the board of health upon application for an original permit, within the six months prior to renewal of a permit, and at least once a year for the enforcement of 105 CMR 590.000.

Residential kitchens in bed-and-breakfast operations

(d) Food preparation and protection:

1. Food shall be prepared and protected in accordance with 105 CMR 590.000.
2. Food, utensils and equipment shall be stored in a manner to avoid contamination.
3. The following food handling practices for time/temperature control for safety foods are prohibited: cooling and reheating prior to service, hot holding for more than two hours, and service of leftovers.
4. All food temperature requirements shall be met as contained in 105 CMR 590.000. Hot and cold holding equipment shall be provided to maintain time/temperature control for safety foods at temperatures required by 105 CMR 590.000.



(F) Residential Kitchens: Cottage Food Operations

(1) Exempt Cottage Food Operations

No permit from the board of health is required if an on-farm or off-farm cottage food operation only sells:

- (a) Whole, uncut fresh fruits and vegetables;
- (b) Unprocessed honey,
- (c) Pure maple products; or
- (d) Farm fresh eggs which are stored and maintained at 45°F (7.2°C) or less.

(2) Cottage Food Operation – Needs Approval

- (a) Except as specified 105 CMR 590.010(F)(1), a cottage food operation shall not sell or serve food unless it has been approved to do so and has obtained a valid permit from the board of health.

- (b) A board of health shall review a permit application for a cottage food operation as specified by administrative guidelines of the Department. The board may approve an application that conforms with the guidelines and with applicable sections of the *2013 Food Code*.



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Retail Food Code Standards for Permitted Residential Kitchens

Updated April, 2019

The following information is provided to assist municipalities, food establishments and other interested parties in interpretation of the Retail Food Code. Additional information is available on our website at mass.gov/lists/retail-food or by contacting the Food Protection Program at (617) 983-6712 or fdp.dph@state.ma.us.

Under 105 CMR 590 (the Retail Food Code), Cottage Food and non-exempted Bed and Breakfast Operations (Permitted Retail Residential Kitchens) must comply with all applicable municipal laws and zoning ordinances and sections of the Retail Food Code for conducting a business from one's home residence. The following minimum provisions for Residential Kitchens apply to both Cottage Food Operations and Bed and Breakfast Operations. Additional notes are provided for alternate standards or provisions which apply to only one type of Permitted Retail Residential Kitchen. These guidelines are being issued under 105 CMR 590.009(E) to promote uniform application of the Retail Food Code.

Water Supply and Sources

- **Water Supply:** Only potable water from a properly constructed on-site well or municipal water system can be used. Any Permitted Retail Residential Kitchen which has a private water supply must have the supply tested prior to permitting and at least annually thereafter and demonstrate through a written record of testing that the water supply is potable. The regulatory authority may require more frequent testing as deemed necessary. (590.005; FC 5-1)
- **Wastewater:** Sewage shall be disposed of through a system approved by the LBOH. (590.005; FC 5-403.11)
- **Handwashing Sinks:** The kitchen sink to be used for handwashing must be provided with a soap dispenser and disposable towels. However, the kitchen sink cannot be used for handwashing after toilet use; therefore, there must also be a sink in the toilet room. (590.002; FC 2-301.15 / 590.005; FC 5-203.11)
- **Manual Warewashing:** The kitchen sink can also be used for food preparation and warewashing provided it is cleaned and sanitized prior to and between use. For manual warewashing, a two compartment sink can be used if it is approved by the LBOH and the washing is done in limited batches within the requirements of 4-301.12(D)(2)(a)-(c). (590.004; FC 4-301.12, FC 4-501.114)

The following *guidelines* were issued under 105 CMR 590.009(E) to promote uniform application of the Retail Food Code.

[Retail Food Code Standards for Permitted Residential Kitchens \(mass.gov\)](http://mass.gov/lists/retail-food)

Standards for Permitted Bread-and-Breakfast and Cottage Food Operations

The following minimum provisions for Residential Kitchens apply to both Cottage Food Operations and Bed and Breakfast Operations.

A photograph of a kitchen table with a white mug, a box of tissues, and a pair of glasses. The background is dark. The text is overlaid on a white circular shape on the left side of the image.

Illness Reporting & Exclusions/Restrictions

All persons involved in the preparation, packaging, or handling of food must not work in the home kitchen when ill (590.002; FC 2-201.11).

Personal Hygiene

- **Handwashing:** All persons involved in the preparation, packaging, or handling of food must wash their hands before any food preparation and food packaging activities (590.002; FC 2- 301.14)
- **Bare Hand Contact:** All persons involved in the preparation, packaging, or handling of food must avoid bare hand contact with ready-to-eat foods through the use of single-service gloves, bakery papers, tongs, or other utensils (590.003; FC 3-301)

Handwashing Sinks

The kitchen sink to be used for handwashing must be provided with a soap dispenser and disposable towels. However, the kitchen sink cannot be used for handwashing after toilet use; therefore, there must also be a sink in the toilet room. (590.002; FC 2-301.15 / 590.005; and FC 5-203.11)



Water Supply

Only potable water from a properly constructed on-site well or municipal water system can be used. Any Permitted Retail Residential Kitchen which has a private water supply must have the supply tested prior to permitting and at least annually thereafter and demonstrate through a written record of testing that the water supply is potable. The regulatory authority may require more frequent testing as deemed necessary. (590.005; FC 5-1)

Water Supply and Source

- Water Supply: Only potable water from a properly constructed on-site well or municipal water system can be used. Any Permitted Retail Residential Kitchen which has a private water supply must have the supply tested prior to permitting and at least annually thereafter and demonstrate through a written record of testing that the water supply is potable. The regulatory authority may require more frequent testing as deemed necessary. (590.005; FC 5-1)
- Wastewater: Sewage shall be disposed of through a system approved by the LBOH. (590.005; FC 5-403.11)

Manual Warewashing

For manual warewashing, a two compartment sink can be used if it is approved by the LBOH and the washing is done in limited batches within the requirements of 590.004; 4-301.12(D)(2)(a)-(c), FC 4-301.12, and FC 4-501.114.



Food Preparation

The kitchen sink can also be used for food preparation and warewashing provided it is cleaned and sanitized prior to and between uses.



Mechanical Warewashing

A domestic or home-style dishwasher may be used for Permitted Retail Residential Kitchens, provided that it is operated in accordance with the manufacturer's specifications and the dishwasher's internal temperature is a minimum of 150°F after the final rinse and drying cycle (590.004; FC 4-501.15).



Sanitation and Preventing Contamination

Food Contact Surfaces: All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of food products must be washed, rinsed, and sanitized before each use (590.004: FC 4-6, FC 4-7)

A close-up photograph of a squirrel with brown and grey fur, sitting on a wooden fence and eating a large red strawberry. The squirrel's mouth is open, and it is holding the strawberry with its paws. The background is a soft-focus green, suggesting an outdoor setting with foliage.

Pest Control

Rodents and Pests: All food preparation and food and equipment storage areas must be maintained free of rodents and insects (590.006; FC 6-501.111)

Kitchen Policies

- **Food Preparation:** Only the permittee, and individuals under the supervision of the permittee, may be engaged in the processing, preparing, packaging, or handling of food (590.002; FC 2-103.11(B),(C))
- **Living or Sleeping Quarters:** Rooms used as living or sleeping quarters in a private home may not be used for conducting cottage food operations. (590.006; FC 6-202.111)
- **Children:** No infants or small children are in the Permitted Retail Residential Kitchens during the preparation, packaging, or handling of food(590.002; FC 2-103.11(B))
- **Pets:** Pets must be excluded from the kitchen area during food preparation (590.006; 6- 501.115)
- **Other Activities:** No preparation, packaging, or handling of food may occur in the kitchen area concurrent with other domestic activities such as family meal preparation, clothes washing or ironing, or guest entertainment (590.002; FC 2-103.11(B) / 590.004; FC 4-803.13)



Standards Specific to Cottage Food Operations

The following minimum provisions for Residential Kitchens apply Cottage Food Operations only.

Non-TCS Foods and TCS Ingredients

- Only non-time/temperature control for safety (TCS) baked goods, jams, jellies, and other such foods may be produced at a Cottage Food Operation (590.001(C) “Cottage Food Product”).
 - It may be necessary to submit foods to a certified laboratory for analysis if there is a question that a food does not comply with the requirements of a non-TCS food.
- Ingredients from approved sources that are TCS foods, such as milk, cream, and eggs, may be used in food preparation for the public provided that the final product is not a TCS food (590.003; FC 3-201.11(A), FC 3-201.13, FC 3-202.13, FC 3- 202.14(A)&(B)).

Labeling

- A Cottage Food Operation may only sell cottage food products which are prepackaged with an ingredient label.
- The product does not need to be analyzed by a laboratory to obtain an official ingredient list, but all ingredients must be listed in descending order of predominance by weight. If a prepared item is used in the recipe, sub-ingredients must also be listed.
- For example, if you use soy sauce as an ingredient, listing soy sauce is not acceptable; soy sauce (wheat, soybeans, salt) is acceptable (590.003; FC 3-602).



Labeling Cont'd

- The label affixed or provided to the direct consumer must contain the following information (printed in English):
 - a. The name and address of the Cottage Food Operation;
 - b. The name of the Cottage Food Product;
 - c. The ingredients of the Cottage Food Product, in descending order of predominance by weight;
 - d. The net weight or net volume of the Cottage Food Product;
 - e. Allergen information as specified by federal labeling requirements. This includes identifying if any of the ingredients are made from one of the following food groups: milk, eggs, wheat, peanuts, soybeans, fish (including shellfish, crab, lobster or shrimp) and tree nuts (such as almonds, pecans or walnuts); AND
 - f. Nutritional labeling as specified by federal labeling requirements is required if any nutrient content claim, health claim, or other nutritional information is provided.



Minimum Requirements for Packaged-food Labeling

The Massachusetts Food Protection Program has prepared this "GUIDE" to help you develop a food label that complies with Massachusetts and federal labeling requirements.

Foods that Require Labeling

All packaged foods must be labeled in accordance with Massachusetts and federal labeling regulations, **including all foods intended for retail sale that are manufactured in licensed Residential Kitchens.**

Minimum Information Required on a Food Label

The Massachusetts and federal labeling regulations require the following information on every food label:

- ✓ Common or usual name of the product.
- ✓ All ingredients listed in descending order of predominance by weight, and a complete listing of sub-ingredients. Example of a sub-ingredient: Flour (bleached wheat flour, malt barley, flour, niacin, iron, potassium thiamine, thiamine mononitrate, riboflavin).
- ✓ Net weight of product. Dual declaration of net weight, if product weighs one pound or more. Example: 1 pound [16 oz.] y "Keep refrigerated" or "Keep frozen" (if product is perishable). y All perishable or semi-perishable foods require open-dating and recommended storage conditions printed, stamped, or embossed on the retail package.
- ✓ Once an open-date has been placed on a product, the date may not be altered.
- ✓ Name and address of the manufacturer, packer, or distributor. If the company is not listed in the current edition of the local telephone book under the name printed on the label, the street address must also be included on the label.
- ✓ Nutrition labeling.
- ✓ If a food product has a standard of identity, the food must meet the standard in order to be offered for sale under that product name.
- ✓ All FDA certified colors. Example: FD&C Yellow #5, FD&C Red #3

Massachusetts Open-dating Regulation

To comply with the Massachusetts open-dating labeling regulation, a "sell-by" or "best-if-used-by" date is required if the product has a recommended shelf life of fewer than 90 days.

Foods exempt from this requirement include: fresh meat, poultry, fish, fruits, and vegetables offered for sale unpackaged or in containers permitting sensory examination, and food products pre-packaged for retail sale with a net weight of less than 1½ ounces.

Foods may be sold after the open-date if the following conditions are met:

- ✓ It is wholesome and good quality.
- ✓ The product is segregated from food products that are not "past date," and the product is clearly marked as being "past date."

Health Claims

Health claims allowed by the FDA on a label are limited to the following relationships between diet and disease:

1. Calcium and reduced risk of osteoporosis.
2. Sodium and increased risk of hypertension.
3. Dietary saturated fat and cholesterol and increased risk of heart disease.
4. Dietary fat and increased risk of cancer.
5. Fiber-containing grain products, fruits, and vegetables and reduced risk of cancer.
6. Fruits/vegetables and reduced risk of cancer.

7. Fruits, vegetables, and grain products that contain fiber, particularly soluble fiber and reduced risk of heart disease.
8. Soluble fiber from certain foods and reduced risk of heart disease.
9. Folic acid and reduced risk of neural tube defects.
10. Soy protein & reduced risk of heart disease.
11. Stanols / sterols and reduced risk of heart disease.
12. Dietary non-carbogenic carbohydrate sweeteners and reduced risk of tooth decay.

Example

Massachusetts Minimum Requirements for Packaged-Food Labeling

WHEAT BREAD

Ingredients: Flour (bleached wheat flour, malt barley, flour, niacin, iron, potassium thiamine, thiamine mononitrate, riboflavin, folic acid), Sugar, Eggs, Water, Milk, Margarine (liquid soybean oil, partially hydrogenated soybean oil, water, salt, whey, soybean lecithin, vegetable mono & diglycerides, sodium benzoate as a preservative, potassium caseinate [a milk protein], artificially colored, FD&C Red #3, artificially flavored, vitamin A, dalmite added), Yeast, Salt

Contains: Wheat, Eggs, Milk, Soy

Sell by: 9/22/08

Net Weight: 1 pound (16 oz.)

The Bakery
412 Main Street
Anytown, MA 01234

Food Allergen Labeling

The Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) addresses the labeling of foods that contain any of the eight major food allergens.

FALCPA defines "major food allergens" as:

- | | | | |
|-------------|------------|---------|--------------|
| • Milk | • Fish | • Egg | • Crustacean |
| • Tree Nuts | • Soybeans | • Wheat | • Peanuts |

All ingredients that contain a major food allergen must be labeled, even if they are exempted from labeling by being a spice, flavoring, coloring or incidental additive.

FALCPA requires the labeling of food allergens in one of two ways.

1. In the ingredient statement, include the common or usual name of the food source, followed by the name of the allergen in parentheses. For example: Ingredients: Flour (**wheat**), whey (**milk**)
2. After the ingredient statement, place the word, "Contains:" followed by the name of the food allergen. For example: *Contains: Wheat, Milk*

FALCPA requires that:

- For Tree Nuts, the specific type of nut must be declared. Example: almonds, pecans, walnuts
- For Fish and Crustacean Shellfish, the species must be declared: Example: cod, salmon, lobster, shrimp

FALCPA's requirements apply to all packaged foods sold in the United States, including both domestically manufactured and imported foods.

Please Note: This is only a GUIDE. Since Regulations are amended from time to time, it is the responsibility of licensees to know and abide by all current labeling regulations. Always consult official Massachusetts and federal regulations to ensure labels are in full compliance.



Standards Specific to Bed & Breakfast Operations

The following minimum provisions for Residential Kitchens apply to Bed and Breakfast Operations only.



Food Temperatures

All food temperature requirements shall be met as contained in 105 CMR 590.000.

Bed and Breakfast Operations permitted to prepare TCS foods must have sufficient hot and cold holding equipment to maintain food at temperatures specified under 105 CMR 590.000. (590.010(E)(2)(d)(4))

- Specifications for Receiving - see 590.003; FC 3 -202.11(A)
- Cooking – see 590.003; FC 3-401
- Reheating – see 590.003; FC 3-403
- Temperature and Time Control – see 590.003; FC 3-501
- Cooling, Heating, and Holding Capacities – see 590.004; FC 4 -301.1

Other Helpful Resources



Food Protection Program:

Residential Kitchen Questions and Answers

The MA Department of Public Health's Food Protection Program works in conjunction with Local Boards of Health to ensure a safe and wholesome food supply in Massachusetts by promulgating and enforcing regulations related to food safety, conducting foodborne illness complaint investigations, and responding to other food emergency incidents.

Individuals who produce food in their home kitchen for sale to others may have to get a state or local permit and comply with certain rules and limitations. The following is provided to assist individuals in complying with state regulations related to the production and sale of food made in a kitchen in a residence. Depending on what foods are produced in the Residential Kitchen, and how those foods will be sold or distributed, a Residential Kitchen may require a Wholesale License or Permit, a Retail Permit, or both.

What is a Residential Kitchen?

A Residential Kitchen is a kitchen in a private home. Most Residential Kitchens, including those in a private home where individuals are cooking for their family or for charitable purposes, like a bake sale, do not require a permit. Certain food-based activities in Residential Kitchens require a license or permit either as a Retail Residential Kitchen or as a Wholesale Residential Kitchen. If a Retail permit is required, the Residential Kitchen must comply with certain requirements in the Retail Food Code (105 CMR 590). If a wholesale license is required, the Residential Kitchen must comply with certain requirements in the regulations for Good Manufacturing Practices (105 CMR 500).

What Activities in a Residential Kitchen Require a Permit?

- Anyone producing food for sale "direct to the consumer" is considered a **Retail Residential Kitchen** and is required to have a permit under 105 CMR 590.
 - "Direct to the consumer" includes events like farmers markets, craft fairs, and sales by internet or mail.
 - Anyone that makes food in a Residential Kitchen in Massachusetts that wants to sell in another state should confirm that they are in compliance with both Federal law and the state laws where they are doing business.
- Anyone producing food for sale at wholesale, for example, to a supermarket or restaurant that will re-sell to the ultimate consumer, is considered a **Wholesale Residential Kitchen** and is required to have a License or Permit under 105 CMR 500.

Who Issues the Required Permits?

- **Retail Residential Kitchen** operations are inspected and permitted by the local board of health in the city or town where the Residential Kitchen is located. 105 CMR 590.010 (F) (2) (a). They are permitted as "Cottage Food Operations."
- **Wholesale Residential Kitchen** operations may sell their products to retail stores, grocery stores, restaurants, etc., and are inspected and licensed by the Massachusetts Department of Public Health, Food Protection Program. 105 CMR 500.015 (B)

Products can be sold in other states, as long as that state grants approval. Their requirements may be more strict, so it's important to contact the state or local health department to be sure you can meet their requirements.

Plan Review for Residential Kitchens and Permit Application

A Food Establishment Permit must be obtained if food is prepared in or distributed from a Residential Kitchen for sale according to the **Massachusetts State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments 105 CMR 590.009 (2) – (3)**. At this time, your establishment does not have a Food Establishment Permit therefore any and all food production (if any) must cease. Prior to obtaining a Food Establishment Permit, the following must be provided to the Newton Health and Human Services Department:

1. **Who would you like to sell your product(s) to?**

- A. **The end user (a person who will consume the product) such as at a Farmer's Market or on the internet.**

If A, then the Newton Health and Human Services Department will be the Licensing Authority. Continue to Question 2.

Note: The use of brokers, wholesalers and warehouse by residential kitchen operators to store, sell and distribute foods prepared in residential kitchens is **prohibited**. Food products made in residential kitchens may not be sold-out-of state (FDA does not recognize these foods as originating from an approved source).

- B. **To a Food Establishment (an establishment who will sell the product to the end user) such as a Retail Market, Restaurant etc.**

If B, the Newton Health and Human Services Department will NOT be the Licensing Authority. Wholesale Operations (selling to retail stores, restaurants etc.) require a food processor license obtained from the State of MA Food Protection Program (FPP). Contact the State FPP at 617- 983-6770. Website: www.govinfoh/fpp

2. **Obtain Written Clearance** from the Newton Inspectional Service Department (ISD) – Zoning stating that the intended business meets the zoning requirements. Inspectional Services is located at City Hall in Newton, 1000 Commonwealth Avenue, 2nd floor. Phone number 617-796-1066.

- **Was permission Granted by ISD?** Yes No

✓ **If Yes, submit a copy with this Form. Continue to Question 3**

3. Only non-TCS (Time / Temperature Control for Safety Food) Foods (foods that do not require refrigeration and / or a variance) shall be prepared in or distributed from a Residential Kitchen for sale to the public. Items include but are not limited to Baked Goods such as Cakes, Cookies, Brownies, Candies, Jams & Jellies.

- **Submit intended list of Food(s) to be prepared or distributed:** _____

4. Food ingredients must be obtained from approved sources (Licensed Wholesale Establishments).

- **List sources of all ingredients used:** _____

Residential Kitchen Plan Review, Application and Guidelines (newtonma.gov)

5. Ingredients shall be stored separately from "private use" foods.

• Describe where the food and the ingredients will be stored: _____

Note: Only immediate family members residing in the household may prepare food for retail sale in a Residential Kitchen.

6. The kitchen sink may NOT be used for hand washing after toilet use but may be used for food preparation and ware washing provided it is cleaned and sanitized prior to and between use.

• Describe how sinks will be used within the household: _____

7. Describe the following:

• Where will soiled equipment will be stored prior to washing: _____

• How will Food-Contact surfaces be Cleaned and Sanitized: _____

- What type and brand name of Sanitizer will be used?

Chlorine: _____ Quaternary: _____

Note: A domestic or home-style dishwasher may be used provided the use of a Maximum Registering Thermometer or a Temp Thermolabel to determine the internal temperature is a **minimum of 150°F** after the final rinse and drying cycle. Records of this testing shall be **kept on file for 30 days**.

- If a domestic or home-style dishwasher is to be used, attach a picture of the Maximum Registering Thermometer or the Thermolabel results:

Attach Label or Picture Here

8. Pets may be present on the premises, but shall be kept out of food preparation and dining areas during food preparation and service to the public.

• List pets that live and / or visit the household: _____

• Describe how pets will be excluded (if applicable): _____

- ◆ The operator of the residential kitchen shall obtain certification as food safety manager by passing a test that is part of an accredited program recognized by the Department and obtain a certificate in Food Allergen Awareness Training. A directory of Massachusetts Food Protection Manager Certification Exam and Trainers can be found at: www.mass.gov/doh/tea





Residential Kitchen Plan Review, Application and Guidelines (newtonma.gov)

The following are Code Requirements and Recommendations	
3-301.11	Bare Hands: Hands shall be clean before donning clean gloves. When gloves have been worn for a period of time, sweat builds up that could contain bacteria. Remember, Bare Hand Contact is NOT ALLOWED on RTE (Ready-to-Eat) Foods.
2-303.11	Jewelry: Except for a plain ring such as a wedding band, while preparing food, food employees may not wear jewelry including medical information jewelry on their arms and hands.
3-304.15	Latex Gloves 105 CMR 590.004 (E): Natural rubber latex gloves have been reported to cause allergic reactions in some individuals who wear latex gloves during food preparation, and even in individuals eating food prepared by food employees wearing latex gloves. This information should be taken into consideration when deciding whether single-use gloves made of latex will be used during food preparation.
4-603.14	Cleaning: Equipment shall be effectively washed to remove or completely loosen soils by using a detergent containing wetting agents and emulsifiers. A container with soapy water should be available for proper cleaning. If the surface needs to be wiped to remove (scrub), use a paper towel (use once then dispose).
4-603.16	Rinse: Equipment shall be effectively washed to remove or completely loosen soils by using a detergent containing wetting agents and emulsifiers. Washed utensils and equipment shall be rinsed so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water. It is important to rinse off detergents, abrasive, and food debris after the wash step to avoid diluting or inactivating the sanitizer.
4-702.11	Sanitize: Sanitization is accomplished after the ware washing steps of cleaning and rinsing so that utensils and food-contact surfaces are sanitized before coming in contact with food and before use. Sanitizer is NOT a cleaner. The instructions on a sanitizer containers state to clean first with a detergent, rinse THEN sanitize. Always follow the instructions on the chemicals label. Sanitizers are not designed to remove allergen proteins. Read and following the Sanitizer manufacturer's label instructions for use and to obtain the proper contact time required to destroy organisms. It is important that surfaces be clean before being sanitized to allow the sanitizer to achieve its maximum benefit. Food contact surfaces such as prep tables, equipment and utensils must remain in the sanitizing solution for a period stated on the chemical manufacturer label in order to sufficiently destroy pathogens that may remain on surfaces after cleaning.
7-202.12	Using the Wrong Chemical: Poisonous or toxic materials shall be used according to the manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment. Read the label.
7-204.11	Sanitizer Concentrations and Test Papers: Two Types of Sanitizers – Bleach (Chlorine) or Quaternary. Bleach - There are Pre-Mixed Sanitizers however read the label and verify it is approved to be used on "Food Contact" surfaces. If a Bleach and water solution is to be used, mixed the concentration to the acceptable level on the label. Avoid mixing with hot water. Typically the concentration allowed is 50 – 200 ppm however 50 – 100 ppm is preferred. More is not better. More could be toxic. The contact time for Bleach is usually two (2) minutes. Use the test kit with the white test strips and purple color chart. Quaternary (QAC) Sanitizers – Some have a concentration range of 150 – 400 ppm or 200 ppm. Read the label on the chemical bottle and mix the solution according to the manufacturer's instructions. Quaternary Sanitizers typically have a one (1) minute contact time. Use the test kit with the orange test strips and green color chart. Mix the solution with warm water (65°F – 75°F). QAC test strips. It is HGH-EY recommended to use test strips that do not have to be held in the solution for a minute and a half (90 seconds). There are instant read strips and ten (10) second hold strips. Read the label on the test strips. Some test strips are temperature dependent which requires the water, when mixing the solution, to be 65°F - 75°F.
3-302.12	Label Food Containers: Working containers of food / ingredients that are removed from their original packages for use, such as oils, salt etc. shall be identified with the common name of the food. Label all containers, bins and squeeze bottles.
3-602.11	Food Labels 105 CMR 520 MA Labeling Requirements: Food products that are packaged shall be labeled to include the following information: The common name of the food, if made from more than two ingredients, a list of ingredients and sub-ingredients in descending order of predominance by weight, including a declaration of artificial colors, artificial flavors and chemical preservatives, the net quantity of contents, the name and place of business of the manufacturer, packer, or distributor, and the major food allergen.

3-305.11	Food Storage: Food shall be protected from contamination by storing the food in a clean, dry location; where it is not exposed to splash, dust, or other contamination; and at least six (6) inches above the floor.
3-305.14	Food Preparation: During preparation, unpackaged food shall be protected from environmental sources of contamination.
3-304.14	Wiping Cloths / Sanitizer Container Storage: Wiping cloths in-use for wiping counters and other equipment surfaces shall be held between uses in a chemical sanitizer solution at a concentration specified by the manufacturer (read the label). Containers of chemical sanitizing solution in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, and single-service items.
4-101.16	Sponges: Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces. The use of a scrubby pad without the attached sponge is acceptable.
4-901.11	Wiping Equipment: After cleaning and sanitizing, equipment and utensils shall be air-dried and may not be cloth dried except that utensils that have been air-dried may be polished with cloths that are maintained clean and dry.
4-903.11	Storage of equipment: Cleaned equipment and utensils, laundered linens, and single-service and single-use items (to go containers) shall be stored in a clean, dry location; where they are not exposed to splash, dust, or other contamination; and at least 6 inches above the floor. Clean equipment and utensils shall be stored in a self-draining position that allows air drying; and covered or inverted.
4-202.11	Food-Contact Surfaces Clean ability: Multiuse food-contact surfaces shall be smooth, free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections.

[Residential Kitchen Plan Review, Application and Guidelines \(newtonma.gov\)](http://newtonma.gov)



Regulatory Guidance for Best Practices



Cottage Foods

April 2012



www.afdo.org

AFDO posts helpful information on their website, including this document *Regulatory Guidance for Best Practices - Cottage Foods - April 2012*.

[Cottage food laws and guidance – Association of Food and Drug Officials \(afdo.org\)](http://www.afdo.org)

A Cottage food operation shall not operate as a food service establishment, retail food store, or wholesale food manufacturer. The following is a list of examples of foods allowed and foods prohibited from cottage food operations.

Approved food items:

- Loaf breads, rolls, biscuits
- Cakes including celebration cakes
- Pastries and cookies
- Candies and confections
- Fruit pies
- Jams, jellies and preserves
- Dried fruits
- Dry herbs, seasonings and mixtures
- Cereals, trail mixes and granola
- Coated or uncoated nuts
- Vinegar and flavored vinegars
- Popcorn, popcorn balls, cotton candy

Unapproved food items:

- Fresh or dried meat or meat products, including jerky
- Canned fruits, vegetables, vegetable butters, salsas etc.
- Fish or shellfish products
- Canned pickled products such as pickles and sauerkraut
- Raw seed sprouts
- Milk and dairy products including soft cheeses and yogurt
- Cut fresh fruits and/or vegetables
- Food products made with cooked vegetable products
- Garlic in oil mixtures
- Barbeque sauces, ketchups and/or mustards
- Focaccia-style breads with vegetables and/or cheese
- Bakery goods which require any type of refrigeration such as cream, custard or meringue pies, and cakes or pastries with cream cheese icings or fillings

Helpful Information / Inspection Checklists

- https://greenfield-ma.gov/files/Residential_Kitchen_Checklist.pdf
- <file:///C:/Users/prosskung/Dropbox/Documents/~CLIENTS%20ACTIVE/MEHA/Residential%20Kitchens%20Presentation%202021/UTAH%20CottageFoodEstablishmentChecklist.pdf>
- <https://www.bakecalc.com/blog/cottage-food-kitchen-inspection-guide/>
- <https://www.framinghamma.gov/DocumentCenter/View/38659/Cottage-Food-Operation-Permit-Residential-Kitchen-and-Review-Application?bidId=>

Photos

The photos, as seen in this presentation, with the exception of the loaf of bread on slide #38 (which came from Newton's website), were taken from Unsplash.com. I am giving credit for their use. These artists are all available for hire.

- Slide #1 – Kawin Harasai
- Slide #2 – Youjeen Cho (bread & jam)
- Slide #2 – Monica Grabkowska (strawberry jam)
- Slide #3 – Kari Shea
- Slide #13 – Shelley Pauls
- Slide #14 – Chrisitan Mackie
- Slide #15 & #39 – Brooke Lark
- Slide #18 – Art Rachen
- Slide #22 – Kelly Sikkema
- Slide #24 – Grace Kelly
- Slide #27 – Dane Deaner
- Slide #28 – Taelynn Christopher
- Slide #29 – Andrea Davis
- Slide #31 – Sandi Mager
- Slide #33 – Callum Skelton
- Slide #35 – Girl with red hat
- Slide #37 – Kery Tittley
- Slide #41 – Dilyara Garifulina
- Slide #45 – Toa Heftiba
- Slide #46 – Markus Spiske