

**CITY OF MARLBOROUGH**  
**BOARD OF HEALTH POSTING**

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Meeting Name: Board of Health Regular Monthly Meeting

Date: Tuesday, December 2, 2014

Time: 6:30 pm

Location: City Hall – 3<sup>rd</sup> Floor – Memorial Hall – 140 Main Street

2014 NOV 25 P 12:41

Agenda Items to be addressed:

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Call to Order

Roll Call

Administrative:

1. Minutes of Previous Monthly Meeting – November 5, 2014

New Business:

- 2A. Continued discussion of draft tobacco control regulations
- 2B. Ebola planning update
- 2C. Discussion of fee schedule
- 2D. Sully's First Edition Pub
- 2E. Safety Clean looking for guidance concerning amending the 1981 site assignment to include handling medical waste.

Old Business:

3. Master Wok - Update

Enclosed for Informational Purposes Only:

- 4A. Assistant Sanitarian Monthly Reports – November, 2014
- 4B. Public Health Nurse Monthly Reports – November, 2014
- 4D. Contract Food Inspectors Monthly Report – November, 2014

ADJOURNMENT

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

## **Marlborough Board of Health Meeting Minutes November 5, 2014**

There was a meeting of the Marlborough Board of Health on Tuesday, November 5, 2014, City Hall, 3rd floor, Memorial Hall.

Attending were: James Griffin, Chairman; John Curran, M.D., Vice Chair; Robin Williams, Member; Sam Wong, Interim Health Director; Steven Ward Interim Administrator/Supervisor; Nancy Cleary, Public Health Nurse; Linda Goodwin, Secretary. Michael Berry, Executive Aide to Mayor.

Call meeting to order

Roll Call

James Griffin, Chairman; John Curran, MD, Vice-Chair; Robin Williams, Member. All members present.

### Administrative:

Minutes of Previous Monthly meeting – October 7, 2014  
Motion made to approve and place on file. Motion carried 3-0

### New Business:

1: Review of draft tobacco control regulations.

Sam Wong met with DJ Wilson, Tobacco Control from Boston. Board reviewed these draft ETS regulations checklist as well regulations restricting the sale of tobacco products. These changes will be incorporated into draft regulations and will be discussed at next monthly meeting. A public hearing will be scheduled January 6, 2015 and all current license holders and anyone from the public that is interested in these regulations will be invited for input to discuss these new regulations. Motion made to discuss draft regulations at next monthly meeting scheduled for Tuesday, December 2, 2014, 6:30 pm. Motion carried 3-0

2: Ebola planning update  
Sam Wong updated Board members on communication from the State regarding Ebola guidelines.

3: Variance Request – 23 Red Spring Road – Septic System

Michael Sullivan, Engineer present with Steven Bruell owner of the property. We are seeking a variance for 68' from the pond located near the property line, 100' is required per Title V, unless variance granted from local BOH. Applicant must meet maximum feasible compliance, which Board believes the 68' will meet this compliance. After reviewing plans submitted by applicant variance request was approved. Motion carried 3-0

4: Department Management Discussion

Motion #1

Motion made to remove all administrative authority and supervision of the Marlborough Board of Health/Health Department, its employees and its operations from Robert L. Landry, effective immediately, with the understanding that Mr. Landry will remain in the employ of the City of Marlborough as Sanitarian/Health Agent, working on behalf of the Board of Health and under the direction of an administrator to be designated by the Board of Health. Motion carried 3-0

Motion #2

Motion made that the Board of Health appoint Steven J. Ward as the Administrator/Supervisor of the Board of Health/Health Department on an interim basis, replacing Dr. Sam Wong of the Town of Hudson, effective upon the successful completion of his pre-employment screening process by the City of Marlborough Personnel Department. Mr. Ward shall have full authority to act on behalf of the Board as the Administrator with responsibility to include employee supervision, department operations and policy implementation. Motion carried 3-0

Old Business:

5: Master Wok – Update

Sam Wong: Because of Conflict of Interest with Food Contractor, and me, Deirdre O'Connor performed this surprise food inspection.

Master wok has been working with a consultant, restaurant was found to be in compliance with a good inspection result.

Board discussed inspection, and inspection report. In the future Board would like to have Consultant hire a sub-contractor for all future inspections. Motion carried 3-0

Informational Purposes Only:

- 6: Assistant Sanitarian Monthly Report – October, 2014  
Motion made to accept and place on file. Motion carried 3-0
- 7: Public Health Nurse Monthly Report – October, 2014  
Motion made to accept and place on file. Motion carried 3-0
- 8: Contract Food Inspector's Monthly Report – October, 2014  
Motion made to accept and place on file. Motion carried 3-0

Next monthly meeting scheduled for Tuesday, December 2, 2014 – 6:30 pm  
Public Hearing for Tobacco Regulations Tuesday, January 6, 2014 – 6:30 pm

Motion made to adjourn: 8:50 pm

Respectfully submitted,

James Griffin, Chairman

## **Regulation of the Marlborough Board of Health Restricting the Sale of Tobacco Products**

### **A. Statement of Purpose:**

Whereas there exists conclusive evidence that tobacco smoking causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat<sup>1</sup>;

Whereas among the 15.7% of students nationwide who currently smoke cigarettes and were less than 18 years old, 14.1% usually obtained them by buying them in a store (i.e. convenience store, supermarket, or discount store) or gas station<sup>2</sup>;

Whereas nationally in 2009, 72% of high school smokers and 66% of middle school smokers were not asked to show proof of age when purchasing cigarettes<sup>3</sup>;

Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin<sup>4</sup> and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development<sup>5</sup>;

Whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major public health problem;

Whereas research has shown that raising the minimum legal drinking age to 21 has reduced alcohol consumption among youth and protected drinkers from long-term negative outcomes in adulthood, including alcohol and other drug dependence<sup>6</sup>;

More than 80 percent of all adult smokers begin smoking before the age of 18; and more than 90 percent do so before leaving their teens<sup>7</sup>

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<sup>1</sup> Center for Disease Control and Prevention, (CDC) (2012), *Health Effects of Cigarette Smoking Fact Sheet*. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/effects\\_cig\\_smoking/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm).

<sup>2</sup> CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (Morbidity and Mortality Weekly Report (MMWR) 2010: 59, 11 (No. SS-55)) Retrieved from: <http://www.cdc.gov/HealthyYouth/yrbs/index.htm>.

<sup>3</sup> CDC Office of Smoking and Health, National *Youth Tobacco Survey, 2009*. Analysis by the American Lung Association (ALA), Research and Program Services Division using SPSS software, as reported in "Trends in Tobacco Use", ALA Research and Program Services, Epidemiology and Statistics Unit, July 2011. Retrieved from: [www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf](http://www.lung.org/finding-cures/our-research/trend-reports/Tobacco-Trend-Report.pdf).

<sup>4</sup> CDC (2010), *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease*. Retrieved from: [http://www.cdc.gov/tobacco/data\\_statistics/sgr/2010/](http://www.cdc.gov/tobacco/data_statistics/sgr/2010/).

<sup>5</sup> U.S. Department of Health and Human Services. 2014. *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 122. Retrieved from: <http://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

<sup>6</sup> DeJong W, Blanchette J 2013. "Case Closed: Research Evidence on the Positive Public Health Impact of the Age 21 Minimum Legal Drinking Age in the United States." *J. Stud. Alcohol Drugs, Supplement 17*, 108 – 115, 2014.

<sup>7</sup> SAMHSA, Calculated based on data in 2011 National Survey on Drug Use and Health.

Whereas many non-cigarette tobacco products, such as cigars and cigarillos, can be sold in a single “dose;” enjoy a relatively low tax as compared to cigarettes; are available in fruit, candy and alcohol flavors; and are popular among youth<sup>8</sup>;

Whereas sales of flavored little cigars increased by 23% between 2008 and 2010<sup>9</sup>; and the top three most popular cigar brands among African-American youth aged 12-17 are the flavored and low-cost Black & Mild, White Owl, and Swisher Sweets;<sup>10</sup>

Whereas the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,<sup>11</sup> largely because these flavored products were marketed to youth and young adults,<sup>12</sup> and younger smokers were more likely to have tried these products than older smokers;<sup>13</sup>

Whereas although the manufacture and distribution of flavored cigarettes (excluding menthol) is banned by federal law,<sup>14</sup> neither federal nor Massachusetts laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic devices and the nicotine solutions used in these devices;

Whereas the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products are considered to be “starter” products that help establish smoking habits that can lead to long-term addiction;<sup>15</sup>

Whereas data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle and high school smokers report using flavored little cigars or flavored cigarettes;<sup>16</sup>

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<sup>8</sup> CDC (2009), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2010: 59, 12, note 5). Retrieved from: <http://www.cdc.gov/mmwr/pdf/ss/ss5905.pdf>.

<sup>9</sup> Delnevo, C., Flavored Little Cigars memo, September 21, 2011, from Neilson market scanner data.

<sup>10</sup> SAMSHA, Analysis of data from the 2011 *National Survey on Drug Use and Health*.

<sup>11</sup> 21 U.S.C. § 387g.

<sup>12</sup> Carpenter CM, Wayne GF, Pauly JL, et al. 2005. “New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies.” *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. “Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands.” *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. “Sweet and Spicy Flavours: New Brands for Minorities and Youth.” *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>13</sup> U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>14</sup> 21 U.S.C. § 387g

<sup>15</sup> Food and Drug Administration. 2011. *Fact Sheet: Flavored Tobacco Products*, [www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf](http://www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf); U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>16</sup> King BA, Tynan MA, Dube SR, et al. 2013. “Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students.” *Journal of Adolescent Health*. [Article in press], [www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract](http://www.jahonline.org/article/S1054-139X%2813%2900415-1/abstract).

Whereas the U.S. Centers for Disease Control and Prevention has reported that electronic cigarette use among middle and high school students doubled from 2011 to 2012;<sup>17</sup>

Whereas nicotine solutions, which are consumed via electronic or battery-operated delivery smoking devices such as electronic cigarettes, are sold in dozens of flavors that appeal to youth, such as cotton candy and bubble gum;<sup>18</sup>

Whereas in a lab analysis conducted by the FDA, electronic cigarette cartridges that were labeled as containing no nicotine actually had low levels of nicotine present in all cartridges tested, except for one<sup>19</sup>;

Whereas according to the CDC's youth risk behavior surveillance system, the percentage of high school students in Massachusetts who reported the use of cigars within the past 30 days went from 11.8% in 2003 to 14.3% in 2011<sup>20</sup>;

Whereas survey results show that more youth report that they have smoked a cigar product when it is mentioned by name, than report that they smoked a cigar in general, indicating that cigar use among youth is underreported<sup>21</sup>;

Whereas in Massachusetts, youth use of all other tobacco products, including cigars, rose from 13.3% in 2003 to 17.6% in 2009, and was higher than the rate of current cigarette use (16%) for the first time in history<sup>22</sup>;

Whereas research shows that increased cigar prices significantly decreased the probability of male adolescent cigar use and a 10% increase in cigar prices would reduce use by 3.4%<sup>23</sup>;

Whereas nicotine levels in cigars are generally much higher than nicotine levels in cigarettes<sup>24</sup>;

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<sup>17</sup> Centers for Disease Control & Prevention. 2013. "Electronic Cigarette Use Among Middle and High School Students—United States, 2011–2012," *Morbidity and Mortality Weekly Report (MMWR)* 62(35): 729–730.

<sup>18</sup> Cameron JM, Howell DN, White JR, et al. 2013. "Variable and Potentially Fatal Amounts of Nicotine in E-cigarette Nicotine Solutions." *Tobacco Control*. [Electronic publication ahead of print], <http://tobaccocontrol.bmj.com/content/early/2013/02/12/tobaccocontrol-2012-050604.full>; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 549, [www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf](http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf).

<sup>19</sup> Food and Drug Administration, *Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA*, available at: <http://www.fda.gov/newsevents/publichealthfocus/ucm173146.htm>.

<sup>20</sup> CDC (2011) *Youth Risk Behavior, Surveillance Summaries* (MMWR 2012: 87 (No SS-61)). Retrieved from: [www.cdc.gov](http://www.cdc.gov); and CDC (2003), *Youth Risk Behavior, Surveillance Summaries* (MMWR 2004: 53, 54 (No. SS-02)).

<sup>21</sup> 2010 Boston Youth Risk Behavior Study. 16.5% of Boston youth responded that they had ever smoked a fruit or candy flavored cigar, cigarillo or little cigar, while 24.1% reported ever smoking a "Black and Mild" Cigar.

<sup>22</sup> Commonwealth of Massachusetts, Data Brief, Trends in Youth Tobacco Use in Massachusetts, 1993-2009. Retrieved from: [http://www.mass.gov/Eeohhs2/docs/dph/tobacco\\_control/adolescent\\_tobacco\\_use\\_youth\\_trends\\_1993\\_2009.pdf](http://www.mass.gov/Eeohhs2/docs/dph/tobacco_control/adolescent_tobacco_use_youth_trends_1993_2009.pdf).

<sup>23</sup> Ringel, J., Wasserman, J., & Andreyeva, T. (2005) *Effects of Public Policy on Adolescents' Cigar Use: Evidence from the National Youth Tobacco Survey*. *American Journal of Public Health*, 95(6), 995-998, doi: 10.2105/AJPH.2003.030411 and cited in *Cigar, Cigarillo and Little Cigar Use among Canadian Youth: Are We Underestimating the Magnitude of this Problem?*, *J. Prim. P.* 2011, Aug; 32(3-4):161-70. Retrieved from: [www.ncbi.nlm.nih.gov/pubmed/21809109](http://www.ncbi.nlm.nih.gov/pubmed/21809109).

Whereas Non-Residential Roll-Your-Own (RYO) machines located in retail stores enable retailers to sell cigarettes without paying the excise taxes that are imposed on conventionally manufactured cigarettes. High excise taxes encourage adult smokers to quit<sup>25</sup> and high prices deter youth from starting.<sup>26</sup> Inexpensive cigarettes, like those produced from RYO machines, promote the use of tobacco, resulting in a negative impact on public health and increased health care costs, and severely undercut the evidence-based public health benefit of imposing high excise taxes on tobacco;

Whereas it is estimated that 90% of what is being sold as pipe tobacco is actually being used in Non-Residential RYO machines. Pipe tobacco shipments went from 11.5 million pounds in 2009 to 22.4 million pounds in 2010. Traditional RYO tobacco shipments dropped from 11.2 million pounds to 5.8 million pounds; and cigarette shipments dropped from 308.6 billion sticks to 292.7 billion sticks according to the December 2010 statistical report released by the U.S. Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB)<sup>27</sup>;

Whereas the sale of tobacco products is incompatible with the mission of health care institutions because these products are detrimental to the public health and their presence in health care institutions undermine efforts to educate patients on the safe and effective use of medication, including cessation medication;

Whereas educational institutions sell tobacco products to a younger population, who is particularly at risk for becoming smokers and such sale of tobacco products is incompatible with the mission of educational institutions that educate a younger population about social, environmental and health risks and harms;

Whereas the Massachusetts Supreme Judicial Court has held that “. . . [t]he right to engage in business must yield to the paramount right of government to protect the public health by any rational means”<sup>28</sup>.

Now, therefore it is the intention of the Marlborough Board of Health to regulate the sale of tobacco products.

#### **B. Authority:**

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

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<sup>24</sup> National Institute of Health (NIH), National Cancer Institute (NCI) (2010). *Cigar Smoking and Cancer*. Retrieved from: <http://www.cancer.gov/cancertopics/factsheet/Tobacco/cigars>.

<sup>25</sup> Eriksen, M., Mackay, J., Ross, H. (2012). *The Tobacco Atlas*, Fourth Edition, American Cancer Society, Chapter 29, p. 80. Retrieved from: [www.TobaccoAtlas.org](http://www.TobaccoAtlas.org).

<sup>26</sup> Chaloupka, F. J. & Liccardo Pacula, R., NIH, NCI (2001). *The Impact of Price on Youth Tobacco Use, Smoking and Tobacco Control Monograph 14: Changing Adolescent Smoking Prevalence* 193 – 200. Retrieved from: <http://dcccps.nih.gov/TCRB/monographs/>.

<sup>27</sup> TTB (2011). *Statistical Report – Tobacco* (2011) (TTB S 5210-12-2010). Retrieved from: <http://www.ttb.gov/statistics/2010/201012tobacco.pdf>.

<sup>28</sup> Druzik et al v. Board of Health of Haverhill, 324 Mass.129 (1949).



### **C. Definitions:**

For the purpose of this regulation, the following words shall have the following meanings:

**Blunt Wrap:** Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

**Business Agent:** An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

**Cigar:** Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

**Characterizing flavor:** A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

**Component part:** Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

**Constituent:** Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

**Distinguishable:** Perceivable by either the sense of smell or taste.

**Educational Institution:** Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

**Employee:** Any individual who performs services for an employer.

**Employer:** Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

**Flavored tobacco product:** Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

**Health Care Institution:** An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices, optician/optometrist offices and dentist offices.

**Minimum Legal Sales Age (MLSA):** The age an individual must be before that individual can be sold a tobacco product in the municipality.

**Non-Residential Roll-Your-Own (RYO) Machine:** A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

**Permit Holder:** Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a Tobacco Product Sales Permit pursuant to these regulations, or his or her business agent.

**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 establishment, business or retail store.

**Retail Tobacco Store:** An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, but not for resale, tobacco products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Marlborough Board of Health.

**Self-Service Display:** Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

**Schools:** Public or private elementary or secondary schools.

**Smoke Constituent:** Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

**Smoking Bar:** An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars".

**Tobacco Product:** Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other

means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products, as defined herein.

#### **D. Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited:**

1. No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under the minimum legal sales age; or not being the individual's parent or legal guardian, give tobacco products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Marlborough is twenty-one (21).

##### 2. Required Signage

- a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Marlborough Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than 4 feet or greater than 9 feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Marlborough Board of Health that discloses current referral information about smoking cessation.
- c. The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post a sign stating that "The sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age of 21 years is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

3. Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older. Verification is required for any person under the age of 27.

4. All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

**E. Tobacco Product Sales Permit:**

1. No person shall sell or otherwise distribute tobacco products, as defined herein, within the City of Marlborough without first obtaining a Tobacco Product Sales Permit issued annually by the Marlborough Board of Health. Only owners of establishments with a permanent, non-mobile location in Marlborough are eligible to apply for a permit and sell tobacco products at the specified location in Marlborough.

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Marlborough regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.

3. Each applicant who sells tobacco products is required to provide proof of a current Tobacco Retailer License issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued.

4. The fee for a Tobacco Product Sales Permit shall be determined by the Marlborough Board of Health annually.

5. A separate permit is required for each retail establishment selling tobacco products, as defined herein.

6. Each Tobacco Product Sales Permit shall be displayed at the retail establishment in a conspicuous place.

7. No Tobacco Product Sales Permit holder shall allow any employee to sell tobacco products, as defined herein, until such employee reads this regulation and federal and state laws regarding the sale of tobacco products and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state and federal laws.

8. A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

9. Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

10. A Tobacco Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding permit suspensions.

11. Maximum Number of Tobacco Product Sales Permits.

At any given time, there shall be no more than thirty-eight (38) Tobacco Product Sales Permits issued in Marlborough. No permit renewal will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within thirty (30) days of expiration will be treated

as a first-time permit applicant. Applicants who purchase a business that holds a current Tobacco Product Sales Permit at the time of the sale of said business may apply, within sixty (60) days of such sale, for the permit held by the Seller if the Buyer intends to sell tobacco products, as defined herein. New applicants for permits who are applying at a time when the maximum number of permits have been issued will be placed on a waiting list and will be eligible to apply for a permit on a “first-come, first-served” basis as issued permits are either not renewed or are returned to the Board of Health.

12. A Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within 500 feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant’s business premises. Applicants who purchase an existing business that holds a current Tobacco Product Sales Permit at the time of the sale of said business may apply, within sixty (60) days of such sale, for the permit held by the Seller if the Buyer intends to sell tobacco products, as defined herein.

**F. Cigar Sales Regulated:**

1. No person shall sell or distribute or cause to be sold or distributed a single cigar.
2. No person shall sell or distribute or cause to be sold or distributed any original package of two or more cigars, unless such package is priced for retail sale at \$5.00 or more.
3. This Section shall not apply to:
  - a. The sale or distribution of any single cigar having a retail price of two dollars and fifty cents (\$2.50) or more.
  - b. A person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Marlborough.
4. The Marlborough Board of Health may adjust from time to time the amounts specified in this Section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

**G. Sale of Flavored Tobacco Products Prohibited:**

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

**H. Prohibition of the Sale of Blunt Wraps:**

No person or entity shall sell or distribute blunt wraps in Marlborough.

**I. Free Distribution and Coupon Redemption:**

No person shall distribute, or cause to be distributed, any free samples of tobacco products, as defined herein. No means, instruments or devices that allow for the redemption of any tobacco products, as defined herein, for free or cigarettes at a price below the minimum retail price determined by the Massachusetts Department of Revenue shall be accepted by any permit holder.

**J. Out-of-Package Sales:**

The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

**K. Self-Service Displays:**

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

**L. Vending Machines:**

All vending machines containing tobacco products, as defined herein, are prohibited.

**M. Non-Residential Roll-Your-Own Machines:**

All Non-Residential Roll-Your-Own machines are prohibited.

**N. Prohibition of the Sale of Tobacco Products by Health Care Institutions:**

No health care institution located in Marlborough shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist or drug store, shall sell or cause to be sold tobacco products, as defined herein.

**O. Prohibition of the Sale of Tobacco Products by Educational Institutions:**

No educational institution located in Marlborough shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

**P. Violations:**

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:
  - a. In the case of a first violation, a fine of one hundred dollars (\$100.00).
  - b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco Product Sales Permit shall be suspended for seven (7) consecutive business days.
  - c. In the case of three or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the Tobacco Product Sales Permit shall be suspended for thirty (30) consecutive business days.
  - d. In the case of further violations or repeated, egregious violations of this regulation within a thirty-six (36) month period, the Board of Health may revoke a Tobacco Product Sales Permit.
2. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.
3. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for thirty (30) consecutive business days.
4. The Marlborough Board of Health shall provide notice of the intent to suspend or revoke a Tobacco Product Sales Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Marlborough Board of Health shall suspend or revoke the Tobacco Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the Tobacco Product Sales Permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

**Q. Non-Criminal Disposition:**

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

**R. Enforcement:**

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

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Marlborough Board of Health or its designated agent(s) and the Board shall investigate.

**S. 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.

**T. Effective Date:**

This regulation shall take effect on \_\_\_\_\_, 2015.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_



**CITY OF MARLBOROUGH  
REGULATION PROHIBITING SMOKING  
IN WORKPLACES and PUBLIC PLACES**

**SECTION 1**

The purpose of this regulation is to protect the health of the employees and general public in the City of Marlborough.

**SECTION 2**

This regulation is promulgated under the authority granted to the Marlborough Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that “[b]oards of health may make reasonable health regulations.” It is also promulgated pursuant to Massachusetts General Laws Chapter 270, Section 22(j) which states in part that “[n]othing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or . . . health . . . regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth . . . or political subdivision of the commonwealth.”

**SECTION 3**

As used in this regulation, the following words shall have the following meanings, unless the context requires otherwise:

Compensation: money, gratuity, privilege, or benefit received from an employer in return for work performed or services rendered.

E-Cigarette: Any electronic device, not approved by the United States Food and Drug Administration, composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of any liquid or solid nicotine. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Employee: an individual or person who performs a service for compensation for an employer at the employer’s workplace, including a contract employee, temporary employee, and independent contractor who performs a service in the employer’s workplace for more than a *de minimus* amount of time.

Employer: an individual, person, partnership, association, corporation, trust, organization, school, college, university or other educational institution or other legal entity, whether public, quasi-public, private, or non-profit which uses the services of one (1) or more employees at one (1) or more workplaces, at any one (1) time, including the City of Marlborough.

Enclosed: a space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.

Membership association (also known as a private club): A not-for-profit entity that has been established and operates for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to: (i) a society, organization or association of a fraternal nature that operates under the lodge system, and having one or more affiliated chapters or branches incorporated in any state; or (ii) a corporation organized under chapter 180; or (iii) an established religious place of worship or instruction in the commonwealth whose real or personal property is exempt from taxation; or (iv) a veterans' organization incorporated or chartered by Congress of the United States, or otherwise, having one or more affiliated chapters by the Congress of the United States, or otherwise, having one or more affiliated chapters or branches incorporated in any state. Except for a religious place of worship or instruction, an entity shall not be a membership association for the purpose of this definition, unless individual membership containing not less than full membership costs and benefits is required for all members of the association for a period of not less than 90 days.

Outdoor space: an outdoor area, open to the air at all times and cannot be enclosed by a wall or side covering.

Retail tobacco store: an establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the age of 18 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Marlborough Board of Health.

Smoking (or smoke): the lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

Smoking bar: an establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars".

Workplace: an indoor area, structure or facility or a portion thereof, at which one (1) or more employees perform a service for compensation for an employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space.

Terms not defined herein shall be defined as set forth in M.G.L. Ch. 270, §22 and/or 105 CMR 661. To the extent any of the definitions herein conflict with M.G.L. Ch. 270, §22 and 105 CMR 661, the definition contained in this regulation shall control.

#### **SECTION 4: SMOKING PROHIBITED**

- (a) It shall be the responsibility of the employer to provide a smoke free environment for all employees working in an enclosed workplace as well as those workplaces listed in subsection (c) below.
- (b) Smoking is hereby prohibited in Marlborough in accordance with M.G.L. Ch. 270, §22 (commonly known as the “Smoke-free Workplace Law”).
- (c) Pursuant to M.G.L. Ch. 270, §22(j) smoking is also hereby prohibited in:
  - 1. Smoking Bars
  - 2. Retail Tobacco Stores
  - 3. Municipal-owned Parks, Playgrounds, Athletic Fields, Beaches
  - 4. Municipal Buildings including property under control of said buildings
  - 5. Nursing Homes
  - 6. Membership Associations
  - 7. Hotels, Motels, B&B rooms
  - 8. Public Transportation, Bus and Taxi Waiting Areas
  - 9. Outdoor Space where food and/or beverages are served to the public by employees of restaurants, bars and taverns
- (a) The use of e-cigarettes is prohibited wherever smoking is prohibited per M.G.L. Ch. 270, §22 and Section 4(c) of this regulation.

#### **SECTION 5: ENFORCEMENT**

- (1) An owner, manager, or other person in control of a building, vehicle or vessel who violates this section, in a manner other than by smoking in a place where smoking is prohibited, shall be punished by a fine of:
  - a. \$100 for the first violation;
  - b. \$200 for a second violation occurring within two (2) years of the date of the first offense; and
  - c. \$300 for a third or subsequent violation occurring within two (2) years of the second violation.
- (2) Each calendar day on which a violation occurs shall be considered a separate offense.
- (3) This regulation shall be enforced by the Board of Health and its designees.

- (4) Violations of Section 4(b) shall be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law without an enabling ordinance or by-law. The disposition of fines assessed shall be subject to Section 188 of Chapter 111.
- (5) Violations of Sections 4(a), 4(c) and 4(d) may be disposed of by a civil penalty using the non-criminal method of disposition procedures contained in Section 21D of Chapter 40 of Massachusetts General Law.
- (6) If an owner, manager or other person in control of a building, vehicle or vessel violates this regulation repeatedly, demonstrating egregious noncompliance as defined by regulation of the Department of Public Health, the Board of Health may revoke or suspend any Board of Health-issued permit to operate and shall send notice of the revocation or suspension to the Department of Public Health.
- (7) Any person may register a complaint to initiate an investigation and enforcement with the Board of Health, the local inspection department or the equivalent.

**SECTION 6: SEVERABILITY**

If any paragraph or provision of this regulation is found to be illegal or against public policy or unconstitutional, it shall not effect the legality of any remaining paragraphs or provisions.

**SECTION 7: CONFLICT WITH OTHER LAWS OR REGULATIONS**

Notwithstanding the provisions of Section 4 of this regulation nothing in this regulation shall be deemed to amend or repeal applicable fire, health or other regulations so as to permit smoking in areas where it is prohibited by such fire health or other regulations.

**SECTION 8: EFFECTIVE DATE**

This regulation shall be effective as of \_\_\_\_\_, 2015.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_



Steven J. Ward, M.P.H., C.H.O.  
Director of Public Health

TOWN OF WATERTOWN  
Board of Health

Administration Building  
149 Main Street  
Watertown, MA 02472  
Phone: 617-972-6446  
Fax: 617-972-6499  
www.watertown-ma.gov

**Certified**  
**Return Receipt Requested**  
**# 7010 3090 0001 1876 9127**

**FILE**

August 7, 2012

Bhushan Kumar  
Lazziz Restaurant  
51 Main Street  
Watertown, MA 02472

**RE: Lazziz Restaurant, 51 Main Street, Watertown, MA  
Food Code Violations**

Dear Bhushan Kumar:

On July 20, 2012, Kristel Bennett, Chief Environmental Health Officer, and Tanya Baker, Sanitarian, for the Watertown Health Department conducted comprehensive inspection at the above referenced establishment. A re-inspection of this Food Establishment was conducted on August 2, 2012 by Tanya Baker, Sanitarian for the Watertown Health Department. During these inspections the following violations of Chapter X of the State Sanitary Code 105 CMR 590.000 were noted to be outstanding and in need of correction, violations are listed below.

**VIOLATIONS**

**Basement**

- 1. Food products stored in walk-in refrigerator are not labeled with a common name or expiration date. Provide labels for all food products, all labels must contain the name of the food and an expiration date. Maintain compliance with Food Code 3-302.12.**

Food Code 3-302.12 states in part that "Working containers holding food or food ingredients that are removed from their original packages for use in the Food Establishment, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with a common name of the food except that containers holding food that can be readily and unmistakably recognized such as dry pasta need not be identified."

**Buffet Line**

- 2. Raita, containing house made yogurt, in buffet line has a temperature of 51°F. Maintain all potentially hazardous food at 41°F and below or 140° and above. Maintain temperatures in accordance with Food Code 3-501.16.**

Lazziz Restaurant  
51 Main Street

8/7/2012

Food Code 3-501.16 states in part that "Potentially Hazardous Food shall be maintained: (B) At 5°C (41°F) or less, (C) At 7°C (45°F) or between 7°C (45°F) and 5°C (41°F) in existing refrigeration equipment that is not capable of maintain the food at 5°C (41°F) or less if : (1) The Equipment is in place and in use in the Food Establishment; and (2) Within 5 years of the Regulatory Authority's adoption of this Code, the Equipment is upgraded or replaced to maintain Food at a temperature of 5°C (41°F) or less."

You are hereby ordered to correct **Violation 1** within **twenty four (24) hours** and **Violations 2 & 3** within **seven (7) days** of receipt of this letter. Failure to do so may result in a suspension of your Permit to Operate a Food Establishment, as specified in 105 CMR 590.014(B).

Any person who shall fail to comply with any order issued pursuant to the provisions of the State Sanitary Code, Chapter X 105 CMR 590.019(B) shall upon conviction be fined not more than \$100 for the first offense and not more than \$500 for a subsequent offense. Each day's failure to comply with the order shall constitute a separate offense.

Under the regulation cited above, you are entitled to a hearing in this matter. Written request for such a hearing must be received by this office within 10 days of receipt of this letter, as specified in 105 CMR 590.015(B).

In addition, you may be fined up to \$300 per violation of the Board of Health Regulations pursuant to MGL Chapter 40, § 21D (Non-Criminal Disposition). These fines are as follows:

\$25.00	For First Offense
\$50.00	For Second Offense
\$100.00	For Third Offense
\$300.00	For Fourth Offense, and Any Further Offenses

Each day of a continuing violation shall constitute a separate offense and shall be subject to a separate penalty.

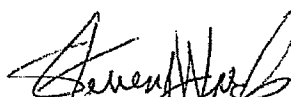
**Note: Each subsequent re-inspection after an order letter has a fee of \$ 75.00.**

If you have any questions concerning this matter, you may contact this office at (617) 972-6446.

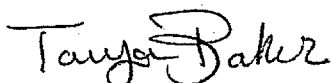
Sincerely,



Kristel Bennett  
Chief Environmental Health Officer



Steven J. Ward, M.P.H., C.H.O.  
Director of Public Health



Tanya Baker  
Sanitarian

Cc: File  
Tanya Baker, Sanitarian

Lazziz Restaurant  
51 Main Street

8/7/2012

**NOTICE OF SURCHARGE**

DATE: 08/07/2012

TO: Lazziz Restaurant  
Bhushan Kumar  
51 Main Street  
Watertown, MA 02472

RE: Sanitary Code Violations / Lazziz Restaurant

Due to non-compliance, the fee for this inspection is Seventy Five (\$75.00) dollars. Please make the check payable to the Town of Watertown.

Failure to pay this fee within fourteen (14) days of receipt of this letter will result in an administrative hearing before the Board of Health, and could lead to a suspended license and/or **Doubling** in permit fees.

Lazziz Restaurant  
51 Main Street.

8/7/2012

**TO: LAZZIZ RESTAURANT**  
**FROM: WATERTOWN HEALTH DEPARTMENT**  
**RE: SURCHARGE FOR ADDITIONAL REINSPECTIONS**

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For the majority of permitted establishments, two routine inspections annually are mandated and sufficient to ensure compliance with all State and local regulations. For some establishments however, two annual inspections are inadequate and additional visits by the Health Department's inspectors are found to be necessary. In some instances, a number of re-inspections are necessary to assure the correction of critical violations and/or previously cited violations. Accordingly, additional comprehensive inspections may be needed to maintain an acceptable level of compliance. In this situation, the Health Department and/or Health Agent may issue order letters, schedule and conduct administrative hearings and take action to suspend or revoke permits.

It is both fair and equitable that establishments which, by reason of negligence and/or non-compliance, require expenditure of additional inspection time by the Health Department should pay the additional costs involved in providing this work.

Accordingly, any re-inspection subsequent to the issuance of an order letter carries a Seventy-five (\$75) dollar surcharge fee. Failure to pay the fee within fourteen (14) days of receipt of the order letter will result in an administrative hearing before the Board of Health, and could lead to a suspended license and/or **doubling** in permit fees.

No permit renewals will be issued until all outstanding fees have been paid in full.



**Watertown Health Department**  
**FOOD ESTABLISHMENT INSPECTION REPORT**

149 Main Street  
 Watertown, MA 02472  
 Tel: (617) 972-6446  
 Fax: (617) 972-6499

Each violation checked requires an explanation on the narrative page(s) and a citation of specific provision(s) violated.

Name <u>Lazziz Restaurant</u>	Date <u>7/20/12</u>	Type of Operation(s) <input checked="" type="checkbox"/> Food Service <input type="checkbox"/> Retail <input type="checkbox"/> Residential Kitchen <input type="checkbox"/> Mobile <input type="checkbox"/> Temporary <input type="checkbox"/> Caterer <input type="checkbox"/> Bed & Breakfast	Type of Inspection <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Re-inspection Previous Inspection Date: <u>8/2/12</u> <input type="checkbox"/> Pre-operation <input type="checkbox"/> Suspect Illness <input type="checkbox"/> General Complaint <input type="checkbox"/> HACCP <input type="checkbox"/> Other
Address <u>51 Main Street</u>	Risk Level <u>M</u>	Permit No.	
Telephone <u>(617)-926-0009</u>	HACCP Y/N <u>(N)</u>		
Owner <u>Bhushan Kumar</u>	Time In: <u>12:50</u>		
Person in Charge (PIC) <u>Karan Sandhir</u>	Time Out: <u>2:00</u>		
Inspector <u>Kristel Bennett/Tanya Baker</u>			

**Violations Related to Foodborne Illness Interventions and Risk Factors (Red Items)**  
 Violations marked may pose an imminent health hazard and require immediate corrective action as determined by the Board of Health.

**Non-compliance with:**  
 Anti-choking 590.009(E)  Tobacco 590.009(F)   
 Grease Trap  Tobacco Local

Certified Food Handler ~~Sandhir~~ Sunil

**FOOD PROTECTION MANAGEMENT**

1. PIC Assigned / Knowledgeable / Duties

**EMPLOYEE HEALTH**

2. Reporting of Diseases by Food Employees and PIC  
 3. Personnel with Infections Restricted / Excluded

**FOOD FROM APPROVED SOURCE**

4. Food and Water from Approved Source  
 5. Receiving / Condition  
 6. Tags / Records / Accuracy of Ingredient Statements  
 7. Conformance with Approved Procedures / HACCP Plans

**PROTECTION FROM CONTAMINATION**

8. Separation / Segregation / Protection  
 9. Food Contact Surfaces Cleaning and Sanitizing  
 10. Proper Adequate Handwashing  
 11. Good Hygienic Practices  
 12. Prevention of Contamination from Hands  
 13. Handwash Facilities

**Violations Related to Good Retail Practices (Blue Items)**

Critical (C) violations marked must be corrected immediately or within 10 days as determined by the Board of Health. Non-critical (N) violations must be corrected immediately or within 90 days as determined by the Board of Health.

C	N	
		23. Management and Personnel (FC-2)(590.003)
<u>BV</u>		24. Food and Food Protection (FC-3)(590.004)
<u>BV</u>		25. Equipment and Utensils (FC-4)(590.005)
		26. Water, Plumbing and Waste (FC-5)(590.006)
		27. Physical Facility (FC-6)(590.007)
		28. Poisonous or Toxic Materials (FC-7)(590.008)
		29. Special Requirements (590.009)
<u>RV</u>		30. Other

**PROTECTION FROM CHEMICALS**

14. Approved Food or Color Additives  
 15. Toxic Chemicals

**TIME/TEMPERATURE CONTROLS (Potentially Hazardous Foods)**

16. Cooking Temperatures  
 17. Reheating  
 18. Cooling  
 19. Hot and Cold Holding  
 20. Time as a Public Health Control

**REQUIREMENTS FOR HIGHLY SUSCEPTIBLE POPULATIONS (HSP)**

21. Food and Food Preparation for HSP

**CONSUMER ADVISORY**

22. Posting of Consumer Advisories

Number of Violated Provisions Related To Foodborne Illnesses Interventions and Risk Factors (Red Items 1-22):

7

**Official Order for Correction:** Based on an inspection today, the items checked indicate violations of 105 CMR 590.000/1999 Food Code. This report, when signed by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within 10 days of receipt of this order.

Inspected by: <u>Kristel Bennett/Tanya Baker</u>	Print: <u>Kristel Bennett/Tanya Baker</u>
Received By PIC: <u>Karan Sandhir</u>	Print: <u>KARAN SANDHIR</u> Page <u>1</u> of <u>3</u> Pages

Establishment Name: Lazziz Restaurant

Date: 7/20/12 Page: 2 of 3

Address: 51 Main Street

Item No.	Code Reference	C - Critical Item R-Red Item	DESCRIPTION OF VIOLATION / PLAN OF CORRECTION <small>Please Print Clearly</small>	Date Verified
9	4-501.114	(C)	Kitchen No sanitizer in use prep fridge	Quat 200 ppm OK 7/20/12 KB
25	4-602.13	(N/C)	Delfield Fridge gaskets are soiled with food accumulation and material similar in characteristic to mildew.	OK 7/21/12 KB
25	4-602.13	(N/C)	Two door fridge gaskets are soiled with food accumulation and material similar in characteristic to mildew.	OK 8/2/12 KB
8	3-302.11	(C)	Basement Food Prep Area observed chick peas soaking in water on table, product uncovered.	OK 7/27/12 KB
24	3-302.12	(N/C)	Bulk items are not labeled with common name.	OK 7/27/12 KB
24	3-307.11	(N/C)	Food containers used as scoops for bulk products. Discontinue use of containers, use scoops for bulk products.	OK 7/27/12 KB
25	4-602.13	(N/C)	Ice Machine - dust accumulation on fan cover.	OK 7/27/12 KB
9	4-501.114	(C)	Warewash Area 3 bay sink not set-up, no sanitizer observed.	OK 7/27/12 KB
8	3-302.11	(C)	Walk-In Fridges Food products not covered - uncovered raw chicken and sausage.	OK 7/27/12 KB
24	3-302.12	(N/C)	Food products not labeled with common name or date marked.	OK 7/27/12 KB

Discussion With Person In Charge:

Basement warewash area - no handwash sink. a bay adjacent to three bay is used for mop water disposal and vegetable preparation.

All violations abated, Date  
Inspector Verified  
Person In Charge Verified

Discussed with Person In Charge all violations and corrective actions for abatement. Correct all critical violations immediately. Correct all non-critical violations within seven (7) days. Correct all violations in entirety and maintain sanitary conditions. Train and supervise staff. Failure to correct all violations in entirety and maintain may result in administrative actions and/or fines.

Person In Charge Signature: ~~Karen Sandhu~~ Karen Sandhu

Inspector Signature: ~~Tanya Baker~~ Tanya Baker

Establishment Name: **Lazziz Restaurant**

Date: **7/20/12** Page: **3** of **3**

Address: **51 Main Street**

Item No.	Code Reference	C - Critical Item R-Red Item	DESCRIPTION OF VIOLATION / PLAN OF CORRECTION <small>Please Print Clearly</small>	Date Verified
8	3-701.11	(C)	<del>Walk-In Fridge</del> observed 2 1 gallon milk - whole milk past expiration date and stored on floor. Discard milk.	OK 7/17/12 KB
9	4-601.11	(C)	<del>Basement Prep Area</del> Can opener soiled with dried food accumulation.	OK 7/17/12 KB
19	3-501.14	(C)	<del>Buffet Line</del> Rice pudding 66°F and Raita - contains house made yogurt 57°F. Maintain all potentially hazardous foods at 41°F & below or 140°F & above. <small>- ice is present in the trays. Temp of Raita 57°F</small>	NC 7/17/12 KB
30	8-304.11	(NIC)	<del>Administrative</del> Food permit, certified food protection manager, and Food Allergen certification is not posted in a conspicuous location to customers/patrons. <small>NC 7/27/12 KB</small>	OK 7/17/12 KB
30	Town of Waterford Grease Trap Reg	NC	Grease trap serviced 6/17/12. Service grease trap on a monthly basis. <small>Serviced on 7/21/12</small>	OK 7/17/12 KB

Discussion With Person In Charge: ~~Violations observed were abated~~  
 Grease trap service 6/17/12  
 Prep area - no violations observed.  
 No signs of recent activity in establishment.

Discussed with Person In Charge all violations and corrective actions for abatement. Correct all critical violations immediately. Correct all non-critical violations within seven (7) days. Correct all violations in entirety and maintain sanitary conditions. Train and supervise staff. Failure to correct all violations in entirety and maintain may result in administrative actions and/or fines.

Person In Charge Signature: *Karan Somshin* Inspector Signature: *Justin Smith / Taylor Baker*

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Bhushan Kumar  
Lazziz Restaurant  
51 main street  
Watertown, MA  
02472

2. Article Number

(Transfer from service label)

7010 3090 0001 1876 9127

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

Kumar S

 Agent Addressee

B. Received by (Printed Name)

Nash Sender

C. Date of Delivery

8/10/17

D. Is delivery address different from item 1?  YesIf YES, enter delivery address below:  No

Re Insp: 8-20

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

 Yes

**Establishment:** Sully's First Edition  
**Establishment Address:** 11B Florence Street  
**Owner:** Richard Sullivan

### **Health Department Administrative Hearing – December 2, 2014**

Administrative hearing for non compliance with order letter issued on October 14, 2014 (installation of 3 compartment sink) and repeat violations.

---

**09/05/14** During a comprehensive inspection completed by Maureen Lee it was observed sinks in the kitchen is limited to a hand sink and a single bay sink contained in the soiled side of the dish machine table. Mr. Sullivan was instructed to contact the Marlborough Health Department for discussion of the installation of a 3 compartment sink.

The establishment was debited with the following critical violations: Consumer Advisory incorrect statement and format, non compliance with allergen poster and certification, no choke save certification, hand sink not stocked, food contact surfaces/soil contact, slicer with dried on debris, dish machine rinse below 180F, chicken observed without temperature controls 64F, Walk-in refrigerator phf's 51F- 53F.

### **10 Critical Violations, 12 non critical violations**

**09/25/14** During the re-inspection Mr. Sullivan had not contacted the Health Department for discussion of the installation of the 3 compartment sink. Mr. Sullivan was told a 3 compartment sink was required and upon return to the office I would discuss the situation with Dr. Sam Wong; Interim Director.

The re-inspection resulted in the following repeat violations: Consumer Advisory, choke save certification, allergen certification, slicer with dried on debris, dish rinse below 180F.

### **5 critical violations, 5 non critical violations remaining, no contact with Health Department for installation of 3 compartments sink**

**09/26/14** Dr. Sam Wong met with Mr. Sullivan on site to discuss the installation of the dish machine and other outstanding violations. At that time Mr. Sullivan committed to installing the 3 compartment sink within 2 weeks (10/10/14) and would correct all violations.

**10/14/14** A re-inspection was completed by Maureen Lee to verify outstanding violations were corrected. The re-inspection resulted in continued repeat violations, and 3 compartment sink was not installed. An order letter was issued requiring the following:

1. Written drawing showing the location of the 3 compartment sink
2. Manufacture specification sheet
3. Installation date not to exceed 30 days form the date of the letter.

The re-inspection resulted in the following repeat violations: Consumer Advisory, allergen certification, dish rinse below 180F.

**3 critical violations, 3 non critical violations remaining, 3 compartment sink not installed as agreed to with Dr. Wong.**

**10/20/14** A re-inspection was completed by Maureen Lee to verify outstanding violations were corrected. *The Health Department office had not received written information as outlined in the order letter dated 10/14/14.* Ms. Lee reviewed the contents of the order letter and reminded Mr. Sullivan of his compliance responsibilities. Mr. Sullivan identified the location of the 3 compartment sink. Ms. Lee stated she was concerned about the work flow and the opportunity of cross contamination. Mr. Sullivan was again reminded a drawing was required showing the location of the equipment so the work flow could be determined.

The re-inspection resulted in the following repeat violations: Consumer Advisory, allergen certification, dish rinse below 180F.

**3 critical violations, 3 non critical violations remaining**

**11/17/14** A re-inspection was completed by Ms. Lee to verify outstanding violations were corrected. 3 compartment sink on site, observed in box. Mr. Sullivan provided purchasing information from the order book. During the re-inspection Ms. Lee was able to identify sink has 3 small compartments and drain board on each side. Drawing showing location not submitted, installation date not provided.

**2 non critical violations remaining, 3 compartment sink not installed.**



# CITY OF MARLBOROUGH

## BOARD OF HEALTH

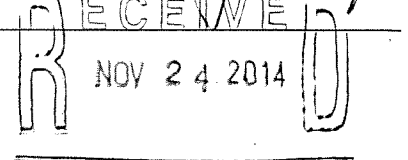
140 Main Street, Lower Level  
Marlborough, Massachusetts 01752  
Facsimile (508) 460-3625 TDD (508) 460-3610

James Griffin, Chairman  
John Curran, MD, Member  
Robin Williams, Member  
Tel (508) 460-3751

November 24, 2014  
Richard Sullivan  
Sully's First Edition  
11B Florence Street  
Marlborough, MA 02472

Delivered by: *James Griffin*

Date:



RE: Administrative Hearing - Food Code Violations  
Sully's First Edition, 11B Florence Street

Dear Mr. Sullivan:

As a result of failure to comply with the Health Department order to correct letter dated, October 14, 2014, you are hereby required to attend an Administrative Hearing before the Board of Health for a suspension or revocation of your Permit to Operate a Food Service Establishment. This hearing will be held on Tuesday, December 2, 2014 at 6:30 PM in Memorial Hall (Third Floor), City Hall, 140 Main Street, Marlborough, MA.

At this hearing you will be given the opportunity to show cause why the Board of Health should not pursue possible suspension or revocation of your Permit to Operate a Food Service Establishment for noncompliance with the State Sanitary Code, 105 CMR 590.000.

If you have any questions concerning this matter, you may contact this office at (508) 460-3751.

Sincerely,

Steven J. Ward, M.P.H., C.H.O.  
Interim Director of Public Health

Cc: File  
BOH Members

October 14, 2014

Mr. Richard Sullivan  
Sully's First Edition Pub  
11-b Florence Street  
Marlborough, MA. 01752

**RE: Order to Correct / Installation of 3 Compartment Sink.**

**Hand Delivered by Maureen Lee / 10/14/14**

**Received By:** Richard Sullivan **Date:** 10-14-14

Dear Mr. Sullivan,

During a routine inspection of your establishment on September 5, 2014 and a re-inspection on September 25, 2014 it has been identified your establishment is operating without an approved method to clean and sanitize food contact surfaces.

In accordance with the Massachusetts State Sanitary Code 105 CMR 590.000 and the 1999 Federal Food Code section 4.301.12 a sink with at least 3 compartments shall be provided for manually washing, rinsing and sanitizing equipment and utensils. In addition, drain boards or approved alternative, are required as a staging area for soiled equipment and air drying sanitized equipment.

***You are hereby ordered to bring your establishment into compliance with 4.301.12 by installing the required three compartment sink with drain boards, or approved alternative method within 30 days from the date of this order.***

***In addition, you are also ordered to continue to use disposable articles to serve customers until you are operating in compliance with the Food Code. Remaining limited food contact surfaces are to be cleaned and sanitized using immersion with available bar sinks.***

**4.301.12 Manual Ware Washing, Sink Compartment Requirements**

(a) A sink with at least three compartments shall be provided for manually washing, rinsing and sanitizing equipment and utensils. (b) Sink compartments shall be large enough to accommodate the immersion of the largest equipment and utensil. If equipment is too large for the ware washing sink, a ware washing machine or alternative method as specified in section (c) of this section shall be used.

Please be aware the installation of the three compartment sink requires prior approval by the Health Department. Therefore prior to installation you must submit the following in writing to the Marlborough Health Department:



- A floor plan of the kitchen area identifying the proposed location of the sink and the grease trap.
- A manufacture specification sheet for the equipment being installed
- Installation completion date not to exceed the written order.

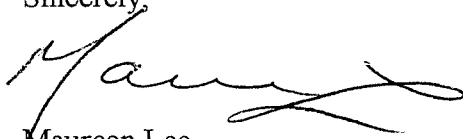
Please be sure to contact the Marlborough Building Department at the City Hall to obtain the necessary permits for the installation of the sink.

Should you be aggrieved by this order you have a right to request a hearing before the Marlborough Board of Health. Your request must be in writing and received by the Marlborough Health Department within seven (7) days of receipt of this notice. At the hearing you will be given the opportunity to be heard and present witnesses and documentary evidence as to why this order should be modified or withdrawn.

If you have questions regarding your compliance responsibilities as a permitted food establishment operator, unofficial versions of the 1999 Federal Food Code and 105CMR 590.000 can be viewed at \_\_\_\_\_ or official versions may be obtained from the State House Bookstore at \_\_\_\_\_

Should you have any questions I may be reached at the Marlborough Health Department office.

Sincerely,



Maureen Lee,  
Marlborough Health Agent

C.c file  
Building Department



# Massachusetts Department of Public Health

Division of Food and Drugs

## FOOD ESTABLISHMENT INSPECTION REPORT

Marlborough Health Department  
 140 Main Street  
 Marlborough, MA 01752  
 Tel. (508) 460-3751 Fax (508) 460-3625

Name: Sully's First Edition	Date: 09/05/2014	<b>Type of Operation</b> <input checked="" type="checkbox"/> Food Service <input type="checkbox"/> Retail <input type="checkbox"/> Residential Kitchen <input type="checkbox"/> Mobile <input type="checkbox"/> Temporary <input type="checkbox"/> Caterer <input type="checkbox"/> Bed & Breakfast	<b>Type of Inspection</b> <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Re-Inspection Previous Inspection Date: <input type="checkbox"/> Pre-operation <input type="checkbox"/> Suspect Illness <input type="checkbox"/> General Complaint <input type="checkbox"/> HACCP <input type="checkbox"/> Other:
Address: 11B Florence Street	Risk Level: 0		
Telephone: 485-6754	Time: 4pm	Permit No:	
Owner: Rick Sullivan			
Person in Charge(PIC): Joe McCaffery			
Inspector: M. Lee			

Each violation checked requires an explanation on the narrative page(s) and a citation of specific provision(s) violated

### Violations Related to Foodborne Illness Interventions and Risk Factors.

Violations marked may pose an imminent health hazard and require immediate corrective action as determined by the Board of Health.

Non-compliance with:

- Anti-Choking 590.009(E)
- Tobacco 590.009(F)
- Allergen Awareness 590.009(G)

#### FOOD PROTECTION MANAGEMENT

- 1. PIC Assigned / Knowledgeable / Duties

#### EMPLOYEE HEALTH

- 2. Reporting of Diseases by Food Employee and PIC
- 3. Personnel with Infections Restricted/Excluded

#### FOOD FROM APPROVED SOURCE

- 4. Food and Water from Approved Source
- 5. Receiving/Condition
- 6. Tags/Records/Accuracy of Ingredient Statements
- 7. Conformance with Approved Procedures/HACCP Plans

#### PROTECTION FROM CONTAMINATION

- 8. Separation/ Segregation/ Protection
- 9. Food Contact Surfaces Cleaning and Sanitizing
- 10. Proper Adequate Handwashing
- 11. Good Hygienic Practices

- 12. Prevention of Contamination from Hands
- 13. Handwash Facilities

#### PROTECTION FROM CHEMICALS

- 14. Approved Food or Color Additive
- 15. Toxic Chemicals

#### TIME/TEMPERATURE CONTROLS(Potentially Hazardous Foods)

- 16. Cooling Temperatures
- 17. Reheating
- 18. Cooling
- 19. Hot and Cold Holding
- 20. Time As a Public Health Control

#### REQUIREMENT FOR HIGHLY SUSCEPTIBLE POPULATIONS

- 21. Food and Food Preparation for HSP

#### CONSUMER ADVISORY

- 22. Posting of Consumer Advisories

### Violations Related to Good Retail Practices

Critical (C) violations marked must be corrected immediately or within 10 days as determined by the Board of Health.

Non-critical(N) violations must be corrected immediately or within 90 days as determined by the Board of Health.

C	N		
		23. Management and Personnel	(FC-2)(590.003)
	✓	24. Food and Food Protection	(FC-3)(590.004)
	6✓	25. Equipment and Utensils	(FC-4)(590.005)
	✓	26. Water, Plumbing and Waste	(FC-5)(590.006)
✓	5✓	27. Physical Facility	(FC-6)(590.007)
		28. Poisonous or Toxic Materials	(FC-7)(590.008)
		29. Special Requirements	(590.009)
		30. Other	

Number of Violated Provisions Related To Foodborne Illness Interventions and Risk Factors (Items 1-22):

10

**Official Order for Correction:** Based on an inspection today, the items checked indicate violations of 105 CMR 590.000/federal Food Code. This report, when signed below by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within 10 days of receipt of this order.

**DATE OF RE-INSPECTION: 09/19/2014 or After**

Inspector: 	PIC: 	Page 1 of 5 Pages
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Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
22	3.603.11	C	OBSERVATION: Consumer advisory / incomplete on menu. Undercooked foods not identified and statement incomplete. **Provided sample during inspection. REGULATION: If animal foods such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another RTE food, the permit holder shall inform consumers by brochures, deli case or menu advisories. Label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form. Refer to code for required format and menu statement.	
1	590.009(G)	(1)C	OBSERVATION: Provide allergen poster, hang in employee area. REGULATION: Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall provide a DPH approved poster prominently posted in an employee work area, no smaller than 8.5 by 11 inches, relating to major food allergens. (G) Food Allergy Awareness Requirements. Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall comply with the following requirements. no smaller than 8.5 by 11 inches.	
27	6.301.11	C	OBSERVATION: Kitchen / hand sink / provide soap REGULATION: Each handwashing lavatory, or group of two adjacent, shall be provided with a supply of hand cleaning liquid, powder or bar soap.	
1	590.009(G)	C	OBSERVATION: Provide choke save certification for on duty staff. REGULATION: Establishments with 25 seats or more shall provide an employee trained in the Heimlich maneuver on the premises while food is being served.	
8	3.304.11	C	OBSERVATION: Kitchen / cooks line/ observed line cook wipe knife on shirt and place in cutting board. REGULATION: Food shall only contact equipment and utensils that are clean and sanitized	
27	6.501.12	NC	OBSERVATION: Wall/ kitchen area / accumulation observed. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	
19	3.501.16(A)	(B)C	OBSERVATION: Observed pan of raw chicken on counter without temperature controls. 64F. *Product discarded by PIC. REGULATION: PHF's shall be held at 140F or above or 41F and below.	

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
9	4.601.11	C	OBSERVATION: Slicer observed with dried on food debris. REGULATION: Food contact surfaces shall be clean to touch and sight and free of accumulation.	
25	4.803.11	NC	OBSERVATION: Slicer / observed with soiled apron and cloth on unit. REGULATION: Soiled linens shall be kept in clean non-absorbent receptacles and transported to prevent contamination of food and food contact surfaces.	
24	3.501.13	NC	OBSERVATION: Observed bucket of raw chicken defrosting in standing water. REGULATION: PHF's shall be defrosted using an approved method such as under refrigeration, submerged under running water at 70F, part of the cooking process, in the microwave followed by immediately cooking.	
27	6.501.12	NC	OBSERVATION: Dish washing area / odor consistent with grease/ grease trap. PIC to identify source of odor and correct. Observed accumulation around grease trap. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	
		Discussion	Walk-in/ discussion with owner/ Unit in poor condition / discussed capitol improvements to maintain equipment and facilities in compliance. Pictures taken during inspection.	
25	4.202.16	NC	OBSERVATION: Walk-in door / edges not sealed. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	
27	6.201.11	NC	OBSERVATION: Walk-in floor /exposed concrete with low areas, observed pooled liquids. REGULATION: Walls, floors and ceilings shall be designed, constructed and installed so they are smooth and easily cleanable.	
25	4.202.16	NC	OBSERVATION: Walk-in surfaces and shelving, wood, soiled. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	
25	4.302.14	NC	OBSERVATION: Test strips not available. Provide, use as required. REGULATION: A test kit or other device is available to accurately measure the concentration of sanitizing solution.	

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
19	3.501.16(A)	(B)C	OBSERVATION: Walk-in , sliced turkey 51F, cooked turkey breast 51F, rice pilaf 53F, raw egg 52F, Appears unit not maintaining temperature. **Discard foods 41F and below for 4 or more hours. REGULATION: PHF's shall be held at 140F or above or 41F and below.	
27	6.202.15(A)	NC	OBSERVATION: Beer storage / outer door / seal along bottom. REGULATION: Outer openings of a food establishment shall be protected against entry of insects and rodents by filling, closing holes, tight fitting windows and solid tight fitting, self closing doors.	
25	4.602.13	NC	OBSERVATION: Kitchen surfaces observed with accumulation. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	
27	6.501.12	NC	OBSERVATION: Kitchen / accumulation observed. Clean with attention to areas under equipment. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	
25	4.602.13	NC	OBSERVATION: Walk-in / air curtain observed in poor condition (torn) and with accumulation. Provide air curtain clean and in good condition. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	
		Discussion	establishment / without 3 bay sink. Contact the Health Department for your compliance responsibilities.	
9	4.501.112	C	OBSERVATION: Dish machine / not in working order. Repair unit. Provide approved alternative method to clean and sanitize food contact surfaces until machine repaired. Observed gauge at first run 78F, at second run machine overflowed. REGULATION: The fresh hot water temperature may not be more than 194F at the manifold and not less than 180F.	
1	2.102.11(B)	C	OBSERVATION: Provide allergen certification for on site staff working as PIC. REGULATION: The certified PIC ensures employees are properly trained in food allergy awareness as it relates to their assigned duties.	
		Discussion	Owner states staff member has FPM certificate. Post current certificate for on site staff member in viewable area.	

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	During inspection contacted BOH office to discuss temperatures in walk-in. Ms. O'Connor and Dr. Wong on site. Temperature abused foods discarded, Staff will use freezer to maintain batches of foods until walk-in repaired. Small batches will be defrosted using approved method and stored in in line unit. Owner will adjust menu offerings as needed. Understands PHF's are to be stored/held at 41F or below.	
			Correct critical violations immediately; non-criticals within 14 days. Correct all violations in entirety and maintain. Train and supervise staff. Failure to correct all violations and maintain corrections may result in administrative action and or fines. The text in this report is an unofficial version of the state regulations. Official version of the state regulations may be found at <a href="http://www.mass.gov/dph/fpp">www.mass.gov/dph/fpp</a> or by contacting the State House Book Store.	
		Discussion	Provide repair slips to health department for walk-in refrigeration unit and dish machine.	

Discussion With Person in Charge:

Corrective Action Required:  No  Yes

- Voluntary Compliance
- Employee Restriction/Exclusion
- Re-inspection Scheduled
- Emergency Suspension
- Embargo
- Emergency Closure
- Voluntary Disposal
- Other

# Massachusetts Department of Public Health

Division of Food and Drugs

## FOOD ESTABLISHMENT INSPECTION REPORT

Marlborough Health Department

140 Main Street

Marlborough, MA 01752

Tel. (508) 460-3751 Fax (508) 460-3625

Name: Sully's First Edition@	Date: 09/25/2014	Type of Operation <input type="checkbox"/> Food Service <input type="checkbox"/> Retail <input type="checkbox"/> Residential Kitchen <input type="checkbox"/> Mobile <input type="checkbox"/> Temporary <input type="checkbox"/> Caterer <input type="checkbox"/> Bed & Breakfast Permit No:	Type of Inspection <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Re-Inspection Previous Inspection Date: 09/05/2014 <input type="checkbox"/> Pre-operation <input type="checkbox"/> Suspect Illness <input type="checkbox"/> General Complaint <input type="checkbox"/> HACCP <input type="checkbox"/> Other:
Address: 11B Florence Street	Risk Level: 0		
Telephone: 485-6754			
Owner: Rick Sullivan			
Person in Charge(PIC): Joe McCaffrey	Time: 1:pm		
Inspector:			

Each violation checked requires an explanation on the narrative page(s) and a citation of specific provision(s) violated

### Violations Related to Foodborne Illness Interventions and Risk Factors.

Violations marked may pose an imminent health hazard and require immediate corrective action as determined by the Board of Health.

Non-compliance with:

- Anti-Choking 590.009(E)
- Tobacco 590.009(F)
- Allergen Awareness 590.009(G)

#### FOOD PROTECTION MANAGEMENT

- 1. PIC Assigned / Knowledgeable / Duties

#### EMPLOYEE HEALTH

- 2. Reporting of Diseases by Food Employee and PIC
- 3. Personnel with Infections Restricted/Excluded

#### FOOD FROM APPROVED SOURCE

- 4. Food and Water from Approved Source
- 5. Receiving/Condition
- 6. Tags/Records/Accuracy of Ingredient Statements
- 7. Conformance with Approved Procedures/HACCP Plans

#### PROTECTION FROM CONTAMINATION

- 8. Separation/ Segregation/ Protection
- 9. Food Contact Surfaces Cleaning and Sanitizing
- 10. Proper Adequate Handwashing
- 11. Good Hygienic Practices

### Violations Related to Good Retail Practices

Critical (C) violations marked must be corrected immediately or within 10 days as determined by the Board of Health.

Non-critical(N) violations must be corrected immediately or within 90 days as determined by the Board of Health.

C	N		
		23. Management and Personnel	(FC-2)(590.003)
		24. Food and Food Protection	(FC-3)(590.004)
	2	25. Equipment and Utensils	(FC-4)(590.005)
		26. Water, Plumbing and Waste	(FC-5)(590.006)
	3	27. Physical Facility	(FC-6)(590.007)
		28. Poisonous or Toxic Materials	(FC-7)(590.008)
		29. Special Requirements	(590.009)
		30. Other	

- 12. Prevention of Contamination from Hands
- 13. Handwash Facilities

#### PROTECTION FROM CHEMICALS

- 14. Approved Food or Color Additive
- 15. Toxic Chemicals

#### TIME/TEMPERATURE CONTROLS(Potentially Hazardous Foods)

- 16. Cooling Temperatures
- 17. Reheating
- 18. Cooling
- 19. Hot and Cold Holding
- 20. Time As a Public Health Control

#### REQUIREMENT FOR HIGHLY SUSCEPTIBLE POPULATIONS

- 21. Food and Food Preparation for HSP

#### CONSUMER ADVISORY



- 22. Posting of Consumer Advisories

Number of Violated Provisions Related To Foodborne Illness Interventions and Risk Factors (Items 1-22):

5

Official Order for Correction: Based on an inspection today, the items checked indicate violations of 105 CMR 590.000/federal Food Code. This report, when signed below by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within 10 days of receipt of this order.

DATE OF RE-INSPECTION: 9/27/2014 or After

Inspector: 	PIC: 	Page 1 of 6 Pages
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Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
22	3.603.11	C	OBSERVATION: Consumer advisory / incomplete on menu. Undercooked foods not identified and statement incomplete. **Provided sample during inspection. REGULATION: If animal foods such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another RTE food, the permit holder shall inform consumers by brochures, deli case or menu advisories. Label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form. Refer to code for required format and menu statement.	
1	590.009(G)	(1) Verified	OBSERVATION: Provide allergen poster, hang in employee area. REGULATION: Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall provide a DPH approved poster prominently posted in an employee work area, no smaller than 8.5 by 11 inches, relating to major food allergens. (G) Food Allergy Awareness Requirements. Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall comply with the following requirements. no smaller than 8.5 by 11 inches.	09/25/2014
27	6.301.11	Verified	OBSERVATION: Kitchen / hand sink / provide soap REGULATION: Each handwashing lavatory, or group of two adjacent, shall be provided with a supply of hand cleaning liquid, powder or bar soap.	09/25/2014
1	590.009(G)	C	OBSERVATION: Provide choke save certification for on duty staff. REGULATION: Establishments with 25 seats or more shall provide an employee trained in the Heimlich maneuver on the premises while food is being served.	
8	3.304.11	Verified	OBSERVATION: Kitchen / cooks line/ observed line cook wipe knife on shirt and place in cutting board. REGULATION: Food shall only contact equipment and utensils that are clean and sanitized	09/25/2014
27	6.501.12	Verified	OBSERVATION: Wall/ kitchen area / accumulation observed. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
19	3.501.16(A)	(B) Verified	OBSERVATION: Observed pan of raw chicken on counter without temperature controls. 64F. *Product discarded by PIC. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
9	4.601.11	C	OBSERVATION: Slicer observed with dried on food debris. REGULATION: Food contact surfaces shall be clean to touch and sight and free of accumulation.	
25	4.803.11	Verified	OBSERVATION: Slicer / observed with soiled apron and cloth on unit. REGULATION: Soiled linens shall be kept in clean non-absorbent receptacles and transported to prevent contamination of food and food contact surfaces.	09/25/2014
24	3.501.13	Verified	OBSERVATION: Observed bucket of raw chicken defrosting in standing water. REGULATION: PHF's shall be defrosted using an approved method such as under refrigeration, submerged under running water at 70F, part of the cooking process, in the microwave followed by immediately cooking.	09/25/2014
27	6.501.12	Verified	OBSERVATION: Dish washing area / odor consistent with grease/ grease trap. PIC to identify source of odor and correct. Observed accumulation around grease trap. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
		Discussion	Walk-in/ discussion with owner/ Unit in poor condition / discussed capitol improvements to maintain equipment and facilities in compliance. Pictures taken during inspection.	
25	4.202.16	NC	OBSERVATION: Walk-in door / edges not sealed. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	
27	6.201.11	NC	OBSERVATION: Walk-in floor /exposed concrete with low areas, observed pooled liquids. REGULATION: Walls, floors and ceilings shall be designed, constructed and installed so they are smooth and easily cleanable.	
25	4.202.16	Verified	OBSERVATION: Walk-in surfaces and shelving, wood, soiled. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	09/25/2014
25	4.302.14	Verified	OBSERVATION: Test strips not available. Provide, use as required. REGULATION: A test kit or other device is available to accurately measure the concentration of sanitizing solution.	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
19	3.501.16(A)	(B) Verified	OBSERVATION: Walk-in , sliced turkey 51F, cooked turkey breast 51F, rice pilaf 53F, raw egg 52F, Appears unit not maintaining temperature. **Discard foods 41F and below for 4 or more hours. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014
27	6.202.15(A)	NC	OBSERVATION: Beer storage / outer door / seal along bottom. REGULATION: Outer openings of a food establishment shall be protected against entry of insects and rodents by filling, closing holes, tight fitting windows and solid tight fitting, self closing doors.	
25	4.602.13	NC	OBSERVATION: Kitchen surfaces observed with accumulation. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	
27	6.501.12	NC	OBSERVATION: Kitchen / accumulation observed. Clean with attention to areas under equipment. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	
25	4.602.13	Verified	OBSERVATION: Walk-in / air curtain observed in poor condition (torn) and with accumulation. Provide air curtain clean and in good condition. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	09/25/2014
		Discussion	establishment / without 3 bay sink. Contact the Health Department for your compliance responsibilities. .	
9	4.501.112	C	OBSERVATION: Dish machine / not in working order. Repair unit. Provide approved alternative method to clean and sanitize food contact surfaces until machine repaired. Observed gauge at first run 78F, at second run machine overflowed. REGULATION: The fresh hot water temperature may not be more than 194F at the manifold and not less than 180F.	
1	2.102.11(B)	C	OBSERVATION: Provide allergen certification for on site staff working as PIC. REGULATION: The certified PIC ensures employees are properly trained in food allergy awareness as it relates to their assigned duties.	
		Discussion	Owner states staff member has FPM certificate. Post current certificate for on site staff member in viewable area. .	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	During inspection contacted BOH office to discuss temperatures in walk-in. Ms. O'Connor and Dr. Wong on site. Temperature abused foods discarded, Staff will use freezer to maintain batches of foods until walk-in repaired. Small batches will be defrosted using approved method and stored in in line unit. Owner will adjust menu offerings as needed. Understands PHF's are to be stored/held at 41F or below.	
		Discussion	Provide repair slips to health department for walk-in refrigeration unit and dish machine.	
			Violations marked "Verified" have been corrected. Violations not marked "Verified" remain uncorrected. Uncorrected violations are to be corrected immediately. Uncorrected violations may result in additional Re-inspections and fees, fines and or administrative action including possible suspension of permit. The text in this report is an unofficial version of the state regulations. Official version of the state regulations may be found at <a href="http://www.mass.gov/dph/fpp">www.mass.gov/dph/fpp</a> or by contacting the State House Book Store.	
		Discussion	Re-inspection 9/15/14 Dish machine in process of replacement / Ecolab due on site today. Cooler door in process of contacting Rosatti for repair of walk-in door and surfaces.*****Prior approval required for all walk-in work and installation of equipment. Submit written plan and manufacture specification sheets for to health Department for final approval before work started.	
		Discussion	discussed with PIC . The only sink in the kitchen is the hand sink and the sink contained in the soiled dish side of the dish machine. 3 bay required. In addition sink or approved alternative method for washing produce and handling opened foods. Submit written plan to health department.	
			Violations marked "Verified" have been corrected. Violations not marked "Verified" remain uncorrected. Uncorrected violations are to be corrected immediately. Uncorrected violations may result in additional Re-inspections and fees, fines and or administrative action including possible suspension of permit. The text in this report is an unofficial version of the state regulations. Official version of the state regulations may be found at <a href="http://www.mass.gov/dph/fpp">www.mass.gov/dph/fpp</a> or by contacting the State House Book Store.	

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	Provided correct consumer advisory statement and layout during re-inspection. reviewed verbally with PIC. Provide proof to Health department for approval prior to printing.	

Discussion With Person in Charge:

Corrective Action Required:  No  Yes

- Voluntary Compliance
- Employee Restriction/Exclusion
- Re-inspection Scheduled
- Emergency Suspension
- Embargo
- Emergency Closure
- Voluntary Disposal
- Other

# Massachusetts Department of Public Health

Division of Food and Drugs

## FOOD ESTABLISHMENT INSPECTION REPORT

Marlborough Health Department  
 140 Main Street  
 Marlborough, MA 01752  
 Tel. (508) 460-3751 Fax (508) 460-3625

Name: Sully's First Edition@@	Date: 10/14/2014	Type of Operation <input type="checkbox"/> Food Service <input type="checkbox"/> Retail <input type="checkbox"/> Residential Kitchen <input type="checkbox"/> Mobile <input type="checkbox"/> Temporary <input type="checkbox"/> Caterer <input type="checkbox"/> Bed & Breakfast Permit No:	Type of Inspection <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Re-Inspection Previous Inspection Date: 09/25/2014 <input type="checkbox"/> Pre-operation <input type="checkbox"/> Suspect Illness <input type="checkbox"/> General Complaint <input type="checkbox"/> HACCP <input type="checkbox"/> Other:
Address: 11B Florence Street	Risk Level: 0		
Telephone: 485-6754			
Owner: Rick Sullivan			
Person in Charge(PIC): Same	Time: 12:30		
Inspector: M. Lee			

Each violation checked requires an explanation on the narrative page(s) and a citation of specific provision(s) violated

### Violations Related to Foodborne Illness Interventions and Risk Factors.

Violations marked may pose an imminent health hazard and require immediate corrective action as determined by the Board of Health.

Non-compliance with:

- Anti-Choking 590.009(E)
- Tobacco 590.009(F)
- Allergen Awareness 590.009(G)

#### FOOD PROTECTION MANAGEMENT

- 1. PIC Assigned / Knowledgeable / Duties

#### EMPLOYEE HEALTH

- 2. Reporting of Diseases by Food Employee and PIC
- 3. Personnel with Infections Restricted/Excluded

#### FOOD FROM APPROVED SOURCE

- 4. Food and Water from Approved Source
- 5. Receiving/Condition
- 6. Tags/Records/Accuracy of Ingredient Statements
- 7. Conformance with Approved Procedures/HACCP Plans

#### PROTECTION FROM CONTAMINATION

- 8. Separation/ Segregation/ Protection
- 9. Food Contact Surfaces Cleaning and Sanitizing
- 10. Proper Adequate Handwashing
- 11. Good Hygienic Practices

- 12. Prevention of Contamination from Hands
- 13. Handwash Facilities

#### PROTECTION FROM CHEMICALS

- 14. Approved Food or Color Additive
- 15. Toxic Chemicals

#### TIME/TEMPERATURE CONTROLS(Potentially Hazardous Foods)

- 16. Cooling Temperatures
- 17. Reheating
- 18. Cooling
- 19. Hot and Cold Holding
- 20. Time As a Public Health Control

#### REQUIREMENT FOR HIGHLY SUSCEPTIBLE POPULATIONS

- 21. Food and Food Preparation for HSP

#### CONSUMER ADVISORY

- 22. Posting of Consumer Advisories

### Violations Related to Good Retail Practices

Critical (C) violations marked must be corrected immediately or within 10 days as determined by the Board of Health.

Non-critical(N) violations must be corrected immediately or within 90 days as determined by the Board of Health.

C	N		
		23. Management and Personnel	(FC-2)(590.003)
		24. Food and Food Protection	(FC-3)(590.004)
		25. Equipment and Utensils	(FC-4)(590.005)
		26. Water, Plumbing and Waste	(FC-5)(590.006)
	3	27. Physical Facility	(FC-6)(590.007)
		28. Poisonous or Toxic Materials	(FC-7)(590.008)
		29. Special Requirements	(590.009)
		30. Other	

Number of Violated Provisions Related To Foodborne Illness Interventions and Risk Factors (Items 1-22):

3

**Official Order for Correction:** Based on an inspection today, the items checked indicate violations of 105 CMR 590.000/federal Food Code. This report, when signed below by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within 10 days of receipt of this order.

**DATE OF RE-INSPECTION:** 10/16/2014 or After

Inspector: 	PIC: 	Page 1 of 6 Pages
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Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
22	3.603.11	C	OBSERVATION: Consumer advisory / incomplete on menu. Undercooked foods not identified and statement incomplete. **Provided sample during inspection. REGULATION: If animal foods such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another RTE food, the permit holder shall inform consumers by brochures, deli case or menu advisories. Label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form. Refer to code for required format and menu statement.	
1	590.009(G)	(1) Verified	OBSERVATION: Provide allergen poster, hang in employee area. REGULATION: Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall provide a DPH approved poster prominently posted in an employee work area, no smaller than 8.5 by 11 inches, relating to major food allergens. (G) Food Allergy Awareness Requirements. Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall comply with the following requirements. no smaller than 8.5 by 11 inches.	09/25/2014
27	6.301.11	Verified	OBSERVATION: Kitchen / hand sink / provide soap REGULATION: Each handwashing lavatory, or group of two adjacent, shall be provided with a supply of hand cleaning liquid, powder or bar soap.	09/25/2014
1	590.009(G)	Verified	OBSERVATION: Provide choke save certification for on duty staff. REGULATION: Establishments with 25 seats or more shall provide an employee trained in the Heimlich maneuver on the premises while food is being served.	10/14/2014
8	3.304.11	Verified	OBSERVATION: Kitchen / cooks line/ observed line cook wipe knife on shirt and place in cutting board. REGULATION: Food shall only contact equipment and utensils that are clean and sanitized	09/25/2014
27	6.501.12	Verified	OBSERVATION: Wall/ kitchen area / accumulation observed. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
19	3.501.16(A)	(B) Verified	OBSERVATION: Observed pan of raw chicken on counter without temperature controls. 64F. *Product discarded by PIC. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
9	4.601.11	Verified	OBSERVATION: Slicer observed with dried on food debris. REGULATION: Food contact surfaces shall be clean to touch and sight and free of accumulation.	10/14/2014
25	4.803.11	Verified	OBSERVATION: Slicer / observed with soiled apron and cloth on unit. REGULATION: Soiled linens shall be kept in clean non-absorbent receptacles and transported to prevent contamination of food and food contact surfaces.	09/25/2014
24	3.501.13	Verified	OBSERVATION: Observed bucket of raw chicken defrosting in standing water. REGULATION: PHF's shall be defrosted using an approved method such as under refrigeration, submerged under running water at 70F, part of the cooking process, in the microwave followed by immediately cooking.	09/25/2014
27	6.501.12	Verified	OBSERVATION: Dish washing area / odor consistent with grease/ grease trap. PIC to identify source of odor and correct. Observed accumulation around grease trap. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
		Discussion	Walk-in/ discussion with owner/ Unit in poor condition / discussed capitol improvements to maintain equipment and facilities in compliance. Pictures taken during inspection.	
25	4.202.16	Verified	OBSERVATION: Walk-in door / edges not sealed. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	10/14/2014
27	6.201.11	NC	OBSERVATION: Walk-in floor /exposed concrete with low areas, observed pooled liquids. REGULATION: Walls, floors and ceilings shall be designed, constructed and installed so they are smooth and easily cleanable.	
25	4.202.16	Verified	OBSERVATION: Walk-in surfaces and shelving, wood, soiled. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	09/25/2014
25	4.302.14	Verified	OBSERVATION: Test strips not available. Provide, use as required. REGULATION: A test kit or other device is available to accurately measure the concentration of sanitizing solution.	09/25/2014



Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
19	3.501.16(A)	(B)Verified	OBSERVATION: Walk-in , sliced turkey 51F, cooked turkey breast 51F, rice pilaf 53F, raw egg 52F, Appears unit not maintaining temperature. **Discard foods 41F and below for 4 or more hours. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014
27	6.202.15(A)	NC	OBSERVATION: Beer storage / outer door / seal along bottom. REGULATION: Outer openings of a food establishment shall be protected against entry of insects and rodents by filling, closing holes, tight fitting windows and solid tight fitting, self closing doors.	
25	4.602.13	Verified	OBSERVATION: Kitchen surfaces observed with accumulation. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	10/14/2014
27	6.501.12	NC	OBSERVATION: Kitchen / accumulation observed. Clean with attention to areas under equipment. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	
25	4.602.13	Verified	OBSERVATION: Walk-in / air curtain observed in poor condition (torn) and with accumulation. Provide air curtain clean and in good condition. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	09/25/2014
		Discussion	establishment / without 3 bay sink. Contact the Health Department for your compliance responsibilities. .	
9	4.501.112	C	OBSERVATION: Dish machine / not in working order. Repair unit. Provide approved alternative method to clean and sanitize food contact surfaces until machine repaired. Observed gauge at first run 78F, at second run machine overflowed. REGULATION: The fresh hot water temperature may not be more than 194F at the manifold and not less than 180F.	
1	2.102.11(B)	C	OBSERVATION: Provide allergen certification for on site staff working as PIC. REGULATION: The certified PIC ensures employees are properly trained in food allergy awareness as it relates to their assigned duties.	
		Discussion	Owner states staff member has FPM certificate. Post current certificate for on site staff member in viewable area. .	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	During inspection contacted BOH office to discuss temperatures in walk-in. Ms. O'Connor and Dr. Wong on site. Temperature abused foods discarded, Staff will use freezer to maintain batches of foods until walk-in repaired. Small batches will be defrosted using approved method and stored in in line unit. Owner will adjust menu offerings as needed. Understands PHF's are to be stored/held at 41F or below. .	
		Discussion	Provide repair slips to health department for walk-in refrigeration unit and dish machine. .	
		Discussion	Re-inspection 9/15/14 Dish machine in process of replacement / Ecolab due on site today. Cooler door in process of contacting Rosatti for repair of walk-in door and surfaces.*****Prior approval required for all walk-in work and installation of equipment. Submit written plan and manufacture specification sheets for to health Department for final approval before work started. .	
		Discussion	discussed with PIC . The only sink in the kitchen is the hand sink and the sink contained in the soiled dish side of the dish machine. 3 bay required. In addition sink or approved alternative method for washing produce and handling opened foods. Submit written plan to health department. .	
		Discussion	Provided correct consumer advisory statement and layout during re-inspection. reviewed verbally with PIC. Provide proof to Health department for approval prior to printing. .	
		Discussion	Re-inspection 10/14/14. Menu proof available from printer / consumer advisory correct on proof. Discussed - add back in the allergen statement prior to printing copies. Owner states corrected menus will be in use 10/21/14. .	
		Discussion	3 compartment sink not installed, dish machine not working. During previous inspection the owner reported disposable goods would be used until approved method to sanitize was provided. During today's re-inspection observed silverware pre-set on tables, customers at bar drinking from glasses, plates and silverware in kitchen. Disposables not observed in use. .	

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	On Friday 9/26/14 Sam Wong met on site with owner to discuss provision of approved method to clean and sanitize food contact surfaces. At that time the owner, Rick Sullivan committed to installing a 3 compartment sink with in 2 weeks (10/10/14). During todays re-inspection the dish machine does not work and a 3 compartment sink is not provided. Manufacture spec sheet, estimates or plumbing permits not available. Order letter to install sink issued.	
			Violations marked "Verified" have been corrected. Violations not marked "Verified" remain uncorrected. Uncorrected violations are to be corrected immediately. Uncorrected violations may resault in additional Re-inspections and fees, fines and or administrative action including possible suspension of permit. The text in this report is an unofficial version of the state regulations. Official version of the state regulations may be found at <a href="http://www.mass.gov/dph/fpp">www.mass.gov/dph/fpp</a> or by contacting the State House Book Store.	

Discussion With Person in Charge:

Corrective Action Required:  No  Yes

- |   |   |
|---|---|
| <input type="checkbox"/> Voluntary Compliance               | <input type="checkbox"/> Employee Restriction/<br>Exclusion |
| <input checked="" type="checkbox"/> Re-inspection Scheduled | <input type="checkbox"/> Emergency Suspension               |
| <input type="checkbox"/> Embargo                            | <input type="checkbox"/> Emergency Closure                  |
| <input type="checkbox"/> Voluntary Disposal                 | <input type="checkbox"/> Other                              |

# Massachusetts Department of Public Health

Division of Food and Drugs

## FOOD ESTABLISHMENT INSPECTION REPORT

Marlborough Health Department  
 140 Main Street  
 Marlborough, MA 01752  
 Tel. (508) 460-3751 Fax (508) 460-3625

Name: Sully's First Edition@@@	Date: 10/20/2014	Type of Operation <input type="checkbox"/> Food Service <input type="checkbox"/> Retail <input type="checkbox"/> Residential Kitchen <input type="checkbox"/> Mobile <input type="checkbox"/> Temporary <input type="checkbox"/> Caterer <input type="checkbox"/> Bed & Breakfast	Type of Inspection <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Re-Inspection Previous Inspection Date: 10/14/2014 <input type="checkbox"/> Pre-operation <input type="checkbox"/> Suspect Illness <input type="checkbox"/> General Complaint <input type="checkbox"/> HACCP <input type="checkbox"/> Other:
Address: 11B Florence Street	Risk Level: 0		
Telephone: 485-6754		Permit No:	
Owner: Rick Sullivan			
Person in Charge(PIC): Same	Time:		
Inspector: M. Lee			

Each violation checked requires an explanation on the narrative page(s) and a citation of specific provision(s) violated

### Violations Related to Foodborne Illness Interventions and Risk Factors.

Violations marked may pose an imminent health hazard and require immediate corrective action as determined by the Board of Health.

Non-compliance with:

- Anti-Choking 590.009(E)
- Tobacco 590.009(F)
- Allergen Awareness 590.009(G)

#### FOOD PROTECTION MANAGEMENT

- 1. PIC Assigned / Knowledgeable / Duties

#### EMPLOYEE HEALTH

- 2. Reporting of Diseases by Food Employee and PIC
- 3. Personnel with Infections Restricted/Excluded

#### FOOD FROM APPROVED SOURCE

- 4. Food and Water from Approved Source
- 5. Receiving/Condition
- 6. Tags/Records/Accuracy of Ingredient Statements
- 7. Conformance with Approved Procedures/HACCP Plans

#### PROTECTION FROM CONTAMINATION

- 8. Separation/ Segregation/ Protection
- 9. Food Contact Surfaces Cleaning and Sanitizing
- 10. Proper Adequate Handwashing
- 11. Good Hygienic Practices

### Violations Related to Good Retail Practices

Critical (C) violations marked must be corrected immediately or within 10 days as determined by the Board of Health.

Non-critical(N) violations must be corrected immediately or within 90 days as determined by the Board of Health.

C	N		
		23. Management and Personnel	(FC-2)(590.003)
		24. Food and Food Protection	(FC-3)(590.004)
		25. Equipment and Utensils	(FC-4)(590.005)
		26. Water, Plumbing and Waste	(FC-5)(590.006)
	3	27. Physical Facility	(FC-6)(590.007)
		28. Poisonous or Toxic Materials	(FC-7)(590.008)
		29. Special Requirements	(590.009)
		30. Other	

- 12. Prevention of Contamination from Hands
- 13. Handwash Facilities

#### PROTECTION FROM CHEMICALS

- 14. Approved Food or Color Additive
- 15. Toxic Chemicals

#### TIME/TEMPERATURE CONTROLS(Potentially Hazardous Foods)

- 16. Cooling Temperatures
- 17. Reheating
- 18. Cooling
- 19. Hot and Cold Holding
- 20. Time As a Public Health Control

#### REQUIREMENT FOR HIGHLY SUSCEPTIBLE POPULATIONS

- 21. Food and Food Preparation for HSP

#### CONSUMER ADVISORY


- 22. Posting of Consumer Advisories

Number of Violated Provisions Related To Foodborne Illness Interventions and Risk Factors (Items 1-22):

3

**Official Order for Correction:** Based on an inspection today, the items checked indicate violations of 105 CMR 590.000/federal Food Code. This report, when signed below by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within 10 days of receipt of this order.

**DATE OF RE-INSPECTION:** 10/22/2014 or After

Inspector: 	PIC:	Page 1 of 6 Pages
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Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
22	3.603.11	C	OBSERVATION: Consumer advisory / incomplete on menu. Undercooked foods not identified and statement incomplete. **Provided sample during inspection. REGULATION: If animal foods such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another RTE food, the permit holder shall inform consumers by brochures, deli case or menu advisories. Label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form. Refer to code for required format and menu statement.	
1	590.009(G)	(1) Verified	OBSERVATION: Provide allergen poster, hang in employee area. REGULATION: Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall provide a DPH approved poster prominently posted in an employee work area, no smaller than 8.5 by 11 inches, relating to major food allergens. (G) Food Allergy Awareness Requirements. Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall comply with the following requirements. no smaller than 8.5 by 11 inches.	09/25/2014
27	6.301.11	Verified	OBSERVATION: Kitchen / hand sink / provide soap REGULATION: Each handwashing lavatory, or group of two adjacent, shall be provided with a supply of hand cleaning liquid, powder or bar soap.	09/25/2014
1	590.009(G)	Verified	OBSERVATION: Provide choke save certification for on duty staff. REGULATION: Establishments with 25 seats or more shall provide an employee trained in the Heimlich maneuver on the premises while food is being served.	10/14/2014
8	3.304.11	Verified	OBSERVATION: Kitchen / cooks line/ observed line cook wipe knife on shirt and place in cutting board. REGULATION: Food shall only contact equipment and utensils that are clean and sanitized	09/25/2014
27	6.501.12	Verified	OBSERVATION: Wall/ kitchen area / accumulation observed. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
19	3.501.16(A)	(B) Verified	OBSERVATION: Observed pan of raw chicken on counter without temperature controls. 64F. *Product discarded by PIC. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
9	4.601.11	Verified	OBSERVATION: Slicer observed with dried on food debris. REGULATION: Food contact surfaces shall be clean to touch and sight and free of accumulation.	10/14/2014
25	4.803.11	Verified	OBSERVATION: Slicer / observed with soiled apron and cloth on unit. REGULATION: Soiled linens shall be kept in clean non-absorbent receptacles and transported to prevent contamination of food and food contact surfaces.	09/25/2014
24	3.501.13	Verified	OBSERVATION: Observed bucket of raw chicken defrosting in standing water. REGULATION: PHF's shall be defrosted using an approved method such as under refrigeration, submerged under running water at 70F, part of the cooking process, in the microwave followed by immediately cooking.	09/25/2014
27	6.501.12	Verified	OBSERVATION: Dish washing area / odor consistent with grease/ grease trap. PIC to identify source of odor and correct. Observed accumulation around grease trap. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
		Discussion	Walk-in/ discussion with owner/ Unit in poor condition / discussed capital improvements to maintain equipment and facilities in compliance. Pictures taken during inspection.	
25	4.202.16	Verified	OBSERVATION: Walk-in door / edges not sealed. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	10/14/2014
27	6.201.11	NC	OBSERVATION: Walk-in floor /exposed concrete with low areas, observed pooled liquids. REGULATION: Walls, floors and ceilings shall be designed, constructed and installed so they are smooth and easily cleanable.	
25	4.202.16	Verified	OBSERVATION: Walk-in surfaces and shelving, wood, soiled. REGULATION: Nonfood contact surfaces shall be free of ledges, projections, crevices and constructed to allow easy cleaning and maintenance.	09/25/2014
25	4.302.14	Verified	OBSERVATION: Test strips not available. Provide, use as required. REGULATION: A test kit or other device is available to accurately measure the concentration of sanitizing solution.	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
19	3.501.16(A)	(B) Verified	OBSERVATION: Walk-in , sliced turkey 51F, cooked turkey breast 51F, rice pilaf 53F, raw egg 52F, Appears unit not maintaining temperature. **Discard foods 41F and below for 4 or more hours. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014
27	6.202.15(A)	NC	OBSERVATION: Beer storage / outer door / seal along bottom. REGULATION: Outer openings of a food establishment shall be protected against entry of insects and rodents by filling, closing holes, tight fitting windows and solid tight fitting, self closing doors.	
25	4.602.13	Verified	OBSERVATION: Kitchen surfaces observed with accumulation. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	10/14/2014
27	6.501.12	NC	OBSERVATION: Kitchen / accumulation observed. Clean with attention to areas under equipment. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	
25	4.602.13	Verified	OBSERVATION: Walk-in / air curtain observed in poor condition (torn) and with accumulation. Provide air curtain clean and in good condition. REGULATION: Non-food contact surfaces shall be cleaned at a frequency necessary to prevent accumulation.	09/25/2014
		Discussion	establishment / without 3 bay sink. Contact the Health Department for your compliance responsibilities. .	
9	4.501.112	C	OBSERVATION: Dish machine / not in working order. Repair unit. Provide approved alternative method to clean and sanitize food contact surfaces until machine repaired. Observed gauge at first run 78F, at second run machine overflowed. REGULATION: The fresh hot water temperature may not be more than 194F at the manifold and not less than 180F.	
1	2.102.11(B)	C	OBSERVATION: Provide allergen certification for on site staff working as PIC. REGULATION: The certified PIC ensures employees are properly trained in food allergy awareness as it relates to their assigned duties.	
		Discussion	Owner states staff member has FPM certificate. Post current certificate for on site staff member in viewable area. .	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	During inspection contacted BOH office to discuss temperatures in walk-in. Ms. O'Connor and Dr. Wong on site. Temperature abused foods discarded, Staff will use freezer to maintain batches of foods until walk-in repaired. Small batches will be defrosted using approved method and stored in in line unit. Owner will adjust menu offerings as needed. Understands PHF's are to be stored/held at 41F or below. .	
		Discussion	Provide repair slips to health department for walk-in refrigeration unit and dish machine. .	
		Discussion	Re-inspection 9/15/14 Dish machine in process of replacement / Ecolab due on site today. Cooler door in process of contacting Rosatti for repair of walk-in door and surfaces.*****Prior approval required for all walk-in work and installation of equipment. Submit written plan and manufacture specification sheets for to health Department for final approval before work started. .	
		Discussion	discussed with PIC . The only sink in the kitchen is the hand sink and the sink contained in the soiled dish side of the dish machine. 3 bay required. In addition sink or approved alternative method for washing produce and handling opened foods. Submit written plan to health department. .	
		Discussion	Provided correct consumer advisory statement and layout during re-inspection. reviewed verbally with PIC. Provide proof to Health department for approval prior to printing. .	
		Discussion	Re-inspection 10/14/14. Menu proof available from printer / consumer advisory correct on proof. Discussed - add back in the allergen statement prior to printing copies. Owner states corrected menus will be in use 10/21/14. .	
		Discussion	3 compartment sink not installed, dish machine not working. During previous inspection the owner reported disposable goods would be used until approved method to sanitize was provided. During today's re-inspection observed silverware pre-set on tables, customers at bar drinking from glasses, plates and silverware in kitchen. Disposables not observed in use. .	



Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
		Discussion	On Friday 9/26/14 Sam Wong met on site with owner to discuss provision of approved method to clean and sanitize food contact surfaces. At that time the owner, Rick Sullivan committed to installing a 3 compartment sink with in 2 weeks (10/10/14). During todays re-inspection the dish machine does not work and a 3 compartment sink is not provided. Manufacture spec sheet, estimates or plumbing permits not available. Order letter to install sink issued.	
		Discussion	Re-inspection 10/20/14 Not able to verify corrections made. Menus at printers, door sweep on site, not installed. PIC reports installing new dish machine and a 5 ft 3 compartment sink. ***Reviewed information provided in order letter, provide drawing showing the location of equipment for approval. Discussed concerns for flow. Clean and soiled are to be separated to prevent cross contamination.	
			Violations marked "Verified" have been corrected. Violations not marked "Verified" remain uncorrected. Uncorrected violations are to be corrected immediately. Uncorrected violations may resault in additional Re-inspections and fees, fines and or administrative action including possible suspension of permit. The text in this report is an unofficial version of the state regulations. Official version of the state regulations may be found at <a href="http://www.mass.gov/dph/fpp">www.mass.gov/dph/fpp</a> or by contacting the State House Book Store.	

Discussion With Person in Charge:

Corrective Action Required:  No  Yes

- Voluntary Compliance
- Employee Restriction/Exclusion
- Re-inspection Scheduled
- Emergency Suspension
- Embargo
- Emergency Closure
- Voluntary Disposal
- Other

# Massachusetts Department of Public Health

Division of Food and Drugs

## FOOD ESTABLISHMENT INSPECTION REPORT

Marlborough Health Department

140 Main Street

Marlborough, MA 01752

Tel. (508) 460-3751 Fax (508) 460-3625

Name: Sully's First Edition@@@	Date: 11/17/2014	<b>Type of Operation</b> <input type="checkbox"/> Food Service <input type="checkbox"/> Retail <input type="checkbox"/> Residential Kitchen <input type="checkbox"/> Mobile <input type="checkbox"/> Temporary <input type="checkbox"/> Caterer <input type="checkbox"/> Bed & Breakfast	<b>Type of Inspection</b> <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Re-Inspection Previous Inspection Date: 10/20/2014 <input type="checkbox"/> Pre-operation <input type="checkbox"/> Suspect Illness <input type="checkbox"/> General Complaint <input type="checkbox"/> HACCP <input type="checkbox"/> Other:
Address: 11B Florence Street	Risk Level: 0		
Telephone: 485-6754		Permit No:	
Owner: Rick Sullivan			
Person in Charge(PIC): Same	Time: 1:10pm		
Inspector: M. Lee			

Each violation checked requires an explanation on the narrative page(s) and a citation of specific provision(s) violated

### Violations Related to Foodborne Illness Interventions and Risk Factors.

Violations marked may pose an imminent health hazard and require immediate corrective action as determined by the Board of Health.

Non-compliance with:

- Anti-Choking 590.009(E)
- Tobacco 590.009(F)
- Allergen Awareness 590.009(G)

#### FOOD PROTECTION MANAGEMENT

- 1. PIC Assigned / Knowledgeable / Duties

#### EMPLOYEE HEALTH

- 2. Reporting of Diseases by Food Employee and PIC
- 3. Personnel with Infections Restricted/Excluded

#### FOOD FROM APPROVED SOURCE

- 4. Food and Water from Approved Source
- 5. Receiving/Condition
- 6. Tags/Records/Accuracy of Ingredient Statements
- 7. Conformance with Approved Procedures/HACCP Plans

#### PROTECTION FROM CONTAMINATION

- 8. Separation/ Segregation/ Protection
- 9. Food Contact Surfaces Cleaning and Sanitizing
- 10. Proper Adequate Handwashing
- 11. Good Hygienic Practices

- 12. Prevention of Contamination from Hands
- 13. Handwash Facilities

#### PROTECTION FROM CHEMICALS

- 14. Approved Food or Color Additive
- 15. Toxic Chemicals

#### TIME/TEMPERATURE CONTROLS(Potentially Hazardous Foods)

- 16. Cooling Temperatures
- 17. Reheating
- 18. Cooling
- 19. Hot and Cold Holding
- 20. Time As a Public Health Control

#### REQUIREMENT FOR HIGHLY SUSCEPTIBLE POPULATIONS

- 21. Food and Food Preparation for HSP

#### CONSUMER ADVISORY

- 22. Posting of Consumer Advisories

### Violations Related to Good Retail Practices

Critical (C) violations marked must be corrected immediately or within 10 days as determined by the Board of Health.

Non-critical(N) violations must be corrected immediately or within 90 days as determined by the Board of Health.

C	N		
		23. Management and Personnel	(FC-2)(590.003)
		24. Food and Food Protection	(FC-3)(590.004)
		25. Equipment and Utensils	(FC-4)(590.005)
		26. Water, Plumbing and Waste	(FC-5)(590.006)
	2√	27. Physical Facility	(FC-6)(590.007)
		28. Poisonous or Toxic Materials	(FC-7)(590.008)
		29. Special Requirements	(590.009)
		30. Other	

Number of Violated Provisions Related To Foodborne Illness Interventions and Risk Factors (Items 1-22):

0

**Official Order for Correction:** Based on an inspection today, the items checked indicate violations of 105 CMR 590.000/federal Food Code. This report, when signed below by a Board of Health member or its agent constitutes an order of the Board of Health. Failure to correct violations cited in this report may result in suspension or revocation of the food establishment permit and cessation of food establishment operations. If aggrieved by this order, you have a right to a hearing. Your request must be in writing and submitted to the Board of Health at the above address within 10 days of receipt of this order.

**DATE OF RE-INSPECTION:** Referred to BOH for action

Inspector:	PIC:	Page 1 of 6 Pages
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Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
22	3.603.11	Verified	OBSERVATION: Consumer advisory / incomplete on menu. Undercooked foods not identified and statement incomplete. **Provided sample during inspection. REGULATION: If animal foods such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another RTE food, the permit holder shall inform consumers by brochures, deli case or menu advisories. Label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form. Refer to code for required format and menu statement.	11/17/2014
1	590.009(G) (1)	Verified	OBSERVATION: Provide allergen poster, hang in employee area. REGULATION: Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall provide a DPH approved poster prominently posted in an employee work area, no smaller than 8.5 by 11 inches, relating to major food allergens. (G) Food Allergy Awareness Requirements. Food establishments that cook, prepare, or serve food intended for immediate consumption either on or off the premises shall comply with the following requirements. no smaller than 8.5 by 11 inches.	09/25/2014
27	6.301.11	Verified	OBSERVATION: Kitchen / hand sink / provide soap REGULATION: Each handwashing lavatory, or group of two adjacent, shall be provided with a supply of hand cleaning liquid, powder or bar soap.	09/25/2014
1	590.009(G)	Verified	OBSERVATION: Provide choke save certification for on duty staff. REGULATION: Establishments with 25 seats or more shall provide an employee trained in the Heimlich maneuver on the premises while food is being served.	10/14/2014
8	3.304.11	Verified	OBSERVATION: Kitchen / cooks line/ observed line cook wipe knife on shirt and place in cutting board. REGULATION: Food shall only contact equipment and utensils that are clean and sanitized	09/25/2014
27	6.501.12	Verified	OBSERVATION: Wall/ kitchen area / accumulation observed. REGULATION: The physical facilities shall be cleaned as often as necessary to keep them clean. Cleaning shall be done during periods when the least amount of food is exposed, except for spills or other accident.	09/25/2014
19	3.501.16(A) (B)	Verified	OBSERVATION: Observed pan of raw chicken on counter without temperature controls. 64F. *Product discarded by PIC. REGULATION: PHF's shall be held at 140F or above or 41F and below.	09/25/2014

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
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		Discussion	establishment / without 3 bay sink. Contact the Health Department for your compliance responsibilities. .	
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		Discussion	Owner states staff member has FPM certificate. Post current certificate for on site staff member in viewable area. .	09/25/2014

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		Discussion	Provide repair slips to health department for walk-in refrigeration unit and dish machine. .	
		Discussion	Re-inspection 9/15/14 Dish machine in process of replacement / Ecolab due on site today. Cooler door in process of contacting Rosatti for repair of walk-in door and surfaces.*****Prior approval required for all walk-in work and installation of equipment. Submit written plan and manufacture specification sheets for to health Department for final approval before work started. .	
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		Discussion	Provided correct consumer advisory statement and layout during re-inspection. reviewed verbally with PIC. Provide proof to Health department for approval prior to printing. .	
		Discussion	Re-inspection 10/14/14. Menu proof available from printer / consumer advisory correct on proof. Discussed - add back in the allergen statement prior to printing copies. Owner states corrected menus will be in use 10/21/14. .	
		Discussion	3 compartment sink not installed, dish machine not working. During previous inspection the owner reported disposable goods would be used until approved method to sanitize was provided. During today's re-inspection observed silverware pre-set on tables, customers at bar drinking from glasses, plates and silverware in kitchen. Disposables not observed in use. .	

Item No.	Code Reference	C-Critical R-Red	DESCRIPTION OF VIOLATION/PLAN OF CORRECTION	Date Verified
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		Discussion	Re-inspection 10/20/14 Not able to verify corrections made. Menus at printers, door sweep on site, not installed. PIC reports installing new dish machine and a 5 ft 3 compartment sink. ***Reviewed information provided in order letter, provide drawing showing the location of equipment for approval. Discussed concerns for flow. Clean and soiled are to be separated to prevent cross contamination. .	
		Discussion	11/17/14 New hi temp dish machine installed. Rinse 180F. 3 compartment sink with 2 drain boards available, available however not installed. PIC states sink to be installed adjacent to dish machine. Provide drawing showing current dish machine and 3 compartment sink. Status will be forwarded to acting director of BOH for attendance of owner before the Board of Health for discussion. .	
			.	

Discussion With Person in Charge:

Corrective Action Required:  No  Yes

- Voluntary Compliance
- Employee Restriction/Exclusion
- Re-inspection Scheduled
- Emergency Suspension
- Embargo
- Emergency Closure
- Voluntary Disposal
- Other

## Unannounced Visit (11/12/2014)

Consultant Service:  
Wai P Kwan  
Restaurant Resources Association  
18 Apex Street,  
Quincy, Ma 02169  
Tel: (781)664-7428

City of Marlborough  
Board Of Health  
Health Inspector – Deirdre O’Conner  
140 Main Street,  
Marlborough, Ma 01752  
(508)460-3753

Owner:  
Master Wok  
610 Donald Lynch Blvd,  
Marlborough, Ma 01752  
(508)303-6210

Time in: 07:45PM –08:25 PM

Staff: 3 staffs with PIC – Jenny  
Uninform: Good & Clean

Consultant-Wai P Kwan conducted the “Unannounced Visit” to Master Wok restaurant on 11/12/2014 and offered the additional training on foods safety to the manager – Jenny and head chef once again. Everything was clean and well organized. All foods were in right temperature, and all cooked foods placed on the sheet pan on the rack for cool down. All foods were wrapped good and dated in the refrigerator or even in the freezer. The Foods Safety Daily’s list papers were signed by PIC on each day. All staffs were wearing gloves during work, and willing to wash hands, then changed to another new gloves after each worked. All foods were in right temperature and sanitizing was on right level in 3 bay sink.

No extra comment at this time.



## Unannounced Visit (11/16/2014)

Consultant Service:  
Wai P Kwan  
Restaurant Resources Association  
18 Apex Street,  
Quincy, Ma 02169  
Tel: (781)664-7428

City of Marlborough  
Board Of Health  
Health Inspection Director – Steven Ward  
140 Main Street,  
Marlborough, Ma 01752  
(508)460-3753

Owner:  
Master Wok  
610 Donald Lynch Blvd,  
Marlborough, Ma 01752  
(508)303-6210

Time in: 3:20 PM – 4:11 PM

Unannounced Visit was made to Master Wok on 11/16/2014. The manager – Jenny supposed on the day-off, but she went back to the restaurant for half hour earlier than consultant came. Jenny explained to consultant that her boss called her to come back for extra help in the restaurant. Everything was clean, and organized. 4 workers were working in the restaurant + Jenny. However, the new staff forgot to wear the hat and wear the gloves during at work. Jenny has reminded the new staff to put back on it. Even the kitchen was clean and organized, but there're some minor issues were still keep backing on happen and consultant found them on during this visit.

### Issues:

Personal food items placed in the walk-in cooler near the foods to use for customers.

### Correction:

Consultant has told PIC that the personal food items should placed inside the special bucket in the cooler where away from others food. It's because the personal foods may case cross-contamination to the foods, which served to the customers. It may also bring the outside / personal bacteria from others place to the foods in the restaurant.

Personal food items should put inside the container with cover on, then label and dated on the top of cover after. Place the container away from others food inside the walk-in (\*on lower level on the self).

Always use the previously (dirty) utensils or containers for the new foods to served

### Correction:

Staffs should use the clean and sanitized containers or utensils for the new foods to served. Because the sauces or foods stayed for too long inside the containers in room temperature (even in hot steam tables), they will easily to have bacteria growth. New foods should place in new containers with new utensils to serve.

Pan of unwrapped raw chicken breast found in the freezer

Correction:

All foods should be wrapped good and dated in the cooler or freezer.

All foods' containers should be cover well in the cooler where across the stove

Correction:

All foods' containers should be cover well in the cooler, so all foods would be in right temperature (below 41F at all time) and they also could avoid cross-contamination and cause to foods' allergic to the customers. PIC understood it and agreed.

## Unannounced Visit (11/18/2014)

Consultant Service:  
Wai P Kwan  
Restaurant Resources Association  
18 Apex Street,  
Quincy, Ma 02169  
Tel: (781)664-7428

City of Marlborough  
Board Of Health  
Health Inspection Director – Steven Ward  
140 Main Street,  
Marlborough, Ma 01752  
(508)460-3753

Owner:  
Master Wok  
610 Donald Lynch Blvd,  
Marlborough, Ma 01752  
(508)303-6210

Time in: 7:22 PM – 8:41 PM

Staffs: 3 staffs + PIC

Uniform: All clean

Unannounced Visit was made to Master Wok on 11/18/2014. The manager – Jenny was in the restaurant, but the head chef was on day-off. Consultant made a fully training about the sanitation skill, storing method, correction form previously violation, and personal hygienic skill, and supervision skill to the manager – Jenny and requested her to teach the same things to the head chef from tomorrow.

During this visit, the kitchen was clean, floor was clean, water in the 3 bay sink was on the right temperature and right level in sanitizing. Foods were all wrapped good in the freezer or walk-in cooler. Trash barrel had the cover on, and the area was on a clean condition around the trash barrel. All staffs were wearing a clean uniform and put the gloves on. All staffs did the handwashing before or after worked in the kitchen. All foods and refrigerators were in right temperature, recorded, and signed by PIC at least twice daily.