

A REGULATION TO RESTRICT FOODS CONTAINING ARTIFICIAL TRANS FAT IN THE CITY OF LYNN

WHEREAS, heart disease is a leading cause of death in the United States;

WHEREAS, research concludes that there is no safe level of artificial trans fat consumption and there is a clear association between an increase in the intake of trans fat and the risk of heart disease;

WHEREAS, the major source of artificial trans fat is found in partially hydrogenated vegetable oil, which is used for frying and baking and is present in many processed foods;

WHEREAS, there are food service establishments and other food vendors in the City of Lynn that prepare and serve food containing artificial trans fat for consumption by Lynn residents, visitors and students;

NOW THEREFORE, the Lynn Board of Health enacts the following regulation in furtherance of its mission to protect, promote and preserve the health and well-being of the citizens of Lynn.

Section 1.00: Authority: M.G.L. c. 111, §31.

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

Section 2.00: Definitions

Artificial trans fat means food or beverage that is labeled as, lists as an ingredient, contains or is prepared with vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food or beverage whose nutrition facts label or other suitable documentation lists the trans fat content of the food as less than 0.5 grams per serving shall not be deemed to contain artificial trans fat.

Food service establishment means any entity that stores, prepares, packages, serves, sells or otherwise provides food or beverage for consumption in the City of Lynn. Food service establishment includes, but shall not be limited to, restaurants, supermarkets, grocery stores, delis, sandwich shops, bakeries,

convenience stores, ice cream shops, coffee shops, cafeterias in schools and businesses, caterers, senior-center meal programs, nursing homes, children's institutions, school kitchens, school stores, soup kitchens and permanent or temporary concession stands. Food service establishment shall not include a fraternal, charitable, social, service club or similar organization that prepares, displays and sells home-made baked goods for a "neighborhood bake sale" so called.

Entity means any single individual, group of individuals, corporation, partnership, hospital, academic institution, society, association, firm, sole proprietorship or any other legal entity whether public or private.

Vending machine means any machine or device designated for or used for the vending of food products or beverages upon the insertion of coins, currency, swipe cards, or any other form of payment.

Mobile food vendor means any person or operation that sells food or beverage from a mobile food unit. A mobile food vendor shall include, but not be limited to, sidewalk vendors, canteen trucks, and food trailers.

Section 3.00 Restriction on Artificial Trans Fat

No food service establishment, vending machine, or mobile food vendor shall store, prepare, distribute, hold for service or serve any food or beverage containing artificial trans fat in the City of Lynn.

These prohibitions shall not include the sale of any food or beverage containing artificial trans fat that is in a manufacturer's original sealed package and is required by federal and or state law to have nutrition labeling.

Section 4.00 Labels Required

All food service establishments, mobile food vendors and operators of vending machines shall maintain on-site original labels or other suitable documentation listing the ingredient and nutrient content of all food products such that the Lynn Board of Health or its designees can determine whether they are in compliance with this regulation.

Section 5.00 Guidelines

The Director of the Lynn Health Division of Inspectional Services shall issue guidelines for the implementation of this regulation, including but not limited to, definitions of terms as used in these regulations and in the guidelines. In the event of a conflict between these regulations and the guidelines, as either may be amended, the regulation shall control.

Section 6.00 Violations

1. A violator of this regulation may receive:
 - a. In the case of a first violation a warning will be issued.
 - b. In the case of a second violation within 24 months of the first violation a fine of two hundred dollars (\$250.00); and,
 - c. In the case of a three or more violations within 24 months of the second or current violation, a fine of three hundred dollars (\$300.00) for each violation.

2. Each calendar day an entity operates in violation of any provision of this regulation shall be deemed a separate violation.
3. No provision, clause or sentence of this section of this regulation shall be interpreted as prohibiting the Lynn Board of Health or a City of Lynn department or agency from suspending, or revoking any license or permit issued by and within the jurisdiction of such departments or agency for repeated violations of this regulation.

Section 7.00 Enforcement

1. Authority to enforce this regulation shall be held by the Lynn Board of Health, its subsidiary programs or designees; and the City of Lynn Inspectional Services Department.

2. Any violation of this regulation may be enforced in the manner provided in M.G.L. c.111 §187, by the Lynn Board of Health, its subsidiary programs or designees.

Section 8.00 Severability

If any provision, clause, sentence, paragraph or word of this regulation or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article which can be given effect without the invalid provisions or application and to this end the provisions of this regulation are declared severable.

Section 9.00 Effective Date

This regulation shall take effect on January 1, 2012 with respect to cooking oils, shortening, and margarines containing artificial trans fat and with respect to baked goods and all other foods containing artificial trans fat.