



City of Boston
Mayor Martin J. Walsh
Licensing Board

Commissioners:
Kathleen M. Joyce, Chairman
Keeana S. Saxon
Liam P. Curran
Executive Secretary:
Lesley Delaney Hawkins

THE LICENSING BOARD FOR THE CITY OF BOSTON'S ADVISORY REGARDING THE TEMPORARY ALLOWANCE OF RESTAURANTS TO SELL GROCERY ITEMS

Issued: April 24, 2020

On April 24, 2020 the City of Boston's Inspectional Services Department ("ISD") issued guidance (the "Guidance") (attached hereto) temporarily allowing the sale of grocery items by restaurants, both establishments holding a common victualler license and a common victualler with alcoholic beverages license (the "Licensee" or the "Licensees"), subject to all conditions contained herein. Based on the Guidance and in conjunction with ISD the Licensing Board for the City of Boston (the "Board") issues this advisory (the "Advisory") regarding rules and regulations for the sale of grocery items by Licensees. **In order to receive approval a Licensee must adhere to the following:**

1. File an application (the "Application") with and obtain written approval from the Board.
2. Review and agree to abide by the Guidance and all applicable, local, state, and federal rules, regulations, and laws regarding the sale of grocery items including the packaging and labeling of items, the temperatures at which items must be handled and stored including during transportation and delivery, and the appropriate Department of Revenue rules regarding the taxation and reporting of the sale of grocery items.
3. An Application to the Board shall contain the following:
 - a. Confirmation that all City of Boston licenses and permits are current;
 - b. Health, safety, and operations plan (the "Plan") or the Board's review including:
 - i. Overview of hours of operation; staffing levels; and COVID-19 related precautions;
 - ii. Overview of types of food sold (prepared or unprepared; food products versus non-food products); anticipated volume (does the licensee intend to increase wholesale orders to accommodate); packaging of items (pre-packaged or packaged per customer e.g.: selling pre-packed one pound amounts of ground beef versus packaging at customer request for any amount); and method of purchase (take-out or delivery).
4. The Board will review the Application in consultation with ISD and, upon approval, will issue correspondence allowing the sale of grocery items by the Licensee on a temporary basis given the COVID-19 health emergency. This approval shall be contingent upon the Licensee's agreement to abide by the Guidance and all applicable City of Boston, state, and federal guidelines, regulations, and laws regarding the sale of grocery items. The Licensee must return a signed copy of the correspondence to the Board via email (licensingboard@boston.gov) prior to commencing the sale of grocery items.

The Advisory is issued in response to the ongoing public health crisis related to the spread of COVID-19 (coronavirus) and will be strictly enforced by the Board, ISD, and the Boston Police Department. Failure to adhere to any of the foregoing will result in disciplinary action including, but not limited, to the suspension of any license issued by the Board or permit issued by ISD.

Claims of ignorance of the law, the Guidance, or the Advisory are not a defense.

Please refer to [boston.gov/coronavirus](https://www.boston.gov/coronavirus) for more information on COVID-19. Any questions should be directed to the Board's Executive Secretary, Lesley Delaney Hawkins, Esq., who can be reached at (617) 635-4170 or Lesley.hawkins@boston.gov.

For the Board,

Lesley Delaney Hawkins

Lesley Delaney Hawkins, Esq.
Executive Secretary & General Counsel



Inspectional Services Department

Martin J. Walsh, Mayor

Guidance document regarding the sale of groceries at restaurants

To improve access to food during the COVID 19 Health Emergency, the City of Boston will be waiving the required Retail Food Permit for the sale of uncooked foods at currently permitted Food Service Businesses intending to sell groceries via delivery, curbside pickup, and takeout. Restaurants interested in selling groceries must include procedures for the following, as well as safe handling procedures in the operational plan submitted to the Boston Licensing Board:

Packaging and labeling of foods

Food purchased by restaurants is typically used to prepare restaurant food and not for retail sale to consumers. These foods often lack a nutrition facts label. The United States Food and Drug Administration (FDA) does not intend to object to the sale of packaged food that lacks a Nutrition Facts label by restaurants, provided that the food does not have any nutrition claims and contains other required information on the label, including the following, as applicable:

- safe handling instructions,
- a statement of identity,
- an ingredient statement,
- the name and place of business of the food manufacturer, packer, or distributor,
- net quantity of contents, and
- allergen information required by the Food Allergen Labeling & Consumer Protection Act.

The restaurant may reuse original labels or provide the above information on labels it creates or that are provided by the manufacturer. These guidelines are concurrent with FDA [temporary policy regarding labeling and packaging](#) during the COVID 19 public health emergency.

The FDA has also provided [temporary flexibility regarding packaging and labeling of shell eggs](#). To be followed for the sale of uncartoned shell eggs.

Retail sale of TCS (time temperature control for safety) foods

- All TCS foods require a proper temperature of 41F and/or below at all times.
 - milk, eggs, cheese, dairy, meats, cut produce, and refrigerated meals including any of these.
- All TCS foods shall remain under temperature control until it reaches the consumer.
- All Non TCS Foods (Shelf Stable) do not require refrigeration.
 - whole fruits and vegetables, bread, general staple products (ie.flour and sugar)