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MEMORANDUM

To: Massachusetts Local Boards of Health

From: Paul Halfmann, Assistant Director

Date: December 30, 2009

Re: Temporary Overnight Shelters

With the onset of winter and cold weather, many places of worship plan to open their doors as a Temporary Overnight Shelter to those who would otherwise remain out in the cold. The Massachusetts Department of Public Health (Department) in cooperation with the Department of Fire Services (DFS) and the Department of Public Safety (DPS) has identified and documented minimum health and safety standards to serve as a guide for Local Boards of Health when inspecting temporary overnight shelters. The following health and safety standards are in addition to the requirements established by DFS (527 CMR 10.13[8]) and the Board of Building Regulations and Standards (780 CMR 3111).

Temporary overnight shelters should not be confused with Temporary Housing or Emergency Shelters established as a result of a declared state of emergency. For the purpose of this document, temporary overnight shelters shall only be defined as a facility used primarily as a house of worship, owned or operated by a religious organization in accordance with 780 CMR Massachusetts State Building Code. They shall operate from September 15 to June 15, both inclusive; for no more than a total of 35 days; and no longer than 7 consecutive days.

The Department recommends that the following minimum health and safety standards be in place at the time of your inspection:

- ❑ **Bed Spacing:** There should be a minimum of 3 ft. separation between beds (4 ½ ft. for double bunks) and the space should be configured to provide at least 6 ft. head-to-head separation.
- ❑ **Adequate Sanitary Facilities:** There should be access to toilets; handwash sinks with hot water, 110°F-130°F; soap; and disposable towels (use of common towels is prohibited).

- ❑ Drinking Water: Bottled water or a bubbler with disposable cups should be provided. Use of common cups is prohibited.
- ❑ Laundry: Bed linens and towels should be laundered between use by different individuals, and more often if needed. Common towels are prohibited.
- ❑ Room Temperature: Provide a minimum room temperature of 64⁰F between 11:01 p.m. and 6:59 a.m.; 68⁰F between 7:00 a.m. and 11:00 p.m.
- ❑ Provide for the separation of males from females and for separation of children from adults not part of the family unit.
- ❑ Access to the shelter by the Local Board of Health for the purposes of establishing compliance with the minimum standards.
- ❑ Shelter must meet the minimum requirements for the storage and management of medical waste found in 105 CMR 480.000: Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste (State Sanitary Code, Chapter VIII).

In addition, the Department’s Food Protection Program (FPP) has provided a tiered interpretation of the applicability of the Food Code, 105 CMR 590.000: Minimum Sanitation Standards for Food Establishments (State Sanitary Code Chapter X), to temporary overnight shelters.

If a church kitchen is used as part of a temporary overnight shelter, then Board of Health inspection and/or licensing requirements would vary depending on how the kitchen is used:

Option 1: The church kitchen is used only by people who live on the premises to prepare their own food.

Discussion: Use of a church kitchen in this manner would not require an inspection or permit under the Food Code, because the use is similar to people at home preparing food for their personal consumption. If it is necessary to determine whether the space is suitable to store, prepare, and serve foods in a sanitary manner, then inspectors should refer to section 105 CMR 410.100 of the Housing Code (“Kitchen Facilities”). If the church kitchen also serves as a base of operation for a commercially licensed retail or wholesale food operation, the local Board of Health should evaluate whether or not this option is acceptable for all parties based on conditions of use.

Option 2: The church kitchen is used by people who live on the premises to eat food from take-out establishments, caterers, or commercial establishments.

Discussion: Use of church kitchen in this manner would not require an inspection or permit under the Food Code, because the situation is similar to a private home that receives catered or home-delivered food. A private home that receives catered or home-delivered food is not a food establishment under section 105 CMR 590.002(B) of the Food Code. However, the take-out establishments, caterers, or commercial establishments which provide the food are required to be inspected and licensed by a local Board of Health, even if the food is donated free of charge.

Option 3: The church kitchen is used to feed people with food prepared and donated by residents or members of the church.

Discussion: Use of a church kitchen in this manner would require an inspection and permit under the Food Code, because MGL Ch. 94, s. 328 requires nonprofit corporations which distribute or serve food to be inspected by the local Board of Health for compliance with the Food Code. If the Board of Health issues the church a food permit, then MGL Ch. 94, s. 328 prohibits charging a fee for the permit.

If the church kitchen is used in this manner for no more than 14 days, then the Board of Health could license the kitchen as a temporary food establishment. Temporary food establishments operated by non-profit organizations are not required to have certified food protection managers under section 105 CMR 590.003(A)(3)(a) of the Food Code. The local Board of Health would determine how to best apply the Food Code based on its review of the proposed use of the facility.

The kitchens in homes owned by residents or church members who prepare the donated food are not inspected or licensed by the local Board of Health, because they are not food establishments under section 105 CMR 590.002(B) of the Food Code. MGL Ch. 94, s. 328 provides homeowners some protection from liability if food is prepared in a manner that does not violate applicable regulations (see USDA booklet “Cooking for Groups: A Volunteer’s Guide to Food Safety”, available on-line at http://origin-www.fsis.usda.gov/Fact_Sheets/Cooking_For_Groups_Index/index.asp).

Option 4: The church kitchen is used to feed people with food which is prepared in the church kitchen by volunteers or staff (i.e. soup kitchen).

Discussion: Use of a church kitchen in this manner would require an inspection and permit under the Food Code, because the kitchen would meet the definition of food service establishment under 105 CMR 590.002(B) of the Food Code. MGL Ch. 94, s. 328 would prohibit charging a fee for the permit, and the local Board of Health would determine how to best apply the Food Code based on a review of the facilities. A certified food protection manager would be required on-site as per 105 CMR 590.003(A)(2) if the Board of Health determined that the program was not a temporary food establishment.

Any questions regarding temporary overnight shelters should be directed to me at 508.792.7880, ext. 2340.