

FOOD SERVICE ORDINANCE

PURSUANT TO THE PUBLIC HEALTH CODE OF THE STATE OF CONTECTICUT AND RELEVANT STATE STATUTES AND BY THE TERMS OF THIS ORDINANCE, THE FOLLOWING ORDINANCE VOIDS ANY EXISTING MUNICIPAL FOOD SERVICE ORDIANCE, AND BECOMES EFFECTIVE JANUARY 1, 2003:

SECTION I - Definitions

As used in this ordinance, the following terms shall have the meanings indicated:

1. FOOD Any raw, cooked or processed edible substance, drink or ingredient, including ice, used or intended for use, in whole or in part or otherwise handled for human consumption.
2. FOOD ESTABLISHMENT Any place, fixed or mobile, where food intended for human consumption is manufactured, prepared, stored, offered for sale, sold, served or given to the public or handled in any other manner for public use, regardless of whether consumption is on or off the premises or whether there is a charge for the food including, food stores, itinerant vendors, and caterers. The term does not include private homes were food is prepared for individual family consumption, or a bed-and-breakfast operation that prepares and offers food to the guests if such operation is owner occupied, has a total occupancy load of no more than 16 persons, does not provide for cooking or warming food in the guest rooms, and breakfast is the only meal served.
3. FOOD VENDING MACHINE A device automatically operated to supply food without the direct supervision of a human being.
4. DIRECTOR OF HEALTH The District Director of Health for the Chatham Health District or the Registered Sanitarian, who is his/her authorized agent, who shall enforce this ordinance.
5. CERTIFIED AGENT One who has been certified by the State of Connecticut for food establishment inspections.
6. SEASONAL ESTABLISHMENT A food Establishment which is seasonal in nature, i.e. not to exceed a six month duration in any given year.
7. TEMPORARY FOOD SERVICE ESTABLISHMENTS Food establishments that may operate in the Chatham Health District at fixed locations for periods not to exceed fourteen (14) days in any thirty (30) day period, in connection with a carnival, circus, public exhibition, festival, or similar transitory gathering.
8. HAZARD ANALYSIS An evaluation of food handling operations to identify points of potential product contamination and an assessment of the adequacy of hot processing and hot and cold storage methods for foods.

Section II - Food Service Establishment Classification

The director of health or his/her authorized agent shall classify each food service establishment at the time of licensure, licensure renewal, or other registration with the director of health.

Chatham Health District
Adopted by the Board of Health November 26, 2002

The food service establishment classification shall be reviewed during each inspection, and in no case, less than annually, and the establishment shall be placed into the highest classification that describes any of the food operations conducted. No food service establishment shall change operations to a different classification without prior written approval by the director of health or his/her authorized agent. The classes of food service are as follows:

Class I is a food service establishment with commercially prepackaged foods and/or hot or cold beverages only. No preparation, cooking or hot-holding of potentially hazardous foods is included, except that commercially packaged precooked foods may be heated and served in the original package within four (4) hours.

Class II is a food service establishment using cold or ready-to-eat commercially processed food requiring no further heat treatment and/or hot or cold beverages. No cooking, heating or hot-holding of potentially hazardous foods is included, except that commercially packaged precooked foods may be heated and served in the original package within four (4) hours, and commercially precooked hot dogs, kielbasa and soups may be heated if transferred directly out of the original package and served within four (4) hours.

Class III is a food service establishment having on the premises exposed potentially hazardous foods that are prepared by hot processes and consumed by the public within four hours of preparation.

Class IV is a food service establishment having on the premises exposed potentially hazardous foods that are prepared by hot processes and held for more than four (4) hours prior to consumption by the public.

SECTION III. Licensing

A) No person shall operate a food establishment who does not have a valid license issued to him/her by the Director of Health or by the certified agent who has been duly authorized. Only a person who complies with the requirements of this Ordinance and the Public Health code of the State of Connecticut shall be entitled to receive or retain such a license. Food service licenses are not transferable between or to another owner(s) or principal operator. Change of ownership or principal operator(s) shall immediately cause a re-inspection and classification of the establishment together with an application for a new food service license and payment of appropriate fee. A valid license shall be posted prominently in plain view in every food establishment. Licenses for temporary food service establishments shall be issued for a period of time not to exceed fourteen (14) consecutive days.

B) NEW LICENSE: Any person desiring to operate a food service establishment shall make a written application for a license on forms provided by the Chatham Health District. Such application shall include the name and address of the Owner, principal Operator, and the designated Qualified Food Operator (QFO), the location and type of the proposed food service establishment, and the signature of all applicants. If the application is for a temporary food establishment, it shall also include the date(s) of the proposed operation. Prior to approval of an application for license, the Director of Health or his Agent shall inspect the proposed food service establishment to determine compliance with the provisions of this Ordinance and the CT Public Health Code. Following this inspection, payment of fee, and a review that the proposed food service establishment complies with the requirements of this Ordinance and the CT Public

Chatham Health District
Adopted by the Board of Health November 26, 2002

Health Code and any other applicable statutes, ordinances or rules and regulations, the Director of Health shall issue a license to the applicant.

C) LICENSE RENEWAL: All food service licenses shall expire on December 31st of each year and may be renewed by the same Owner or Operator for another year upon application approval and payment of annual fee. Licenses not renewed by February 15th of the following year shall be considered lapsed and expired, and any subsequent application for renewal shall trigger re-inspection of the establishment. Seasonal food establishments must complete the license renewal procedure no less than forty-five (45) days prior to the scheduled annual opening of operations to the public.

D) LICENSE SUSPENSION:

1) The Director of Health or Registered Sanitarian may, without prior warning, notice, or hearing, suspend any license to 'operate a food establishment, if the license holder does not comply with requirements of this Ordinance or the CT Public Health Code, or if the operation of the food establishment otherwise constitutes a substantial hazard to public health, or for serious or repeated code violations, or for interference with the Director of Health, Registered Sanitarian or Certified Agent in the performance of their duties. Suspension is effective upon service of the written notice. When a license is suspended, food operation shall immediately cease.

2) Whenever a license is suspended, the license holder or person in charge shall be notified in writing that the license is, upon service of the notice, immediately suspended, and that an opportunity for an appeal is provided if a written request for an appeal is filed with the Director of Health by the license holder within 48 hours. If no request for an appeal is filed within 48 hours, the suspension becomes final. The Director of Health or Registered Sanitarian may end the suspension at any time if reasons for the suspension no longer exist.

E. REVOCATION OF LICENSE: The Director of Health may, after providing opportunity for an appeal, revoke a license for refusal to comply with an order of suspension or serious or repeated violations of any of the requirements of this Ordinance or of the Public Health Code of the State of Connecticut. Prior to revocation, the Director of Health shall notify the license holder or person in charge, in writing, of the reasons for which the license is subject to revocation, and that the license shall be revoked at the end of ten(10) days following service of such notice unless a request for an appeal is filed with the Director of Health by the license holder within 48 hours. If no request for an appeal filed within 48 hours, the revocation of the license becomes final.

F. REAPPLICATION FOR LICENSURE: Whenever a suspension or revocation of a license has become final, the holder of the suspended or revoked license may make written application for reinstatement of the license or for a new license. Such request for reinstatement license must contain a signed statement that the cited violations have been corrected. A license holder or establishment that has had its license revoked shall not be eligible for consideration for a new or renewed food establishment license until thirty (30) days have elapsed after the correction of all defects and violations noted in prior inspection reports and notices of violations.

Chatham Health District
Adopted by the Board of Health November 26, 2002

SECTION IV. Qualified Food Operator (QFO) Required

Each person owning, operating or managing a food service establishment designated as Class III or Class IV shall be a qualified food operator (QFO) or shall employ on-site at least one (1) qualified food operator who is in a supervisory position at said establishment. Documentation for said QFO shall be maintained on file at the food service establishment and provided to the local Director of Health or his/her agent on request. Whenever the qualified food operator terminates employment, is terminated or is transferred, the person owning, operating or managing the food service establishment shall immediately notify the Chatham Health District in writing. A replacement qualified food operator shall be employed within thirty (30) days from the date of termination or transfer of the qualified food operator. Exempt from this QFO requirement (but from no other food service regulations) are temporary food service establishments and special events sponsored by non-profit civic organizations such as, but not limited to, school sporting events, little league food booths, church suppers, and fairs.

SECTION V. Inspections of food service establishments

A. Introduction - All food service establishments shall be inspected by the Director of Health, Registered Sanitarian, or an authorized agent of the director of health. Such authorized inspectors from the Chatham Health District or State Department of Public Health shall be permitted to enter, at any reasonable time, any food service establishment for the purpose of making inspections to determine compliance with this section and the CT public health codes. All food service establishments are in four classes, as designated by the CT public health code, including so-called temporary, itinerant, seasonal, part-time, caterer, and vending/vendor:

B. Inspection Schedule

Class I food service establishments shall be inspected at intervals not to exceed three hundred and sixty (360) days.

Class II service establishments shall be inspected at intervals not to exceed one hundred and eighty (180) days.

Class III food service establishments shall be inspected at intervals not to exceed one hundred and twenty (120) days.

Class IV food service establishments shall be inspected at intervals not to exceed ninety (90) days, except that an interval not to exceed one hundred and twenty days may be allowed where one (1) of the annual inspections is a hazard analysis inspection.

C. Temporary food service establishments, itinerants, and mobile caterers (not to exceed fourteen (14) business days of operation in any thirty (30) day period) shall be licensed and inspected at the start of each term of business; said operator, vendors and caterers must present verification of licensure and inspection from their town of origin as well as meeting all Chatham Health District and Town codes and regulations.

D. Enforcement and Re-inspections: All inspections shall be conducted according to the regulations and procedures as stipulated in the CT Food Protection Codes. Every food service establishment shall maintain a rating score of eighty (80) or higher and shall not have one (1) or more four (4) demerit point items in

Chatham Health District
Adopted by the Board of Health November 26, 2002

violation, regardless of the total rating score. If the establishment fails this stipulation, the director of health or his/her agent shall order correction of the items in violation within two (2) weeks. After two weeks, the director of health or his/her agent shall make a re-inspection, and if at the time of re-inspection the rating score is below eighty (80) or there is one or more four (4) demerit point items, the director of health shall take immediate steps to have the food service establishment closed.

E. Unsanitary conditions: If there are unsanitary or other conditions in the operation of a food service establishment which, in the judgement of the director of health, constitute an immediate and substantial hazard to the public health, he/she may immediately issue a written notice to the permit holder or operator citing such conditions, specifying the corrective action to be taken, and the time period within which such action shall be taken, and if deemed necessary, ordering immediate correction. If correction is not made in the stated time, a written order shall be issued to close the food service establishment.

F. Hearings and Appeals

1) HEARINGS: An Owner or Operator may request a hearing to appeal an order for license suspension or revocation. The hearing provided for in this ordinance shall be conducted by the Director of Health at a time and place designated by the Director of Health. Based upon the recorded evidence of such hearing, the Director of Health shall make a final finding, and may vacate, modify or affirm any notice or order considered in the appeal. A written report of the hearing decision shall be furnished to the license holder by the Director of Health.

2) APPEALS: The owner or operator of an establishment who is aggrieved by such action of the Director of Health may, within 48 hours after the making of such decision, appeal to the CT Commissioner of Public Health who shall thereupon immediately notify the authority from whose order the appeal was taken and examine the merits of such case and may vacate, modify, or affirm such action. The appeal to the Commissioner must be delivered by hand or by mail to the office of the Commissioner within the forty-eight (48) hours or a telephone call must be made to the office of the Commissioner within forty-eight (48) hours with notification of the intent to appeal, followed by a letter of appeal.

SECTION VI. Fees

At the time of licensure or other registration with the director of health, or at the time of annual license renewal, all food service establishments shall pay an annual fee to the Chatham Health District. Fees for renewal of annual licensure shall be paid and delivered to the district health office on or before February 15th of each year. Unpaid fees shall cause the food service license to immediately expire. The fee schedule is reviewed and approved annually by the Chatham Board of Health. The imposition of a re-inspection fee or its payment shall not be deemed to excuse any violation found pursuant to this chapter or to prevent the imposition of any penalty prescribed by the ordinance or other provision of law.

SECTION VII. Submission of Plans/Upgrading Existing Facilities

Whenever a food establishment is constructed or remodeled, and whenever an existing structure is converted to use as food establishment, or when a change is made in the menu requiring a change in equipment or operation of an existing

Chatham Health District
Adopted by the Board of Health November 26, 2002

food establishment, properly prepared plans and specifications for such construction, remodeling, alteration or change shall be submitted to the Director of Health, or certified agent for review and approval before construction, remodeling or alteration is begun. The plans shall indicate the proposed layout, construction materials, arrangement of work and storage areas, location, size, model and type of fixed or movable equipment and facilities which must be NSF approved or its equal. The menu, service expectations and any other information necessary to evaluate the proposed construction or alteration may be required for submission and evaluation.

The Director of Health or Certified Agent shall approve the plans and specifications if they meet the requirements of this ordinance and the CT Public Health Codes. No food service establishment shall be constructed, remodeled or altered except in accordance with plans and specifications approved by the Director of Health or Certified Agent. Upon change of ownership of existing food service establishments, upgrading of present facilities and equipment as deemed appropriate for effective maintenance and satisfactory operation may be required by the Director of Health or Certified Agent.

PRE-OPERATIONAL INSPECTIONS: Whenever plans and specifications are required by this ordinance to be submitted to the Director of Health or Certified Agent, the Director of Health, Registered Sanitarian or his Certified Agent shall inspect the food establishment as may be necessary prior to its beginning operation to determine compliance with the approved plans and specifications, and with the requirements of this Ordinance and the Public Health Code of the State of Connecticut.

SECTION VIII - Examination and Condemnation of Food

Food may be examined by the Director of Health, Registered Sanitarian or Certified Agent as often as necessary for enforcement of this Ordinance or the Public Health Code of the State of Connecticut. The Director of Health or Certified Agent may condemn food, or other related substances which has been subjected to fire, smoke, flooding, sewage contamination, loss of refrigeration, improper temperature requirements for potentially hazardous foods or other serious mistreatment. An itemized list as required by the Director of Health or Certified Agent of such destroyed items is to be kept on record, a copy of which shall be made available to the license holder upon request.

The Director of Health or Certified Agent without prior written notice may at their discretion place a hold order on any food which he/she believes is in violation of the Public Health Code of the State of Connecticut or any section of this ordinance. Confirmation of such action shall be by written notice to the, license holder by means of an inspection report or notice of violation or his Certified Agent shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold under shall be used, served, or moved from the establishment.

The Director of Health shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed with the Director of Health within forty-eight (48) hours, and that if no hearing is requested, the food shall be destroyed. The Director of Health shall hold a hearing, if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated or the owner or person in charge of the food may be directed, by written order, to denature or destroy such food or to bring it

Chatham Health District
Adopted by the Board of Health November 26, 2002

into compliance with the provision of this Ordinance or the CT Public Health Code.

SECTION IX - Food Service Establishments Outside the Jurisdiction of the Chatham Health District

Food from a food establishment outside the jurisdiction of the Director of Health of the Chatham Health District may be sold within the district if such food establishments conform to the provisions of this Ordinance or to substantially equivalent provisions. The Director of Health or Certified Agent may accept reports from responsible authorities in other jurisdictions where such food establishments are located.

SECTION X - Penalties Other Than Suspension and Revocation of Licenses

Any person who shall violate any of the provisions of this Ordinance and/or the Public Health Code of the State of Connecticut shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00). In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

SECTION XI Service of Notices

A notice provided for in this ordinance is properly served when it is delivered or left with the license holder or person in charge by means of an inspection report or other written notice or when it is sent by registered or certified mail, return receipt requested, to the last known address of the license holder. A copy of any notice shall be filed in the records of the Director of Health.

SECTION XII -Unconstitutionality Clause

Should any section, paragraph, sentence, clause, or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.