

FOOD SERVICE LICENSING AND INSPECTION REGULATION

PURSUANT TO THE PUBLIC HEALTH CODE OF THE STATE OF CONNECTICUT AND RELEVANT STATE STATUTES AND BY THE TERMS OF THIS REGULATION, THE FOLLOWING REGULATION VOIDS ANY EXISTING MUNICIPAL FOOD SERVICE ORDINANCE, AND BECOMES EFFECTIVE July 1, 2015:

SECTION I - Definitions

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

1. AUTHORIZED AGENT means any individual certified by the State of Connecticut Department of Public Health Food Protection Program to inspect food service establishments and enforce provisions of section 19-13-B42 of the Regulations of Connecticut State Agencies under the supervision and/or authority of the Director of Health.
2. CATERER means any person who operates or maintains a business which involves the sale or distribution of food or drink prepared in bulk at one geographic location for service in individual portions at another geographic location, or which involves preparation and service of food on public or private premises not under the ownership or control of the operator of such service.
3. CERTIFIED FARMERS MARKET means a farmers market that is authorized by the Commissioner of the State of Connecticut Department of Agriculture to operate and has a Market Master permitted by the Chatham Health District.
4. DIRECTOR OF HEALTH Means the director of the Chatham Health District as approved by the Commissioner of Public Health as specified in CGS 19a-200 and 19a-242 respectively.
5. FARMERS MARKET means a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the permitted period, which operates principally as a common marketplace for a group of farmers, at least two of whom are selling Connecticut-grown fresh produce, to sell Connecticut grown farm products directly to consumers, and where the farm products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.
6. 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.
7. FOOD SERVICE ESTABLISHMENT is any place where food is prepared for individual portion service and includes the site at which individual portions are provided. This term includes any such place regardless of whether consumption is on or off premises and regardless of whether there is a charge for the food. The term does not include a kitchen in a private homes where food is prepared or served and not offered for sale, or a bed-and-breakfast operation that prepares and offers food to guests if such operation is owner occupied, has a total occupancy load of not more than 16 persons including the owner and occupants, and has no provisions for cooking or warming food in the guest rooms, and breakfast is the only meal offered, and placards are posted at the registration area which read,

"this establishment is exempt from section 19-13-B42 of the regulations of the public health code".

8. HAZARD ANALYSIS is 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.

9. MARKET MASTER means the individual that is responsible for the day to day operations of the farmers market as designated by the market cooperative or sponsors.

10 MOBILE FOOD UNIT is an itinerant vendor and shall mean any person who operates a business of serving food or drink from any establishment or conveyance without fixed location and without connections to water supply and sewage disposal systems, but does not include catering. Licenses issued are unit specific and may not be used interchangeably with other units that have not been inspected.

11. Non-Profit Organization means:

- 1) an organization holding a tax exempt status as defined in the United States Internal Revenue Code such as Section 501(c) (3) or (4) and which is exempt from local real estate and personal property tax (if owned) under Connecticut General Statute (Section 12-81 or
- 2) religious groups or
- 3) schools or
- 4) youth organizations or
- 5) agencies funded in whole or in part by tax dollars from health district member towns or
- 6) federal, state or local government facility or:
- 7) civic organizations at the discretion of the Board of Health

11. SEASONAL ESTABLISHMENT A food service establishment at a fixed location connected to water supply and sewage facilities, which is seasonal in nature, i.e. not to exceed six months in duration in any given year.

12. 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.

13. THE DISTRICT means the Chatham Health District.

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.

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 authorized agent. Only a person who complies with the requirements of this regulation 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) days in a 30 day period.

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 or a seasonal 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/her authorized agent shall inspect the proposed food service establishment to determine compliance with the provisions of this regulation and the Connecticut Public Health Code. Following this inspection, payment of fee and a review that the proposed food service establishment complies with the requirements of this regulation and the Connecticut Public 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 the 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) TRANSFER OF LICENSE Licenses are not transferable. Previously noted food service inspection violations must be corrected prior to re-licensing and require d a pre-operational inspection prior to a new license being issued.

E) LICENSE SUSPENSION:

1) The Director of Health 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 regulation or the Connecticut Public Health Code, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health, or for serious or repeated code violations, or for interference with the Director of Health or authorized agent in the performance of their duties. Interference with the Director of Health or authorized agent includes failure to allow the inspection to be conducted. 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 may end the suspension at any time if reasons for the suspension no longer exist.

F. 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 regulation 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.

G. 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.

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 a qualified food operator who is in a supervisory position at said establishment. QFOs designation shall be valid until the date of expiration on the certificate issued by the State of Connecticut Department of

Public Health approved testing organization. Except for sole proprietors, at least one designated alternate must be named and employed by said establishment. A QFO or designated alternate must be present during all hours of operation.

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 authorized 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 not from 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 of Connecticut Department of Public Health shall be permitted to enter, at any time the facility is open, any food service establishment for the purpose of making inspections to determine compliance with this section and the Connecticut public health codes. All food service establishments are in four classes, as designated by the Connecticut public health code, including so-called temporary, mobile food unit (itinerant vendor), seasonal and caterer.

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, mobile food unit (itinerant vendors), 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, mobile food unit (itinerant 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. Temporary food service licenses for Class III and IV establishments shall require **Temporary Food Service Training** provided by the District or other approved provider.

1. Farmers markets are temporary food service events. Certified Farmers Markets require a permit from the District for a Market Master who shall keep an inventory of all registrants with food service operations at the market and provide that list to the District. The Market Master shall maintain a copy of all food service licenses issued by the District for the market.

2. Food service operators at a farmers market shall apply for a temporary food service license valid for no more than 14 days in any given month that may be automatically renewed April through October upon request by the Market Master. A food service license is required except where exempt by law.

D. Enforcement and Re-inspections: All inspections shall be conducted according to the regulations and procedures as stipulated in the Connecticut 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 violation, regardless of the total rating score. If the establishment fails this stipulation, the Director of Health or his/her authorized agent shall order correction of the items in violation within two (2) weeks. After two weeks, the Director of Health or his/her authorized 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. Licenses not renewed by February 15th of each year will be

subject to a fee of an additional 50% of the normal licensure fee. The fee schedule is reviewed and approved annually by the Chatham Board of Health. A re-inspection fee may be imposed after failing two consecutive inspections. 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 food establishment, properly prepared plans and specifications for such construction, remodeling, alteration or change shall be submitted to the Director of Health, or authorized 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 authorized agent shall approve the plans and specifications if they meet the requirements of this ordinance and the Connecticut 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 authorized 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 his/her authorized agent.

PRE-OPERATIONAL INSPECTIONS: Whenever plans and specifications are required by this ordinance to be submitted to the Director of Health or authorized agent, the Director of Health or his authorized 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 Regulation 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 or authorized agent as often as necessary for enforcement of this regulation or the Public Health Code of the State of Connecticut. The Director of Health or authorized agent may condemn food, or other related substances which have 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 authorized 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 authorized 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/her authorized 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 into compliance with the provision of this regulation 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 Chatham Health District may be sold within the district if such food establishments conform to the provisions of this regulation or to substantially equivalent provisions. The Director of Health or authorized 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 regulation 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 regulation 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. Failure of the QFO or designated alternate (or person in charge at the food service establishment) to sign said inspection does not negate the inspection. 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 regulation be declared unconstitutional or invalid for any reason, the remainder of said regulation shall not be affected thereby.