



## NEWTOWN DISTRICT DEPARTMENT OF HEALTH FOOD ESTABLISHMENT REGULATIONS

### Authority

This Regulation is authorized pursuant to Section 19a-243, Subsection (a) of the General Statutes of the State of Connecticut as amended. Be it ordered by the Board of Directors of the District:

### Section 1. Scope and Purpose

- a. This provisions shall be known as the "Food Establishment Regulations," hereinafter referred to as "this Regulation."
- b. The purpose of this Regulation is to reduce the risk of foodborne illness by setting standards for food operations, equipment and facilities, and setting standards for management and personnel to ensure that food served to consumers is safe, unadulterated and honestly presented.
- c. Facilities for dispensing foods or beverages shall meet the requirements of sections 19a-36f through 19a-36o inclusive, of the Connecticut General Statutes, as amended from time to time, and sections 19a-36h-1 to 19a-36h-7, inclusive, of the Regulations of Connecticut State Agencies.
- d. The United States Food and Drug Administration (FDA) Food Code (hereinafter the "Food Code"), in their entirety, and as they may be amended from time to time, are hereby made part of this Regulation and shall apply and govern all cases except where such provisions of this Regulation shall have more stringent requirements.

### Section 2. Definitions

**Authorized agent** Any individual certified by the commissioner to inspect food service establishments and enforce the provisions of this Regulation, the CT Public Health Code, and the Food Code under the supervision of the Director of Health.

**Board of Directors** The Board of Directors of the Newtown Health District.

**Caterer** 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 the preparation and service of food on public or private premises not under the ownership or control of the operator of such service.

**Class 1** Food establishment means a food establishment that only offers for retail sale prepackaged food that is not time or temperature controlled for safety, commercially processed food that is time or temperature controlled for safety and heated for hot holding, but is not permitted to be cooled, or food prepared in the establishment that is not time or temperature controlled for safety.

**Class 2** Food establishment means a retail food establishment that does not serve a population that is highly susceptible to foodborne illnesses and offers a limited menu of food that is prepared, cooked and served immediately, or that prepares and cooks food that is time or temperature controlled for safety and may require hot or cold holding, but that does not involve cooling.

**Class 3** Food establishment means a retail food establishment that does not serve a population that is highly susceptible to foodborne illnesses, and has an extensive menu of foods, many of which are time or temperature controlled for safety and require complex preparation, including, but not limited to, handling of raw ingredients, cooking, cooling and reheating for hot holding.

**Class 4** Food establishment means a retail food establishment that serves a population that is highly susceptible to food-borne illnesses, including, but not limited to, preschool students, hospital patients and nursing home patients or residents, or that conducts specialized food processes, including, but not limited to, smoking, curing or reduced oxygen packaging for the purposes of extending the shelf life of the food.

**Certified Farmers' Market** A formally organized and regularly scheduled event for the sale of food produce and products under the general guidelines and auspices of the State Department of Agriculture, to permit and encourage farmers to sell produce and products at a designated location. Farmers' markets will not be required to obtain a license from the Newtown Health District, unless the market, individual persons or food establishments engage in temporary event food services or food preparation as defined in Chapter 1, Section 1-201.10 of the Food Code. Section 22-6s(b) of the Connecticut General Statutes allows that any permit issued by a local health department (LHD) in a certified farmers' market is valid at any other certified farmers' market with the provision that the operation is the same as was approved by the LHD that issued the original license.

**Certified Food Protection Manager (CFPM)** A person in charge who demonstrates knowledge by being a food protection manager who is certified by a food protection manager certification program. Such program shall be evaluated and listed by a Conference for Food Protection, recognized accrediting agency, as conforming to the Conference for Food Protection Standard for Accreditation of Food Protection Manager Certification Programs.

**Director of Health** The Director of Health of Newtown District Department of Health or their duly authorized representative.

**FDA Food Code** The Food Code of the United States Food and Drug Administration, as amended from time to time, and as administered under section 19a-36h. Hereinafter referred to as the "Food Code."

**Food Establishment** An operation that: (A) stores, prepares, packages, serves, vends directly to the consumer or otherwise provides food for human consumption, including, but not limited to, a restaurant, catering food service establishment, temporary food service establishment, itinerant food vending establishment, seasonal operation, market, institution or foodbank; or (B) Relinquishes possession of food to a consumer directly or indirectly through a delivery service, including, but not limited to, home delivery of grocery orders or restaurant takeout orders or a delivery service that is provided by common carriers. "Food establishment" does not include a vending machine, as defined in Section 21a-34, a private residential dwelling in which food is prepared under Section 21a-62a, or a food manufacturing establishment, as defined in Section 21a-151 of the General Statutes.

**Food Store, Market** An establishment involved in the sale or distribution of food and/or drink in its original unopened package for consumption off the premises. Any person, firm or corporation who sells or keeps for sale any groceries, bakery products, confectioneries, meats, fish, vegetables, or fruit shall be designated as Class 1, 2, 3, or 4 in accordance with the provisions of this Regulation.

**Health District** The Newtown District Department of Health (NDDH), also at times referred to as the Newtown Health District.

**Mobile Food Establishment** An itinerant vendor, vehicle-mounted, self-contained establishment serving food and drink without fixed location and without connections to water supply and sewage disposal system. Mobile food establishments shall be designated as Class 1, 2, 3, or 4 in accordance with the provisions of this Regulation. Licenses issued are vehicle specific and may not be used interchangeably with other vehicles that have not been inspected.

**Non-profit organization** An organization holding a tax exempt status as defined by the United States Internal Revenue Code 26 USC 501(c)(3), which is operated by an entity which is not associated with a branch of Federal, State or local government.

**Permanent Food Service Establishment (PFE)** A food establishment operating in a permanently constructed structure permitted and operated for storing, preparing, serving, packaging, or otherwise handling food at the retail level. This does not include a Temporary Food Establishment or Mobile Food Establishment.

**Seasonal Establishment** A food service establishment at a fixed location using the same menu on multiple dates for a period of time, and connected to water supply and sewage disposal

facilities, which is seasonal in nature (i.e. not to exceed ninety (90) consecutive days in duration of any given year).

**Seasonal License** A license issued to an individual or organization not to exceed ninety (90) consecutive days, excluding licenses issued to a Connecticut Farmer selling "Farm products" at a "Certified Farmers' Market" as these terms are defined in Section 22-6r of the Connecticut General Statutes for a period of not more than one hundred twenty (120) calendar days.

**Servicing Area** An operating base location to which a mobile food establishment or transportation vehicle returns regularly for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

**Temporary Food Establishment** A food establishment that operates at a fixed location for a period not to exceed fourteen (14) consecutive days in conjunction with a single event or celebration.

### **Section 3. Application; Fees; Issuance of Licenses**

- a. No person shall engage in the business of a food service establishment without a valid license issued by the Director of Health. Only a person who complies with the requirements of this Regulation shall be entitled to receive or retain such a license.
- b. Application for a license to maintain or operate a food establishment shall be made to the Director of Health, or their authorized agent, on forms furnished by the Newtown Health District, along with the required fee as set forth in the Newtown Health District's fee schedule, which may be amended from time to time. [Note: Fees for temporary food events may be waived, at the discretion of the Director of Health, for not-for-profit organizations holding a valid 501(c) (3) exemption.]
- c. All food establishments (i.e. temporary food events, mobile food establishments, farmers' market vendors), shall be classified per the guidelines of the Food Code and as set forth in this Regulation. No food service provider may change classification without the permission of the Director of Health or their authorized agent. Food service establishments will be checked and reclassified as necessary or at the time of the licensing inspection. The fee and application form shall be collected prior to licensing.
- d. All licenses are nontransferable.
- e. The license holder of every food establishment shall keep a valid license posted in a conspicuous place in the establishment. It shall be posted in such a manner so as to be visible to the patrons of the establishment and protected against defacement or damage.
- f. When requested by the municipal tax authority, the District will withhold or revoke any License to Operate until proof of payment of municipal taxes is provided per Section 12-146a Connecticut General Statutes.
- g. A school whose food service is conducted by the local school board is required to obtain a license, but shall be exempt from the license fee. A school whose food service is conducted by a commercial or contracted company shall be required to pay the ordinary fee as listed in the fee schedule.
- h. Any applicant whose check is returned unpaid to the Newtown Health District shall be required to pay a returned check fee in the amount specified in the fee schedule.
- i. Seasonal food service licenses may be issued for a period that shall not exceed 90 calendar days, from the date of issuance, at the discretion of the Director of Health or their authorized agent. The application for a seasonal food service license shall be on a temporary event license application and the fee shall be determined at the time of application or as set in the fee schedule.

#### **Section 4. Expiration and renewal of Licenses**

- a. All licenses shall expire on the date specified on the license.
- b. All required documentation shall be submitted at the time of renewal.
- c. Failure to submit required documentation will result in the suspension of the current license.
- d. Late food service applications renewals are subject to late fees as set forth the Newtown Health District's fee schedule.

#### **Section 5. Approval of plans and specifications required**

- a. An application for food service plan review shall be made to the Newtown Health District on forms provided by the District. The associated fee as set in the fee schedule shall be provided at the time of application.
- b. Whenever a food service establishment is constructed or substantially remodeled, and whenever an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for construction, remodeling, or alteration shall be submitted to the Director of Health, or their authorized agent in the Newtown Health District, for review and approval before construction, remodeling or alterations are begun. The plans and specifications shall indicate the proposed layout, arrangement, and construction materials of work areas and the type and model of proposed fixed equipment and facilities. The Director of Health or their authorized agent shall approve the plans and specifications if they meet the requirements of the FDA Food Code, this Regulation and the Public Health Code. No food service establishment shall be constructed, remodeled, or altered except in accordance with plans and specifications approved by the Director of Health or their authorized agent.
- c. Approval by the Director of Health or their authorized agent shall be separate from and independent of any other review, permit, inspection or approval which may be required by the Town or State of Connecticut.

#### **Section 6. Inspections**

- a. Whenever plans and specifications are required to be submitted by the provisions of this Regulation, the Director of Health or their authorized agent shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications, and with the requirements of this Regulation and the Food Code.
- b. The Director of Health shall periodically inspect the premises, equipment, and operations of all licensed establishments. If such agent finds that any establishment is operating in violation of the Food Code, this Regulation or other applicable Statutes or Regulations, the Director of Health shall order corrections of noted deficiencies. All licenses issued under the terms of this Regulation may be suspended or revoked by the Director of Health for violations of the terms of the Food Code or this Regulation.

#### **Section 7. Director of Health: Right of Entry**

Connecticut certified, District inspectors shall be permitted to enter, at any reasonable time, any permitted food establishment in the jurisdiction of the District for the purposes of making an inspection to determine compliance with the Food Code and this Regulation. If a food establishment denies the District access, the inspector shall inform the License Holder that providing access is a condition of the acceptance and retention of a License, and failure to do so is a violation of the Director of Health and shall provide the details of the denial of access on an inspection form.

## **Section 8. Water Analysis**

- a. All food service establishments supplied by on-site private wells (non-community water supplies), shall submit to the Director of Health an analysis of their water supply with their yearly license to operate. The analysis must be performed by a water-testing laboratory licensed by the State of Connecticut. The water analysis shall include bacteriological, physical and sanitary chemical examination. The Director of Health may require testing for additional parameters, prior to license approval. All water supplies must be from a public water system regulated by the State Department of Public Health. Water analysis shall be current within 3 months of the application for a license.
- b. Failure to submit such water analyses shall subject the owner or operator of such establishment to the suspension of the establishment's license to operate. Such food service establishment shall remain closed until submission of the water test results.

## **Section 9. Reinspections; fees; failed inspection**

- a. All food establishments which demonstrate violations of the Food Code will require correction of said violations within the time period as set by the Food Code. Violations which threaten the immediate health of consumers will be corrected on site at the time of the inspection. Reinspection will be conducted at the discretion of the Newtown Health District depending on the severity of the violation. The Newtown Health District may approve in its sole discretion a compliance schedule that extends beyond the time limits specified by the Food Code, if a written schedule of compliance is submitted by the license holder and no health hazard exists or will result from allowing an extended schedule for compliance.
- b. Reinspection will be conducted, as required by the Newtown Health District, depending on the severity of the violation or as necessary for failed inspections. A reinspection will be required in accordance with the time period as set by the Food Code or as noted on the inspection form by an authorized agent.
- c. Failure of an inspection is equal to a food establishment obtaining three (3) or more risk factor violations or six (6) or more good retail practice violations.
- d. If there are persistent or repeat violations found during routine inspections, the Director of Health or their authorized agent may issue a Warning Letter. The Warning Letter shall be issued within five working days of the inspection with the purpose of establishing a timeline for correction agreeable to the Director of Health. Failure to meet the timeline of correction may result in suspension of the establishment's food license and/or closure of the establishment.
- e. If there are repeat violations at reinspection, the Director of Health shall initiate a Hearing between the owner and Person in Charge of the establishment, the Director of Health and/or their authorized agent. The hearing shall be scheduled within five working days of the reinspection, or at a time agreeable to the Director of Health, with the purpose of establishing a timeline for correction. Failure to meet the timeline of correction may result in suspension of the establishment's food license, and/or a fine as set in the fee schedule as amended, and/or closure of the establishment.
- f. After a Hearing, the Director of Health and/or their authorized agent may require a Risk Control Plan be completed and reviewed with the establishment owner and/or Person in Charge. The Risk Control Plan shall be on a template provided by or approved by the Newtown Health District. The Risk Control Plan is to identify risk factor violations and establish active managerial controls of identified uncontrolled hazards.

- g. The fee for reinspection for repeat priority violations shall be required and fee amount provided as set forth in the fee schedule and payable to the Newtown Health District. All assessed reinspection fees shall be paid prior to relicensure or in a timeframe set by the Director of Health.

The timeframe for correction must not exceed:

1. 72 hours after the inspection for a Priority Item.
2. 10 days after the inspection for a Priority Foundation Item.
3. The next routine inspection or within 90 days of the inspection for a Core Item.

#### **Section 10. Suspension and Revocation of Licenses**

For conditions and procedure due to a license suspension or license revocation, please refer to the Newtown Health District "License Suspension and License Revocation Policy." Copies can be requested by contacting the Newtown Health District.

#### **Section 11. Service of notice**

A notice provided for in this Regulation shall be deemed to have been properly served when a copy of the inspection report form or other notice has been personally delivered to the license holder or person in charge or when it is sent by registered or certified mail, return receipt requested, to the address of the license holder as reported on the license application. A copy of the notice shall be filed in the records of the Director of Health.

#### **Section 12. Approved source, examination, embargo and condemnation of food**

- a. All food and drink in a food service establishment shall be from sources approved or considered satisfactory by the Director of Health.
- b. Examination: Food may be examined or sampled by the Director of Health as often as necessary for enforcement of this Regulation or the Food Code.
- c. Embargo: The Director of Health may, upon written notice to the license holder or person in charge specifying with particularity the reason(s) therefore, place a hold order on any food or beverage which they believe is adulterated or otherwise unfit for human consumption. The Director of Health shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Director of Health shall direct storage of the food under conditions specified in the hold order without risk to the public health. The hold order shall state that a request for hearing may be filed with the Director of Health within two (2) business days, and that if no hearing is requested, the food shall be destroyed. Within two (2) business days following receipt of a request for a hearing, the Director of Health shall hold a hearing. On the basis of evidence procured at that hearing, the hold order may be rescinded or the license holder or person in charge of the food may be directed, by written order, to denature or destroy such food or bring it into compliance with the provisions of this Regulation or the Food Code.
- d. Condemnation: Food shall be subject to immediate condemnation by the Director of Health when it is found to be from an unapproved source or is found to be unfit for human consumption by reason of the appearance or odor of decomposition, adulteration, or by having been contaminated by exposure to water, smoke, fire, heat, lack of refrigeration or animal or insect contact. Exposure to nonfood chemicals in solid, liquid, or gaseous forms shall also be grounds for condemnation. Such action of condemnation shall only be used when, in the opinion of the Director of Health, there is substantial risk that the suspected food would otherwise be used for human consumption, or if the license holder agrees in writing as to the grounds for condemnation.

**Section 13. Prohibited Practices**

- a. No time/temperature control for safety foods( TCS) prepared in a private home or unlicensed food facility may be used or sold in any food establishment.
- b. Home-canned foods are prohibited.
- c. Outdoor cooking operations at a Permanent Food Service Establishment is prohibited.

**Section 14. Regulation of food service establishments in other jurisdictions**

Food from food service establishments outside the jurisdiction of the Newtown Health District may be sold within the Newtown Health District if such food service establishments conform to the provisions of this Regulation or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the Director of Health may accept reports from responsible authorities in other jurisdictions where such food service establishments are located.

**Section 15. Terms defined in other codes**

Where terms are not defined in this Regulation and are defined in either the Connecticut General Statutes, or the building, fire safety or Food Code they shall have the same meanings ascribed to them as in the general statutes or as in these other referenced codes.

**Section 16. Conflict of regulations**

In any case where a provision of this Regulation is found to be in conflict with a regulation of the Connecticut Department of Public Health, FDA Food Code and/or the Department of Consumer Protection on the effective date of this Regulation, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

**Section 17. Appeal Rights, Connecticut Department of Public Health**

Any person aggrieved by an order issued by the Director of Health or their authorized agent may, not later than three business days after the date of such person's receipt of such order , appeal to the Commissioner of Public Health, pursuant to the provisions of Section 19a-229 of the Connecticut General Statutes. Said appeal shall not stay said order unless the stay is requested of and issued by the Commissioner of Public Health.

**Section 18. Repeal and Date of Effect**

Upon adoption of this Regulation, all previous versions are hereby repealed.

**Section 19. Unconstitutionality Clause**

- a. Should any section, paragraph, sentence, clause or phrase of this Regulation be declared unconstitutional or invalid for any reason, the remainder of said Regulations shall not be affected thereby.
- b. The foregoing amended Regulation was approved and duly adopted at a meeting of the Newtown District Department of Health Board of Directors on DATE to be effective DATE.