

ARTICLE V. - FOOD ESTABLISHMENTS

Sec. 50-103. - Purpose.

This article authorizes and provides provisions for municipal enforcement of section 19-13-B42, section 19-13-B48, and section 19-13-B49, inclusive of the public health code of the State of Connecticut (the "public health code") and of any amendments thereof hereafter adopted, all of which deal with sanitation of restaurants, food operations, and other places preparing and serving food and beverages.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-104. - Definitions.

Food service establishment. Establishment engaged in the retail sale of food, including itinerant vendors who transport food for the purpose of retail sale, temporary food service operations and caterers whose fixed base of operation are located within the town's boundaries.

Foods. Any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use, or for sale, in whole or in part for human consumption.

Not-for-profit organization. A nonprofit tax exempt organization.

Public event. Event to which the general public is invited by advertisement or advertisements circulated or directed to the public at large and where food is served or made available.

Temporary food establishment. Food establishment that operates at a fixed location for a temporary period of time, not to exceed two weeks, in connection with a carnival, circus, public exhibition, festival, celebration, or similar transitory gathering.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-105. - Authority.

This section is enacted pursuant to the provisions of C.G.S. §§ 7-148 and 19a-36. The director of health and his/her agent(s) shall be charged with the enforcement of the provisions of this article and the public health code.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-106. - Permit to operate food service establishment.

- (a) No person shall operate a food service establishment without a valid permit issued by the director of health. Only a person who complies with the requirements of this section and the public health code shall be entitled to receive or retain such permit. Permits are not transferable and shall be renewed annually. A valid permit shall be posted in a conspicuous public location, visible to the patrons of the establishment.
- (b) The provisions of this section shall apply to every food establishment in the business of manufacturing for sale or dispensing of food and/or beverages intended for human consumption, and every person operating a hotel, restaurant, store or vehicle for selling or dispensing food and/or beverages to the public.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-107. - Classifications of food service establishments.

- (a) *Classification.* For purposes of this article, the following classifications of retail food establishments are adopted.
 - (1) *Class I:* A food establishment that only offers for retail sale:
 - a. Prepackaged food that is not time or temperature controlled for safety.
 - b. Commercially processed food that:
 - i. Is time or temperature controlled for safety and heated for hot holding; but
 - ii. Is not permitted to be cooled.
 - c. Food prepared in the establishment that is not time or temperature controlled for safety.
 - (2) *Class II:* 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.
 - (3) *Class III:* A retail food establishment that:
 - a. Does not serve a population that is highly susceptible to foodborne illnesses.

- b. Has an extensive menu of foods, many of which are time or temperature controlled for safety and require complex preparation, include, but not limited to handling of raw ingredients, cooking, cooling, and reheating for hot holding.
- (4) *Class IV*: A retail food establishment that serves a population that is highly susceptible to foodborne 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, during, or reduced oxygen packaging for the purposes of extending the shelf life of the food.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-108. - Permit application.

- (a) Every person proposing to operate a food establishment shall make written application on forms provided by the director of health.
- (b) The director of health shall issue a permit to the applicant when the food establishment is found to be in compliance with the requirements of this chapter, the public health code of the State of Connecticut, and all other applicable regulations and policies within the Town of South Windsor.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-109. - Plan review and fees.

- (a) Every person who:
 - (1) Proposes to remodel or alter an existing building or portion thereof which is being used or is proposed to be used as a food establishment; or
 - (2) Proposes to construct a new building which is to be used in whole or in part as a food establishment; or
 - (3) Proposes a menu change resulting in a reclassification of the existing food establishment to a Class III or Class IV as described in section 50-107; or
 - (4) Takes over ownership of an existing food establishment; or
 - (5) Proposes to operate as an itinerant vendor, shall prior to the start of such remodeling, construction, change in ownership (including the transfer of a majority interest in any corporation, limited liability company or limited

liability partnership) and/or making sales as an itinerant vendor, submit an application, draft menu, qualified food operator certificates (if applicable), plans, and applicable fees, to the director of health for approval.

- (b) Such plans shall be drawn to a scale of no less than one-fourth inch equals one foot. The plans and specifications shall indicate the proposed floor plan or layout, construction materials of work areas and the type and model of proposed equipment.
- (c) The director of health or his/her agent shall have a minimum of 30 days to complete the plan review process.
- (d) Plan review fees for each class shall be established by the town council.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-110. - Temporary food establishment permitting.

- (a) Any person applying for a temporary food service permit shall make written application to the town's health department. All applicants shall make the required application at least 14 days prior to the event.
- (b) The director of health shall issue a permit to the applicant if proposed temporary food establishment complies with the requirements of this section and the public health code.
- (c) Temporary permits shall not exceed a period of 14 days.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-111. - Food service establishment permit fee.

- (a) Annual fees for food service establishments for each permit or renewal shall be established by the town council.
- (b) Not-for-profit organizations which maintain permanent kitchen facilities or apply for temporary permits and are subject to regulations section 19-13-B42 and 19-13-B48 of the Connecticut Public Health Code are hereby exempt from any food service establishment permit fee payment.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-112. - Non-transferability of permit.

Permits and renewals issued under this section are not transferable by address, owner or change of classification. Any change of address, owner or classification shall require a new permit.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-113. - Permit expiration.

All permits shall expire annually on December 31st and be renewed for another year upon application and payment of the annual fee, regardless of when the original application for a permit was made.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-114. - Suspension or revocation; appeals.

- (a) The director of health may suspend any permit to operate a food establishment if the permit holder does not comply with the requirements of this chapter or the public health code. If the director of health or his/her authorized agent finds unsanitary conditions in the operation of a food establishment which in his/her judgment constitute a substantial hazard to public health, he/she shall immediately notify the permit holder or operator in writing, citing such conditions and specifying the corrective action to be taken and the time period within which such action shall be taken. If deemed necessary, he/she will order immediate correction. If the corrections are not made in the stated time, the permit shall be suspended. Suspension is effective upon service of a notice as stated in this article. When a permit is suspended, food service activities shall immediately cease.
- (b) Whenever a permit is suspended, the permit holder or person in charge may, within 48 hours, file a written appeal with the director of health. If no appeal is filed within 48 hours, the suspension becomes final and the permit is revoked. If an appeal is filed, the director of health or his/her appointed designee shall schedule a hearing within a reasonable time, rendering a decision within ten days.
- (c) The director of health may revoke a food service permit for serious or repeated violations of any of the requirements of this section or the public health code or for interference with the director of health or his authorized agent in the performance of their duties. Prior to revocation, the director of health shall notify the permit holder or person in charge, in writing, of the reason for which the

permit is subject to revocation and that the permit shall be revoked effective upon service of such notice unless an appeal is filed within 48 hours. If no appeal is filed within 48 hours of service of said notice, the revocation of the permit becomes final. When a permit is finally revoked, food service activities shall immediately cease. If any appeal is filed, the director of health shall thereupon immediately examine the merits of such revocation and may vacate or affirm such revocation.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-115. - Reapplication for permit.

- (a) *Suspension.* Whenever a permit has been suspended, the holder of the suspended permit may make written request for reinstatement of the suspended permit. Within ten days following receipt of such written request, including a statement signed by the applicant that in his opinion the conditions causing the suspension have been corrected, the director of health or his/her authorized agent shall make a re-inspection. If the applicant is found to be complying with the requirements of this section and the public health code, the permit shall be reinstated.
- (b) *Revocation.* Following a revocation, a written application may be made pursuant to section 50-108 herein. Upon payment of the annual fee and following a successful re-inspection, the permit shall be reinstated.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-116. - Service of notice.

Service of notice as provided for in this article is deemed to be properly served when it is delivered to the permit holder or person in charge of the food establishment or when it is sent by registered or certified mail, return receipt requested, to the address of the food establishment shown on the last completed application of the permit holder. Service is complete upon mailing and not receipt of said notice. A copy of any such notice shall be filed in the records of the director of health.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-117. - Examination and condemnation of food.

- (a)

Food establishments may be inspected and food samples taken therefrom may be analyzed by the director of health or his/her authorized agent as often as deemed necessary for enforcement of this section or the public health code. The director of health or his/her authorized agent shall notify the owner or person in charge of the food establishment specifying the reasons to place a hold order on any food or beverage believed to be unfit for human consumption. The director of health or his/her authorized agent 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 removed from the establishment. The director of health shall permit storage of the food under conditions specified in the hold order. If food storage is not possible without risk to the public health, an order for destruction will be issued by the director of health or his/her agent which shall be immediately accomplished by the food establishment.

- (b) The hold order shall state that a request for hearing may be filed with the director of health within 48 hours. In the event no hearing is requested, the food shall be destroyed immediately upon expiration of said 48-hour period. If requested the director of health or his/her designee shall hold a hearing, and on the basis of evidence produced at the hearing, the hold order may be vacated or the owner or person in charge of the food may be ordered to denature or destroy such food or bring it into compliance with the provisions of this section or the public health code. The requested hearing must take place within 24 hours from the issuance of the hold order.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Sec. 50-118. - Penalties.

- (a) Any person who operates a food and/or beverage establishment without a valid food permit or found to be in violation of this article shall be issued an infraction as provided for in C.G.S. §§ 51-164m and 51-164n, as the same may be amended from time to time.
- (b) In addition to any other penalties, a fine of \$250.00 shall be assessed for each violation that constitutes an offense under this section.
- (c) Each day of the violation thereof shall be deemed a separate offense.
- (d)

If criminal prosecution is the result of noncompliance of any of the provisions of this section, the defendant shall be responsible for the town's costs, together with reasonable attorney's fees.

(Ord. No. 218, 8-7-17; Ord. No. 226, 5-21-18)

Secs. 50-119—50-121. - Reserved.