

AT THE SPECIAL MEETING OF THE BOARD OF ALDERMEN HELD ON JUNE 27, 2023, THE FOLLOWING ORDINANCE WAS APPROVED:

2a-1

AN ORDINANCE AMENDING CHAPTER 8, FOOD AND FOOD ESTABLISHMENTS OF THE CODE OF ORDINANCES OF THE CITY OF MILFORD

**ARTICLE I.
IN GENERAL**

Sec. 8-1 Purpose.

This Chapter shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

Sec. 8-2 Scope and Applicability

The United States Food and Drug Administration's Food Code ("Food Code") as adopted by reference in Connecticut General Statute Sec. 19a-36h, as well as adopted and promulgated by the State of Connecticut Commissioner of Health is hereby adopted and made part of this Ordinance. All food establishments shall comply with the requirements of the Food Code, as amended from time to time, any supplement thereto published by the United States Food and Drug Administration, and the Connecticut General Statutes and the Regulations of Connecticut State Agencies, as applicable.

Sec. 8-3 Definitions.

For the purpose of this Chapter, the following terms shall have the meanings indicated:

APPROVED - Acceptable to the Director of Health based on a determination as to conformance with the requirements of this Chapter, the Food Code and supplements, Connecticut General Statutes, the Regulations of Connecticut State Agencies, and/or good public health practices.

AUTHORIZED AGENT - A person designated by the Director of Health to act for him or her in the performance of any of his or her duties. For any person to be designated by the Director of Health to act for him or her in the enforcement of this Chapter, he or she must also be currently certified as a food service sanitation officer by the Commissioner.

CERTIFIED FOOD PROTECTION MANAGER - Has the same meaning as provided in Section 19a-36g of the Connecticut General Statutes.

COMMISSARY - A catering establishment, restaurant, or other fixed food establishment in which food is kept, handled, processed, prepared, packaged or stored with the intent of causing this food to be transported elsewhere for service.

COMMISSIONER - The State of Connecticut Commissioner of Public Health.

PERSON - Includes any individual, partnership, corporation, association, or other legal entity.

PERSON IN CHARGE - The individual present at a food establishment who is responsible for the operation at the time of inspection.

PRIORITY ITEM – Has the same meaning as provided in Section 1-201.10 of the Food Code.

PRIORITY FOUNDATION ITEM – Has the same meaning as provided in Section 1-201.10 of the Food Code.

PROCESSING - The conversion of raw food products into a state ready for human consumption, including, but not limited to, cutting, washing, heating, cooling and packaging.

PUSHCART - A non-self-propelled vehicle that only offers for retail sale food that is not time or temperature controlled for safety, or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters, or limited to the manufacture and sale of frozen desserts.

RETAIL FOOD STORE - Any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include roadside markets that offer only fresh fruits and fresh vegetables for sale.

SEASONAL FOOD ESTABLISHMENTS - A food establishment that operates at a fixed location for a period of time greater than 14 days, but not year-round.

TEMPORARY FOOD ESTABLISHMENT - A food establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

TIME/TEMPERATURE CONTROL FOR SAFETY FOOD (TCS) - A food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

VARIANCE - A written document issued by the Commissioner of Public Health that authorizes a modification or waiver of one or more requirements of the Food Code.

VENDING MACHINE – A self-service device that, upon insertion of a coin, paper currency, token, card, or key, or by electronic transaction or optional manual operation, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

when the Health Department does not normally conduct regular business, the person in charge shall notify the police dispatcher, who shall continue to make all reasonable efforts to contact the Director of Health.

Sec. 8-11 Personnel; employee health.

No license holder or person in charge shall permit any person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, to work in a food establishment unless specifically authorized by the Director of Health. If the owner, operator, or person in charge of a food establishment has reason to suspect that any employee has contracted any reportable diagnosis as specified in Section 2-201.11(A)(2) of the Food Code, or any other communicable disease included on the Commissioner's list of reportable diseases, emergency illnesses and health conditions adopted pursuant to Section 19a-2a of the Connecticut General Statutes and that the commissioner deems reportable in relation to a foodborne outbreak, such owner, operator, or person in charge shall immediately notify the local Director of Health.

Sec. 8-12 Temporary food establishments.

(a) Generally. A temporary food establishment shall comply with the requirements of this Chapter, Food Code and supplements, Connecticut General Statutes, and the Regulations of Connecticut State Agencies, except as otherwise provided in this Chapter. The Director of Health or his or her authorized agent may impose additional requirements to protect against health hazards related to the conduct of the temporary food establishment; may prohibit the sale of some or all time/temperature control for safety foods (TCS); and when no health hazard will result, may waive or modify requirements of this Chapter.

(b) Restricted operations.

- (1) These provisions are applicable whenever a temporary food establishment is permitted, under the provisions of Section 8-12(a) of this article, to operate without complying with all the requirements of this Chapter.
- (2) Only those time/temperature control for safety foods (TCS) requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served. The preparation or service of other TCS foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs, fish or shellfish, is prohibited. This prohibition does not apply if it can be shown to the full satisfaction of the Director of Health or his or her authorized agent that a TCS food can and will be prepared, packaged, stored, displayed or transported under conditions and in facilities meeting the requirements of this Chapter, the

by the City of Milford against personal property used or to be used in said food establishment have been paid, and such other pertinent information as the Director of Health may require. If the application is for a temporary food establishment, it shall also include the dates of the operation.

(b) No permit to operate a food establishment shall be issued by the Director of Health unless the applicant has provided the Director of Health with proof of registration with the Connecticut Department of Public Health upon implementation of the registration system. This Section 8-22(b) shall not apply to temporary food establishments and certified farmers' markets, as defined in Section 22-6r of the Connecticut General Statutes.

(c) Prior to approval of an application for a license, the Director of Health shall inspect the food establishment to determine compliance with the requirements of this Chapter, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies.

(d) The Director of Health will issue a license to the applicant if the inspection reveals that the food establishment complies with the requirements of this Chapter, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies.

Sec. 8-23 Suspension of licenses.

(a) The Director of Health may suspend any license to operate a food establishment if:

(1) The license holder, person in charge, or the operation of the establishment itself, does not comply with the requirements of this Chapter the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies.

(2) The operation of the establishment otherwise constitutes an immediate and substantial hazard to public health;

(3) The Director of Health is interfered with in the performance of his or her duties; or

(4) There is a failure to correct a violation which is continually found and reported on the inspection report form in a timely manner as defined in Section 8-405 of the Food Code.

(b) If the Director of Health finds unsanitary or other conditions in the operation of a food establishment which, in his or her judgment, constitute an immediate and substantial hazard to public health, he or she will immediately issue a written notice of suspension to the license holder or person in charge citing the reasons for such action. Upon service of such notice, the license to operate a food establishment is suspended. When a license is suspended, all operations related to the processing, preparation, storage, transportation, sale, or service of food shall cease immediately.

(c) Whenever a license is suspended, an opportunity for a hearing will be provided if a written request for a hearing is filed with the Director of Health by the license holder within 48 hours. If

Sec. 8-25 Service of notice.

A notice provided for in this article is properly served when it is delivered to the license holder or the person in charge, or when it is sent by electronic, 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.

Sec. 8-26 Hearings.

The hearings provided for in this article shall be conducted by the Director of Health at a time and place designated by him or her. Any oral testimony given at a hearing shall be reported verbatim, and the presiding officer shall make provision for sufficient copies of the transcript. The Director of Health shall make a final finding based upon the complete hearing record and shall sustain, modify, or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the Director of Health within 10 working days of the hearing date.

Sec. 8-27 Reinstatement of suspended and revoked licenses.

(a) Suspension. Whenever a license has been suspended, the holder of the suspended license may make a written request for license reinstatement. Within 10 days following receipt of a written request, including a statement signed by the applicant that, in his or her opinion, the conditions causing the suspension have been corrected, the Director of Health shall make a reinspection. If the Director of Health determines that the applicant has complied with the requirements of this Chapter, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies, the license shall be reinstated.

(b) Revocation. After a period of 60 days from the date of revocation, a written application may be made for the issuance of a new license, as provided for in Section 8-22 of this article, and payment of the annual fee.

Sec. 8-28 Fees.

(a) The Director of Health shall establish a schedule of fees based upon the food establishment type and classification. Establishments shall be classified in accordance with the definitions contained in Section 19a-36h-1 of the Regulations of Connecticut State Agencies. The Director of Health shall post the fee schedule in the Health Department Office, in public view, and on the City's website.

(b) At the time of filing an application for a food establishment license, the applicant shall pay all fees in accordance with the schedule of fees established by the Director of Health. Fees may be assessed for functions including, but not limited to, permits, plan reviews, inspections and

- (2) In the case of temporary food establishments, all violations shall be corrected within 24 hours. If violations are not, or cannot be, reasonably corrected within 24 hours, the food establishment shall immediately cease food service operations until authorized to resume by the Director of Health.

(b) Failure to comply with any time limits for correction will result in cessation of all operations related to the processing, preparation, storage, sale or service of food. An opportunity for hearings on the inspection findings or the time limitations or both will be provided if a written request is filed with the Director of Health within 48 hours following cessation of operations. If a request for hearing is received, the Director of Health shall conduct a hearing in accordance with the provisions of Section 8-23(c) and (d) of this article.

(c) Whenever a food establishment is required under the provisions of this Section to cease operations, it shall not resume operations until it is shown on reinspection that the conditions responsible for the order to cease operations no longer exist. The Director of Health shall make a reinspection within 10 days following receipt of a request including a signed statement by the license holder or person in charge that the violations have been corrected.

Sec. 8-32 Examination, hold order or destruction of food.

(a) Examination. Food may be examined or sampled by the Director of Health as often as necessary for enforcement of this article, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies.

(b) Hold order. The Director of Health may, upon written notice to the license holder or person in charge specifying with particularity the reason(s) therefor, place a hold order on any food or beverage which he or she believes 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 food 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 48 hours, and that if no hearing is requested, the food shall be destroyed. Within 48 hours following receipt of a request for a hearing, the Director of Health shall hold a hearing. On the basis of evidence produced 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 to bring it into compliance with the provisions of this Chapter, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies.

(c) Destruction. Food shall be subject to immediate condemnation by the Director of Health when it 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 and insect contact. Exposure to non-food chemicals in solid,

- (2) The immediate closing of the food establishment concerned until, in his or her judgment, no further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the food establishment where there would be no danger of transmitting disease; and/or
- (4) Adequate medical and laboratory examination of the employee and of other employees and of his or her and their body discharges.

Sec. 8-35 Equipment to conform to design and fabrication standards.

All new and replacement equipment used in the storage, processing, holding and transportation of food shall conform to the design and fabrication standards of the National Sanitation Foundation, or equal, provided that these standards do not conflict with the requirements of this Chapter, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies.

Sec. 8-36 Food establishments outside jurisdiction of City corporate limits.

Food from food establishments outside the jurisdiction of the Director of Health of the City of Milford may be sold within the City of Milford if such food establishments conform to the provisions of this Chapter 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 establishments are located.

Sec. 8-37 Penalties other than suspension and revocation of license.

Any person who shall violate any of the provisions of this article, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies shall be guilty of a misdemeanor. Upon conviction thereof, such persons shall be subject to a fine of not more than \$100 for each day that an offense continues between the date of notice of violations and the date of correction as known by reinspection, or the date of disposition by a court of competent jurisdiction. Absent proof of a claim that said violation(s) has (have) been corrected as herein provided for, said violation(s) shall be deemed to have continued consecutively each day during the period of time prior to said disposition. In addition thereto, such persons may be enjoined from continuing such violation(s).

**ARTICLE III
ITINERANT FOOD VENDING FACILITIES**

Sec. 8-38 Itinerant food vending establishments.

(a) Generally. Itinerant food vending establishments shall comply with the requirements of this article, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of

Sec. 8-40 Commissary.

(a) Base of operations. All itinerant food vending establishments shall operate from a licensed commissary or other licensed, fixed food establishment. All Class 1, Class 2 and Class 3 itinerant food vending establishments shall report at least daily to such location for all supplies and for all cleaning and servicing operations. All licensed commissaries or other licensed, fixed food establishments used as a base of operations for itinerant food vending establishments shall be constructed and operated in compliance with the requirements of this article, the Food Code and supplements, the Connecticut General Statutes, and the Regulations of Connecticut State Agencies, except as otherwise provided for in this Section.

(b) Servicing area.

- (1) All licensed commissaries, or other licensed, fixed food establishments used as a base of operations for Class 1, Class 2 and/or Class 3 itinerant food vending establishments shall provide an area where these facilities can be serviced. This service area shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this service area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing, and for the loading and unloading of food and related supplies. Licensed commissaries or other licensed, fixed food establishments only supplying prepackaged food to pushcarts and/or Class 2 itinerant food vending establishments shall not be required to provide a service area with water service and liquid waste flushing and drainage facilities.
- (2) The surface of the service area shall be constructed of a smooth, nonabsorbent material, such as concrete or machine-laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

(c) Servicing operations.

- (1) Potable water servicing equipment shall be installed according to law and shall be stored and handled in a way that protects the water and equipment from contamination.
- (2) The liquid waste retention tank(s) of each itinerant food vending establishment shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to an approved sewage disposal system.

Sec. 8-41 Single-service articles.

Itinerant food vending establishments shall provide only single-service articles for use by the consumer.