

LEDGE LIGHT HEALTH DISTRICT FOOD SERVICE REGULATION

(Effective January 1, 2019)

BACKGROUND

This Ledge Light Health District (“District”) Regulation pertains to Permit requirements and sanitation and safety practices for the preparation of food products and operation of restaurants, catering services, itinerant food or beverage vending vehicles, farmers’ markets, retail food establishments and temporary events. These Regulations were originally adopted April 26, 1994 and revised on January 1, 1998, January 1, 1999, January 1, 2001, January 1, 2003, June 14th, 2012 and are hereby further amended effective January 1, 2019.

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 General Requirements

This Regulation as amended and restated is an aid to the enforcement of the United States Food and Drug Administration (FDA) Model Food Code (FDA Food Code), as adopted by the State of Connecticut Public Act 17-93 “*An Act Concerning the Department of Public Health's Recommendation Regarding Adoption of a Model Food Code*”, and of any amendments and / or additions thereof hereafter adopted which pertain to the sanitation of food establishments as defined herein.

Section 2. Certain Provision of the FDA Food Code Adopted by Reference

The FDA Food Code, as stipulated by Public Act 17-93, adopted and promulgated by the State Commissioner of Public Health, State of Connecticut, relative to the inspections of food establishments is hereby adopted and made part of this Regulation.

Section 3. Definitions

- a. **Food Establishment**: An operation that (A) stores, prepares, packages, serves, or vends food directly to the consumer or otherwise provides food for human consumption, including, but not limited to, a restaurant, catering food service establishment, food service establishment, temporary food service establishment, itinerant food vending establishment, market, conveyance used to transport people, institution or food bank, 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 of the general statutes, a private residential dwelling in which food is prepared under section 21a-62a of the general statutes or a food manufacturing establishment, as defined in section 21a-151 of the general statutes; and shall not include where residents of the District offer fresh fruit and vegetables grown for sale and sold on their own property, or where customer self-service coffee with dry non-dairy creamers, or individually prepackaged Ultra High Temperature (UHT) creamers are offered for free or for sale.
- b. **Food Code**: United States Food and Drug Administration (FDA) Model Food Code as adopted by the State of Connecticut Public Act 17-93 “*An Act Concerning the Department of Public Health's Recommendation Regarding Adoption of a Model Food Code*”, and of any amendments and / or additions thereof hereafter adopted which pertain to the sanitation of food service or restaurant establishment as defined herein.
- c. **Director of Health**: The Director of Health of Ledge Light Health District or his/her duly authorized representative.

- d. Permit: The document issued by the District that authorizes a person to operate a food establishment.
- e. Permit Holder: The person who is responsible for the operation of the food establishment, and who possesses a valid Permit to operate the food establishment.
- f. Food Employee: An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.
- g. Public: Any unrelated persons.
- h. Certified Food Protection Manager: A person in charge that has supervisory and management responsibility and the authority to direct and control food preparation and service. The person in charge shall be a full-time employee. This employee can only be designated a Certified Food Protection Manager to only one food establishment.
- i. Person in Charge: The individual present at a food establishment who is responsible for the operation of the establishment at the time of inspection.
- j. Alternate Person in Charge: The person, designated by the food establishment's Permit Holder, to be in charge of the food establishment when the Certified Food Protection Manager cannot be present.
- k. Core Item: A core item relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance.
- l. Priority Item: A priority item contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury; there is no other provision that more directly controls the hazard.
- m. Priority Foundation Item: A priority foundation items supports, facilitates or enables one or more priority items.
- n. 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.
- o. Itinerant food vending establishment: A self-contained, mobile food establishment.
- p. Catering food service establishment: A business that is involved in the (A) sale or distribution of food and drink prepared in bulk in one geographic location for retail service in individual portions in another location, or (B) preparation and service of food in a public or private venue that is not under the ownership or control of the operator of such business.
- q. Farmers' Market: A cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season or that occupies a given site for any given day or event and that 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 in conformance with the applicable Regulations of Connecticut state agencies 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, per the Connecticut Public Act 10-103.
- r. Café Certificate: A certificate of training provided by the District after successful completion of the Community Accessible Foodservice Education (Café) course examination.
- s. Temporary Food Service Establishment: A food establishment that operates for a period of not more than fourteen consecutive days in conjunction with a single event or celebration.
- t. Food Preparation: The act of portioning, sampling, washing, mixing, slicing, heating and/or cooling food for service to the public. The distribution of commercially prepackaged, non-TCS Foods (still in the original package) is not considered food preparation.
- u. Classes of Food Service Establishments:

Class 1 Food Establishment: A retail food establishment that does not serve a population that is highly susceptible to foodborne illnesses and only offers (A) commercially packaged food in its original commercial package that is time or temperature controlled for safety, or (B) commercially prepackaged, precooked food that is time or temperature controlled for safety and heated, hot held and served in its original commercial package not later than four hours after heating, or (C) food prepared in the establishment that is not time or temperature controlled for safety.

Class 2 Food Establishment: 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: A retail food establishment that (A) does not serve a population that is highly susceptible to foodborne illnesses, and (B) 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: 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, curing or reduced oxygen packaging for the purposes of extending the shelf life of the food.

Section 4. Permit

- a. No person, business entity or organization shall operate a food establishment within the jurisdiction of the District who does not possess a valid Permit issued by the District. Only a person, business entity or organization who complies with the requirements of this Regulation and the FDA Food Code shall be entitled to receive and retain such a Permit.
- b. Each Class II, III and IV food establishment, as a prerequisite condition to obtaining and maintaining a valid Permit, shall have a Certified Food Protection Manager who is qualified by training and / or experience as required by the FDA Food Code and approved by the Director of Health. Failure to maintain a Certified Food Protection Manger approved by the Director of Health shall be a cause for suspension or revocation of a food establishment's Permit as provided in this Regulation. Each Class II, III or IV food establishment issued a Permit hereunder shall, within 10 days, notify the Director of Health in writing of any change in the status, engagement and appointment of the Certified Food Protection Manger who was approved as a basis for issuance of the Food Permit. Should it be evident to the Director of Health that there are unsafe food handling practices within a food establishment that represent a public health risk, the Director may require that the Certified Food Protection Manager provide satisfactory assurance of his / her acceptance of responsibility to consistently maintain safe food practices at such food establishment.
- c. Each class I, II, III, and IV food establishment shall have a person in charge, on-site at the food establishment at all times the establishment is operating.
- d. When requested by the municipal tax authority, the District will withhold or revoke any Permit to operate until proof of payment of municipal taxes is provided, per Section 12-146a of the Connecticut General Statutes.
- e. No food establishment shall be issued a Permit to operate without first registering with the State of Connecticut.
- f. Permits shall not be transferable from one person / business entity / organization or place to another person / business entity / organization or place. A valid Permit shall be signed by the food establishment manager, Permit Holder or operator upon receipt and shall be prominently displayed in each food establishment.

- g. There are 9 different categories of Permits:
1. Annual Regular Permit – Class I Food Establishment
 2. Annual Regular Permit – Class II Food Establishment
 3. Annual Regular Permit – Class III Food Establishment
 4. Annual Regular Permit – Class IV Food Establishment
 5. Annual Regular Permit – Class I, II, III, IV Seasonal Food Establishment
 6. Annual Regular Permit – Class I, II, III, IV Vulnerable Population
 7. Annual Regular Permit – Itinerant Food Vending
 8. Annual Regular Permit – Class IV Daycare Establishment
 9. Temporary Event – 14 Day Permit
- h. All municipal departments within the District shall obtain an appropriate Permit to dispense food as defined in Section 4a of the District Foodservice Regulation. However, no fees, fines or penalties shall apply to municipal departments. These departments include, but are not limited to, public schools, fire departments, police departments, facilities owned and operated by a district municipality, etc.
- i. Connecticut Public Act 11-191 states that a farmer, for the purpose of such farmer's participation in a certified Farmers' Market, may obtain a Permit to operate a food service establishment at any certified Farmers' Market in the state, provided:
1. Such operation is in accordance with the menu items and food preparation processes approved by said issuing municipal health department or health district, or
 2. Such operation utilizes menu items or food preparation processes that are substantially similar to the menu items and food preparation processes approved by said issuing municipal health department or health district.
 3. Farmers' Market participants will not be required to obtain a Permit from the District unless the market, individual persons or food establishments engage in temporary event food services or food preparation.
- j. Any food establishment that is currently permitted by the District that wishes to obtain a temporary event Permit is exempt from temporary event fees. Any temporary food booth that engages in simple sampling as their only act of food preparation is exempt from temporary event fees. All paperwork and inspections are still required.
- k. The District will reduce fees by 50% for any food establishments that are open for 6 months or less.
- l. The District will reduce fees by 50% for any non-profit organization who has a Food Permit for the purpose of providing food to vulnerable residents of our community. To qualify for this reduction, organizations will be required to submit the following:
1. Documentation of the organization's non-profit status as filed with the State of Connecticut Secretary of State.
 2. A copy of the mission statement, brochure or other documentation that confirms the organization has a Food Permit for the purpose of providing food to vulnerable residents of our community.

Section 5. Construction/Remodeling

When any food establishment is hereafter constructed, converted or remodeled, floor plans and specifications that demonstrate compliance with the District Food Establishment Plan Review Guidelines showing layout arrangements and construction materials of all areas and the location, size and type of fixed equipment and facilities shall be submitted to the District for approval before such work is begun.

The plans and specification for a food establishment shall include the proposed menu, anticipated volume of food to be stored, prepared, and sold or served, proposed layout, proposed equipment types with specifications, and other information that may be required by the District.

Before the issuance of a Permit, the District shall conduct one or more preoperational inspections to verify that the food establishment is constructed and equipped in accordance with the approved plans and is in compliance with the FDA Food Code.

Section 6. Application

- a. Any person, business entity, or organization desiring to operate a food establishment shall make written application for a Permit on forms provided by the District at least 30 days prior to operation.
- b. New food establishments must obtain all required approvals from zoning, building, water pollution control authorities, fire officials or other regulatory agencies as a prior condition to be issued a District Permit. If the application is for a temporary food establishment, it shall also include the inclusive dates of the proposed operation and all other required information on forms provided by the District. Applications for farmers participating in Certified Farmers' Markets must comply with Public Act 11-191 and the District Foodservice Regulation.
- c. Upon receipt of an application, the Director of Health shall inspect the establishment to determine compliance with the provisions of this Regulation and the FDA Food Code. If the Permit to operate is denied, the Director of Health shall provide the applicant with a notice that includes the specific reasons and citations for denial, actions required to qualify for a Permit, and the applicant's right to appeal the denial. A Permit shall be issued to the applicant by the District when inspection reveals that the applicable requirements of this Regulation have been met and for Class II, III and IV food establishments, the designated Certified Food Protection Manager has been approved.
- d. No Permit to operate a food establishment will be issued where a septic system and / or water system does not comply with the Connecticut Public Health Code requirements for the documentation of water usage by the applicant.
- e. All seasonal food establishments shall contact the District at least 2 weeks prior to opening for a pre-operational inspection and 2 weeks prior to closing for the season.

Section 7. Change in Ownership - Permit Holder

A new application shall be filed whenever there is a change in the Permit Holder of a food establishment. Prior to issuance of a new Permit, a pre-operational plan review and a pre-opening inspection will be conducted to assure compliance with the FDA Food Code and this Regulation. Any structural modifications (including but not limited to floors, walls, ceilings, electrical or plumbing) will require the submission of written plans. A plan review fee, as indicated on the Ledge Light Health District Fee for Service Form, shall be assessed. A Permit shall not be issued until all applicable fees are paid and compliance with the FDA Food Code and this Regulation is demonstrated.

Section 8. Penalty and Fees

- a. Operating Without a Valid Permit: Where there has been a failure to file the required application or pay the required fee, or the Permit has been suspended or expired, and the establishment has commenced or continued to operate without a required Permit, there shall be added to the prerequisite Permit fee and collected the following specified penalties:
 - i. Operating Without a Valid Permit / Late Application
 0-10 days: A fixed \$100 penalty (not prorated)
 11 plus days: \$100 fee per calendar day
 - ii. Operating with a Suspended or Revoked Permit
 \$100 per calendar day plus a \$100 reinstatement fee
- b. Operating Without a Certified Food Protection Manger: The designation of a Certified Food Protection Manger is required for each Class II, III and IV food establishment. A written warning will be issued if a Certified Food Protection Manger has not been designated and submitted to the Director of Health within 30 days after a Certified Food Protection Manger inspection deficiency. Failure to designate a Certified Food Protection Manger approved by the Director of Health within 60 days of the Certified Food Protection Manger deficiency shall result in the suspension of the food establishment's Permit. The imposition of any stipulated fine / penalty shall not limit the District's authority to require full compliance with the FDA Food Code and this Regulation.
- c. When a food establishment fails two consecutive inspections and a hearing is required, a \$100 penalty will be assessed.

Section 9. Annual Fees

The fee schedule for food establishments shall be set by the District Board of Directors.

Section 10. Violations & Corrective Action

- a. Any violation noted on an inspection must be corrected according to the risk designation as described in the FDA Food Code.
- b. The District may approve a compliance schedule that extends beyond the time limits specified by the FDA Food Code if a written schedule of compliance is submitted by the Permit Holder and no health hazard exists or will result from allowing an extended schedule for compliance.
- c. At the time of inspection, the Permit Holder shall correct a violation of a priority item or priority foundation item unless the inspector establishes a longer time frame which will require a re-inspection. 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
- d. If an establishment fails their re-inspection, the Director of Health shall act to close the facility. This action will be initiated by a hearing between the owner and/or manager of the facility and the Director of Health. The hearing shall be scheduled within five (5) working days of the failed re-inspection, or at a time agreeable to the Director of Health, with the purpose of establishing a timeline for correction of

debited items. Failure to meet the timeline for correction may result in Permit suspension and closure of the establishment.

- e. Per Section 8(c) of this Regulation, when a food establishment fails two consecutive inspections and a hearing is required, a \$100 penalty will be assessed.
- f. If it should come to the attention of the Director of Health that there are unsafe food handling practices within a food establishment, or if in his / her judgment such conditions may present a public health risk, it may be required by the Director that food handlers attend food safety trainings conducted by the District or an approved organization.

Section 11. Expiration Date of Permit

All Permits shall expire on the date specified on the Permit.

Section 12. Periodic Inspection after Issuance

The Director shall periodically inspect the premises, equipment, and operation of all permitted establishments. If such agent finds that any establishment is operating in violation of the FDA Food Code, this Regulation or other applicable statutes, rules or regulations, the Director shall order corrections of noted deficiencies. All Permits issued under the terms of this Regulation may be suspended or revoked by the Director for a violation of any of the terms of the FDA Food Code or this Regulation.

Section 13. 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 purpose of making inspections to determine compliance with this Regulation. If a food establishment denies the District access, the inspector shall inform the Permit Holder that providing access is a condition of the acceptance and retention of a food establishment Permit, and failure to do so is a violation of Section 8-402.11 of the FDA Food Code. If access is still denied, the inspector shall report the violation to the Director of Health.

Section 14. Suspension of Permits

- a. Permits may be suspended by the Director of Health for failure of the Permit Holder to comply with the requirements of this Regulation and / or the FDA Food Code.
- b. Whenever a Permit Holder or operator has failed to comply within fourteen (14) days with any written compliance order issued under the provisions of this Regulation, the Permit Holder or operator shall be notified in writing that the Permit is, upon service of such notice, immediately suspended.
- c. Notwithstanding the other provisions of this Regulation, and / or the FDA Food Code, if the Director of Health finds unsanitary or other conditions in the operation of a food establishment which, in his / her judgment, constitute a substantial hazard to the public health, he / she may, without warning, notice or hearing, issue a written notice to the Permit Holder or operator citing such conditions, specifying the corrective action to be taken, and, if deemed necessary, suspend the Permit of the establishment.
- d. Any person to whom an order is issued shall comply immediately therewith, but upon written petition within forty-eight (48) hours to the Director of Health, shall be afforded a hearing as soon as possible, but in no event shall such a hearing convene later than thirty (30) days from receipt of the petition.

Section 15. Reinstatement of Suspended Permit

Any person whose Permit has been suspended may, at any time, make application for a re-inspection for the purpose of reinstatement of the Permit. Within five (5) days following receipt of a written request, including a statement signed by the applicant that, in his / her opinion, the conditions causing suspension of the Permit have been corrected, the Director of Health shall make a re-inspection. If the applicant is found to be in substantial compliance with the requirements of this Regulation at the time of re-inspection, the Permit will be reinstated upon payment of all outstanding fines and / or penalty assessments.

Section 16. Hearing

The hearings provided for in this section shall be conducted by the Director of Health at a time and place designated by him / her but in no event later than thirty (30) days from receipt of the petition for a hearing. Based upon the record of such hearing, the Director of Health shall make a finding, and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the Permit Holder by the Director of Health.

Section 17. Food Employees

- a. No person while affected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores or an acute respiratory infection, shall work in any food establishment where there is a likelihood of such person contaminating food, drink or food contact surfaces with pathogenic organisms, or transmitting disease to other individuals. If the person in charge has reason to suspect that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he / she shall notify the Director of Health immediately.
- b. When the Director of Health has reasonable cause to suspect the possibility of a foodborne illness or foodborne outbreak, such Director shall complete an investigation and take action to control the illness or outbreak.

Section 18. Food Safety Training and Education Satisfactory to the Director of Health

Each applicant for a Class II, III or IV Food Permit shall provide documentation satisfactory to the Director of Health of a Certified Food Protection Manager who shall be present when the establishment is operating. If no Certified Food Protection Manager is available at a temporary event, the applicant shall receive food handler training satisfactory to the Director of Health. This individual must be present when the temporary event is inspected.

Section 19. Food Sources

All food and drink in food establishments shall be from sources approved or considered satisfactory by the Director of Health, and shall be clean, wholesome, free from spoilage, adulteration and misbranding, honestly presented and safe for human consumption. Any food or drink considered unsafe for human consumption shall be either summarily condemned or embargoed. All condemned food items will be destroyed or disposed of in a manner satisfactory to the Director of Health.

Section 20. Service of Notices

Notice provided for under this section shall be deemed to have been properly served when the inspection report form or other notice has been delivered personally or electronically to the Permit Holder or person in charge, or such notice has been sent by Registered or Certified Mail, Return Receipt Requested, to the last

known address of the Permit Holder. A copy of such notice shall be filed with the records of the enforcement authority.

Section 21. Appeal Rights, Connecticut Department of Public Health

Connecticut General Statutes Sec. 19a-229 states “Any person aggrieved by an order issued by a town, city or borough director of health may appeal to the Commissioner of Public Health not later than three business days after the date of such person’s receipt of such order, who shall thereupon immediately notify the authority from whose order the appeal was taken, and examine into the merits of such case, and may vacate modify, or affirm such order.”

Section 22. Repeal and Date of Effect

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

Section 23. Unconstitutionality Clause

- a. Should any section, paragraph, sentence, clause or phase 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 Ledge Light Health District Board of Directors on December 13th, 2018 to be effective on January 1, 2019.

Stephen Mansfield REHS, MPH
Director of Health

Susan Vincent, RN, Secretary
District Board of Directors