

## Chapter 122. Food Establishments

BE IT ENACTED BY THE TOWN COUNCIL IN SESSION:

That Chapter 122, "Food Establishments", of the Code of the Town of Wallingford is hereby repealed, and the following Chapter 122, "Food Establishments" is substituted in lieu thereof.

### § 122-1. Scope

Pursuant to Section 19a-206 et seq. of the Connecticut General Statutes the purpose of this Ordinance is to prevent the spread of disease and safeguard the health, safety, and welfare of the inhabitants of the Town of Wallingford and the general public. The Wallingford Health Department shall, through a program of inspection, education, and enforcement regulate its food establishments according all applicable law.

### § 122-2. Conformance with Connecticut State and U.S. Federal Regulations

This chapter conforms with Connecticut General Statutes, Connecticut Public Health Code, and the Food and Drug Administration (FDA) Food Code Regulations. Any requirement not otherwise defined or described in this chapter shall be governed by Connecticut General Statutes, Connecticut Public Health Code, and the Food and Drug Administration (FDA) Food Code Regulations, as amended.

### § 122-3. Definitions.

- A. All terms used herein that are not otherwise defined are located within Connecticut General Statutes, Connecticut Public Health Code, or the Food and Drug Administration (FDA) Food Code regulations, as amended.
- B. For the purpose of this chapter, the following terms shall have the meanings indicated:

#### **AUTHORIZED AGENT**

Any individual certified by the Connecticut Department of Public Health (CT DPH) to inspect food establishments and enforce the provisions and regulations outlined in the Connecticut General Statutes, Food and Drug Administration Food Code, and local ordinance under the supervision and/or authority of the Director of Health.

#### **DIRECTOR OF HEALTH**

The Director of Health of the Town of Wallingford or their designated representative.

#### **FARMERS' MARKET**

An organized market at a fixed location on a recurring basis, used by multiple farmers and non-farm vendors for the sale of whole, cut, and/or processed produce and farm products as well as other prepared foods.

**FARMERS' MARKET COORDINATOR**

Individual charged with coordinating farm stands, temporary food establishments, itinerant food vendors, caterers, food manufacturers, and cottage food operators through the permitting process and operation of an approved farmers' market. As part of the permitting process, the applicant shall designate one individual to act as coordinator for interaction with the Health Department.

**FEE SCHEDULE**

Document stating the applicable fees required by the Health Department specified and approved in advance by the Wallingford Town Council.

**ITINERANT FOOD ESTABLISHMENT**

A food establishment which prepares and/or serves food in a non-fixed location using an approved mobile conveyance without a physical connection to an approved water supply or sewage disposal system. Approved establishment shall have an approved base of operation acceptable to the Director of Health.

**PERSON**

Person shall include any individual, business, nonprofit, and/or any entity operating a food service as referenced herein.

**PLAN REVIEW**

A feasibility review to determine if a proposed food establishment will comply with all applicable regulations.

**REPORT**

Report authorized to the Director of Health on which the demerit items marked identify the violations found in the food establishment at the time of inspection. A report signed by a certified food inspector shall serve as written notice or order to comply.

**TEMPORARY EVENT**

An event sponsored by a Town of Wallingford department, business, private organization operating at a fixed location for a temporary period, not to exceed fourteen (14) days, in conjunction with an event or celebration that is advertised and/or open to the public, with or without admission fee.

**TEMPORARY EVENT COORDINATOR**

Individual affiliated with a Town of Wallingford department, business, or private organization charged with coordinating temporary food establishments, itinerant food establishments, caterers, food manufacturers, and cottage food operators through the permitting process and operation of an approved temporary event. As part of the permitting process, the applicant shall designate one individual to act as coordinator for interaction with the Health Department.

**TEMPORARY FOOD ESTABLISHMENT**

Any food establishment which operates at a fixed location for a temporary period of time, not to exceed fourteen (14) days, in connection with a fair, carnival, circus, public exhibition, or similar transitory gathering.

**UNSATISFACTORY INSPECTION**

An inspection where priority items and/or priority foundation items have been observed and cannot be corrected on site or where the certified food inspector observed repeat risk factor items that require onsite reinspection and verification of compliance.

**§ 122-4. Equipment and utensils.**

A. Sanitary design, construction, and installation of equipment and utensils.

- (1) All equipment and utensils shall be commercial-grade design and of such material and workmanship as to be approved by an American National Standards Institute-accredited certification program, such as the National Sanitation Foundation, or an equivalent program as determined by the Director of Health or authorized agent.

**§ 122-5. Sanitary facilities.**

A. Water supply.

- (1) If a food service establishment is served by an onsite drinking water well, annual potability testing is required for basic indicators (total coliform, nitrate, nitrite, sodium, chloride, iron, manganese, hardness, turbidity, pH, sulfate, color, and odor). If maximum contamination levels (MCLs) are observed remediation shall be required. If high sodium (> 100mg/L) is detected language shall be posted for patrons who may be on low sodium diets.

B. Sewage disposal. Food establishments served by on-site subsurface sewage are required to submit an annual clean-out report.

C. Plumbing. All food establishments are required to comply with Connecticut Department of Energy and Environmental Protection (CT DEEP) fats, oils, grease permit requirements (FOG).

D. Pest management. Effective measures shall be taken to protect the establishment from the entrance and the breeding of pests. Application of pesticides must be done by a licensed professional pest control operator. Annual inspections conducted by a professional are required.

**§ 122-6. Temporary food establishments.**

A temporary food establishment shall comply with all provisions of this chapter which are applicable to its operation, provided that the Director of Health may augment such requirements when needed to assure that food is served safely, may prohibit the preparation and sale of certain food that is time or temperature controlled for safety, and may modify specific requirements for physical facilities when, in their opinion, no imminent hazard will result.

**§ 122-7. Enforcement; permits and fees.**

## A. Permits.

- (1) It shall be unlawful for any person to operate a food establishment within the Town of Wallingford without a valid permit issued by the Director of Health. Only a person who complies with the requirements of the chapter shall be entitled to receive and retain such a permit. A permit shall not be transferable from one person or place to another person or place. A valid permit shall be posted and visible to the public in every food establishment. Permits for temporary food establishments shall be issued for a period of time not to exceed 14 days.
- (2) Issuance of permits.
  - (a) Any person desiring to operate a food establishment shall make written application for a permit on forms provided by the Director of Health.
  - (b) Annual permits. Food establishment permits shall be renewed on or before January 31st. Food establishment permits with the expiration date of June 30, 2024 shall remain valid until January 31, 2025. A permit holder shall file a food establishment renewal application on forms provided by the Director of Health, the applicable permit fee, and the required supporting documentation outlined on the renewal application with the Health Department. Permit holders who fail to comply with this provision shall be assessed a late fee per the fee schedule. Should the permit holder not satisfy such renewal requirements, the Director of Health may issue a legal order to close the establishment until a valid permit is secured.
  - (c) Proposed new construction, remodel, and new owner food establishments, including itinerant food establishments with an approved base of operation located in the Town of Wallingford, must comply with all applicable regulations. A completed plan review application must be approved prior to submitting an applicable food establishment permit application. A satisfactory preoperational inspection and approval from all applicable Town Departments and other applicable regulatory agencies are required prior to the issuance of an applicable food establishment permit.
  - (d) Itinerant food establishments seeking to operate in the Town of Wallingford are required to submit a completed application for an itinerant food establishment permit, including a declaration a base of operation, using forms provided by the Health Department. A satisfactory preoperational inspection and approval from all applicable Town Departments and other applicable regulatory agencies are required prior to the issuance of an itinerant food establishment permit.
  - (e) Temporary events. Temporary food establishments seeking to operate at a temporary event in the Town of Wallingford shall be coordinated through a temporary event coordinator.

- i. The temporary event coordinator shall submit a completed temporary event coordinator application using forms provided by the Health Department twenty (20) working days prior to the temporary event start date.
  - ii. Food operators shall submit a temporary food establishment application using forms provided by the Health Department ten (10) working days prior to the temporary event start date.
  - iii. Any temporary food establishment application received less than ten (10) working days prior to the temporary event start date may be assessed a late fee according to the fee schedule.
  - iv. Any temporary food establishment application received less than five (5) working days prior to the temporary event start date may not be accepted by the Health Department and the food operator may not receive a temporary food establishment permit.
- (f) Farmers' markets. Temporary food establishments seeking to operate at farmers' market in the Town of Wallingford shall be coordinated through a farmers' market coordinator.
- i. The farmers' market coordinator shall submit a completed farmers' market coordinator application using forms provided by the Health Department twenty (20) working days prior to the farmers' market start date. The farmers' market coordinator shall update the Health Department with any changes to temporary food establishment participation or schedule.
  - ii. Temporary food establishment operators shall submit a temporary food establishment application using forms provided by the Health Department ten (10) working days prior to first scheduled operation date at farmers' market.
  - iii. Any temporary food establishment application received less than ten (10) working days prior to first scheduled operation date at farmers' market may be assessed a late fee according to the fee schedule.
  - iv. Any temporary food establishment application received less than five (5) working days prior to first scheduled operation date at farmers' market may not be accepted by the Health Department and the applicant may not receive a temporary food establishment permit.
- (g) After receipt of applicable applications and fees, the Director of Health and/or authorized agent may inspect the temporary food establishment as necessary to determine compliance with the provisions of this chapter and applicable regulations. Only when all applicable requirements are met shall a permit be issued to the applicant by the Director of Health.

- B. Inspection of food establishments. The Director of Health and/or authorized agent shall inspect each food establishment located in the Town of Wallingford and shall make as many additional inspections and reinspections as are necessary for the enforcement of this chapter.
- (1) Right of entry. The Director of Health or authorized agent, after proper identification, shall be permitted to enter the food establishment during business hours or at any other reasonable time as requested for the purpose of conducting inspections to determine compliance with all applicable regulations. The Director of Health or authorized agent may examine records of the food establishment to obtain information regarding the source of food and other supplies purchased, received, or used, persons employed, and records of training. Refusal of entry shall result in a presumption that an immediate threat or hazard to the public health exists on premises. The Director of Health may issue orders that require immediate access to the food establishment or the it will be ordered to close with an immediate suspension of Permit.
  - (2) Inspection Schedule. Inspections shall be conducted by a Certified Food Inspector according to the intervals established in the FDA Food Code. Additional inspections may be required at the discretion of the Director of Health or authorized agent.
  - (3) Whenever the Director of Health and/or authorized agent finds unsanitary or other conditions in the operation of a food establishment which, in their judgment, constitute a substantial hazard to the public health, they shall issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken and specifying the time period within which such action shall be taken.
- C. Suspension of permit. Whenever the Director of Health and/or authorized agent finds unsanitary or other conditions in the operation of a food establishment which, in their judgment, constitute a substantial hazard to the public health, they shall issue a written notice to the permit holder or operator citing such condition, specifying the corrective action to be taken and specifying the time period within which such action shall be taken; and, if deemed necessary, shall immediately suspend the permit and that all food operations are to cease immediately.
- D. Reinstatement of suspended permits. A reinspection shall be conducted within 10 days from the date of suspension to determine that the conditions causing suspension of the permit have been corrected. The Director of Health shall assess a permit reinstatement fee according to the fee schedule. This reinstatement fee may not be assessed if the cause of the suspension is no fault of the permit holder.
- E. Revocation of permits. For serious or repeated violations of any of the requirements of this chapter or for interference with the Director of Health and/or authorized agent, in performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Director of Health. Prior to such action, the Director of Health shall issue a legal notice of revocation to notify the permit holder, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of three days following service of such notice, unless a written request for a hearing is filed with the Director of Health, by the permit holder, within such three-day period. A permit may be

suspended for cause pending its revocation or a hearing relative thereto.

F. Hearings. The permit holder may request a hearing conducted by the Director of Health within three days of the notice of revocation or suspension and will be given the opportunity to be heard and to show cause why the permit to operate the food establishment should not be suspended or revoked. Based upon findings of such hearing the Director of Health shall sustain, modify, or rescind any official notice or legal order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the Director of Health. Any permit holder who is issued a legal order to comply may appeal as per the appeal process afforded in the Connecticut General Statutes.

G. Service of Notice.

(1) Any written notice or order referred to in this chapter shall be deemed to have been properly served when any of the following occur:

(a) a copy of the inspection report or other written notice has been physically delivered to the permit holder or the person in charge.

(b) such notice has been delivered digitally via electronic mail (e-mail) to the e-mail address of the permit holder as reported on the most recent permit application.

(c) or when such notice or order is delivered by certified mail, return receipt requested or verified through electronic tracking, to the address of the permit holder as reported on the most recent permit application.

A copy of any written notice or order shall be on file in the records of the Health Department.

(2) Failure of the permit holder or person in charge to sign the inspection report does not negate the inspection report as serving as written notice or order.

H. Fees and penalties. All fees and penalties are defined on the Health Department Fee Schedule. The Health Department Fee Schedule shall be recommended by the Health Director and approved by the Town Council. Permit fees are based on food establishment classifications as defined within this chapter and the Food and Drug Administration Food Code. The Director of Health or authorized agent shall determine the classification of each food establishment at the time of permit issuance. The classification shall be reviewed during each inspection and in no case less than annually. The food establishment shall be placed into the highest classification that describes the food operations conducted. No food establishment shall change operations to a higher classification without prior approval by the Director of Health or authorized agent.

I. Enforcement. This chapter shall be enforced by the Town of Wallingford in accordance with law by the Director of Health and/or authorized agent.

(1) Any violation noted on an inspection report must be corrected according to its risk designation as described in the FDA Food Code.

- (2) The Director of Health or authorized agent may approve a compliance schedule that extends beyond the time limit specified in the FDA Food Code if in their opinion no health hazard will result from an extended schedule for compliance.
- (3) Food establishments will be charged a reinspection fee according to the Health Department Fee Schedule.
- (4) If compliance is not demonstrated within scheduled time frame, the permit holder may be required, at the discretion of the Director of Health or authorized agent, to attend compliance counselling at a time and place scheduled by the Department.
- (5) If compliance is not achieved according to the requirements set forth during compliance counselling, then the Director of Health may issue a legal order to immediately suspend the permit holder's food establishment permit.

I HEREBY CERTIFY that this Ordinance was enacted by the Town Council of the Town of Wallingford this 25<sup>th</sup> day of June, 2024, in accordance with the provisions of the Charter of the Town of Wallingford.



\_\_\_\_\_  
Kristen Panzo  
Town Clerk

APPROVED: \_\_\_\_\_  
Vincent Cervoni, Mayor

DATE: \_\_\_\_\_

published date: 7/18/24

Effective date: 8/8/24