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Inclusive Sections
§§ 19a-36h-1—19a-36h-7

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Model Food Code Implementation

Sec. 19a-36h-1. Definitions.

As used in Sections 19a-36h-1 to 19a-36h-7, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Alternate person in charge" means the person designated by the owner or manager of the food establishment to be in charge of the food establishment when the certified food protection manager cannot be present;

(2) "Certified food protection manager" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(3) "Class 1 food establishment" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(4) "Class 2 food establishment" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(5) "Class 3 food establishment" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(6) "Class 4 food establishment" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(7) "Commissioner" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(8) "Department" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(9) "Director of health" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(10) "Food code" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(11) "Food establishment" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(12) "Food inspector" has the same meaning as provided in section 19a-36g of the Connecticut General Statutes;

(13) "Full-time" means a person normally employed and on duty not less than thirty hours per week on a regular basis, or the total number of hours the food establishment is open per week, if less than thirty hours;

(14) "Operator" means a person who is the top manager or who otherwise controls the operations of a food establishment;

(15) "Person in charge" has the same meaning as provided in section 1-201.10 of the food code;

(16) "Priority foundation item" has the same meaning as provided in section 1-201.10 of the food code; and

(17) "Regulatory authority" means the commissioner or director of health, or the commissioner and the director of health as follows:

(A) In the following food code sections, the regulatory authority means the

commissioner:

(i) Section 2-102.12;

(ii) Section 2-103.11;

(iii) Section 3-301.11(E)(1) and (6);

(iv) Section 3-401.11;

(v) Section 3-502.11;

(vi) Section 4-204.110;

(vii) Section 4-501.114(D);

(viii) Section 7-202.12;

(ix) Section 8-103.10;

(x) Section 8-103.12 except paragraph (C); and

(xi) Section 8-201.13 except subparagraphs (A)(3) and (B).

(B) In the following food code sections, regulatory authority means the commissioner and the director of health:

(i) Section 3-301.11(E)(2);

(ii) Section 8-101.10(A)

(iii) Section 8-103.11;

(iv) Section 8-202.10;

(v) Section 8-203.10;

(vi) Paragraphs (F), (H), (I) and (J) of section 8-304.11;

(vii) Section 8-402.10;

(viii) Section 8-402.11;

(ix) Section 8-402.20;

(x) Section 8-402.30;

(xi) Section 8-402.40; and

(xii) Section 8-501.10.

(C) In the following food code sections, regulatory authority means the commissioner or director of health, as required:

(i) Section 8-103.12(C);

(ii) Section 8-201.12;

(iii) Section 8-201.13(A)(3);

(iv) Section 8-201.14; and

(v) Section 8-403.10.

(D) In all other sections of the food code, the regulatory authority means the director of health, except that in sections 3-403.11(C) and 3.501.17(G) of the food code regulatory authority means other state and federal authorities.

(Effective February 17, 2023)

Sec. 19a-36h-2. Applicability and variance.

(a) Applicability.

(1) All food establishments shall comply with the requirements of the food code, as

amended from time to time, any food code supplement published by the United States Food and Drug Administration, and the Connecticut General Statutes and the Regulations of Connecticut State Agencies, as applicable.

(b) Variance.

(1) The commissioner may, in consultation with the Commissioner of Consumer Protection, grant a variance for the requirements of the food code if the commissioner determines that such variance will not result in a health hazard or nuisance. The commissioner may impose conditions and requirements on the food establishment upon granting such variance. The commissioner shall provide the director of health and the owner or operator of the food establishment a copy of the approved variance.

(2) The owner or operator of a food establishment shall apply for such variance, in writing, to the commissioner by submitting the required documentation as specified in sections 8-103.11 and 8-103.12 of the food code.

(3) The department or food inspector shall verify compliance with the approved variance during routine inspections, site visits or as otherwise deemed necessary.

(4) A variance may be suspended or revoked in accordance with section 4-182(c) of the Connecticut General Statutes if the food inspector identifies noncompliance with the terms of the variance or deems that a health hazard or nuisance exists due to such variance.

(Effective February 17, 2023)

Sec. 19a-36h-3. Inspection observations and documentation.

(a) The food inspector shall complete all sections of the commissioner's prescribed inspection report form, as amended from time to time, to document inspection observations and other findings, and correction of violations or corrective actions implemented, if any.

(b) The food inspector shall provide the owner or operator or person in charge of the food establishment with a copy of the inspection report form not later than forty-eight hours after the inspection.

(c) The food inspector shall sign the inspection report form, which shall serve as the legal notice of violation and order to correct violations within the time period specified by the food code.

(d) The food inspector may use a different inspection report form, including an electronic form, if such inspection report form is substantially equivalent to the commissioner's inspection report form, and the director of health has obtained written approval from the commissioner to use such inspection report form.

(Effective February 17, 2023)

Sec. 19a-36h-4. Certified food protection manager and alternate person in charge.

(a) Each Class 1, 2, 3, and 4 food establishment shall have a person in charge who meets the requirements of section 2-102.11 of the food code and who is on-site at the food establishment at all times the establishment is operating.

(b) At all times, a class 2, 3 and 4 food establishment is operating, the person in charge

shall be a certified food protection manager, except as permitted by subsection (c) of this section, who shall:

(1) Have obtained certification as required pursuant to section 19a-36i of the Connecticut General Statutes;

(2) Maintain such certification on file at the food establishment and provide such certification to the food inspector upon request; and

(3) Be a full-time employee, and assigned as the certified food protection manager to only one food establishment.

(c) The owner or manager of each class 2, 3 and 4 food establishment shall appoint an alternate person to be in charge, when the person in charge cannot be present. The alternate person in charge shall only be utilized during non-peak hours of operation, such as an overnight shift in which no more than two employees are on-site, and there is limited or no food preparation taking place. Such appointment shall be in writing on a form prescribed by the commissioner. The alternate person in charge shall:

(1) Demonstrate the same knowledge as a certified food protection manager and carry out the responsibilities as specified in subsection (d) of section 19a-36i of the Connecticut General Statutes; and

(2) Upon request of a food inspector at the food establishment, demonstrate to the food inspector, by a means according to section 2-102.11(B) or (C) of the food code, the knowledge required under section 2-102.11(C)(1) to (17), inclusive, of the food code.

(d) The food inspector shall consider noncompliance with subsection (c) of this section a priority foundation item and shall cite such finding on the food inspection report form.

(Effective February 17, 2023)

Sec. 19a-36h-5. Employee 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.

(Effective February 17, 2023)

Sec. 19a-36h-6. Hold order, or destruction of food.

(a) The food inspector may issue a hold order to the owner or operator of a food establishment for any food or drink suspected to be unsafe for human consumption, while verification of its safety is conducted.

(b) Such food or drink that may be subject to the hold order shall include, but not be limited to, the following:

(1) Food that may have originated from an unapproved source;

(2) Food that may be unsafe, adulterated or not honestly presented;

(3) Food that is not labeled in accordance with the food code, or if raw molluscan shellfish, is not tagged or labeled according to the Connecticut General Statutes and Regulations of Connecticut State Agencies or the food code; or

(4) Food that is otherwise not in compliance with the food code.

(c) The food inspector may issue a hold order to an owner, an operator or the person in charge of a food establishment without prior warning, notice of a hearing or a hearing on the hold order.

(d) The hold order notice shall include the following:

(1) A statement that the food subject to the hold order may not be used, sold or moved from the food establishment, or destroyed without a written release of the hold order from the director of health;

(2) The specific reasons for placing the food under the hold order with reference to the applicable provisions of the food code and the hazard or adverse effect created by the condition observed by the food inspector;

(3) Identification of the food subject to the hold order by reference to its common name, the label information, a container description, quantity, and location;

(4) The local health department's tag or identification information;

(5) Information regarding the owner or operator of a food establishment's right to appeal, including information describing the procedure to request an appeal in accordance with section 19a-36*l* of the Connecticut General Statutes;

(6) Notice that the director of health may order the destruction of the food if a timely request for an appeal is not received; and

(7) The name and address of the local health department representative to whom a request for an appeal may be made.

(e) If the owner, operator, person in charge, or any other food establishment employee violates such hold order, the director of health shall remove the food that is subject to the hold order to a place of safekeeping.

(f) The food inspector shall place an official tag or label on the food identified under the hold order as follows:

(1) The tag or label shall be securely placed on the food or containers to conspicuously identify food subject to the hold order; and

(2) The tag or label used to identify the food subject to the hold order shall include a summary of the provisions specified in subsection (d) of this section and shall be signed and dated by the food inspector.

(g) The owner, operator or person in charge, or any other food establishment employee shall not use, serve, sell or move the food subject to the hold order. The food inspector may allow the owner, operator or person in charge to store the food in an area of the food establishment if the food is protected from deterioration, the food will not contaminate other food, and storage of the food does not restrict the operations of the establishment.

(h) The food inspector may examine, sample and test food to determine its compliance

with the food code.

(i) The food inspector shall issue a notice of release to the owner, operator or person in charge of a food establishment and remove hold order tags, labels, or other identification from the food subject to the hold order after determining the food is safe for human consumption.

(j) The director of health shall order the destruction of food that is subject to a hold order if:

(1) The owner or operator or person in charge fails to provide evidence that the food is not unsafe, unwholesome, or from an unapproved source;

(2) The owner or operator waives the right to appeal or has not made a timely request for an appeal; or

(3) The hold order is upheld subject to the administrative process as prescribed in section 19a-36*l* of the Connecticut General Statutes.

(k) The food inspector shall supervise the destruction of such food to ensure that it has been destroyed or denatured and disposed of in a safe manner.

(Effective February 17, 2023)

Sec. 19a-36h-7. Enforcement.

(a) The director of health shall ensure all food establishments are inspected pursuant to the schedule in section 19a-36j of the Connecticut General Statutes.

(b) A food inspector shall, immediately upon discovering any violations of the Connecticut General Statutes or Regulations of Connecticut State Agencies, as applicable or any provision of the food code, document the violations and order corrective action on the inspection report form. Such documentation shall include specific timeframes for completion of the corrective action if the violation cannot be corrected at the time of the inspection, or documentation that a violation has been corrected.

(c) The owner, operator or person in charge may submit documentation of the completion of corrective action to the food inspector in a form and manner acceptable to the food inspector. Such documentation may include, but not be limited to, photographic evidence of the correction or the owner's or operator's notarized attestation affirming that the required corrective action has been completed.

(d) A food inspector shall ensure the owner, operator or person in charge has corrected any violations in accordance with the specified time frames in the food code and in the form and manner required by the food inspector as documented on the inspection report form. Correction may be verified by reviewing photographic evidence, conducting a re-inspection or upon receiving a notarized attestation from the owner, operator or person in charge affirming that the correction has been completed. The food inspector shall document on the inspection report form how each correction was made for each violation.

(e) A complete inspection may be conducted if deemed necessary by the food inspector based on the nature and number of violations noted on a previous inspection report form, or the inspector's observations at the time of the re-inspection.

(f) If any violations identified by the food inspector have not been corrected within the timeframe provided the following orders may be issued, at the discretion of the director of health, to correct the violations:

(1) Re-issuance of an order to correct the identified violations;

(2) Training of food workers;

(3) Replacement of the person in charge, alternate person in charge, or both;

(4) Development and implementation of a risk control plan;

(5) Increased inspection frequency;

(6) Suspension of the permit or license; or

(7) Another action deemed appropriate by the director of health.

(g) Pursuant to this section, the director of health shall summarily suspend a food establishment's permit or license based upon a finding that an imminent health hazard exists because of gross insanitary conditions, an onset of an apparent foodborne illness outbreak, misuse of poisonous or toxic materials, an emergency such as fire, flood, extended interruption of electrical or water service or sewage backup, or other imperative circumstance that requires emergency action to protect public health, welfare or safety. Upon such finding, the director of health shall issue a written order to the owner, operator or person in charge of the food establishment, without prior warning, notice of a hearing, or a hearing. The order shall include:

(1) A statement communicating that the food establishment permit or license is immediately suspended and that all food operations shall immediately cease;

(2) The reasons for summary suspension with reference to the applicable statutes, regulations and the provisions of the food code that are in violation;

(3) The name and address of the local director of health to whom a written request for re-inspection may be made and the person who may certify that reasons for the suspension are eliminated; and

(4) A statement communicating that the owner or operator may request an appeal by submitting a timely request as specified in accordance with section 19a-36*l* of the Connecticut General Statutes.

(h) The food inspector shall conduct a re-inspection of a food establishment for which the permit or license to operate has been suspended when requested by the owner or operator of the food establishment. Such re-inspection shall be conducted not later than forty-eight hours after the receipt of a written request that specifies how the violations were corrected.

(i) Unless the summary suspension is reversed on appeal, the suspension order shall remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the director of health through re-inspection and other appropriate means.

(j) If there is no appeal pending before the commissioner, and no order has been issued by the commissioner to uphold the suspension or revoke the permit or license, the suspended permit or license shall be reinstated immediately, or immediately following a twenty-four hour minimum closure mandate if the food establishment is located in a town with such

local ordinance, if the director of health determines that the public health hazard no longer exists. A notice of reinstatement shall be provided to the owner or operator or person in charge.

(k) The local director of health shall issue an order to close any food establishment that is operating without a permit or license, and any person aggrieved by such order may file an appeal in accordance with section 19a-229 of the Connecticut General Statutes. The food establishment shall not be allowed to reopen until the required facility plans, permit or license application, and other documentation as specified by the director of health have been approved by the director of health and the food establishment is determined to be in compliance with the food code, applicable regulations and Connecticut General Statutes.

(Effective February 17, 2023)