

# **Northeast District Department of Health**

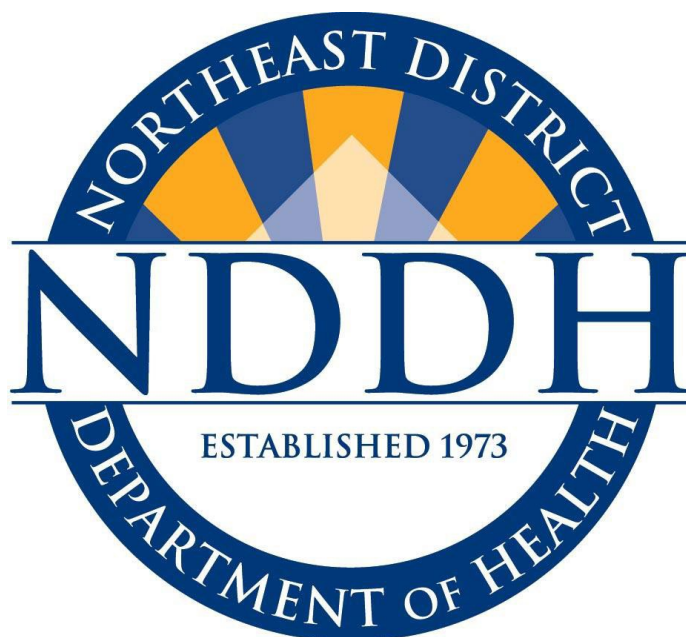
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## **Food Service Ordinances**

### **Information on Inspections, Permits, and Associated Fees for Food Service**

Approved by the NDDH Board of Health January 9, 2003

Amended by the NDDH Board of Health April 14, 2005

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## **I. Background**

This Northeast District Department of Health (“District”) Ordinance pertains to permit requirements, sanitation, and safety practices for the preparation of food products and the operations of food service establishments.

## **II. Authority**

This Ordinance is authorized pursuant to Section 19a-243. Subsection (a) of the General Statutes of the State of Connecticut (CT CGS) as amended. Be it ordered by the Board of Health Directors of the District.

## **III. Scope and General Requirements**

Facilities for dispensing food or beverages shall meet the requirements of sections 19a-36g through 19a-36m inclusive, of the CT CGS, and sections 19a-36h-1 to 19a-36h-7, inclusive of the Regulations of Connecticut State Agencies (CT Regulations).

## **IV. Definitions**

**Alternate Person in Charge:** 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.

**Certified Food Protection Manager (CFPM):** a food employee that has supervisory and management responsibility and the authority to direct and control food preparation and service.

### **Classes of Food Service Establishments:**

**Class 1 Food Establishment:** means a retail food establishment that does not serve a population that is highly susceptible to food borne 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:** means a retail food establishment that does not serve a population that is highly susceptible to food-borne illnesses and offers a limited menu of food that is prepared or 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:** means a retail food establishment that (A) does not serve a population that is highly susceptible to food-borne illnesses, and (B) offers food that is time or temperature controlled for safety and requires complex preparation, including, but not limited to, handling of raw ingredients, cooking, cooling and reheating for hot holding;

**Class 4 Food Establishment:** means a retail food establishment that serves a population that is highly susceptible to food-borne 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.

**Director of Health:** the NDDH Director of Health or authorized agent.

**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 CT Regulations 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.

**FAST Class Certificate:** a certificate of training provided by NDDH after successful completion of the Food Awareness and Safety Training (FAST) course examination.

**Food Code:** the Food Code administered under section 19a-36h of CT CGS.

**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.

**Food Service Establishment (FSE):** means an operation that (A) stores, prepares, packages, serves, vends 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.

**Inspection Violations (listed in order of risk):**

**Priority Item:** a provision in the Food Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with foodborne illness or injury and there is no other provision that more directly controls the hazard. Priority Item includes items with a quantifiable measure to show control of hazards such as cooking, reheating, cooling, handwashing; and is denoted in the Food Code with a superscript "P."

**Priority Foundation Item:** a provision in the Food Code whose application supports, facilitates, or enables one or more Priority Items. Priority Foundation Item includes an item that requires the purposeful incorporation of specific actions, equipment or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling; and that is denoted in the Food Code with a superscript "Pf".

**Core Item:** includes an item that usually relates to general sanitation, operational controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance; and is denoted in the Food Code with a superscript "C."

**Itinerant Food Vending Establishment:** means a vehicle-mounted, self-contained, mobile food establishment.

**Woodstock Fair and Brooklyn Fair are not included in the Itinerant Vendor Permit.**

**Permit:** means a written document issued by a director of health that authorizes a person to operate a food establishment.

**Permit Holder:** the person who is legally responsible for the operation of the food establishment, and who possesses a valid Permit to operate the food establishment.

**Person in Charge:** the individual present at a food establishment who is responsible for the operation at the time of inspection.

**Pushcarts:** are limited to the sale of hot dogs and pre-packaged, non-TCS foods only.

**Seasonal Food Service Establishment:** means a food establishment that operates for six months or less at the same geographic location; requiring a pre-operational inspection and CFPM.

**Time/Temperature Control for Safety Food (TCS):** means a food that requires TCS to limit pathogenic microorganism growth or toxin formation, including an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.

**Temporary Food Service Establishment:** means a food establishment that operates for a period of not more than fourteen consecutive days in conjunction with a single event or celebration.

**Variance:** a written document issued by the commissioner that authorizes a modification or waiver of one or more requirements of the Food Code, e.g., sous vide, acidification of sushi rice.

## **V. Permits**

### **A. Permit Required**

1. Any person, firm or corporation owning, operating, or maintaining, within any city, town or political subdivision comprising NDDH, any food service establishment or place where food or beverage is served to the public shall possess a valid permit issued by the Health District.
2. Only persons, firms, etc. who comply with the requirements of the CT CGS, CT Regulations, and this Ordinance shall be entitled to receive and display a permit.
3. Licensed caterers with places of operation not within the jurisdiction of NDDH must present their permit from their own jurisdiction and obtain a permit from NDDH. A copy of their facility inspection will be required.
4. All such permits shall be posted in a conspicuous place in the food service establishment.
5. Permits are not transferable.

### **B. Permit Types**

1. Class 1 Food Service Establishment
2. Class 2 Food Service Establishment
3. Class 3 Food Service Establishment
4. Class 4 Food Service Establishment
5. Catering Food Service Establishment
6. Itinerant Food Vending Establishment
7. Non-Commercial Function Food Service Establishment
8. Multiple Class Food Service Establishment
9. Pushcart Food Service

10. Seasonal Food Service Establishment
11. Temporary Food Service

**C. Catering Food Permits**

1. All Catering Food Service Establishments must be permitted.
2. A business is considered a Catering Food Service Establishment when 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.

**D. Itinerant Food Permits**

1. All Itinerant Food Service Establishments must be permitted.
2. All Itinerant Food Service Establishments are required to have a hand-washing sink with hot and cold running water under pressure, holding tank, and mechanical refrigeration.
3. Itinerant Food Service Establishments previously permitted by a town participating in the reciprocal program must register with NDDH for a permit. A copy of their previous inspection will be required.

**E. Non-Commercial Function Food Permit**

1. All Non-Commercial Function Food Service Establishments must be permitted.
2. A Non-Commercial Function Food Service Establishment is a function where food is sold or distributed by a person not regularly engaged in the business of selling such food for profit.
3. This includes, but is not limited to, civic organizations, faith based, senior nutrition, soup kitchens, and volunteer departments.

**F. Multiple Class Food Permit**

1. All Multiple Class Service Establishments must be permitted.
2. A Multiple Class Service Establishment is any business with departments that are classified as separate food establishments, e.g., grocery store.

**G. Pushcart Food Permit**

1. Pushcart Food Service Establishments are limited to the sale of hot dogs and pre-packaged, non-TCS foods only.

**H. Seasonal Food Permits**

1. All Seasonal Food Service Establishments must be permitted.
2. All Seasonal Food Service Establishments shall contact the District at least 2 weeks prior to opening for a pre-operational inspection.

**I. Temporary Food Permits**

1. All temporary food service events must be permitted.
2. All food service operations within the confines of fairgrounds are required to obtain a temporary food permit and pay the applicable fees.
3. All organizations are allowed to apply for no more than 7 temporary food permits.

**J. Exempt from Permits**

1. Fruit and vegetable stand with no food preparation.
2. Neighborhood bake sales/fund raisers, providing none of the finished products are a potentially hazardous food.
3. Pre-packaged non-hazardous foods.

4. Organization Members Only: Private functions for any events held solely for organizational members.
5. Foods licensed by another state agency e.g., the CT Department of Consumer Protection.

#### **K. Denial of Permit**

NDDH reserves the right to deny the issuance of a food service permit to any potential establishment that does not meet the definitions outlined in the CT CGS, CT Regulations this Ordinance.

#### **L. Other**

1. Bed and Breakfasts serving time/temperature control for safety foods (TCS), serving meals other than breakfast, and with an occupancy greater than 16 including the owner/operator require a permit. They are only required to register with NDDH annually if they meet specific parameters, otherwise they require a permit.
2. Brewery/Distillery/Winery establishments serving TCS garnishes and milk products require a permit.

### **VI. Issuance of Permits**

- A. Any person desiring to operate a food service establishment shall make written application for a permit on forms provided by the Director of Health. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment, and the signature of each applicant. If the application is for a temporary food service establishment, it shall also include the dates of the proposed operation.
- B. The Director of Health or his/her authorized agent has the authority to assign a food service establishment a different class based on performance and such proof provided by NDDH must be displayed with the annual permit, e.g., a Class 3 changing to a Class 2 based on consistent commitment to public health cleanliness.
- C. The plans and specification for a food establishment shall include the requirements as outlined in the NDDH Food Service Plan Review Application.
- D. Prior to approval of an application for a permit, the Director of Health or his/her authorized agent shall inspect the proposed food service establishment to determine compliance with the provisions of the CT CGS, CT Regulations, and this Ordinance.
- E. The Director of Health or his/her authorized agent shall issue a permit to the applicant if the inspection reveals that the proposed food service establishment complies with the requirements of the CT CGS, CT Regulations, and this Ordinance.
- F. NDDH may require the establishment to designate a person to be spokesperson for the establishment if English is not the primary language of the owner/operator of the establishment.
- G. NDDH may refuse to renew a permit until NDDH receives a new application, menu, annual water analysis, septic pumping invoice (if applicable) and a copy of the Certified Food Protection Manager (CFPM) certificate.
- H. All food service establishments (non-profit and for profit) served by a private water supply shall have the water tested annually for bacteriological, physical and nitrate quality except that dug wells shall also be sampled quarterly for bacteriological content. All water testing is the responsibility of the establishment. Water test results must be

forwarded to NDDH prior to the re-permitting of the establishment.

- I. In concert with the CT Regulations 19-13 B42 (h) - Each food service establishment serving food or drink shall be provided with hand washing facilities located to allow for convenient use by employees in food preparation, food dispensing, and ware washing areas, and within or immediately adjacent to all toilet rooms. The hand washing facilities shall be equipped with hot and cold or tempered running water, hand cleansing soap or detergent dispensed in a sanitary manner, individual disposable towels or other hand-drying device acceptable to the Director of Health. The use of a common towel is prohibited. Larger food preparation facilities may be required to have multiple hand sinks in food preparation areas. Existing food service establishments, regardless of the original date of construction or past renovations history or changes in ownership shall have the appropriate hand sink(s) in place.
- J. Certified Food Protection Managers
  1. Operators of food service establishments that are classified 2, 3 or 4 shall provide proof that a CFPM has been designated for the establishment prior to any permit to operate being issued. A minimum of one full-time CFPM or their designated alternate is required during all operating hours of the establishment.
  2. Failure to maintain a CFPM within 90 days of CFPM deficiency shall result in a fine and mandatory attendance at an administrative hearing to show cause why the food service permit should not be suspended. A hearing fee shall be levied, payable at the time of the hearing. Failure to pay said fine and fee within five business days of the date of the administrative hearing shall be cause for revocation of the food service permit.

## **VII. Submission of Plans**

When a food service establishment is constructed or remodeled or there is a change in operation/menu or ownership and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or alteration shall be submitted to NDDH for review and approval before construction, remodeling or alteration is begun. The plans and specifications shall indicate the proposed layout, arrangement and construction materials of work areas and the type and model of proposed fixed equipment and facilities, sewage disposal facilities/utilities. The Director of Health or his/her authorized agent shall approve the plans and specifications if they meet the requirements of the NDDH Food Service Plan Review Application, CT CGS, CT Regulations, and this Ordinance.

## **VIII. Pre-Operational Inspection**

Whenever plans and specifications are required by Section XIV of this Ordinance to be submitted to the Director of Health or his/her authorized agent, the Director of Health or his/her authorized agent shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specification and with the requirements of the CT CGS, CT Regulations, and this Ordinance. No permit to operate will be issued until the requirements of the CT CGS, CT Regulations, and this Ordinance are met.



## **IX. Examination of Food**

Food may be examined or sampled by the Director of Health or his/her authorized agent as often as necessary for enforcement of the CT CGS, CT Regulations, and this Ordinance. The Director of Health may upon written notice to the owner or person in charge of the food service establishment specifying with particularity the reason, therefore, may embargo and send to the laboratory for analysis any food or beverage which he/she believes is 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 the hold order shall be used, served, or moved from the establishment. The Director of Health shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction of said food shall be ordered and accomplished. The hold order shall state that a request for a hearing may be filed with the Director of Health within 48 business hours and that if no hearing is requested, the food shall be destroyed. The Director of Health shall hold a hearing, if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated or the owner 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 the CT CGS, CT Regulations, and this Ordinance.

## **X. Permit Variances**

The Director of Health may, on written application and after review, grant a variance from a specific provision of the Ordinance such variance is in harmony with the general purposes and intent of this Ordinance and would in no way endanger the public health or welfare. The variance may be granted, subject to appropriate conditions, which shall include a time schedule for compliance. At the time of submission of the variance application, the applicant shall state, in writing, whether or not he/she desired a hearing. If a hearing to consider the merits of said application is requested, said hearing shall be held within 30 days from the receipt of the variance application by the Director of Health. Notice of time and place of such hearing shall be given by mail to the applicant at least ten business days before the date of the hearing. The Director of Health shall render a written decision setting forth the reasons for the grant or denial within ten business days after said hearing. Where the decision is to grant a variance, the Director of Health shall set forth those conditions or circumstances which he/she finds justify the granting of the variance as well as the reasons why the granting of the variances will neither be a detriment to the public health or welfare nor in any way impair the integrity of the provisions of this Ordinance.

## **XI. 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.
- B. If the owner, operator, or person in charge has reason to suspect that any employee has contracted any reportable diagnosis as specified in section 2-201.11 (A)(2) of the FDA 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 CT CGS and that the Commissioner deems reportable in relation to

a foodborne outbreak, such owner, operator, or person in charge shall immediately notify the Director of Health.

- C. 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. The Director of Health may require any or all of the following measures:
  - a. The immediate exclusion of the employee from all food establishments
  - b. The immediate closure of the food establishment concerned until, in the opinion of the Director of Health, no further danger of disease outbreak exists.
- D. Restriction of the employee's activities to an area of the establishment where there would be no danger of transmitting disease.
- E. Adequate medical and laboratory examination of the employee, or other employees, and of his/her and/or their body discharges.

## **XII. Violations and Corrective Action**

- A. Any violation noted on an inspection must be corrected according to the risk designation as described in the Food Code.
- B. The District may approve a compliance schedule that extends beyond the time limits specified by the 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 time limit 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 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 Awareness Safety Training conducted by NDDH or an additional training provided by an approved organization.

## **XIII. Permit Renewal**

- A. Food permits must be renewed annually.
- B. Billing notifications will be communicated by November 15th, with a due date of December 15th.
- C. A late fee will be charged to any establishment not submitting required paperwork and required fees for renewal by the December 15th due date.
- D. A penalty fee shall be assessed for each day late from January 2nd through January 15th inclusive.
- E. The Director of Health shall issue cease-and-desist orders to all establishments operating without a valid permit on January 16th of the relevant year.

#### **XIV. Change of Ownership**

When an existing establishment changes hands, is sold or transferred, the establishment will be required to upgrade the facility to meet the requirements of the CT CGS, CT Regulations, and this Ordinance that are in effect at the time of the change, e.g., septic system, water supply, sinks, toilet facilities, hand sinks. No permits are transferable. If a change of ownership happens and the establishment remains the absolute same besides the name of the owner, a Simple Ownership Transfer Fee will be applied instead of the applicable Plan Review and Annual Permit Fees. Simple Ownership Transfer Fee does not apply to any changes made within the permitted year.

#### **XV. Renovation of Existing Facilities**

When an existing establishment proposes to renovate, such renovation must meet all requirements of the CT CGS, CT Regulations, and this Ordinance. Properly prepared plans in accordance with Section XVIII of this Ordinance must be submitted and approved by NDDH prior to the start of any renovation.

#### **XVI. Operating Without a Food Service Permit**

Food service establishments found operating without a permit from NDDH will be issued a cease-and-desist order until all requirements of the CT CGS, CT Regulations, and this Ordinance are met.

#### **XVII. Fees**

- A. All food service establishments will be subject to the fees set forth in the most recent NDDH Fee Schedule except as follows:
  - 1. Municipal Food Service Establishments shall be exempt from the payment of any fees but must be inspected and permitted by NDDH.
- B. Fee schedule shall be reviewed annually and may be adjusted if necessary.
- C. Payment of application fees is not a guarantee of permit approval.
- D. Fees may be assessed if the same Foodborne Illness Risk Factors and Public Health Intervention violations occurring in the current inspection were cited in the previous two inspections as determined by the Director of Health or his/her authorized agent.
- E. Re-Inspections & Administrative Hearings
  - 1. In the event an establishment fails an inspection, a re-inspection shall be conducted to monitor corrective actions.
  - 2. Any establishment that fails a second or subsequent inspection or operates in a manner that presents a threat to the public health shall be required to attend an administrative hearing and shall be charged a fee for each hearing.
  - 3. If an establishment fails the re-inspection after the administrative hearing, the food service establishment's food service permit will be revoked. The establishment will be required to pay for the re-inspection, any subsequent re-inspections, and a new food service permit.

#### **XVIII. Expiration of Permit**

- A. All annual food service permits shall expire on December 31st of each calendar year and shall be renewed annually.
- B. Seasonal and Temporary food service permits shall expire on the date recorded on the

food service permit.

- C. Food Service permits expire upon change of ownership or facility.

### **XIX. Suspension of Permit**

- A. The Director of Health may suspend any permit to operate a food service establishment for failure to comply with the requirements of the CT CGS, CT Regulations, and this Ordinance. If the Director of Health finds unsanitary or other conditions in the operation of a food service establishment which, in his/her judgment, constitute an immediate and substantial hazard to public health, he/she may immediately issue a written notice to the permit holder or person who is, at the time, in charge of the food service establishment, citing such conditions, specifying the corrective action to be taken, and if deemed necessary, order immediate correction. If correction is not made in the stated time, the permit shall be suspended. Suspension is effective upon service of notice. When a permit is suspended, all food service operations shall immediately cease.
- B. Whenever a permit is suspended, the permit holder or person in charge of the food service establishment may, within 48 business hours, file a written appeal with the Director of Health. If no appeal is filed within 48 business hours, the suspension shall become final. If an appeal is filed, the Director of Health shall, as soon as reasonably practicable, examine the merits of such suspension and may vacate or affirm such suspension. The Director of Health shall serve written notice of his/her decision and the reason or reasons therefore and said permit holder or person in charge may, within 48 business hours of receipt of said notice, appeal to the Director of Health.

### **XX. Revocation of Permit**

The Director of Health may, after providing opportunity for an appeal, revoke a permit for serious or repeated violations of any of the requirements of the CT CGS, CT Regulations, and this Ordinance or for interference with the Director of Health or his/her authorized agents 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 reasons for which the permit is subject to revocation and that the permit shall be revoked at the end of 14 business days following service of such notice unless an appeal is filed with the Director of Health by the permit holder within 48 business hours. If an appeal is filed, the Director of Health shall thereupon immediately examine the merits of such revocation and may vacate or affirm such revocation.

### **XXI. Service of Notice**

A notice provided for in this Ordinance is properly served when it is delivered to the permit holder or person-in-charge or when it is sent by registered or certified mail, return receipt requested, to the last known address of the permit holder. A copy of any notice shall be filed in the records of NDDH.

### **XXII. Re-Application/Re-Instatement of Permit**

- A. Suspension: Whenever a permit has been suspended, the holder of the suspended permit may make a written request for re-instatement of the suspended permit. Within ten (ten) business days following receipt of a written request, including a statement signed by the applicant that, in his/her opinion, the conditions causing the suspension to have been corrected, the Director of Health or his/her authorized agent shall make a re-inspection. If

the applicant is complying with the requirements of the CT CGS, CT Regulations and this Ordinance, the permit shall be re-instated.

- B. Revocation: After a period of 30 days from the date of revocation, as provided in Section XI of this Ordinance, a written application may be made for the re-instatement of a permit and payment of the annual fee.

### **XXIII. New Programs**

NDDH reserves the right to create new programs within the food service program if, in our opinion, the new program will benefit the industry or public health, e.g., Food Service Advisory Committee, or Restaurant Improvement Program.