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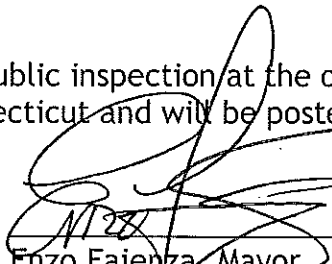


TOWN OF CROMWELL
LEGAL NOTICE
PUBLIC HEARING

The Town Council of the Town of Cromwell, Connecticut will hold a Public Hearing on Wednesday, May 9, 2018 at 6:50 p.m. in Room 224/5 of the Cromwell Town Hall, 41 West Street, Cromwell, CT regarding:

1. Amend Code of the Town of Cromwell by adding Illicit Discharge and Connection Stormwater Ordinance.
2. Amend Code of the Town of Cromwell by updating Food Service Establishment Fees, §137-5.

Copies of the above are available for public inspection at the office of the Town Clerk, 41 West Street, Cromwell, Connecticut and will be posted on-line at www.cromwellct.com.



11/28/18
Enzo Faienza, Mayor
For the Cromwell Town Council

Chapter 200: STORMWATER DISCHARGE

General References

Sewers – See Ch. 193

Aquifer Protection – See Ch. 231

§ 200-1. Purpose and Intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Cromwell through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the Town's storm drainage system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the storm drainage system through stormwater discharges by any user.
- (2) To prohibit illicit connections and discharges to the storm drainage system.
- (3) To establish legal authority to carry out all inspections, surveillance, enforcement and monitoring procedures necessary to ensure compliance with this ordinance.

§ 200-2. - Definitions.

For the purposes of this ordinance, the terms below shall have the following meaning:

1. **"Authorized Enforcement Agency"**. Shall mean the Town of Cromwell Town Manager and/or his or her designee.
2. **"Best Management Practices (BMPs)"**. Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
3. **"Clean Water Act"**. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

4. **"Construction Activity"**. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading excavating, and demolition.
5. **"Facility"**. Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.
6. **"Hazardous Materials"**. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
7. **"Hearing Officer"**. The person designated from time to time by the Town Manager to hear appeals in accordance with section 15 herein.
8. **"Illegal Discharge"**. Any direct or indirect non-stormwater discharge to the storm drain system unless exempt pursuant to Section 200-7 of this ordinance.
9. **"Illicit Connections"**. An illicit connection includes the following.
 - a) Any drain or conveyance, whether on the surface or subsurface which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency and/or,
 - b) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
10. **"Industrial Activity"**. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).
11. **"National Pollutant Discharge Elimination System (NPDES)"**. A provision of the Clean Water Act that prohibits discharge of pollutants into waters of the U.S. unless a Stormwater Discharge Permit.
12. **"Non-Stormwater Discharge"**. Any discharge to the storm drain system that is not composed entirely of stormwater.

13. **"Person"**. Any individual, association, organization partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.
14. **"Pollutant"**. Anything that causes or contributes to pollution of the environment. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
15. **"Premises"**. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
16. **"PZC"**. The Planning & Zoning Commission of the Town of Cromwell, Connecticut, including its Enforcement Officer, its agents and the Town Engineer.
17. **"Storm Drainage System"**. Publicly-owned premises by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping premises, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures and includes the Municipal Separate Storm Sewer System (MS4).
18. **"Stormwater"**. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
19. **"Stormwater Discharge Permit"**. Means a permit issued by EPA (or by a State under authority delegated Pursuant to 33 USC §1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or general area-wide basis.
20. **"Stormwater Pollution Prevention Plan"**. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
21. **"Town Manager"**. The Cromwell Town Manager or his/her authorized designee.

22. **"Wastewater"**. Any water or other liquid, other than uncontaminated stormwater, discharged from premises. As used in this chapter, the following terms shall have the meanings indicated:
23. **"Watercourse"**. A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. This includes but is not limited to lakes, ponds, rivers, streams and any other surface water defined as a watercourse by the town's inland wetland regulations.

§ 200-3. - Applicability.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Town Manager.

§ 200-4. - Responsibility for administration.

The Town Manager shall, in consultation with the town engineer, administer, implement, and enforce the provisions of this ordinance. The Town Manager may delegate his/her powers and duties under this ordinance to an authorized designee.

§ 200-5. - Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

§ 200-6. - Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

§ 200-7. – Discharge and Connection Prohibitions.

- (1) *Illegal discharges prohibited.* No person shall discharge or cause to be discharged into the storm drainage system any materials, including but not limited to, pollutants or waters containing any pollutants that cause or

contribute to a violation of applicable water quality standards, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated - typically less than one (1) PPM chlorine), firefighting activities, and any other water source not containing pollutants.
- (b) Discharges specified in writing by the Town Manager as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a written notification to the Town Manager prior to the time of the test. Said written notification may be in the form of electronic mail, facsimile transmission or hard copy letter format.
- (d) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(2) *Illicit Connections Prohibited.*

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the storm drainage system, or allows such a connection to continue.

§ 200-8. - Suspension of (MS4) storm drainage system access.

Suspension due to illicit discharges in emergency situations. The Town Manager may, without prior notice, suspend storm drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Town Manager may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or Waters of the United States, or to minimize danger to persons.

Suspension due to the detection of illicit discharge. Any person discharging to the storm drainage system in violation of this ordinance may have their storm drainage system access terminated if such termination would abate or reduce an illicit discharge. The Town Manager will notify a violator of the proposed termination of its storm drainage system access. The violator may petition the Town Manager for reconsideration and hearing.

A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the Town Manager.

§ 200-9. - Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town Manager prior to the allowing of discharges to the storm drainage system.

§ 200-10. - Right of entry, evaluation, and monitoring of damages.

- (a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial or construction activity, and any other commercial or residential facilities that discharge stormwater to the storm drainage system.
- (b) *Access to facilities.*

- (1) The Town Manager shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives or designees of the Town Manager.
- (2) Facility operators shall allow the Town Manager ready access to all parts of the facility for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a town, state or federal NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The Town Manager shall have the right to install on any NPDES permitted facilities such devices as are necessary in the opinion of the Town Manager to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Town Manager has the right to require the installation of sampling and monitoring equipment on any NPDES permitted facility by the discharger at its own expense. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Town Manager and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Town Manager access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Town Manager reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (7) If the Town Manager has been refused access to any part of the facility from which stormwater is discharged, and he/she is able to

demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Town Manager may seek issuance of a search warrant from any court of competent jurisdiction.

- (8) While performing the necessary work on private properties referred to in subsections (b) (1) through (5) of this section, the Town Manager shall observe all safety rules applicable to the premises established by the facility.

§ 200-11. - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The Town Manager will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the storm drainage system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or facility, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drainage system as directed by the Town Manager. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial or construction activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

§ 200-12. - Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

§ 200-13. - Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town Manager in person or by phone, electronic mail or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town Manager within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

§ 200-14. - Enforcement.

- (a) *Notice of violation.* Whenever the Town Manager finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, he/she shall order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
- (1) The performance of monitoring, analyses, and reporting;
 - (2) The elimination of illicit discharges or connections;
 - (3) That violating discharges, practices, or operations shall cease and desist;
 - (4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
 - (5) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the Town Manager may order the work be done by a designated governmental agency or a contractor and the violator fined an amount equal to the expense thereof in addition to any fines imposed in subsections (b) or (c) of this section.

(b) *Procedure for issuance of citations.*

- (1) The Town Manager shall issue a written notice to any person who violates any provision of this ordinance. No written notice may be issued against the state or any state official or state employee acting within the scope of his employment. Such written notice shall explain the nature of the violation and the steps required for compliance, and shall allow a seventy-two-hour period within which to correct the violation or within which a written plan for correction shall be submitted to the Town Manager, setting forth a reasonable time period for correction of the violation as agreed upon by the Town Manager. A written notice issued pursuant to this subsection shall be served: 1) by hand delivery, at which time the seventy-two-hour period shall begin; or 2) by certified mail return receipt requested and by regular first class mail. Three (3) business days shall be allowed for mail delivery of the notice prior to the commencement of the seventy-two-hour period.
- (2) Within two (2) business days after the period for correction established in subsection (a) expires, the Town Manager shall reinspect the subject property to determine compliance.
- (3) If the violations set forth in the written notice have not been corrected at the time of reinspection, the Town Manager, in his/her capacity as chief executive officer, may issue a citation and fine of up to one hundred dollars (\$100.00) for each violation by hand, by certified return receipt requested, by leaving a true and attested copy of the citation at the usual place of abode or residence of the person in violation, or in the case of a corporate or business entity, delivery to the business address or the address of the statutory agent of said entity. No such fine shall be levied against the state or any state official or state employee acting within the scope of his employment. All citations issued pursuant to this section shall state the violation for which the citation is being issued, the fine imposed for the violation, the time period within which the fine must be paid, and an address for remittance of the fine.

(c) *Compliance periods after citation.*

- (1) Any violation for which a citation is issued and which is not corrected within the time period specified in subsection (b) of this section shall be a new violation of this ordinance, and every twenty-four-hour period thereafter in which the violation is not corrected shall constitute a new violation. The citation shall include a notice to the alleged violator that each twenty-four-hour period of

noncompliance after the time period specified in section 14(b) shall constitute a new violation and a new fine of up to one hundred dollars (\$100.00).

- (2) The Town Manager shall not be responsible for a daily reinspection. Rather, the person to whom the citation has been issued shall be responsible for reporting subsequent compliance by way of written report to the Town Manager. The Town Manager shall reinspect to confirm compliance within one (1) business day of receipt of such report.

(d) *Payment of fines.*

- (1) All fines imposed under this ordinance which are uncontested shall be made payable to the Town of Cromwell and shall be received by the Town Manager within fourteen (14) calendar days from date of notice of the citation. All fines collected by the Town Manager shall be deposited into the Town of Cromwell General Fund.

§ 200-15. - Appeals.

- (a) If the Town Manager issues a notice of violation, the Town Manager shall send written notice of action and a statement of the right to an appeal to the facility operator or facility owner.
- (b) The facility operator or facility owner may appeal a notice of violation to the Town Manager by setting forth in writing the reasons for the appeal within ten (10) calendar days after date of the notice of violation.
- (c) The facility operator or facility owner may appeal the decision of the Town Manager to the hearing officer as follows:
 - (1) The facility operator or facility owner may file a written request for a review by paying an appeal fee of twenty-five dollars (\$25.00) and setting forth the reasons for the appeal within ten (10) calendar days after the date of notification of the decision from the Town Manager. Appeal fees shall be returned to the appealing facility operator or facility owner if the appeal is upheld.
 - (2) The hearing officer shall conduct a hearing not less than fifteen (15) or more than thirty (30) calendar days after the receipt of the request. The hearing shall be informal in nature. The person requesting the hearing may testify concerning the facts,

circumstances and nature of his/her appeal and may present supporting documentation.

The hearing officer shall render a written decision within fifteen (15) calendar days of the hearing. The decision will affirm or reverse the decision of the Town Manager.

- (d) Filing of a request for appeal shall stay the action by the Town Manager requiring payment of a surcharge until the hearing officer has completed his review. However, an appeal shall not stay any action by the Town Manager to halt an illegal discharge that is ongoing. If a request for appeal is not made within the ten (10) calendar day period, the action of the Town Manager is final.

§ 200-16. - Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Town Manager may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 200-17. - Compensatory action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town Manager may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, watershed cleanup, or other related activities.

§ 200-18. - Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 200-19. - Criminal prosecution of violations.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law.

§ 200-20. - Remedies not exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town Manager to seek cumulative remedies. Moreover, the Town Manager may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

§ 200-21. - Adoption of ordinance.


This ordinance shall be in full force and effect fifteen (15) days after publication. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Memo

April 2, 2018

To: Anthony Salvatore, Town Manager

From: Wesley Bell, Director of Health



RE: Fee changes for food service establishments

I am requesting approval to change the Cromwell Food Service fees due to changes to the Connecticut Food Code Regulations.

The new food code regulations will be the FDA Recommended Food Code.

The FDA Code revision changes the classifications for food service establishments.

The fee revisions will prevent the loss of revenue due to classification changes that would impact the town.

Attached:

Requested fees

Current Food Code Classifications VS New Food Code Classifications

Current copy of Cromwell Chapter 137. Food Establishments



TOWN OF CROMWELL
HEALTH DEPARTMENT
41 WEST STREET
CROMWELL, CT 06416

REQUESTED FOOD SERVICE REQUIREMENT FEES

Class

I	\$150.00
II	\$150.00
III	\$200.00
IV	\$225.00

Temporary food licenses \$60.00 for seven days or less.

FSE plan review: Class I & II - \$100; Class III & IV \$150.

Farmer's Market participants: Food service: \$100 for the farmer's market location and market season.

These changes would maintain the food services fees without loss of revenue.

The fees were last changed 3 years ago.

Please advise.

F:\Health\Misc docs 2017\Food service Fees 2018

Town of Cromwell, CT
Monday, April 2, 2018

Chapter 137. Food Establishments

[HISTORY: Adopted by the Town Council of the Town of Cromwell 4-6-2016.^[1] Amendments noted where applicable.]

CHARTER REVISION

Effective with the general election held in November 2013, the Town changed to a Town Council/Town Manager form of government. According to Charter § 11.04, any references in Town ordinances to the "First Selectman" or to the "Board of Selectmen" shall now be deemed to refer to the "Town Manager" or the "Town Council," as appropriate.

GENERAL REFERENCES

Alcoholic beverages — See Ch. 76.
Civil emergencies — See Ch. 110.
Health standards — See Ch. 146.
Peddling and soliciting — See Ch. 178.
Sanitation — See Ch. 189.
Zoning — See Ch. 236.
Farmers' markets — See Ch. 179

[1] *Editor's Note: This ordinance also superseded former Ch. 137, Food Establishments, adopted BOS 9-9-1980, as amended.*

§ 137-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CERTIFIED AGENT

One who has been certified by the State of Connecticut as a food service establishment inspector.

DIRECTOR OF HEALTH

The Director of Health for the Town of Cromwell or the Registered Sanitarian, who is his authorized agent, who shall enforce this chapter.

FARMERS' MARKET

As defined in Chapter 179: An approved, formally organized and regularly scheduled event for the sale of local food produce and products in a common marketplace which is certified and operated under the general guidelines and auspices of the State Department of Agriculture.

FOOD

Any raw, cooked or processed edible substance, beverage or ingredient, including ice, used or intended for use, in whole or in part, for human consumption.

FOOD CLASSES

As defined by the State of Connecticut Public Health Code and Regulations:

*

REVISED CLASSIFICATION OF CONNECTICUT FOOD ESTABLISHMENTS

CURRENT CLASSIFICATIONS UNDER 19-13-B42

CT. HEALTH CODE

CLASS 1:

- Commercially prepackaged food
- Hot and cold beverages
- Hot holding of commercially pre-cooked PHFs that are heated and served in the original package within 4 hours
- No preparation or cooking

CLASS 2:

- Preparation of cold or RTE ^{*}commercially processed food that does not require heat treatment
- Hot and cold beverages
- Hot holding of commercially pre-cooked PHFs that are heated and served in the original package within 4 hours
- Reheat and hot holding of commercially precooked hot dogs, kielbasa, and soup taken directly from the package and served within 4 hours

CLASS 3:

- Preparation, cooking, hot/cold holding of PHF that are consumed within 4 hours of preparation

CLASS 4:

- Preparation, cooking, hot holding greater than 4 hours after preparation and prior to consumption, and cooling of PHF

NEW CLASSIFICATIONS UNDER PA 17-93

FDA FOOD CODE

CLASS 1:

- Prepackaged food that is not TCS
- Commercially prepackaged, processed (fully cooked) food that is TCS and either cold-held or heated for hot holding, but not cooled *
- Preparation of non-TCS foods

CLASS 2:

- Preparation of limited menu TCS food that is served immediately, cold-held or hot-held for an unspecified length of time
- No cooling of TCS foods allowed
- Does not include facilities that provide foodservice specifically to a highly-susceptible population

CLASS 3:

- Preparation of an extensive menu of TCS food involving complex processes including cooking, cooling, reheating for hot-holding, and handling of raw ingredients
- Does not include facilities that provide foodservice specifically to a highly-susceptible population

CLASS 4:

- On-site preparations of foods by special processes, such as sous vide, acidification, ROP, etc.
- Preparation of an extensive menu of TCS food involving complex processes including cooking, cooling, reheating for hot-holding, and handling of raw ingredients that is served in an establishment which serves a highly-susceptible population

** Time/temp control for safety*

- A. Class I is a food service establishment with commercially packaged foods and/or hot or cold beverages only. No preparation, cooking or hot holding of potentially hazardous foods is included except that commercially packaged precooked foods may be heated and served in the original package within four hours.
- B. Class II is a food service establishment using cold or ready-to-eat commercially processed food requiring no further heat treatment and/or hot or cold beverages. No cooking, heating or hot holding of potentially hazardous foods is included, except that commercially packaged precooked foods may be heated and served in the original package within four hours, and commercially precooked hot dogs, kielbasa and soup may be heated if transferred directly out of the original package and served within four hours.
- C. Class III is a food service establishment having on the premises exposed potentially hazardous foods that are prepared by hot processes and consumed by the public within four hours of preparation.
- D. Class IV is a food service establishment having on the premises exposed potentially hazardous foods that are prepared by hot processes and held for more than four hours prior to consumption by the public.

FOOD ESTABLISHMENT

Any vehicle or place where food or beverage intended for human consumption is manufactured, prepared, stored, offered for sale, sold, served or given to the public or nonmembers, including farmers' markets. For purposes of clarification, nothing in this chapter shall include any religious ceremony, functions at private homes or affairs in establishments which cater exclusively to members and their guests.

FOOD VENDING MACHINE

A device automatically operated to supply food without the direct supervision of a human being.

ITINERANT FOOD ESTABLISHMENTS

Commercial food vendors preparing and selling food from a truck, trailer, tent or other movable venue.

§ 137-2. License required; conditions of license; posting required.

It shall be unlawful for any person to operate a food establishment within the Town of Cromwell without possessing a valid license or a written determination from the Director of Health that no license is required. Only a person who complies with the requirements of the Public Health Code of the State of Connecticut shall be entitled to receive and retain such a license. Licenses shall not be transferred from one person to another person or from one location to another. Unless a different timeline is provided for in the license, all licenses shall expire on June 30 of each year. The owner or proprietor of a food establishment or a food vending machine shall keep a valid license posted in a conspicuous public location visible to the patrons of the establishment, protected against defacement or damage at all times.

§ 137-3. Exemptions.

Residents of the Town of Cromwell offering fresh fruits and vegetables grown on and sold from their own property shall be exempt from this chapter.

* § 137-4. Application procedure; fees.

- A. Any person desiring to operate a food establishment (including participation in a farmers' market) shall make application to the Director of Health. Such application shall be made at the time of submission of an application to any other Town agency if such an application is required for the planned activity or use or at least five days prior to the intended opening or change of ownership of such an establishment. The application shall be on a form provided by the Department of Health, and it shall be within the Director's discretion to determine whether a license and/or plan review fee is required.
- B. Plan review fee. There shall be a nonrefundable application fee of \$100 payable at the time of application, unless exempt. Proposed food establishments that are exempt from a plan review fee include:
 - (1) Farms and gardeners of the Town of Cromwell selling homegrown produce, homemade prepared foods and samples at a farmers' market.
 - (2) Cromwell-licensed food establishments intending to participate in a farmers' market.
 - (3) Charitable, philanthropic, ecclesiastical and civic organizations regularly organized and/or functioning in the Town.
- C. Such application form shall require, at a minimum:
 - (1) The name, post office address and telephone number of the owner, owners or partners who shall be considered the applicant. The same information must be provided for the manager, who shall be responsible for the day-to-day operation of the establishment.
 - (2) The location, type of proposed food operation that is intended and relevant plans for the construction and operation of the establishment.
 - (3) The signature of the applicant and the application fee, if applicable.
 - (4) Any other information deemed required by the Director of Health.

* § 137-5. License procedure; fees; renewal.

- A. It shall be within the discretion of the Director of Health to determine whether a license is required and the appropriate licensing fee in accordance with the following license fee schedule.
- B. License fee schedule. License fees shall be paid as follows:
 - (1) Food establishment fees per class, including itinerant vendors:
 - (a) Class I: \$100.
 - (b) Class II: \$125.
 - (c) Class III: \$150.
 - (d) Class IV: \$200.
 - (e) Temporary license, seven days or less: \$50.
 - (f) For all food vending machines owned by one vendor at one location: \$10.



- (g) Food service plan review for extensive remodeling: \$50.
 - (h) Public schools, nonprofit charitable and religious organizations and civic groups: no fee.
 - (i) Local produce sold directly from a commercial garden or farm: no fee
 - (j) Farms with a valid food establishment license issued by another health district or municipality: no fee.
 - (k) Food establishments already holding a valid food establishment license from the Town of Cromwell: no fee.
 - (l) Itinerant food establishments: an amount equal to the fee for that food establishment class.
- (2) Where there has been a failure to file the required application within the five-day period specified and the establishment has commenced and/or continued to operate without the required approval or license, there shall be a penalty which shall be added to and collected with all the other fees required. The penalty shall be 50% of the fees required, if any, or \$10, whichever is greater, for every seven calendar days or part thereof during which the establishment shall have operated without an appropriate approval or license from the Director of Health. This penalty shall be doubled for every additional week or part thereof during which operation of the establishment unlawfully continues. The imposition or payment of this penalty shall not be deemed to excuse the operation of a food establishment without the required approval or license or to prevent the imposition of any other penalty prescribed by this chapter or other provision of law.
- (3) Renewal of license. The holder of a valid food establishment license may submit an application, amended with the current date, if necessary, 30 days prior to the expiration of the current license. The license holder has the obligation to initiate the renewal request.
- (4) Duties of Director of Health in issuing license. After submission of a completed application and after investigation, the Director of Health shall determine whether a license is required and issue that license if the food establishment conforms to the requirements of this chapter and the regulations of the appropriate state agencies that are incorporated into this chapter. If the Director of Health finds that the establishment is incomplete or fails to meet these requirements or if the establishment does not comply with other municipal codes or regulations, the license may, at the discretion of the Director of Health, be either denied without prejudice, or action may be suspended for a stated period not to exceed 30 days for such compliance to be accomplished.

§ 137-6. Inspection; procedure upon discovery of violations.

- A. The Director of Health or his certified agent shall inspect and reinspect each food establishment within the Town of Cromwell as is necessary for the enforcement of this chapter.
- B. After proper identification, the Director of Health or his certified agent shall be permitted to enter at any reasonable time any food establishment, licensed or not, for the purpose of determining compliance with this chapter. Inspections necessary after business hours shall be allowed upon reasonable notice to the license holder or manager.
- C. The Director of Health or his certified agent shall be permitted to examine all areas of the food establishment and its surroundings and all employment and business records of the