That Chapter 8A of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows:

Chapter 8A - Food Establishments

Sec. 8A-1. - Definitions.
As used in this chapter, the following definitions shall apply, unless the context clearly indicates otherwise:

(a) the term “food establishment" 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. The phrase “food establishment” shall include “class 1 food establishments,” “class 2 food establishments,” “class 3 food establishments” and “class 4 food establishments,” as those phrases are defined in p.a. 17-93. The phrase "food establishment" shall not include farmers and gardeners whose sales are limited to the produce of their farms and gardens. The director of health shall not require any farmer to apply for or purchase a license to operate a food establishment if such farmer holds a valid permit or license issued by another municipal health department or health district and is in compliance with the provisions of subsection (b) of Section 22-6s of the Connecticut General Statutes.

(b) the term “seasonal market vendor license” means a license issued to a person who operates a food establishment and who prepares or serves foods at a Connecticut certified farmer’s market. The dates of a seasonal market vendor license shall coincide with the dates of operation of the particular farmer’s market for which the food establishment operator is applying, but shall not exceed one hundred fifty (150) consecutive days.

(c) the term “seasonal vendor license” means a license issued to a food establishment that is seasonal in nature and operates in a single location for a period of time not to exceed three months. Seasonal periods are defined as follows. “Spring” means April, May and June. “Summer” means July, August and September. “Autumn” means October, November and December. “Winter” means January, February and March.
Sec. 8A-2. - Submission of plans for construction, remodeling, etc., for review.

Whenever a food establishment is constructed or remodeled, and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or alteration shall be submitted to the director of health, or his authorized agent, 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. The director of health, or his authorized agent, shall approve the plans and specifications if they meet the requirements of this chapter and the Public Health Code of the State of Connecticut. No food establishment shall be constructed remodeled, or altered except in accordance with plans and specifications approved by the director of health, or his authorized agent. Approval of the director of health, or his authorized agent, shall be separate from and independent of any other review, permit, inspection, or approval which may be required by other duly authorized officers of the city or state.

Sec. 8A-3. - Preoperational inspection.

Whenever plans and specifications are required by section 8A-2 of this chapter to be submitted to the director of health, or his authorized agent, the director of health, or his authorized agent, shall inspect the food establishment prior to its beginning operation to determine compliance with the approved plans and specifications, and with the requirements of this chapter and the Public Health Code of the State of Connecticut.

Sec. 8A-4. - License required, conditioned upon compliance with chapter and with state law.

No person shall operate a food establishment who does not have a valid license issued to him by the director of health. Unless a variance has been granted by the commissioner of public health, only a person who complies with the requirements of this chapter and the Public Health Code of the State of Connecticut shall be entitled to receive or retain such a license. On and after July 1, 2018, no permit to operate a food establishment shall be issued by the director of health unless the applicant has provided the director of health with proof of registration with the Connecticut department of public health and a written application for a license in a form and manner prescribed by the said department. Temporary food establishments and certified farmers’ markets, as defined in section 22-6r of the general statutes, as amended, shall be exempt from registering with the Connecticut department of public health. On and after July 1, 2018, all applicants shall comply fully with the requirements of the United States Food and Drug Administration’s food code, as amended from time to time, and any food code supplement published by said administration and adopted and administered as the State of Connecticut’s food code, together with any duly adopted regulations, for the purpose of regulating food establishments.

Sec. 8A-5. - Issuance of licenses.

(a) Any person desiring to operate a food establishment shall make written application for a license on forms provided by the director of health. Such application shall include at a minimum the name and address of owner of the establishment, the location and type of the proposed food establishment, and the signature of each owner. If the application is for a temporary food establishment, it shall also include the dates of the proposed operation.
(b) Prior to approval of any application for license, the director of health, or his authorized agent, who shall be a certified food inspector, as defined in P.A. 17-93, shall inspect at reasonable hours the proposed food establishment to determine compliance with the provisions of this chapter and the Public Health Code of the State of Connecticut.

(c) The director of health shall issue a license to the applicant if the inspection reveals that the proposed food establishment complies with the requirements of this chapter and the Public Health Code of the State of Connecticut.

Sec. 8A-6. - Annual license fee schedule.
   The director of health shall establish a schedule of annual fees, subject to approval and adoption by resolution of the city council.

Sec. 8A-7. - Expiration and renewal of permanent licenses.
   All licenses shall expire on the last day of the fiscal year, and may be renewed for another year upon application and payment of annual fee.

Sec. 8A-8. - Duration of licenses for temporary food establishments.
   Licenses for temporary food establishments shall be issued for a period of time not to exceed fourteen (14) consecutive days.

Sec. 8A-9. - Posting of licenses.
   A valid license shall be posted in a conspicuous location visible to the public in every food establishment.

Sec. 8A-10. - Transfer of licenses.
   Licenses are not transferable.

Sec. 8A-11. - Suspension of licenses.
   (a) The director of health shall suspend any license to operate a food establishment if the license holder does not comply with the requirements of this chapter or the Public Health Code of the State of Connecticut. If the director of health finds unsanitary or other conditions in the operation of a food establishment which, in his judgment, constitute an immediate and substantial hazard to public health, he shall immediately issue a written notice to the license holder or operator citing such conditions, specifying the corrective action to be taken and specifying the time period within which such action shall be taken, and, if deemed necessary, order immediate correction. If infected, employees may be excluded from the establishment or food area. If correction is not made in the stated time, the license shall be suspended. Suspension is effective upon service of a notice as stated in section 8A-17 of this chapter. When a license is suspended, food service operations shall immediately cease.

   (b) Whenever a license is suspended, the license holder or person in charge may, within forty-eight (48) hours, file a written appeal with the director of health. If no appeal is filed within forty-eight (48) hours, the suspension becomes final. If an appeal is filed, the director of health shall thereupon schedule a hearing on the matter as hereinafter provided. After due notice and
hearing, at which time a license holder or person in charge shall have an opportunity to be heard, the director of health may, on the basis of evidence presented at such hearing, vacate or affirm such suspension.

Sec. 8A-12. - Revocation of licenses.

The director of health or his authorized agent may, after providing opportunity for an appeal, revoke a license for serious or repeated violations of any of the requirements of this chapter or the Public Health Code of the State of Connecticut, or for interference with the director of health, or his authorized agent, in the performance of his duties. Prior to revocation, the director of health shall notify the license holder or person in charge, in writing, of the reasons for which the license is subject to revocation and that the license shall be revoked at the end of fourteen (14) days following service of such notice, unless an appeal is filed with the director of health by the license holder within forty-eight (48) hours. If no request for appeal is filed within forty-eight (48) hours, the revocation of the license becomes final. If an appeal is filed, the director of health shall thereupon schedule a hearing on the matter as hereinafter provided. After due notice and hearing, at which time a license holder or person in charge shall have an opportunity to be heard, the director of health may, on the basis of evidence presented at such hearing, vacate or affirm such revocation.

Sec. 8A-13. - Reapplication for license.

(a) Following suspension. Whenever a license has been suspended, the holder of the suspended license may make a written request for reinstatement of the suspended license. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that, in his opinion, the conditions causing the suspension have been corrected, the director of health or his authorized agent shall make a reinspection. If the applicant is complying with the requirements of this chapter and the Public Health Code of the State of Connecticut, the license shall be reinstated.

(b) Following revocation. After a period of sixty (60) days from the date of revocation, a written application may be made for the reinstatement of a license as provided in section 8A-5 of this chapter, and upon payment of the annual fee.

(c) A license reinstatement fee shall be required whenever a license to operate a food establishment has been suspended or revoked and must be submitted before the license is reinstated. The license reinstatement fee shall be in addition to the annual food establishment license fee and will not be prorated.

Sec. 8A-14. - Food establishments outside the corporate limits of the city.

Food from food establishments outside the jurisdiction of the director of health of the city may be sold within the city if such food establishments conform to the provisions of this chapter or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the director of health may accept reports from responsible authorities in other jurisdictions where such food establishments are located.

Sec. 8A-15. - Examination, confiscation and condemnation of food.
Food may be examined or sampled by the director of health as often as necessary for enforcement of this chapter or the Public Health Code of the State of Connecticut. The director of health may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food or beverage which he believes is unfit for human consumption. The director of health, or his authorized agent, shall tag, label, or otherwise identify, including laboratory analysis, any food subject to the hold order. No food subject to a 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 shall be ordered and accomplished. Such storage or destruction of foodstuffs and the costs associated with or arising from same shall remain the responsibility of the owner or agent in charge. The hold order shall state that a request for hearing may be filed with the director of health within forty-eight (48) hours and that, if no hearing is requested, the food shall be destroyed. If so requested, the director of health shall thereupon schedule a hearing on the matter as hereinafter provided. After due notice and hearing, at which time a license holder or person in charge shall have an opportunity to be heard, the director of health may, on the basis of evidence presented at such hearing, vacate the hold order previously issued or direct the owner or person in charge of said food to denature or destroy same or to bring it into compliance with the provisions of this chapter or the Public Health Code of the State of Connecticut.

Sec. 8a-16. – re-inspection fee.

A re-inspection fee shall be assessed whenever a food establishment fails an inspection. A re-inspection fee shall also be assessed whenever a food establishment formally requests that a re-inspection be performed in order to improve its rating or inspection score. Requested re-inspections shall only be performed after a written itemization of corrective measures is submitted by the applicant, together with the appropriate re-inspection fee.

Sec. 8A-17. - Notice, conduct of public hearings.

Whenever required hereunder, all parties shall be afforded an opportunity for hearing after reasonable notice consistent with this section.

(a) Form of notice. The notice shall include:

(1) A statement of the time, place and nature of the hearing;
(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
(3) A reference to the particular sections of the statutes and ordinances involved;
(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(b) Opportunity to be heard. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(c) Disposition of contested cases. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
(d) **Record of proceedings.** The record in a contested case shall include:

1. All pleadings, motions and intermediate rulings;
2. Evidence received or considered;
3. Questions and offers of proof, objections and rulings thereon;
4. Any decision, opinion or report by the officer presiding at the hearing.

**Sec. 8a-18. – Appeals to the Connecticut Department of Public Health.**

The owner or operator of a food establishment aggrieved by an order to correct any inspection violations identified by the food inspector or to hold, destroy or dispose of unsafe food or by the affirmation or modification of an order by the director of health, including, but not limited to, an order to suspend or revoke the license to operate the food establishment, may appeal to the Connecticut Department of Public Health pursuant to Section 19a-229 of the general statutes. During such appeal, the order or decision of the director of health shall remain in effect unless the Commissioner of the Connecticut Department of Public Health orders otherwise.

**Sec. 8A-19. - Service of notices.**

A notice provided for in this chapter is properly served when it is delivered to the license 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 license holder. If one or more persons to whom such notice is addressed cannot be found after diligent effort to do so, service may be made upon such person or persons by posting a notice in or about the food establishment or by causing such notice to be published in a newspaper of general circulation for a period of five (5) consecutive days.

**Sec. 8A-20. - Violations; penalties other than suspension and revocation of licenses.**

Any person who shall violate any of the provisions of this chapter and/or the Public Health Code of the State of Connecticut shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars ($100.00). In addition thereto, such person may be enjoined from continuing such violations. Each day upon which such a violation occurs shall constitute a separate violation.

**EFFECTIVE DATE:** This Ordinance shall take effect thirty days (30) days after adoption and publication, as provided by law and section 3-10 of the Charter of the City of Danbury.

Adopted by the City Council – November 9, 2017
Approved by Mayor Mark D. Boughton – November 10, 2017

_**ATTTEST. S/S JEAN A. NATALE**_

JEAN A. NATALE, Legislative Assistant