

**CITY OF DANBURY
HEALTH & HUMAN SERVICES DEPARTMENT**



155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810
Tel (203) 797-4625 Fax (203)796-1596

Mayor
Honorable Mark D. Boughton

Director of Health
Lisa Michelle Morrissey, MPH

TO: Kevin Paige
Owner, Hat City Ale House
253 Main Street
Danbury CT 06810

CC: Corporation Counsel
Zoning Enforcement Officer
Fire Marshal
Connecticut DCP Liquor Control

FROM: Lisa Michelle Morrissey
Director, Health & Human Services Department

DATE: August 31, 2018

RE: **Cease and Desist**

Mr. Paige,

It has recently come to the attention of the City of Danbury Health and Human Services Department that the establishment operating as Hat City Ale House, located at 253 Main Street in Danbury, CT, is operating in violation of Section 19-13-B42(p)(2) of the Public Health Code of the State of Connecticut, regarding the prohibition of smoking in food service establishments. You are hereby ordered to immediately **cease and desist** all food service activity in this establishment as required by the Public Health Code of The State of Connecticut, until and unless written approval is received from this department to resume food service. No such approval shall be issued until and unless a satisfactory written plan of operation for the business is submitted to the City of Danbury Health and Human Services Department that demonstrates to the satisfaction of the Director of Health that the business would operate

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within the requirements of all applicable State and Local requirements and laws. Please be advised that your failure to comply with this order will result in referral for prosecution or legal action under the authority cited herein.

Authority:

Section 19-13-B42(p)(2), Public Health Code of the State of Connecticut

Sections 8A-11 & 8A-12, Code of Ordinances of the City of Danbury, Connecticut

Penalty:

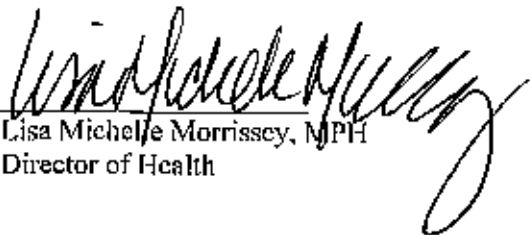
Section 8A-18, of the Code of Ordinances of the City of Danbury:

“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.”

Right of Appeal:

You may appeal this order to the State Commissioner of Health under Section 19a-229 of the Connecticut General Statutes within three (3) business days of its receipt.

“Any person aggrieved by an order issued by a town, city or borough director of health may appeal to the Commissioner of Public Health not later than three business days after the date of such person’s receipt of such order, who shall thereupon immediately notify the authority from whose order the appeal was taken, and examine into the merits of such case, and may vacate, modify or affirm such order.”



Lisa Michelle Morrissey, MPH
Director of Health

Local Health Appeal and Hearing Process

This is a guide to the local health appeal and hearing process for the state of Connecticut Department of Public Health Hearing Office ("Hearing Office"). Please be advised that this information is only a guide and is not to be interpreted as legal advice from the Department of Public Health. You are strongly encouraged to consult with an attorney if you have any questions about a local health appeal.

How the Appeal Process Works:

- Your local health department issues a Notice of Violation (NOV) or order (collectively referred to hereinafter as "Order") to you, the owner or occupant of a property.

If you receive an Order and wish to appeal it, you may appeal by calling (860-509-7566), faxing (860-509-7553), or mailing your appeal to the Commissioner of the Department of Public Health at:

Public Health Hearing Office

Department of Public Health

410 Capitol Avenue, MS#13PHO

P.O. Box 340308

Hartford, CT 06134-0308

Tel. (860) 509-7566 FAX (860) 509-7553

- The Rules of Practice regulations that govern the local health appeal and hearing process are found at sections 19a-9-1 through 29 of the Regulations of Connecticut State Agencies "Rules of Practice" link at: [Rules of Practice](#).
- **Your right to appeal is time limited. You have three business days to appeal after you receive the Order**, either by telephone or in writing. If your initial appeal is made telephonically, you must also submit a **written appeal** that must be **received** by the Hearing Office within 10 days of the telephonic appeal. See Section 19a-9-14 of the Rules of Practice regulations at the link above for more information.
- Upon timely receipt of your written appeal, a Hearing Officer will be assigned to your case and a hearing will be scheduled at the Hearing Office in Hartford at the address provided above.
- The Hearing Officer may **uphold the Order, modify it, or vacate it** based on legal analysis, record exhibits, and testimony presented at the hearing. Local Health Departments have the burden of proof (preponderance of the evidence) unless it is a permit denial case, in which case the person appealing the permit denial has this burden.
- The Hearing Officer will issue a written Proposed Memorandum of Decision (PMOD) to you and other parties. You may request oral argument or permission to file briefs after receiving the PMOD. More information is provided in the cover letter to the PMOD.
- After oral argument/filing of briefs, or if none are requested, the Hearing Officer will review the file and issue a final decision, which will be sent to all parties via certified mail.
- An appeal must contain the following information:
 - (1) the name, address, and telephone number of the person claiming to be aggrieved;
 - (2) the name of the issuing authority;
 - (3) the way in which the order adversely affects the person claiming to be aggrieved;
 - (4) the order being appealed; and

ELECTRICAL, PLUMBING AND BUILDING PERMITS

You are hereby advised to contact the Building Department of the City of Danbury to determine whether a building permit is needed to undertake the work required to comply with this order. Please note that electrical and plumbing work to be performed in multi-family residences must be performed by licensed tradesmen under the terms and conditions of a valid permit issued by the Building Department of the City of Danbury.

ZONING NOTICE

Correction of Danbury Housing Code violations will not assure compliance with the Danbury zoning ordinances. Please be advised that if zoning regulations and requirements cannot be met, occupancy of a dwelling unit may not be allowed even if all housing code violations are corrected. Contact the Danbury zoning enforcement officer at 797-4509 if you have any questions regarding zoning compliance.

LEAD PAINT ADVISORY

IF YOUR BUILDING WAS BUILT PRIOR TO 1978 OR IS A NEWER HOUSE PAINTED WITH OLDER PAINT IT COULD CONTAIN HAZARDOUS LEAD-BASED PAINT.

Occupants and workers can be poisoned by ingestion or inhalation of lead dust caused by unsafe renovation practices that disturb lead-bearing surfaces or building components. Owners are cautioned that appropriate safety measures must be taken to protect workers and occupants from a public health nuisance resulting from lead dust and debris. The causing of lead ingestion or inhalation through unsafe renovation and surface preparation practices (such as uncontained sanding, heat guns, or chemical removal) will be considered a public health nuisance subject to enforcement action. Approved methods, such as the use of polyethylene sheeting to contain dust, shall also be employed to prevent the accumulation of any and all paint chips or particles in or around the premises.

THE CONNECTICUT DEPARTMENT OF PUBLIC HEALTH ADMINISTERS LEAD POISONING PREVENTION AND CONTROL REGULATIONS PURSUANT TO SECTION 19a-111c OF THE CONNECTICUT GENERAL STATUTES. Owners are responsible for compliance with these regulations when applicable. The regulations impose requirements on owners for lead paint abatement and management to prevent lead exposure on the part of children under six years of age. The regulations govern methods of abatement, occupant and worker protection, containment to prevent contamination of the environment and disposal of lead-bearing waste. Municipalities are required to implement these regulations when applicable in connection with permitting and code enforcement activities. Call the Danbury Health and Housing Department or the Connecticut Department of Public Health should you have any questions about the applicability of the regulations or about lead issues.

CITATION WARNING

WARNING NOTICE OF VIOLATION. THIS IS A WARNING AND AN ORDER FOR YOU TO CORRECT THE EXISTING VIOLATIONS DESCRIBED ON THIS NOTICE. THIS IS INTENDED TO INFORM YOU OF A CONDITION THAT IS UNLAWFUL AND REQUIRES IMMEDIATE CORRECTIVE ACTION. YOUR FAILURE TO MAKE CORRECTIONS BY THE COMPLIANCE DATE INDICATED IN THE ORDER OF ABATEMENT MAY RESULT IN ISSUANCE OF A CITATION OR COURT ENFORCEMENT ACTION.

NOTICE OF FINES IF CITATION ISSUED

IF A CITATION IS ISSUED YOU WOULD BE SUBJECT TO A FINE OF \$100.00 FOR EACH VIOLATION CITED. YOU MUST CORRECT ALL VIOLATIONS BY THE COMPLIANCE DATE LISTED IN THE ORDER OF ABATEMENT IN ORDER TO AVOID A FINE UNDER THE CITATION PROCEDURES ESTABLISHED IN SECTION 12-34 OF THE DANBURY CODE OF ORDINANCES.

NOTICE OF PENALTIES UNDER COURT ENFORCEMENT ACTIONS

Any owner, owner's agent or occupant who has not complied with an Order of Abatement shall be subject to a penalty of one hundred dollars (\$100.00) per day for each day the violation continues after expiration of the specified time granted by the order, or to thirty (30) days in jail, or to both; provided that no such penalty shall be applicable while a reconsideration, hearing or appeal to a court of competent jurisdiction is pending in the matter.

APPEALS

SECTION 10-21 OF THE DANBURY CODE OF ORDINANCES PROVIDES YOU WITH THE RIGHT TO APPEAL THIS ABATEMENT ORDER. THE APPEAL MUST BE MADE IN WRITING TO THE DIRECTOR OF HEALTH WITHIN 48 HOURS FROM THE RECEIPT OF THIS NOTICE. YOU MUST STATE THE BASIS OF YOUR APPEAL AND ASK FOR AN APPEALS CONFERENCE. YOU MAY ALSO APPEAL TO THE STATE COMMISSIONER OF PUBLIC HEALTH UNDER SECTION 19a-229 OF THE CONNECTICUT GENERAL STATUTES WHICH STATES: (a) ANY PERSON AGGRIEVED BY AN ORDER ISSUED BY A TOWN, CITY OR BOROUGH DIRECTOR OF HEALTH MAY, NOT LATER THAN FOURTY EIGHT HOURS AFTER THE MAKING OF SUCH AN ORDER, APPEAL TO THE COMMISSIONER OF PUBLIC HEALTH, WHO SHALL THEREUPON IMMEDIATELY NOTIFY THE AUTHORITY FROM WHOSE ORDER THE APPEAL WAS TAKEN, AND EXAMINE INTO THE MERITS OF SUCH CASE, AND MAY VACATE, MODIFY OR AFFIRM SUCH ORDER. (b) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (a) OF THIS SECTION, ANY PERSON AGGRIEVED BY AN ORDER REGARDING LEAD PAINT ABATEMENT UNDER SECTION 19a-111c MAY APPEAL TO THE COMMISSIONER, NOT LATER THAN THREE BUSINESS DAYS AFTER THE RECEIPT OF SUCH ORDER. (RULES OF PRACTICE ATTACHED).

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(5) the grounds for appeal.

- If you do not have an attorney, you may appear on your own behalf (*pro se*). If you have an attorney you would like to represent you, your attorney must submit an appearance to the Hearing Office in writing. See Section 19a-9-28 of the Rules of Practice regulations at the link provided above. If you are a legal entity, such as a limited liability company (LLC) or corporation, **only an attorney may represent you at the hearing**. If you do not choose to have an attorney represent the entity, you may only testify as a witness and may not make legal arguments, cross-examine witnesses, or otherwise engage in the practice of law.
- If you think you will need an interpreter during the hearing, one will be provided free of charge upon request. Please let the Hearing Office know of your request as early as possible. You may NOT use a friend, family member, or coworker to serve as your interpreter or translator during a hearing. If you need an accommodation to fully participate in a hearing, please contact the Hearing Office.
- If you resolve the matter with your local health department before hearing and wish to withdraw your appeal and cancel any scheduled hearing, you must submit the **withdrawal of your appeal in writing** to the Hearing Office.
- If you receive the Notice of Hearing and know that you cannot be at the hearing, please let the Hearing Office know **immediately** and file a **request for continuance** in writing in order to cancel the scheduled hearing and reschedule. You should first contact the local health department and any other parties to the appeal for a position regarding your continuance request, documenting such in your written request.

Appellants who wish to seek low-cost or free legal representation should visit the following websites of Connecticut-based legal services organizations for assistance:

- [Statewide Legal Services](#) or [Statewide Legal Services \(Spanish\)](#)
- [Connecticut Legal Services](#)
- [Greater Hartford Legal Aid](#)
- [New Haven Legal Assistance](#)
- [Legal Assistance Resource Center](#)

Appealing an Order does NOT automatically stay, stop, or postpone its enforcement.

Please note that filing an appeal does not prevent you from contacting your local health department to attempt to resolve the matter prior to the appeal being heard.

If you have further procedural questions about the Local Health Appeals process at the Department of Public Health in Connecticut, please call 860-509-7566.