





74-743
Special provisions for bulk modification

- (a) For a #general large-scale development#, the City Planning Commission may permit:
(1) distribution of total allowable #floor area#, #rooming units#, #dwelling units#, #lot coverage# and total required #open space# under the applicable district regulations...
(2) location of #buildings# without regard for the applicable #yard#, #court#, distance between #buildings#, or height and setback regulations;
(3) variation in the location of primary business entrances and #show windows# along frontages adjacent to #zoning lots# outside the #general large-scale development# without regard to regulations applicable near #Residence District# boundaries;
(4) the maximum #floor area ratio# permitted pursuant to Section 23-142 (In R6, R7, R8 or R9 Districts) for the applicable district without regard for #height factor# or #open space ratio# requirements provided that the #general large-scale development# is located partially in a C6-1, C6-2 or C6-3 District within the boundaries of Community District 7 in Manhattan and that a minimum of 50 percent of the required #open space# is provided within the #general large-scale development#. Required #open space# for the purposes of this paragraph, (a)(4), shall be calculated by utilizing the smallest #open space ratio# at the maximum #floor area ratio# pursuant to Section 23-142 for the applicable district;
(5) in an #Inclusionary Housing designated area# in a C4-6 or C5 District:
(i) a portion of the #lot area# that contains a wholly #commercial building# to be excluded from the calculation of #floor area# for any other #buildings# on the remainder of the #zoning lot#; or
(ii) community facility #floor area# located above the ground floor to be excluded from the calculation of the amount of #affordable housing# required pursuant to Section 23-95; or
(6) modification of the requirements of Section 23-86 (Minimum Distance Between Legally Required Windows and Walls or Lot Lines) for #developments# or #enlargements#, where:
(i) the required minimum distance as set forth in Section 23-86 is provided between the #legally required window# in the new #development# or #enlargement# and a wall or #lot line # on an abutting property; and
(ii) the required minimum distance is provided by a light and air easement acceptable to the Department of City Planning and recorded in the County Clerk's office in the county in which such tracts of land are located.
(7) modification of the definition of #outer court# in Section 12-10 (DEFINITIONS) and the provisions of Section 23-84 (Outer Court Regulations) to include any open area that is bounded on all sides but one by building walls and is not otherwise a #yard# or an #inner court#, provided that:
(iii) such modifications are permitted only for #general large-scale developments# previously approved by the City Planning Commission in a C4-7 District within the boundaries of Manhattan Community District 7; and
(iv) the minimum distance between a #legally required window# facing onto such #outer court# and a building wall shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to such window for the full width of the rough window opening.
(8) In an #Inclusionary Housing designated area# in a C4-7 district within the boundaries of Manhattan Community

District 7, for the purpose of applying the Inclusionary Housing Program within such #Inclusionary Housing designated area#:

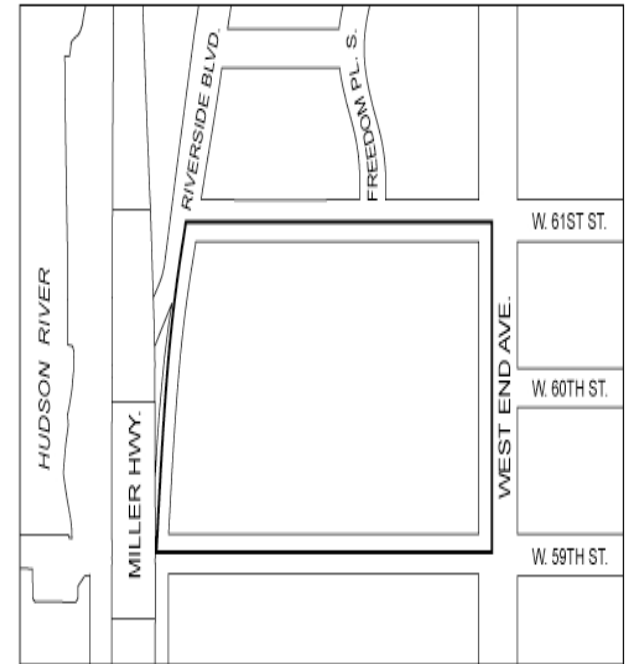
- (i) modification of the base and maximum #floor area ratios# specified in Section 23-952, not to exceed the maximum #floor area ratios# permitted by the underlying district, based on a proportionality between #affordable floor area# and #residential floor area# in #buildings# containing multiple #uses#; and
(ii) modification of the requirements regarding distribution of #affordable housing units# specified in Section 23-96(b) as set forth in a restrictive declaration.
(b) In order to grant a special permit pursuant to this Section for any #general large-scale development#, the Commission shall find that:
(1) the distribution of #floor area#, #open space#, #dwelling units#, #rooming units# and the location of #buildings#, primary business entrances and #show windows# will result in a better site plan and a better relationship among #buildings# and open areas to adjacent #streets#, surrounding #development#, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the #general large-scale development#, the neighborhood, and the City as a whole;
(2) the distribution of #floor area# and location of #buildings# will not unduly increase the #bulk# of #buildings# in any one #block# or unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks# or of people using the public #streets#;
(3) where a #zoning lot# of a #general large-scale development# does not occupy a frontage on a mapped #street#, appropriate access to a mapped #street# is provided;
(4) considering the size of the proposed #general large-scale development#, the #streets# providing access to such #general large-scale development# will be adequate to handle traffic resulting therefrom;
(5) when the Commission has determined that the #general large-scale development# requires significant addition to existing public facilities serving the area, the applicant has submitted to the Commission a plan and timetable to provide such required additional facilities. Proposed facilities that are incorporated into the City's capital budget may be included as part of such plan and timetable;
(6) where the Commission permits the maximum #floor area ratio# in accordance with the provisions of paragraph (a)(4) of this Section, the #open space# provided is of sufficient size to serve the residents of new or #enlarged buildings#. Such #open space# shall be accessible to and usable by all residents of such new or #enlarged buildings#, have appropriate access, circulation, seating, lighting and paving, and be substantially landscaped. Furthermore, the site plan of such #general large-scale development# shall include superior landscaping for #open space# of the new or #enlarged buildings#;
(7) where the Commission permits the exclusion of #lot area# or #floor area# in accordance with the provisions of paragraph (a)(5) of this Section or modification of the base and maximum #floor area ratios# or requirements regarding distribution of #affordable housing units# in accordance with paragraph (a)(8) of this Section, such modification will facilitate a desirable mix of #uses# in the #general large-scale development# and a plan consistent with the objectives of the Inclusionary Housing Program and those of Section 74-74 (General Large-Scale Development) with respect to better site planning; and
(8) a declaration with regard to ownership requirements in paragraph (b) of the #general large-scale development# definition in Section 12-10 (DEFINITIONS) has been filed with the Commission.
The Commission may prescribe additional conditions and safeguards to improve the quality of the #general large-scale development# and to minimize adverse effects on the character of the surrounding area.
For a phased construction program of a multi-building complex, the Commission may, at the time of granting a special permit, require additional information, including but not limited to a proposed time schedule for carrying out the proposed #general large-scale development#, a phasing plan showing the distribution of #bulk# and #open space# and, in the case of a site plan providing for common #open space#, common open areas or common parking areas, a maintenance plan for such space or areas and surety for continued availability of such space or areas to the people they are intended to serve.

APPENDIX F: INCLUSIONARY HOUSING DESIGNATED AREAS

Manhattan
Manhattan Community District 7

In the R9A and R10 Districts within the areas shown on the following Maps 1 and 2:

Map 2



Portion of Community District 7, Manhattan

No. 12
CD 7 N 100295 ZRM
IN THE MATTER OF an application submitted by CRP/Extell Parcel L, LP and CRP/Extell Parcel N, LP pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning Section 74-74 (General Large-Scale Development) and Section 74-744 (Modification of use regulations).

Matter in underline is new, to be added;
Matter in strikeout is old, to be deleted;
Matter within # # is defined in Section 12-10;
\*\*\* indicates where unchanged text appears in the Zoning Resolution

ARTICLE VII: ADMINISTRATION

Chapter 4
Special Permits by the City Planning Commission

74-74
General Large-Scale Development

For #general large-scale developments# involving several #zoning lots# but planned as a unit, the district regulations may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and #bulk# controls. For these #developments#, the regulations of this Section are designed to allow greater flexibility for the purpose of securing better site planning, while safeguarding the present or future use and development of the surrounding area.

No portion of a #general large-scale development# shall contain any #use# not permitted by the applicable district regulations for such portion, except as otherwise provided in Section 74-744 (Modification of use regulations). When an existing #building# in a #general large-scale development# is occupied by a #non-conforming use#, any #enlargement# of such existing #building# shall be subject to the requirements set forth in Section 52-00 (NON-CONFORMING USES: DEFINITIONS AND GENERAL PROVISIONS).

74-744
Modification of use regulations

- (a) Use modifications
(1) Waterfront and related #commercial uses#
In a C4 District, the City Planning Commission may modify applicable district regulations to allow certain boating and related #uses# listed in Use Group 14A, not otherwise allowed in such district, provided the Commission shall find that:
(i) the #uses# are appropriate for the location and blend harmoniously with the rest of the #general large-scale development#; and
(ii) the #streets# providing access to such #uses# will be adequate to handle the traffic generated thereby.
(2) Automotive sales and service #uses#
For #general large-scale developments# previously approved by the City Planning Commission in a C4-7 District within the boundaries of Manhattan Community District 7, the City Planning Commission may modify applicable district regulations to allow automotive sales and service establishments that include repair services and preparation for delivery, provided the Commission shall find that:
(i) the portion of the establishment used for the servicing and preparation of automobiles is located entirely in a #cellar# level and below grade or established curb level, and the ground floor level of such establishment is used only for showrooms and sales;









Statement of Basis and Purpose of Final Rule

The Environmental Control Board (ECB) held a Public Hearing on August 10, 2010 on amendments to ECB's Buildings Penalty Schedule II, found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York.

ECB has added two charges to its Buildings Penalty Schedule II. The first charge is ZR 11-62(Class 2), "violation of discretionary Zoning conditions on privately owned public space" and the second charge is Misc Violation of ZR (Class 2), "Misc. violation of condition on as of right privately owned public space".

ZR 11-62 allows the Department of Buildings to issue violations if a person or entity fails to comply with any conditions or restrictions in special permits, variances, authorizations or certifications granted under the ZR.

The Department of City Planning (DCP) is the approving authority on the creation of POPS in exchange for additional floor area in certain buildings within the City's high-density commercial and residential districts.

In 2007, the New York City Council adopted revised standards for all outdoor POPS, representing a significant update to and consolidation of all previous plaza design regulations into one outdoor plaza designation – the "public plaza."

Whenever DCP observes non-compliance through its site visit, or, receives a complaint of non-compliance with a particular POPS, it usually contacts the owner and arranges to meet in order to have them come into compliance.

These changes are being sought so that the Department of Buildings may effectively enforce these violations. The violations will be classified as Major (Class 2) violations.

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) by section 1049-a of the New York City Charter, and in accordance with section 1043(b) of the Charter, that the Environmental Control Board hereby promulgates the following rule.

New matter is underlined.

Section 1. The Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended to add the following material immediately after the entry in that penalty schedule for section 15 RCNY 20-02(b), "Unlawful connection to City main," to read as follows:

Table with 4 columns: SECTION, DESCRIPTION, PENALTY, DEFAULT. Contains 3 rows of penalty information for RCNY 20-03(k)(4), (w), and (x).

Section 2. The Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended to add the following material immediately after the entry in that penalty schedule for section 15 RCNY 20-05(i)(2-12), "Improper setting of meter," to read as follows:

Table with 4 columns: SECTION, DESCRIPTION, PENALTY, DEFAULT. Contains 1 row of penalty information for RCNY 20-05(i)(12).

Section 3. The Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended to add the following material immediately after the entry in that penalty schedule for section 15 RCNY 20-05(k), "Improper meter pit/box/vault construction," to read as follows:

Table with 4 columns: SECTION, DESCRIPTION, PENALTY, DEFAULT. Contains 1 row of penalty information for RCNY 20-05(m)(1).

Section 4. The Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of

the City of New York is amended to add the following material immediately after the entry in that penalty schedule for section 15 RCNY 20-05(p), "Inadequate protection of meter/remote receptacle/AMR transmitter/wiring," to read as follows:

Table with 4 columns: SECTION, DESCRIPTION, PENALTY, DEFAULT. Contains 1 row of penalty information for RCNY 20-05(p)(2).

Statement of Basis and Purpose of Final Rule

The Environmental Control Board held a Public Hearing on August 10, 2010 on amendments to ECB's Water Penalty Schedule found in Section 3-126 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York.

On August 13, 2009, the Board approved a number of changes and additions to the Water Penalty Schedule in light of revisions to 15 RCNY Chapter 20. However, even with these revisions, there are still several charges that are consistently cited using the "Miscellaneous Provisions" code in the Penalty Schedule.

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) by Section 1049-(c)(3) of the New York City Charter, and by 1049-a of the New York City Charter and in accordance with Section 1043(b) of the Charter, that the Environmental Control Board hereby promulgates the following rule.

Section 1. Chapter 3 of Title 48, Subchapter G of the Rules of the City of New York is amended by adding a new section, 3-127, to read as follows:

New matter is underlined.

§3-127: Small Business Services Penalty Schedule

SMALL BUSINESS SERVICES PENALTY SCHEDULE

\*For these sections, a repeat violation is a violation by the same respondent of the same section of law as the previous violation with a date of occurrence within 18 months of the date of occurrence of the previous violation.

Table with 4 columns: SECTION/RULE, DESCRIPTION, PENALTY, DEFAULT. Contains multiple rows of penalty information for sections 22-112(a)(1) and (2).

Statement of Basis and Purpose of Final Rule

The Environmental Control Board held a Public Hearing on August 10, 2010 regarding the addition of a new penalty schedule to ECB Penalty Schedules. This Penalty Schedule will cover violations issued by the Department of Small Business Services (SBS).

On March 18, 2010, Mayor Bloomberg signed Intro. No. 54-A into law as Local Law No. 4 of 2010. Local Law No.4 implements a change to the New York City Administrative Code by providing for a civil penalty to be recovered through an action brought before the Environmental Control Board (ECB) for illegal dumping into the Port of New York.

The penalty provisions, set forth in §22-112(c), allow for the imposition of a penalty of not less than \$1,500 nor more than \$10,000 for the first violation and not less than \$5,000 nor more than \$20,000 for each subsequent violation.

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board by Section 1049-a of the New York City Charter, and in accordance with Section 1043(b) of the Charter, that the Environmental Control Board hereby promulgates the following rule.

Section 1. Section 3-108 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, setting forth the penalty schedule for violation of laws and rules governing the Fulton Fish Market and Other Public Markets contained in Title 22 of the Administrative Code of the City of New York and Title 66 of the RCNY, is REPEALED.

Section 2. Subchapter G of chapter 3 of Title 48 of the Rules of the City of New York is amended by adding a new section 3-108, to read as follows:

§ 3-108 FULTON FISH MARKET/OTHER SEAFOOD MARKETS/PUBLIC WHOLESALE MARKETS VIOLATIONS

Note: All penalties are in dollar amounts. Repeat penalties apply for violations of the same subsection penalty schedule description.

2nd, 3rd, 4th, 5th and subsequent (subs.) violations are defined as a violation by the same respondent

with a date of occurrence within five years of the date of occurrence of the previous violation.

\*Mail-in penalties are only available for a first offense. Where a mail-in penalty exists in this penalty schedule for the cited violation, a respondent may admit to the violation charged and pay the penalty by mail in the manner and time directed by the notice of violation.

Pursuant to 48 RCNY section 3-81 (b), where respondent is permitted to admit and pay by mail but fails to do so before the original hearing date written on the violation, the respondent will have the option of paying the mail in penalty, plus a late admit fee of \$30.00, within 30 days of the mailing date of the default order issued against respondent.

TITLE 17 RCNY CHAPTER 2 SUBCHAPTER A: PUBLIC WHOLESALE MARKETS

Large table with 5 columns: CODE/RULE SECTION, DESCRIPTION, MAIL-IN PENALTY, 1st OFFENSE PENALTY, REPEAT PENALTY, DEFAULT PENALTY. Contains multiple rows of penalty information for various sections under Title 17.

TITLE 17 RCNY CHAPTER 2 SUBCHAPTER B: FULTON FISH MARKET

Table with 5 columns: CODE/RULE SECTION, DESCRIPTION, 1st OFFENSE PENALTY, REPEAT PENALTY, DEFAULT PENALTY. Contains 1 row of penalty information for RCNY §12-24(a).



Table with 5 columns: RCNY Code, Description, Amount, Subsection, and Penalty. Rows include violations like 'Failed to display identification card as per subsec.', 'Operated an unloading business without a license', etc.

Table with 5 columns: RCNY Code, Description, Amount, Subsection, and Penalty. Rows include violations like 'Unauthorized transfer of registration number (Wholesaler)', 'Conducted business under unregistered name (Wholesaler)', etc.

TITLE 22 ADMINISTRATIVE CODE CHAPTER 1-B: OTHER PUBLIC MARKETS

Table with 5 columns: CODE/RULE SECTION, DESCRIPTION, 1st OFFENSE PENALTY, REPEAT PENALTY, and DEFAULTY PENALTY. Rows include 'Daily failure to obtain identification card as per subsec.', 'Daily failure to register wholesale and/or market businesses', etc.

Statement of Basis and Purpose of Final Rule

The Environmental Control Board (ECB) held a Public Hearing on July 13, 2010 concerning repeal of its current Fulton Fish Market/Other Seafood Markets/Public Wholesale Markets Penalty Schedule found in Section 3-108 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York and enactment of a new Fulton Fish Market/Other Seafood Markets/Public Wholesale Markets Penalty Schedule. Neither written comments nor oral testimony were presented.

Violations under this penalty schedule are written by the Business Integrity Commission. The Commission is responsible for the regulation of the trade waste industry (Local Law 42 of 1996), the shipboard gambling industry (Local Law 57 of 1997), the Fulton Fish Market (now known as the "New Fulton Fish Market at Hunts Point") (Local Law 50 of 1997), and the public wholesale markets (Local Law 28 of 1997).

The rules implementing Local Law 50 and Local Law 28 are codified in Chapter 1 of Title 66 of the Rules of the City of New York, the rules of the Department of Small Business Services. The Commission has finalized a rule change that moved all the market rules into Title 17 of the RCNY, the rules of the Commission. Therefore, ECB has also codified the penalties for violations of these rules under Title 17 of the Rules of the City of New York.

The separate fine schedules for the Fulton Fish Market and other public wholesale markets have remained in their original form since enacted in 2003. Therefore, ECB has amended the fine schedules to account for changes in the economy and to increase fines for those sections which the Commission deems particularly important to the successful regulation of the market businesses. The Commission has also requested the insertion of additional charges to allow for more effective enforcement.

Amendments to the fine schedule for the Fulton Fish Market are:

- Increase in the Penalty for Default: The penalty for defaulting on violations for any section of the rules will be increased to the statutory maximum penalty of ten thousand dollars (\$10,000).
● Increase in Penalties: In light of the fact that no increases have been undertaken in the mail in penalty, first offense penalty, and repeat penalties since the original fine schedule was established eight years ago, the penalties for most sections have been increased.

Amendments to the fine schedule for the public wholesale markets are:

- Increase in the Penalty for Default: The penalty for defaulting on violations for any section of the rules will be increased to the statutory maximum penalty of ten thousand dollars (\$10,000).
● Fines for Violations of Anti-Gambling Rules: In light of prior Commission investigations that have determined gambling to be a problem in the public wholesale markets the fines for violation of anti-gambling rules have been increased.
● Fines for Unfair Labor Practices: In light of prior Commission investigations that have established gambling as a problem in the public wholesale markets, the fines for violation of rules pertaining to fair labor practices have been increased.
● Other Fines Increased: In addition to those increases in fines that have been made primarily due to the passage of time since the original schedule was devised, particular attention has been paid to increasing the penalties for those violations which involve misrepresentations or omissions to the Commission, and that involve impropriety in dealings with market personnel.

HEALTH AND MENTAL HYGIENE

NOTICE

NOTICE OF INTENTION TO AMEND CHAPTER 23 OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK

IN COMPLIANCE WITH SECTION 1043(a) OF THE NEW YORK CITY CHARTER NOTICE IS HEREBY GIVEN OF THE PROPOSED INTENTION TO AMEND CHAPTER 23 ("FOOD SERVICE ESTABLISHMENT SANITARY INSPECTION PROCEDURES") OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK.

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE (THE "DEPARTMENT") WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 10:00 A.M. TO 12:00 P.M. ON TUESDAY, OCTOBER 5, 2010 IN THE THIRD FLOOR BOARD ROOM AT 125 WORTH STREET, NEW YORK, NEW YORK.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK AT THE HEARING SHOULD NOTIFY RENA BRYANT, SECRETARY TO THE DEPARTMENT, IN WRITING, BY MAIL TO 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013, OR BY FAX TO (212) 788-4315 BY MONDAY OCTOBER 4, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL WORKING HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

REGISTRATION OF PERSONS WHO WISH TO SPEAK AT THE HEARING WILL BE ACCEPTED AT THE DOOR ON THE DATE OF HEARING. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO REGISTER BEFORE THE HEARING DATE.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE DEPARTMENT, 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013, (212) 788-5242, BY TUESDAY, SEPTEMBER 21, 2010.

WRITTEN COMMENTS REGARDING THE PROPOSAL MUST BE SUBMITTED TO RENA BRYANT, SECRETARY, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO RESOLUTIONCOMMENTS@HEALTH.NYC.GOV OR ONLINE (WITHOUT ATTACHMENTS) TO www.nyc.gov/nycrules OR TO http://www.nyc.gov/html/doh/html/notice/notice.shtml ON OR BEFORE 5:00 P.M., TUESDAY, OCTOBER 5, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER OCTOBER 5, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT'S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO http://www.nyc.gov/html/doh/html/comment/comment.shtml.

Statutory Authority

Amendment of Chapter 23 of Title 24 of the Rules of the City of New York is authorized by §§389(b) and 1043 (a) of the New York City Charter (the "Charter"). Charter §389(b) provides that "heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law." Charter §1043(a) authorizes each agency to "adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law."

**STATEMENT OF BASIS AND PURPOSE**

Effective July 15, 2010, the Department of Health and Mental Hygiene (the "Department") repealed and recodified rules in Chapter 23 of Title 24 of the Rules of the City of New York for food service establishment sanitary inspection procedures. At its meeting on March 16, 2010, the Board of Health amended §81.51 of the New York City Health Code, authorizing the Department to establish a letter grading program for food service establishments. The Board determined that providing restaurant grading information is feasible, will inform consumer choice and is likely to improve restaurants' compliance with Health Code requirements and thereby reduce the burden of food borne illness in New York City.

Chapter 23 includes two appendices demonstrating how a sanitary inspection's violations are weighted and scored according to their severity: Appendix 23-A: "Food Service Establishment Sanitary Inspection Score Worksheet" and Appendix 23-B: "Food Service Establishment Sanitary Inspection Scoring Parameters—A Guide to Conditions." When the Chapter was recodified, changes were made to Appendix 23-A and Appendix 23-B. After the rules were printed, however, typographical errors were noted in the texts for violation conditions 4H, 10F and 10H in Appendix 23-B. The proposed rule consists of Appendix 23-B with corrections in the examples of violation conditions for violation codes 4H and 10F and the descriptions of violations that constitute condition levels II and III of violation code 10H.

In printing violation code 10H ("Proper sanitization not provided for utensil ware washing operation"), the error resulted in omission of text describing the violations that contribute to scoring condition level II and III, all ware washing violations set forth in Health Code §81.37. No error was identified in the description of condition level I or IV violations. The Department is proposing to correct this error in the rule and include the omitted text. Until the error is corrected and the final corrected rule is effective, the Department will score 10H violations as either condition I or condition IV violations. Until the amendment is final, violations that would have been scored as condition II or III violations will be scored as condition I violations and contribute two points to the total score. In addition, during this interim period, the Department will recommend a \$200 per violation penalty for any 10H condition I, II and III violation sustained by hearing examiners at the Administrative Tribunal. For violation codes 4H and 10F, however, no accommodation is necessary because the error did not relate to the substance of the violation, but rather consisted of the omission of illustrative examples. As such, the citation of 4H and 10F violations and the scoring based on such violations is not affected by the typographical error or by the correction made by this rule.

**Statement Pursuant to Charter §1043**

This proposed rule was not included in the Regulatory Agenda because the need for the rule did not become known until after the Regulatory Agenda was published.

The proposed rule is as follows.

Deleted matter is in brackets [ ].

New matter is underlined>.

§1. Appendix 23-B "Food Service Establishment Sanitary Inspection Scoring Parameters—A Guide to Conditions" of Chapter 23 of Title 24 of the Rules of the City of New York is hereby amended, to be printed to read as follows:

**APPENDIX 23-B  
FOOD SERVICE ESTABLISHMENT SANITARY INSPECTION  
SCORING PARAMETERS - A GUIDE TO CONDITIONS**

Violation	Condition I	Condition II	Condition III	Condition IV	Condition V	
<b>Critical Violations</b>						
2A*	Food not cooked to required minimum temperature.			Failure to properly cook meats, comminuted meats, and other potentially hazardous foods (PHFs), unless a consumer specifically asks for a serving of item ordered to be cooked below the minimum temperature.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.	
2B*	Hot food item not held at or above 140° F. Example: One tray of chicken wings held at 115° F.	One hot food item out of temperature in one area. Example: One tray of chicken wings held at 115° F.	Two hot food items out of temperature or the same type of food out of temperature in two different areas. Example: One tray of chicken wings and a pot of rice held at 115° F; or one tray of chicken wings on the steam table and one tray of chicken wings in the food preparation area held at 115° F.	Three hot food items out of temperature or the same type of food out of temperature in three different areas. Example: One tray of chicken wings, a pot of rice and platter of roast beef held at 115° F; or one tray of chicken wings on the steam table, one tray of chicken wings in the food preparation area and one basket of chicken near the deep fryer held at 115° F.	Four or more hot food items out of temperature or the same type of food out of temperature in four or more different areas. Example: One tray of chicken wings, a pot of rice, platter of roast beef and tureen of beef stew held at 115° F; or one tray of chicken wings on the steam table, one tray of chicken wings in the food preparation area, one basket of chicken near the deep fryer and a rotisserie machine filled with eleven chickens held at 115° F.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2C	Hot food item that has been cooked and refrigerated is being held for service without first being reheated to 165° F or above within 2 hours.	One cooked and refrigerated hot food item not reheated to 165° F before service. Example: chicken soup.	Two cooked and refrigerated hot food items not reheated to 165° F before service. Example: chicken soup and baked ham.	Three cooked and refrigerated hot food items not reheated to 165° F before service. Example: chicken soup, baked ham and sliced turkey.	Four or more cooked and refrigerated hot food items not reheated to 165° F before service. Example: chicken soup, baked ham, sliced turkey, meatloaf and lobster bisque.	
2D	Precooked potentially hazardous food from commercial food processing establishment that is supposed to be heated, but is not heated to 140° F within 2 hours.	One precooked commercially prepared food not heated to 140° F. Example: beef patties.	Two precooked commercially prepared foods not heated to 140° F. Example: beef patties and clam chowder.	Three precooked commercially prepared foods not heated to 140° F. Example: beef patties, clam chowder and smoked turkey.	Four or more precooked commercially prepared foods not heated to 140° F. Example: beef patties, clam chowder, smoked turkey, corned beef and gyros.	
2E	Whole frozen poultry or poultry breasts, other than a single portion, are being cooked frozen or partially thawed.	One whole poultry or poultry breast being cooked from a frozen	Two or more whole poultry or poultry breasts being cooked from a			

		state. Example: chicken breast.	frozen state. Example: chicken breast, whole chicken, turkey breast and duck.	Note: For failure to properly cook poultry to the required minimum temperature, *2A cited.		
2F	Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.				Failure to properly cook meats, comminuted meats, fish, shellfish and other PHFs, unless a consumer specifically asks for their order to be cooked below the minimum temperature.	
2G*	Cold food item held above 41° F (smoked fish and Reduced Oxygen Packaged food above 38° F), except during necessary preparation.	One cold food item out of temperature in one area. Example: one slab of unsliced smoked salmon or packet or tray of smoked salmon slices above 38° F or one tray of potato salad above 41° F in service display case.	Two cold food items out of temperature or the same food item out of temperature in 2 different areas. Example: one slab of smoked salmon above 38° F and one tray of sliced tomatoes above 41° F; or one bowl of potato salad in the service display case, and one bowl of potato salad in the food preparation area above 41° F.	Three cold food items out of temperature. Example: one slab of smoked salmon above 38° F and tray of sliced tomatoes and platter of tuna salad above 41° F; or one bowl of potato salad in the service display case and one bowl of potato salad in the food preparation area and garlic in oil mixture above 41° F.	Four cold food items out of temperature. Example: one slab of smoked salmon above 38° F and tray of sliced tomatoes, bowl of garlic in oil mixture, and bowl of cooked collard greens above 41° F; or one tray of potato salad in the service display case, one tray of potato salad in the reach-in refrigerator, and one tray of potato salad on the food preparation table above 41° F.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2H*	Food not cooled by an approved method whereby the internal product temperature is reduced from 140° F to 70° F or less within 2 hours and from 70° F to 41° F or less within 4 additional hours.	One food item not cooled by approved method. Example: one whole, cooked turkey.	Two food items not cooled by approved method. Example: two whole, cooked turkeys.	Three food items not cooled by approved method. Example: two whole, cooked turkeys and one container of deep pot chicken stew.	Four or more food items not cooled by approved method. Example: two whole, cooked turkeys, one container of deep pot chicken stew and 10 pounds of cooked rice.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2I	Food prepared from ingredients at ambient temperature not cooled to 41° F or below within 4 hours.	One food item prepared from ambient temperature ingredients not cooled to 41° F. Example: tuna salad prepared with canned tuna above 41° F.	Two food items prepared from ambient temperature ingredients not cooled to 41° F. Example: tuna and salmon salads prepared with canned tuna and salmon above 41° F.	Three food items prepared from ambient temperature ingredients not cooled to 41° F. Example: tuna and salmon salads prepared with canned tuna and salmon, and open can of sardines above 41° F.	Four or more food items prepared from ambient temperature ingredients not cooled to 41° F. Example: tuna and salmon salads prepared with canned tuna and salmon, and open cans of sardines and anchovies above 41° F.	
2J*	Reduced Oxygen Packaged (ROP) food not cooled by an approved method whereby the internal product temperature is reduced to 38° F within two hours of cooking and if necessary further cooled to a temperature of 34° F within six hours of reaching 38° F.	One ROP food item not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages).	Two ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages) and ROP chicken fricassee (two 2 lb packages).	Three ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages), ROP chicken fricassee (two 2 lb packages) and ROP pork tenderloin (sixteen 8 oz packages).	Four ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages), ROP chicken fricassee (two 2 lb packages), ROP pork tenderloin (sixteen 8 oz packages) and meat sauce (six 1lb packages).	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3A*	Food from unapproved or unknown source or home canned; Reduced Oxygen Packaged (ROP) fish not frozen before processing; or ROP food prepared on premises transported to another site.				One or more food items not from an approved source, or home canned. Example: wild mushrooms or home canned jellies or ROP fish not frozen before processing.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3B*	Shellfish not from approved source, improperly tagged/labeled; tags not retained for 90 days.				One or more containers or kinds of shellfish not from an approved source, improperly tagged/labeled; tags not retained for 90 days. Example: clams not tagged, oyster tags not retained for 90 days, mussels improperly labeled and mussels not tagged.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3C*	Eggs found dirty/cracked; liquid, frozen or powdered eggs not pasteurized.	1-6 dirty/cracked eggs or liquid, frozen, or powdered eggs not pasteurized. Example: 4 dirty and/or cracked eggs; or one container of unpasteurized liquid eggs.	7-12 dirty/cracked eggs; or 2 containers of liquid, frozen, or powdered eggs not pasteurized. Example: 9 dirty and/or cracked eggs; or 2 containers of unpasteurized liquid eggs.	13-24 dirty/cracked eggs; or three containers of liquid, frozen, or powdered eggs not pasteurized. Example: 16 dirty and/or cracked eggs; or 14 dirty and/or cracked eggs and 2 containers of unpasteurized liquid eggs.	25 or more dirty/cracked eggs; or four containers of liquid, frozen, or powdered eggs not pasteurized. Example: 25 or more dirty and/or cracked eggs; or 18 dirty and/or cracked eggs and one container of unpasteurized liquid eggs.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3D*	Cans of food products swollen, leaking or rusted and not segregated from consumable food.	1-6 cans of food products swollen, leaking or rusted, and not segregated from consumable	7-12 cans of food products swollen, leaking or rusted and not segregated from consumable	13-18 cans of food products swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of	19 or more cans of food products swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other

		food. Example: one can of tomato paste swollen and one can of salmon rusted and stored on food storage shelf.	food. Example: three cans of tomato paste swollen, and two cans of salmon and two cans of mushrooms rusted and stored on food storage shelf.	tomato paste swollen, two cans of salmon and two cans of mushrooms rusted and stored on food storage shelf.	paste swollen, two cans of salmon and two cans of mushrooms rusted, and 15 cans of baked beans leaking and stored on food storage shelf.	enforcement measures.			with HACCP plan.	sausage and fish; or ROP beef stew and ROP chicken fricassee not discarded in accordance with HACCP Plan.	contaminated by non-potable water; or ROP beef stew, ROP chicken fricassee and ROP pork tenderloin not discarded in accordance with HACCP Plan; or a tray of chicken contaminated with mice droppings in	fricassee, ROP pork tenderloin and meat sauce not discarded in accordance with HACCP Plan; or a tray of chicken contaminated with mice droppings in an upper level walk-in refrigerator, a basket of chicken under the deep fat fryer
3E*	Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system.				Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.					walk-in refrigerator, a basket of chicken under the deep fat fryer contaminated with dust and debris, and a pan of chicken on the service counter cross-contaminated with raw beef drippings and chicken contaminated with mice droppings in the basement walk-in refrigerator.	
3F*	Unpasteurized milk or milk product present.				Unpasteurized milk or milk product present.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
3G*	Raw food not properly washed prior to serving.	1 kind of raw food type not properly washed prior to serving. Example: 2 heads of lettuce.	2 kinds of raw food types not properly washed prior to serving. Example: two heads of lettuce and 1 bunch of carrots.	3 kinds of raw food types not properly washed prior to serving. Example: 2 heads of lettuce, 1 bunch of carrots and 1 bunch of broccoli.	4 or more kinds of raw food types not properly washed prior to serving. Example: 2 heads of lettuce, 1 bunch of carrots, 1 bunch of broccoli and 1 head of cabbage.							
4A	Food Protection Certificate (FPC) not held by supervisor of food operations.					FPC not held by the supervisor of food operations.						
4B*	Food worker prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.				Food worker prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4C*	Food worker does not use proper utensil to eliminate bare hand contact with food that will not receive adequate additional heat treatment.	One food worker preparing ready-to-eat food with bare hands. Example: one food worker at front food preparation area preparing a sandwich.	Two food workers preparing ready-to-eat foods with bare hands. Example: one food worker at front food preparation area preparing a sandwich and one food worker in kitchen preparing Caesar salad.	Three food workers preparing ready-to-eat foods with bare hands. Example: one food worker at front food preparation area preparing a sandwich, one food worker in kitchen preparing Caesar salad and one food worker in basement preparing shrimp cocktail.	Four or more food workers preparing ready-to-eat foods with bare hands. Example: two food workers at front food preparation area preparing Caesar salad and one food worker in basement preparing shrimp cocktail.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4D*	Food worker does not wash hands thoroughly after using the toilet, coughing, sneezing, smoking, eating, preparing raw foods or otherwise contaminating hands.				Food worker does not wash hands after visiting the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4E*	Toxic chemical improperly labeled, stored or used so that contamination of food may occur.	One toxic chemical improperly labeled, stored or used so that contamination of food may occur. Example: roach spray.	Two toxic chemicals improperly labeled, stored or used so that contamination of food may occur. Example: roach spray and bleach.	Three toxic chemicals improperly labeled, stored or used so that contamination of food may occur. Example: roach spray, bleach and butane.	Four or more toxic chemicals improperly labeled, stored, or used so that contamination of food may occur. Example: roach spray, bleach, butane and rat poison.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4F*	Food, food preparation area, food storage area or area used by employees or patrons contaminated by sewage or liquid waste.				Food, food preparation area, food storage area or area used by employees or patrons contaminated by sewage or liquid waste.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4G*	Unprotected potentially hazardous food re-served.				Unprotected potentially hazardous food re-served. Example: bowl of cooked rice re-served.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4H*	Raw, cooked or prepared food is adulterated, contaminated or cross-contaminated, or not discarded in accordance with HACCP plan.	One food item is spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce contaminated by raw chicken or custard cream contaminated by mice droppings; or one package of ROP chicken not discarded in accordance	Two food items or two batches of same food located in two areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce and cooked chicken contaminated by raw chicken; or adulterated	Three food items or three batches of the same food type located in three areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce, cooked chicken and raw eggs contaminated by raw chicken; or lettuce, tomatoes and figs	Four or more food items or four or more batches of the same food type in different areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce, cooked chicken, raw eggs and cooked rice contaminated by raw chicken; or ROP beef stew, ROP chicken	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.						
4I	Unprotected food re-served.							One unprotected food item re-served. Example: unwrapped crackers.	Two unprotected foods items re-served. Example: unwrapped crackers and bread.	Three unprotected food items re-served. Example: unwrapped crackers, bread and pickles.	Four or more unprotected food items re-served. Example: unwrapped crackers, bread, pickles and breadsticks.	
4J	Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous foods during cooking, cooling, reheating and holding.										Appropriate thermometer(s) or thermocouple not provided or used to measure the temperature of potentially hazardous foods.	
4K	Evidence of rats or live rats present in facility's food and/or non-food areas.							Rats present in the facility's food or non-food areas. Example: 1-10 fresh rat droppings in one area.	Rats present in the facility's food or non-food areas, demonstrated by 11-30 fresh rat droppings in one area or 1-10 fresh rat droppings in two areas. Example: 25 fresh rat droppings in the food preparation area; or 10 fresh rat droppings in dry food storage area and 10 fresh rat droppings in the basement, food preparation area, bathroom and garbage disposal area.	Rats present in the facility's food or non-food areas, demonstrated by 31-70 rat droppings in one area; 11-30 fresh rat droppings in two areas; or 1-10 fresh rat droppings in three areas. Example: 55 fresh rat droppings in food preparation area; or 14 fresh rat droppings in dry food storage area and 16 in basement; or less than 10 fresh rat droppings in the basement, food preparation area and bathroom.	Rats present in the facilities food or non-food areas, demonstrated by 1-2 live rats and/or 71-100 rat droppings in one area; 31-70 fresh rat droppings in two areas; 11-30 fresh rat droppings in three areas; or 1-10 fresh rat droppings in four areas. Example: 80 fresh rat droppings in food preparation area; or 30 fresh rat droppings in dry food storage area and 16 in basement or less than 10 fresh rat droppings in basement, food prep.	Three or more live rats and/or greater than 100 rat droppings; and/or other conditions conducive to infestation of rats, i.e. holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.
4L	Evidence of mice or live mice present in facility's food and/or non-food areas.							Mice present in the facility's food or non-food areas; 1-10 fresh mice droppings in one area. Example: 8 fresh mice droppings found in pantry.	Mice present in the facility's food or non-food areas. 11-30 fresh mice droppings in one area; or 1-10 in two areas. Example: 25 fresh mice droppings in the food preparation area; or 10 fresh mice droppings in dry food storage area and 10 in the basement.	Mice present in the facility's food or non-food areas. 31-70 mice droppings in one area; 11-30 in two areas; or 1-10 in three areas. Example: 55 fresh mice droppings in food preparation area; 14 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in the basement, food preparation area and bathroom.	Mice present in the facility's food or non-food areas; 1-2 live mice and/or 71-100 mice droppings in one area; 31-70 in two areas; 11-30 in three areas; or 1-10 in four areas. Example: 80 fresh mice droppings in food preparation area; 30 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in basement, food	Two or more live mice and/or greater than 100 fresh mice droppings; and/or other conditions conducive to infestation of mice. Example: holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.
4M	Live roaches present in facility's food and/or non-food areas.							Roaches present in the facility's food and non-food areas. Example: 2 live roaches in the dry-food area.	Roaches present in the facility's food and non-food areas. 6-10 roaches in one area; or 1-5 in two areas. Example: 7 live roaches in the food preparation area; or 2 roaches in the dry food storage area and 1 in the basement.	Roaches present in the facility's food and non-food areas; 11-15 roaches in one area; 6-10 in two areas; or 1-5 in three areas. Example: 12 live roaches in the food preparation area; 4 roaches in the dry food storage area and 5 roaches in the basement; or 1 live roach observed in walk-in, food preparation area and dry storage.	Roaches present in the facility's food and non-food areas; 16-20 roaches in one area; 11-15 in two areas; 6-10 in three areas; or 1-5 in four areas. Example: 17 live roaches in the food preparation area; 10 roaches in the dry food storage area and 5 roaches in the basement; or 1 live roach observed in walk-in, food preparation area and dry storage area.	Greater than 20 live roaches and/or other conditions exist conducive to infestation of roaches. Example: 45 live-roaches and condition conducive to infestation such as holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.
4N	Filth flies or food/refuse/sewage/associated (FRSA) flies in facility's food and/or non-food areas. Filth flies include house flies, little house flies, blow flies, bottle flies and flesh flies. Food/refuse/sewage/associated flies include fruit flies, drain flies and Phorid flies.							2-5 filth flies or FRSA flies in the food preparation or food storage area during November 1 through March 1. Example: 2 flies in dry non-food area in January.	6-10 filth flies or FRSA flies in one area; or 2-5 filth flies in two areas. Example: 7 live flies in food preparation area; or 2 flies in the dry food storage area and 1 in basement.	11-15 filth flies or FRSA flies in one area; 6-10 in two areas; or 2-5 flies in three areas. Example: 12 live flies in food preparation area; 4 flies in the dry food storage area and 5 flies in basement; or 1 fly observed in walk-in refrigerator, food preparation area and dry	16-20 filth flies or FRSA flies in one area; 11-15 in two areas; 6-10 filth flies in three areas; or 1-5 in four areas. Example: 17 filth flies in food preparation area; 10 filth flies in dry food storage area and 5 filth flies in basement; or 2 filth flies observed in walk-in refrigerator, food	More than 30 filth flies and/or other conditions exist conducive to infestation of filth flies. Example: 40 flies in the basement garbage area; and other conditions exist conducive to filth fly infestation, i.e. openings to the outer air, water, food, decaying matter, and/or sewage.

				storage area.	preparation area, garbage area and dry storage area.	Inspector must call office to discuss closing or other enforcement measures.
40	Live animal other than fish in tank or service animal present in facility's food and/or non-food areas.	Live animal in establishment.	Two live animals in establishment.	Three live animals in establishment.	Four or more live animals in establishment.	
5A*	Sewage disposal system improper or unapproved.				Sewage or liquid waste is not disposed of in an approved or sanitary manner; or sewage or liquid waste contaminating food, food storage area, food preparation area, or area frequented by consumers or employees or used as a storage, preparation or utility area.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
5B*	Harmful, noxious gas or vapor detected. CO ≥13 ppm.				Harmful, noxious gas or vapor detected. CO equal to or greater than 13ppm.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
5C+	Food contact surface improperly constructed or located; or unacceptable material used.	One food contact surface or piece of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit.	Two food contact surfaces or pieces of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit and cutting board made from untreated wood.	Three food contact surfaces or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves of a walk-in unit, cutting board made from untreated wood and acidic foods placed in pewter bowl.	Four or more contact surfaces or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves in a walk-in unit, cutting board made from untreated wood, acidic food placed in pewter bowl and solder and flux used to repair food	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5D+	Hand washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure to enable cleanliness of employees not provided at facility. Soap and an acceptable hand-drying device not provided.				contact equipment.	Fully equipped hand wash sinks, to include soap and paper towels not provided or conveniently located in all food preparation areas.
5E+	Toilet facility not provided for employees or for patrons when required				Toilet facility not provided for employees or for patrons when required.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5F+	Insufficient or no refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures.				Refrigerated or hot holding equipment for PHFs not provided.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5G+	Separate, enclosed, properly equipped cleaning and service area not provided. (Mobile Vending Commissary)				Separate, enclosed, properly equipped cleaning and service area not provided.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5H+	No facilities available to wash, rinse, and sanitize utensils and/or equipment.				No facility available to wash, rinse, and sanitize utensils and equipment.	Failure to correct. Inspector must call office to discuss enforcement measures.
5I-	Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.				Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.	Inspector must call office to discuss closing or other enforcement measures.
6A	Personal cleanliness inadequate. Outer garment soiled with possible contaminant. Effective hair restraint not worn in an area where food is prepared.	One food worker observed without clean outer garment or hair restraint.	Two food workers observed without clean outer garments and/or hair restraints.	Three food workers observed without clean outer garments and/or hair restraints.	Four or more food workers observed without clean outer garments and/or hair restraints.	
6B	Tobacco use, eating, or drinking from open container in food preparation, food storage or dishwashing area.	One food worker eating, smoking and/or drinking from open container in food or ware washing areas or evidence of tobacco use, eating or drinking in food preparation, food storage and dishwashing area.	Two food workers eating, smoking and/or drinking from open container in food or ware washing areas.	Three food workers eating, smoking and/or drinking from open container in food or ware washing areas.	Four or more food workers eating, smoking and/or drinking from open container in food or ware washing areas.	
6C	Food not protected from potential source of contamination during storage, preparation, transportation, display or service.	One food item not protected during storage, preparation, transportation, display or service.	Two food items not protected during storage, preparation, transportation, display or service.	Three food items not protected during storage, preparation, transportation, display or service.	Four or more food items not protected during storage, preparation, transportation, display or service.	
6D	Food contact surface not washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.	One food contact surface not washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer encrusted with old food debris.	Two food contact surfaces not washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer and cutting board encrusted with old food debris.	Three food contact surfaces not properly washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer, wooden cutting board, and can opener encrusted with old food debris.	Four or more food contact surfaces not properly washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer, wooden cutting board, can opener, and food preparation table encrusted with old food debris, and the interior of the ice machine observed with	
6E	Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.	One sanitized piece of equipment or utensil improperly used or stored	Two sanitized pieces of equipment or utensils improperly used or stored.	Three sanitized pieces of equipment or utensils improperly used or stored.	Four or more sanitized pieces of equipment or utensils improperly used or stored.	mold.
6F	Wiping cloths soiled or not stored in sanitizing solution.	Two or more wiping cloths used to clean food contact surfaces not stored in sanitizing solution; or test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided; or sanitizer solution not at appropriate level to effectively remove contaminates from wiping cloths.	Two or more wiping cloths used to clean food contact surfaces not stored in sanitizing solution; and the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided; or wiping cloths used to clean food contact surfaces not stored in sanitizing solution and test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided.	Two or more wiping cloths used to clean food contact surfaces are not stored in sanitizing solutions, the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided and sanitizer solution not at appropriate level to effectively remove contaminates from wiping cloths.		
6G	HACCP plan not approved or approved HACCP plan not maintained on premises.					Approved HACCP plan not maintained on premises. HACCP plan not approved. Inspector must call office to discuss enforcement measures.
6H	Records and logs not maintained to show HACCP plan has been properly implemented.					Record and logs not maintained to show HACCP plan has been properly implemented. Inspector must call office to discuss corrective action or other enforcement measures.
6I	Food not labeled in accordance with HACCP plan.					Food not labeled in accordance with HACCP plan. Inspector must call office to discuss corrective action or other enforcement measures.
7A	Duties of an officer of the department interfered with or obstructed.					Duties of an officer of the department interfered with or obstructed.
<b>General Violations</b>						
8A	Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.					Doors and door thresholds not adequately pest proofed, and/or one or two openings in the facility façade (walls, floors, ceilings) and/or other condition conducive to pest entry or breeding. Doors and door thresholds not adequately pest proofed, with quality materials, and/or three or more openings in the facility façade (walls, floors, ceilings) or other condition conducive to pest entry or breeding.

8B	Covered garbage receptacle not provided or inadequate, except that garbage receptacle may be uncovered during active use. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.	Garbage equipment and facilities not maintained or provided. Example: tight fitting lid not provided for 32-gallon garbage can used to put garbage out overnight.	Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for two 32-gallon garbage cans used to put garbage out overnight and garbage grinder encrusted with old food.	Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for two 32-gallon garbage cans used to put garbage out overnight, garbage grinder encrusted with old food and cardboard boxes, food wrappers and 15 empty carton of milk strewn in the backyard.		grease, heat, steam condensation vapors, odors, smoke, and fumes.	inadequate. Example: no ventilation provided in bathroom.	inadequate. Example: no ventilation provided in bathroom and exhaust hood not sufficient to remove excess fumes in kitchen.	inadequate. Example: no ventilation provided in bathroom, exhaust hood not sufficient to remove excess fumes in kitchen and grease collecting on walls.	Example: no ventilation provided in bathroom, exhaust hood not sufficient to remove excess fumes in kitchen, grease collecting on walls, and smoke from smokehouse drifting into dining area.
8C	Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.	One prohibited pesticide, chemical or bait station not used in accordance with label or applicable laws.	Two types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.	Three types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.	Four or more types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.	Failure to correct. Inspector must call office to discuss enforcement measures.				
9A	Canned food product dented and not segregated from consumable food.	1-6 cans dented. Example: one dented can of tomato paste stored on food storage shelf not segregated.	7-12 cans dented. Example: seven dented cans of tomato paste stored on food storage shelf not segregated.	13-24 cans dented. Example: seven dented cans of tomato paste and six dented cans of soy sauce stored on food storage shelf not segregated.	25 or more cans dented. Example: seven dented cans of tomato paste, ten dented cans of soy sauce, and five dented cans of tuna fish stored on food storage shelf not segregated.					
9B	Thawing procedures improper.	One frozen food item improperly thawed. Example: whole chicken or beefsteak improperly thawed.	Two frozen food items improperly thawed or the same type of food improperly thawed in two different areas. Example: two chickens and beefsteak improperly thawed or chicken breast improperly thawed in sink and chicken legs thawed on kitchen counter.	Three frozen food items improperly thawed or the same type of food improperly thawed in three different areas. Example: three chickens, chicken breast, and pork shoulder improperly thawed; or chicken breast improperly thawed in sink, chicken legs improperly thawed on kitchen counter, and chicken breast improperly thawed in bowl in food preparation area.	Four or more frozen food items improperly thawed or the same type of food improperly thawed in four different areas. Example: four chickens, chicken breast, beefsteak, and shrimp improperly thawed; or chicken breast improperly thawed in sink, chicken legs improperly thawed on kitchen counter, chicken breast improperly thawed in bowl in food preparation area, and chicken wings improperly thawed near the deep fat fryer.					
9C	Food contact surface not properly maintained.	One food contact surface not properly maintained. Example: one cutting board discolored.	Two food contact surfaces not properly maintained. Example: one cutting board discolored and one plastic cutting board pitted and scratched.	Three food contact surfaces not properly maintained. Example: three cutting boards pitted and scratched.	Four or more contact surfaces not properly maintained. Example: three cutting board pitted and scratched and four cutting boards at the bar area discolored.					
10A	Toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	One toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	Two toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.	Three toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.	Four or more toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.					
10B	Plumbing not properly installed or maintained; anti-siphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.	One backflow prevention device not installed, or equipment or floor not properly drained. Example: refrigerator condensation drained into a bucket.	Two backflow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation drained into a bucket and air conditioner draining onto sidewalk.	Three backflow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, air conditioner draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet.	Four or more backflow prevention devices not installed or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, two air conditioners draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet or ice machine.	Sewage disposal system in disrepair or not functioning properly, 5A also cited.				
10C	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.	One instance of inadequate lighting.	Two instances of inadequate lighting.	Three instances of inadequate lighting.	Four or more instances of inadequate lighting.					
10D	Mechanical or natural ventilation system not provided, improperly installed, in disrepair and/or fails to prevent excessive build-up of	One mechanical or natural ventilation system not provided or	Two mechanical or natural ventilation systems not provided or	Three mechanical or natural ventilation systems not provided or	Four mechanical or natural ventilation systems not provided or inadequate.					
10E	Accurate thermometer not provided in refrigerated or hot holding equipment.	One refrigeration or hot holding unit not provided with accurate thermometer to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Two refrigeration or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Three refrigeration or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Four refrigeration or hot holdings units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.					
10F	Non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	One non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	Two non-food contact surfaces improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	Three non-food contact surfaces improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	Four non-food contact surfaces improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit. Example: wall in food preparation area made of brick a material not easily cleanable, build-up of grease on the wall adjacent to permanently installed convection oven which is not easily moveable or properly spaced to allow cleaning, dried encrusted grease					
								installed convection oven which is not easily moveable or properly spaced to allow cleaning.	encrusted grease and old food debris under the walk-in refrigerator which is not properly sealed to the floor.	and old food debris under the walk-in refrigerator which is not properly sealed to the floor, and a rug in the food storage area.
10G	Food service operation occurring in room used as living or sleeping quarters.	Food service operation occurring in one room used as living or sleeping quarters.	Food service operation occurring in two rooms used as living or sleeping quarters.	Food service operation occurring in three rooms used as living or sleeping quarters.	Food service operation occurring in four or more rooms used as living or sleeping quarters.					
10H	Proper sanitization not provided for utensil ware washing operation.	Manual ware washing inadequate in that one immersion basket not provided or of incorrect size.	Manual ware washing inadequate in that one immersion basket not provided or of incorrect size and manual ware washing procedure incorrect.	Manual ware washing inadequate in that one immersion basket not provided or of incorrect size, manual ware washing procedure incorrect and sanitizing test kit or thermometer not provided.	Minimum final rinse temperature of 170° F not maintained or mechanical dishwasher is not operated as per manufacturer's specifications (time or temperature or chemical concentration).					
10I	Single service item reused, improperly stored, dispensed, not used when required.	Single service item reused, improperly stored, dispensed or not used when required. Example: drinking straws not protected from contamination.	Single service item reused, improperly stored, dispensed or not used when required. Example: drinking straws not properly protected from contamination and paper plates not protected from contamination.	Single service item reused, improperly stored, dispensed, not used when required. Example: drinking straws not properly protected from contamination and forks not protected from contamination and plastic forks reused.						
10J	"Wash hands" sign not posted at hand wash facility.	"Wash hands" sign not posted at hand wash facility.								
99B	General other.									

**PROBATION**

**NOTICE**

**NOTICE OF PUBLIC HEARING AND OPPORTUNITY TO COMMENT**

Notice of Public Hearing and Opportunity to Comment on a Proposed Rule Relating to a Probation Administrative Fee

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of the Department of Probation by Section 255 of the Executive Law and Section 1043 of the New York City Charter that the Department proposes to promulgate a new rule relating to a probation administrative fee.**

Written comments regarding this proposed rule may be sent to the office of Margaret DiGiovanna, Acting General Counsel, New York City Department of Probation, 33 Beaver Street, 21st Floor, New York, N.Y. 10004 on or before October 8, 2010.

A public hearing on the proposed rule shall be held on October 8, 2010 at 9:00 A.M., at 33 Beaver Street, 18th Floor hearing room, New York, N.Y. 10004. Persons who request that a sign language interpreter or other form of reasonable accommodation for a disability be provided at the hearing are asked to notify the Office of the General Counsel at the foregoing address by October 1, 2010.

Written comments and a summary of oral comments received at the hearing will be available for public inspection, within a reasonable time after receipt, between the hours of 9:00 a.m.



DEPARTMENT OF TRANSPORTATION  
FOR PERIOD ENDING 07/23/10

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF\_DATE. Lists employees of the Department of Transportation with their respective details.

DEPT OF PARKS & RECREATION  
FOR PERIOD ENDING 07/23/10

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF\_DATE. Lists employees of the Department of Parks & Recreation with their respective details.

Table with columns: NAME, TITLE, NUM, SALARY, ACTION, PROV, EFF\_DATE. Lists employees of the Department of Parks & Recreation (continued) with their respective details.

LATE NOTICE

COMMUNITY BOARDS

PUBLIC HEARINGS

PUBLIC NOTICE IS HEREBY GIVEN THAT the following matters have been scheduled for public hearing by Community Boards:

BOROUGH OF STATEN ISLAND

COMMUNITY BOARD 01 Tuesday, September 7, 2010 at 8:00 P.M., 1 Edgewater Plaza - Suite #217, Staten Island, NY

AGENDA  
N 100324ZAR

252 Victory Boulevard  
To develop a multi-family building with 15 units and 23 parking spaces within the Special Hillside Preservation District.

#020670ZAR

Victory Boulevard residential development e/s north of Cebra Avenue  
To facilitate a two-family building within the Special Hillside Preservation District.

BSA# 855-87-BZ

15 Irving Place  
Request to permanently remove the term of a variance.

