



New York City Department of Health and Mental Hygiene

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Health and Mental Hygiene (DOHMH or the Department) is proposing to amend Appendices 23-A, 23-B and 23-C of Chapter 23 (Food Service Establishment Sanitary Inspection Procedures and Letter Grading) of Title 24 of the Rules of the City of New York to reflect the most recent amendments to Article 81 of the New York City Health Code and the New York City Administrative Code. The Notice of Public Hearing and Opportunity to Comment that was previously published in the City Record on January 2, 2020 inadvertently omitted Appendix 23-B.

When and where is the hearing? The New York City Department of Health and Mental Hygiene will hold a public hearing on the proposed rule. **The public hearing originally scheduled for Monday, April 6, 2020, will take place at 10:00A.M. on Tuesday, June 2, 2020. No in-person hearing will occur. The hearing will be conducted only by video conference:**

- **On-line.** To participate in the public hearing, enter the WebEx URL:
https://nycdohmh.webex.com/nycdohmh/onstage/g.php?d=715393839&t=a&EA=sburdeyn%40health.nyc.gov&ET=SDJTSwAAAAQQyATEE7GNVprpYzMJ1ZY_4029e5YR6Tqo_30MpENR2Q2&ETR=SDJTSwAAAASLMh4VOXyRT30Dt4iu_FMvEy2i3WmNMOhODvQIn_oEww2&RT=MIMxMQ==&p
If prompted to provide a password or number, please enter the following:
Meeting Number: 715 393 839; Password: Health
- **By Phone.** For access, dial: (408) 418-9388; Access code: 715 393 839; Password: Health

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department through the NYC rules website, at <http://rules.cityofnewyork.us>;
- **Email.** You can email comments to resolutioncomments@health.nyc.gov;
- **Mail.** You can mail comments to DOHMH at
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, CN 30
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to DOHMH at (347) 396-6087;
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078 or by emailing at resolutioncomments@health.nyc.gov by June 1, 2020 at 5:00 P.M. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign-up in advance. You can speak for up to three minutes.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 p.m. on June 2, 2020.

What if I need assistance to participate in the hearing? You must tell the DOHMH if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language

interpreter. You can tell us by mail or e-mail at the addresses given above. You may also tell us by telephone at (347) 396-6078. Please tell us by 5:00 p.m. on May 29, 2020.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rule by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Department's Office of the General Counsel.

What authorizes the DOHMH to make this rule? Sections 556 and 1043 of the City Charter and Section 81.51 of the New York City Health Code authorize the Department to make this proposed rule.

Where can I find the DOHMH's rules? DOHMH's rules are in Title 24 of the Rules of the City of New York.

What laws govern the rulemaking process? DOHMH must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 (b) of the City Charter.

Statement of Basis and Purpose of Proposed Rule

Background

The Department of Health and Mental Hygiene (the Department) regulates New York City food service establishments, which include a broad range of businesses and not-for-profit operations that provide food in individual portion sizes for consumption by members of the public, and enforces Article 81 (Food Preparation and Food Establishments) of the New York City Health Code (the Health Code). Health Code §81.51 authorizes the Commissioner of the Department to promulgate rules establishing a system for grading and classifying inspection results.

Chapter 23 (Food Service Establishment Sanitary Inspection Procedures and Letter Grading) of Title 24 of the Rules of the City of New York (24 RCNY) implements such a system, and consists of rules and three appendices:

- Appendix 23-A (Food Service Establishment Inspection Worksheet) summarizes the subjects covered by a Department inspection and the points that can be assigned for each type of violation observed.
- Appendix 23-B (Food Service Establishment Inspection Scoring Parameters-A Guide to Conditions) expands on the violation descriptions and provides examples of violations at different condition levels, from I (least serious) to V (most serious).
- Appendix 23-C (Food Service Establishments and Non Retail Food Service Establishments Penalty Schedule) sets forth the penalties to be imposed for both scored and unscored violations when the violations cited on Department inspections are sustained by hearing officers after a respondent appears to answer a summons or when the respondent fails to appear and is found in default.

Reason for changes

At its March 10, 2015 meeting, the New York City Board of Health amended Health Code Article 81, reorganizing and renumbering several sections and adding some new provisions. Chapter 23's Appendix 23-C was previously amended in rules effective August 8, 2015 to include most of the Health Code renumbering changes, so that penalties could be imposed following adjudications of the newly-numbered Health Code provisions, but the descriptions and condition levels assigned to violations in Appendices 23-A and 23-B were left unchanged. In addition, effective December, 2018, a new scoring and grading scheme was established for mobile food vending unit inspections in accordance with amendments to Chapter 6 of the Department's rules. Those amendments resulted from enactment of Local Law 108 of 2017. That local law added a new section 17-325.3 to the New York City Administrative Code (the "Administrative Code"), requiring the Department to establish a mobile food vending unit grading scheme consistent with Chapter 23's scheme for grading non-mobile food service establishments.

The Department is now proposing to amend all three appendices in Chapter 23 so that their descriptions of violations are consistent with the provisions of the Health Code and to promote consistency in enforcement and adjudications. The appendices in Chapter 23 are also being amended to match as much as possible the language, violation condition levels and penalties of Chapter 6's newly amended appendices. Some distinctions will remain since mobile food vending unit operations and locations differ in facilities, functions and items vended compared with those of food service establishments located in permanent structures. For example, no toilets are required on mobile food vending units, and their operations do not include tobacco sales. Appendices in Chapter 6 also reference specific mobile food vending violations of Chapter 6, Article 89 of the Health Code and Title 17 of the Administrative Code which are not applicable to non-mobile food service establishments.

The Department proposes to add a scored violation for adulterating food with prohibited substances. A recent amendment to the State Sanitary Code (14 NYCRR § 14-1.89) prohibits service of food and drink items with residual unevaporated carbon dioxide and liquid nitrogen, either of which can cause severe damage to skin and internal organs. Other substances that are not approved under federal regulations as "generally recognized as safe" or "GRAS" food additives include activated charcoal, kava-kava, cannabidiol and marijuana. See, <https://www.fda.gov/food/generally-recognized-safe-gras/gras-notice-inventory>.

No changes proposed will reduce critical violation condition levels in Appendix 23-A and 23-B since these levels are based on determinations of public health risk by the Department and the US Food and Drug Administration's Food Code. As indicated in the listing below, a few violations are no longer being scored.

Changes to the unscored violations listed in Appendix 23-C include new violations of Department of Sanitation rules provisions related to composting which are enforced by the Department of Health at certain establishments. Renumbered and additional violations and violation codes have been included for unscored tobacco-related violations to reflect changes in the Administrative Code and in the coding system used by Department inspectors.

Changes proposed

Appendix 23-A and Appendix 23-B

The following is a list of violations and descriptions that are being amended to more accurately reflect the current provisions of Health Code Article 81, and to clarify terms. Some condition levels and points are being amended, consistent with the Department's assessment of public health risk, adopting recommendations of the Food Service Establishment Advisory Board established in 2013 pursuant to

section 17-1503 of the Administrative Code “to advise the Commissioner concerning matters related to the food service establishment sanitary inspection program” Some of the Appendix 23-B examples of condition levels are also being amended to reflect conditions observed during inspections.

As described below, the listed violation codes correspond to those in Appendices 23-A and 23-B, and the section (§) numbers to related Health Code provisions unless other law is cited.

| <u>Violation Code</u> | <u>Health Code provision and description of change in Appendices 23-A and 23-B</u> |
|------------------------------|--|
| 02A | §81.09(a) amends cooking temperatures and uses the term “TCS” (temperature control for safety) for “potentially hazardous foods” to characterize the foods to which the requirements apply |
| 02C | §81.09 uses the term “cooled” instead of “refrigerated” |
| 02F | §81.11 adds a reference to the new required written consumer advisory; condition level reduced from IV to I |
| 02G | §81.09 specifies foods subject to temperature requirements |
| 02H | §81.09(e) clarifies that cooling starts upon removal from cooking or hot holding |
| 02I | §81.09(e)(2) clarifies requirements for cooling food after removal from cold holding |
| 02J | §81.12 adds requirements for reduced oxygen packaging (“ROP”) |
| 03A | §81.07(m) adds ‘on premises animals slaughtered’ to categories of foods from unapproved sources |
| 03C | §81.07(c) clarifies prohibition on use of unpasteurized egg products |
| 03D | §81.07(b) amends requirements for handling damaged hermetically sealed, canned foods and other food packaging |
| 03E | §81.20(a) clarifies requirement for potable water supply |
| 03I | §81.04(e) adds provisions to prevent food borne illness from food establishment-packaged unpasteurized juices |
| 04B | §81.13 adds spitting to food worker prohibited conduct |
| 04D | §81.13(d) adds violations for failing to change gloves when required |
| 04E | §81.23(d)(3) adds the term “pesticide” |
| 04J | §81.09(g) clarifies the violation for not using thermometers and decreases violation condition level from condition IV to condition I |
| 04N | §81.23 adds “other nuisance pests” to categories of prohibited pests |
| 04P | §71.05 prohibits adulteration of food and is being cited as a new scored violation; the category also includes the new Sanitary Code (10 NYCRR §14-1.89) prohibition on service of food with unevaporated liquid nitrogen and carbon dioxide |
| 05A | §81.20(b) adds requirement for a sewage disposal system |
| 05C | §81.07(a)(1) adds requirement for a culinary sink or equivalent |
| 05D | §81.21(a) amends placement requirements for hand wash sinks |
| 05F | §81.18 adds requirement for outdoor refrigerators |
| 05G | §89.27(d) prohibits sidewalk, street use by a commissary for cleaning mobile food units |
| 05H | §81.46 adds requirements for reuse of refillable containers |
| 06A | §81.13 reflects additional worker hygiene requirements |
| 06B | §81.13(g) adds “e-cigarettes” to smoking prohibition for food workers |
| 06J | §89.27(b) requires record keeping at mobile vending commissaries |

| | |
|-----------|---|
| 08A | §81.23 not to be cited at condition III or IV for harborage or conditions conducive to pests unless pests or evidence of pests are also present; if pests are not present, “conditions conducive” alone such as defective walls and floors will be cited as category 10F non-food contact surface violations, at condition levels I through IV |
| 08B | §81.24 clarifies garbage handling requirements |
| 08C | §81.23(d)(4) prohibits use of unprotected unlocked bait stations |
| 10G | §81.29 deletes lower condition levels because if any step in utensil or ware washing is omitted, utensils and wares are not sanitized |
| 10L & 10M | 10L(requires covered receptacle in women’s toilet per State Sanitary Code §14-1.142) and 10M (§81.19 prohibiting unshielded light bulbs) are no longer enforced as scored violations and are therefore being deleted from Appendices 23-A and 23-B |
| 99B | General other. This category, originally intended to include unspecified Health Code violations, is being deleted from the lists of scored violations in Appendices A & B since any violations not included in appendices A and B are by definition unscored. Violations for unscored Health Code provisions cited on inspections are, however, subject to the minimum prescribed penalties of Health Code §3.11, and are included in the unscored violations penalties in Appendix 23-C. |

Appendix 23-C

Appendix 23-C specifies civil penalties for food service establishment violations adjudicated at the Office of Administrative Trials and Hearings (“OATH”) Hearings Division. It also includes penalties for violations of other provisions of law enforced by the Department, including for lack of heating, and for illegal sales and use of tobacco, non-tobacco, electronic cigarettes, and other smoking products.

Appendix 23-C is divided into penalties for scored violations specified in Appendices 23-A and 23-B, and for unscored food establishment and other violations enforced by the Department. Because the codes for many of the unscored violation penalties were amended to be consistent with the codes in Department inspectors’ hand-held computers, the table of unscored penalties is being repealed and reenacted.

Some of the penalty provisions of Appendix 23-C were previously amended in July, 2015 to reflect the 2015 Health Code Article 81 changes as well as earlier amendments to the Administrative Code related to sales of tobacco and non-tobacco smoking products and e-cigarette use. Additional changes made to provisions of the Administrative Code –Smoke Free Air Act, Tobacco Product Regulation Act and Tobacco Sales Act –that are enforced by the Department are reflected in further amendments to Appendix 23-C’s unscored violation penalties. The monetary penalties listed in Appendix 23-C for violations of City and State tobacco laws that are also enforced by the Department of Consumer Affairs (DCA) are consistent with DCA’s penalties.

Scored Violations

| Violation Code | Citation and Amendments Proposed |
|----------------|---|
| 02G | §81.12(d)(4) deletes the penalty for cold reduced oxygen packaged (ROP) food since there is a violation penalty for the same provision that includes all ROP foods. |
| 03A | §81.07(m) new penalty for slaughtering animals in an FSE |
| 03I | §81.04(e) new penalty for new Health Code provision requiring warning label for packaged unpasteurized juices |
| 04B | §81.13 new penalty for spitting by food worker |

| | |
|-----|---|
| 04D | §81.13(d) new penalty for failing to change gloves when required |
| 04N | §81.23 adds “other nuisance pests” to categories of prohibited pests |
| 04P | §71.05 and State Sanitary Code §14-1.89 added when food is adulterated with non-GRAS substances |
| 05F | §81.18 new penalty for improper outdoor refrigerator use, consistent with Health Code |
| 05G | §89.27(d) new penalty for sidewalk, street use by commissary for cleaning mobile food units |
| 05H | §81.46 new penalty if no approved written standard operating procedure when reusing customers’ refillable containers |
| 06A | §81.13(f) new penalties reflect new Health Code worker hygiene requirements |
| 06J | §89.27(b) new penalty for record keeping violations at mobile vending commissaries |
| 08A | §89.23(b)(2) violation for not having pest exterminator contract is deleted from the scored violation penalties and added to the unscored penalties in category 18I |
| 09C | §81.07(m) adds penalty for keeping edible live fish in insanitary tank |

Unscored Violations

As previously noted, this list of penalties is being repealed and re-enacted so that the referenced violation codes match those in Department inspectors’ hand-held computers. A new column has been added for convenience to show the penalty to be imposed if the respondent fails to appear to answer a summons and is found in default since many of these penalties may not be doubled on default.

New penalties have been added for violations of tobacco, smoking and related laws, Health Code sodium warning violations, additional calorie posting requirements consistent with federal law, dogs in certain outdoor seating areas of food service establishments, listing prohibited beverages on children’s menus, failing to post healthy eating messaging, and new organic recycling requirements. Some previously scored violations that are being removed from the scored portion of Appendix 23-C have been added to the unscored portion of the Appendix.

Statutory Authority

The authority for these rules is found in §556 of the New York City Charter and §81.51 of the New York City Health Code (the Health Code).

The proposal is as follows.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this Department, unless otherwise specified or unless the context clearly indicates otherwise.

Deleted material is in [brackets]; new text is underlined.

Section 1. The “Unscored Violations” part of Appendix 23-C of Chapter 23 of Title 24 of the Rules of the City of New York, relating to civil penalties for unscored food service establishment violations and other violations enforced by the Department of Health, is REPEALED.

§ 2. Appendix 23-A, Appendix 23-B, and Appendix 23-C of Chapter 23 of Title 24 of the Rules of the City of New York, are amended to read as follows:

APPENDIX 23-A

FOOD SERVICE ESTABLISHMENT & NON-RETAIL FOOD PROCESSING ESTABLISHMENT INSPECTION WORKSHEET

| Critical Violations | Conditions | | | | | Score | | | | | | | | | | | | | | | | | | |
|--|--|--|---|---|--|---|---------------------------------------|-----------------------|--|-------|---|--|---|--|-------------------|--|------------------------|----------------------|--|--|--|--|--|--|
| | I | II | III | IV | V | | | | | | | | | | | | | | | | | | | |
| <u>Time and Temperature Control for Safety (TCS) Food Temperature</u> | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>2A* Food not cooked to required minimum <u>internal</u> temperature:</p> <ul style="list-style-type: none"> [Poultry, meat stuffing, stuffed meats ≥165° F for 15 seconds Ground meat and food containing ground meat ≥158° F for 15 seconds Pork, any food containing pork ≥155° F for 15 seconds Rare roast beef, rare beefsteak except per individual customer request ≥ required temperature and time All other foods except shell eggs per individual customer request ≥145°F for 15 seconds] | - | - | - | 10 | 28 | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; padding: 5px;">Food</th> <th style="text-align: left; padding: 5px;">Required Minimum Internal Temperature at or above</th> </tr> </thead> <tbody> <tr> <td style="padding: 5px;"><u>Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratites</u></td> <td style="padding: 5px;">165° F for 15 seconds with no interruption of the cooking process</td> </tr> <tr> <td style="padding: 5px;"><u>Ground meat, and food containing ground and comminuted meat</u></td> <td style="padding: 5px;">158° F with no interruption of the cooking process, <u>except per individual customer request</u></td> </tr> <tr> <td style="padding: 5px;"><u>Pork, any food containing pork</u></td> <td style="padding: 5px;">150° F for 15 seconds</td> </tr> <tr> <td style="padding: 5px;"><u>Mechanically tenderized or injected meats</u></td> <td style="padding: 5px;">155°F</td> </tr> <tr> <td style="padding: 5px;"><u>Whole meat roasts and beef steak</u></td> <td style="padding: 5px;"><u>Required temperature and time listed in 81.09(c)(3), except per individual customer request</u></td> </tr> <tr> <td style="padding: 5px;"><u>Raw animal foods cooked in microwave</u></td> <td style="padding: 5px;">165°F, covered, rotated or stirred for 2 minutes</td> </tr> <tr> <td style="padding: 5px;"><u>Shell eggs</u></td> <td style="padding: 5px;">145°F for 15 seconds, except per individual customer request</td> </tr> <tr> <td style="padding: 5px;"><u>All other foods</u></td> <td style="padding: 5px;">140°F for 15 seconds</td> </tr> </tbody> </table> | Food | Required Minimum Internal Temperature at or above | <u>Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratites</u> | 165° F for 15 seconds with no interruption of the cooking process | <u>Ground meat, and food containing ground and comminuted meat</u> | 158° F with no interruption of the cooking process, <u>except per individual customer request</u> | <u>Pork, any food containing pork</u> | 150° F for 15 seconds | <u>Mechanically tenderized or injected meats</u> | 155°F | <u>Whole meat roasts and beef steak</u> | <u>Required temperature and time listed in 81.09(c)(3), except per individual customer request</u> | <u>Raw animal foods cooked in microwave</u> | 165°F, covered, rotated or stirred for 2 minutes | <u>Shell eggs</u> | 145°F for 15 seconds, except per individual customer request | <u>All other foods</u> | 140°F for 15 seconds | | | | | | |
| Food | Required Minimum Internal Temperature at or above | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratites</u> | 165° F for 15 seconds with no interruption of the cooking process | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Ground meat, and food containing ground and comminuted meat</u> | 158° F with no interruption of the cooking process, <u>except per individual customer request</u> | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Pork, any food containing pork</u> | 150° F for 15 seconds | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Mechanically tenderized or injected meats</u> | 155°F | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Whole meat roasts and beef steak</u> | <u>Required temperature and time listed in 81.09(c)(3), except per individual customer request</u> | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Raw animal foods cooked in microwave</u> | 165°F, covered, rotated or stirred for 2 minutes | | | | | | | | | | | | | | | | | | | | | | | |
| <u>Shell eggs</u> | 145°F for 15 seconds, except per individual customer request | | | | | | | | | | | | | | | | | | | | | | | |
| <u>All other foods</u> | 140°F for 15 seconds | | | | | | | | | | | | | | | | | | | | | | | |

* Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately + Pre-permit Serious Violations that must be corrected before permit is issued.

| | | | | | | | |
|--------------------|---|-------|---|---|-----|----|--|
| 2B* | Hot <u>TCS</u> food item not held at or above 140° F. | 7 | 8 | 9 | 10 | 28 | |
| 2C | Hot <u>TCS</u> food item that has been cooked and [refrigerated] <u>cooled</u> is being held for service without first being reheated to 165° F or above for <u>15 seconds</u> within 2 hours. | 5 | 6 | 7 | 8 | – | |
| 2D | Precooked [potentially hazardous] <u>TCS</u> food <u>in hermetically sealed and intact packages</u> from commercial food processing [establishment that is supposed to be heated, but is] <u>and non-retail processing establishments</u> not heated to 140° F within 2 hours. | 5 | 6 | 7 | 8 | – | |
| 2E | Whole frozen poultry or poultry breasts, other than a single portion, [that are being] cooked frozen or partially thawed. | 5 | 6 | – | – | – | |
| 2F | Meat, fish, <u>poultry, eggs</u> or molluscan shellfish served <u>or offered</u> raw or undercooked without [prior notification to customer] <u>written consumer advisory</u> . | [-] 5 | – | – | [8] | – | |
| 2G* | Cold <u>TCS</u> food item held above 41°F [(smoked fish and reduced oxygen foods above 38° F)]; <u>smoked or processed fish held above 38° F; intact raw eggs held above 45° F; or reduced oxygen packaged (ROP) TCS foods held above required temperatures</u> except during <u>active</u> necessary preparation. | 7 | 8 | 9 | 10 | 28 | |
| 2H* | [Food] <u>After cooking or removal from hot holding, TCS food</u> 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. | 7 | 8 | 9 | 10 | 28 | |
| 2I | [Food prepared from ingredients at ambient] <u>TCS food removed from cold holding or prepared from or combined with ingredients at room</u> temperature not cooled <u>by an approved method</u> to 41° F or below within 4 <u>additional</u> hours. | 5 | 6 | 7 | 8 | – | |
| 2J* | [Reduced oxygen packaged (ROP)] <u>ROP TCS foods</u> not [cooked] <u>cooled</u> by an approved method [whereby the internal food 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] <u>as specified in approved HACCP plan</u> . | 7 | 8 | 9 | 10 | 28 | |
| Food Source | | | | | | | |
| 3A* | Food from unapproved or unknown source or home canned <u>or home prepared</u> . <u>Live animal slaughtered in establishment</u> . [Reduced Oxygen Packaged (ROP)] <u>ROP fish</u> not frozen before processing; or ROP foods prepared on premises transported to another site. | – | – | – | 10 | 28 | |
| 3B* | Shellfish not from approved source, <u>not or</u> improperly tagged/labeled; tags not retained for 90 days. | – | – | – | 10 | 28 | |
| 3C* | [Eggs found dirty, cracked; liquid, frozen or powdered eggs not pasteurized] <u>Unclean or cracked whole eggs or unpasteurized liquid, frozen or powdered eggs kept or used</u> . | 7 | 8 | 9 | 10 | 28 | |
| 3D* | [Canned food product observed] <u>Food packages, canned food, hermetically sealed container not suitable for human consumption</u> . <u>Packages swollen, leaking or rusted, [and] without "Do Not Use" label or not segregated from other consumable food items</u> . | 7 | 8 | 9 | 10 | 28 | |
| 3E* | [Potable water supply inadequate] <u>No or inadequate potable water supply</u> . Water or ice not potable or from unapproved source. <u>Bottled water not NY State certified</u> . Cross connection in potable water supply system [observed]. | – | – | – | 10 | 28 | |

* Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately + Pre-permit Serious Violations that must be corrected before permit is issued.

| | | | | | | | |
|------------------------|--|-------|---|---|-----------|-----------|--|
| 3F* | Unpasteurized milk or milk product [present] <u>(except certain aged cheese) served.</u> | - | - | - | 10 | 28 | |
| 3G | Raw [food] <u>fruit or vegetables</u> not properly washed prior to <u>cutting or</u> serving. | 5 | 6 | 7 | 8 | - | |
| 3I* | <u>Unpasteurized juice packaged and sealed on premises not labeled or label incomplete; no warning statement.</u> | = | = | = | <u>10</u> | <u>28</u> | |
| Food Protection | | | | | | | |
| 4A | Food Protection Certificate (FPC) not held by <u>manager or</u> supervisor of food operations. | - | - | - | - | 10 | |
| 4B* | Food worker <u>spits</u> ; prepares food or [handles] <u>touches</u> utensil when ill with a disease transmissible by food[, or have] <u>or has</u> exposed infected cut or burn on hand. | - | - | - | 10 | 28 | |
| 4C* | Food worker does not use [proper] utensil <u>or other barrier</u> to eliminate bare hand contact with food that will not receive adequate additional heat treatment. | 7 | 8 | 9 | 10 | 28 | |
| 4D* | Food worker does not wash hands thoroughly after using the toilet, coughing, sneezing, smoking, eating, preparing raw foods or otherwise contaminating hands <u>or does not change gloves when gloves are contaminated.</u> | - | - | - | 10 | 28 | |
| 4E* | Toxic [chemical] <u>chemicals or pesticides</u> improperly labeled, stored or used such that food contamination may occur. | 7 | 8 | 9 | 10 | 28 | |
| 4F* | Food, food preparation area, food storage area, <u>or other</u> area used by employees or patrons, contaminated by sewage or liquid waste. | - | - | - | 10 | 28 | |
| 4G* | Unprotected [potentially hazardous] <u>TCS</u> food re-served. | - | - | - | 10 | 28 | |
| 4H* | Raw, cooked or prepared food is adulterated, contaminated, cross-contaminated, or not discarded in accordance with HACCP plan. | 7 | 8 | 9 | 10 | 28 | |
| 4I | Unprotected <u>non-TCS</u> food re-served. | 5 | 6 | 7 | 8 | - | |
| 4J | [Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous] <u>Properly calibrated thermometer or thermocouple not provided or not readily accessible in food preparation and hot/cold holding areas to measure temperatures of TCS</u> foods during cooking, cooling, reheating, and holding. | [-] 5 | - | - | [8] | - | |
| 4K | Evidence of rats or live rats [present in facility's] <u>in establishment's</u> food [and/or] <u>or</u> non-food areas. | 5 | 6 | 7 | 8 | 28 | |
| 4L | Evidence of mice or live mice [present in facility's] <u>in establishment's</u> food [and/or] <u>or</u> non-food areas. | 5 | 6 | 7 | 8 | 28 | |
| 4M | Live roaches [present in facility's] <u>in establishment's</u> food [and/or] <u>or</u> non-food areas. | 5 | 6 | 7 | 8 | 28 | |
| 4N | Filth flies or food/refuse/sewage associated (FRSA) flies [present in facility's] <u>or other nuisance pests in establishment's</u> food and/or non-food areas. [Filth] <u>FRSA</u> 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 <u>and fruit flies.</u> | 5 | 6 | 7 | 8 | 28 | |

* Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately + Pre-permit Serious Violations that must be corrected before permit is issued.

| | | | | | | | |
|---|---|---|---|---|-----------|-----------|--|
| 4O | Live animals other than fish in tank or service animal [present in facility's] in <u>establishment's food [and/or] or non-food areas.</u> | 5 | 6 | 7 | 8 | – | |
| 4P | Food held, kept, prepared, processed, packaged or served with prohibited substance. | – | – | – | <u>10</u> | <u>28</u> | |
| Facility Design and Construction | | | | | | | |
| 5A* | Sewage disposal system <u>not provided</u> , improper, <u>inadequate</u> or unapproved. | – | – | – | 10 | 28 | |
| 5B* | Harmful, noxious gas or vapor detected. [CO ≥13 ppm] <u>Carbon monoxide (CO) level at or exceeding nine (9) ppm.</u> | – | – | – | 10 | 28 | |
| 5C+ | Food contact surface <u>or equipment</u> improperly constructed [or located] <u>placed or maintained</u> . Unacceptable material used. <u>Culinary sink or other acceptable method not provided for washing food.</u> | 7 | 8 | 9 | 10 | 28 | |
| 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.] <u>No hand wash facility in or adjacent to toilet rooms or within 25 feet of food preparation or service or ware washing area; or hand wash facility not accessible, obstructed or used for non-hand washing purposes. No hot and cold running water or water at inadequate pressure. No soap or acceptable hand-drying device.</u> | – | – | – | 10 | 28 | |
| 5E+ | Toilet facility not provided for employees or for patrons when required. <u>Shared patron-employee toilet accessed through kitchen, food prep or storage area or utensil washing area.</u> | – | – | – | 10 | 28 | |
| 5F+ | [Insufficient] <u>Inadequate</u> or no refrigerated or hot holding equipment to [keep potentially hazardous] <u>maintain TCS</u> foods at required temperatures. <u>Outdoor refrigerator not locked, secured.</u> | – | – | – | 10 | 28 | |
| 5G+ | [Properly enclosed service/maintenance area not provided. (Mobile Food Commissary)] <u>Separate, enclosed, properly equipped and sized cleaning and service area not provided in mobile food commissary; street, sidewalk used for cleaning units.</u> | – | – | – | 10 | 28 | |
| 5H+ | No facilities available to wash, rinse, and sanitize <u>dishware, glassware, utensils, [and/or] equipment or refillable returnable containers.</u> <u>No approved written standard operating procedure for avoiding contamination by refillable returnable containers.</u> | – | – | – | 10 | 28 | |
| 5I+ | Refrigeration used to implement HACCP plan <u>for ROP foods</u> not equipped with an electronic system that continuously monitors time and temperature. | – | – | – | 10 | 28 | |
| [Personal Hygiene &] Food Worker Hygiene and Other Food Protection | | | | | | | |

* Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately + Pre-permit Serious Violations that must be corrected before permit is issued.

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|------------------------|--|---|---|---|----|-----------------------------------|--|
| 6A | Personal cleanliness inadequate. Outer garment soiled with possible contaminant. <u>Food worker not properly dressed; sleeveless garment worn or bare midriff exposed. Effective hair restraint not worn [in an area where food is prepared.] when required. Jewelry worn on hands or arms; fingernail polish worn; or fingernails not kept clean and trimmed.</u> | 5 | 6 | 7 | 8 | – | |
| 6B | Tobacco or e-cigarette use, eating, or drinking from open container in food preparation[, food storage or dishwashing area observed] or <u>other area where food, equipment or utensils may be exposed to contamination.</u> | 5 | 6 | 7 | 8 | – | |
| 6C | Food, supplies, or equipment not protected from potential source of contamination during storage, preparation, transportation, display or service. | 5 | 6 | 7 | 8 | – | |
| 6D | Food contact surface not properly washed, rinsed and sanitized after [each use and following] any activity [when] <u>where</u> contamination may have occurred. | 5 | 6 | 7 | 8 | – | |
| 6E | Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored. | 5 | 6 | 7 | 8 | – | |
| 6F | Wiping cloths soiled or not stored in sanitizing solution; <u>inadequately sanitized.</u> | 5 | 6 | 7 | – | – | |
| 6G* | HACCP plan not approved or approved HACCP plan not maintained on premises. | – | – | – | 10 | 28 | |
| 6H | Records and logs not maintained to [demonstrate] <u>show</u> that <u>approved</u> HACCP plan has been properly implemented. | – | – | – | – | 28 | |
| 6I | [Food] <u>ROP TCS food</u> not labeled in accordance with <u>approved</u> HACCP plan. | – | – | – | 10 | 28 | |
| 6J | <u>Commissary or other approved facility maintains no or incomplete records of mobile food vending units serviced.</u> | – | – | – | – | <u>28</u> | |
| Other Criticals | | | | | | | |
| 7A | Duties of an officer of the Department interfered with or obstructed. | – | – | – | – | 28 | |
| | | | | | | Critical Violations Total: | |

* Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately + Pre-permit Serious Violations that must be corrected before permit is issued.

| General Violations | | Conditions | | | | | Score |
|---|--|------------|----------|----------|----------|----|-------|
| | | I | II | III | IV | V | |
| [Vermin/Garbage] Garbage, Waste Disposal and Pest Management | | | | | | | |
| 8A | [Facility not vermin proof.] Harborage or conditions conducive to attracting [vermin] <u>pests to the premises and/or allowing [vermin] pests to exist when pests or signs of pests are present.</u> | - | - | 4 | 5 | - | |
| 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.] <u>Garbage receptacles not pest or water resistant, or covered with tight-fitting lids, except while in active use. Garbage receptacles and covers not cleaned after emptying and prior to reuse.</u> | 2 | [3] = | [4] = | [5] = | - | |
| 8C | Pesticide use not in accordance with label or applicable laws. [Prohibited chemical used/stored. Open] <u>Pesticides, other toxic chemicals improperly used/stored. Unprotected, unlocked bait station used.</u> | 2 | 3 | 4 | 5 | 28 | |
| Food [Source] Protection | | | | | | | |
| 9A | [Canned food product observed dented and] <u>Cans of food with dented body damage not segregated from [other consumable food items] other cans for return to distributor.</u> | 2 | 3 | 4 | 5 | - | |
| 9B | Thawing procedures improper. | 2 | 3 | 4 | 5 | - | |
| 9C | Food contact surface [not] <u>chipped, cracked, worn, or in a condition where it cannot be properly maintained or cleaned.</u> | 2 | 3 | 4 | 5 | - | |
| 9D | <u>Food service operation occurring in room or area used as living or sleeping quarters.</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | = | |
| 9E | <u>"Wash hands" sign not posted at hand wash facility.</u> | <u>2</u> | = | = | = | = | |
| Facility Maintenance | | | | | | | |
| 10A | Toilet facility not maintained [and] <u>or provided with toilet paper, waste receptacle [and] or self-closing door.</u> | 2 | 3 | 4 | 5 | - | |
| 10B | Plumbing not properly installed or maintained; [anti-siphonage or backflow] <u>back-siphonage or back-flow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly. Condensation or liquid waste improperly disposed of.</u> | 2 | 3 | 4 | 5 | 28 | |
| 10C | Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage [rooms] <u>areas.</u> | 2 | 3 | 4 | 5 | - | |
| 10D | Mechanical or natural ventilation system not provided, improperly installed, in disrepair and/or fails to prevent excessive build-up of grease, heat, steam condensation vapors, odors, smoke, and fumes. | 2 | 3 | 4 | 5 | - | |

* Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately + Pre-permit Serious Violations that must be corrected before permit is issued.

| | | | | | | | |
|-------------------------|--|-------|-------|-------|---|---|--|
| 10E | Accurate thermometer not provided <u>or properly located</u> in refrigerated or hot holding equipment. | 2 | 3 | 4 | 5 | – | |
| 10F | [Non-food contact surface improperly constructed. Unacceptable material used.] Non-food contact surface or equipment improperly maintained [and/or] <u>or made of unacceptable material, or not kept clean, or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath [the unit] equipment or other structures.</u> | 2 | 3 | 4 | 5 | – | |
| [10G] | Food service operation occurring in room used as living or sleeping quarters.] | [2 | 3 | 4 | 5 | –] | |
| [10H] 10G | Proper sanitization not <u>used or</u> provided for [utensil] ware washing operation. <u>No test kit.</u> | [2] = | [3] = | [4] = | 5 | – | |
| [10I] 10H | Single service item reused, [improperly] <u>not protected from contamination when transported, stored, or dispensed; not used when required.</u> | 2 | 3 | 4 | 5 | – | |
| [10J] | “Wash hands” sign not posted at hand wash facility.] | [2 | – | – | – | –] | |
| [Other Generals] | | | | | | | |
| [99B] | General other.] | [2 | 3 | 4 | 5 | 28] | |
| | | | | | | General Violations Total: | |
| | | | | | | Critical and General Combined Total: | |

*Public Health Hazards (PHH) or Imminent Health Hazards must be corrected immediately.

+Pre-permit Serious Violations that must be corrected before permit is issued.

APPENDIX 23-B

FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS - A GUIDE TO CONDITIONS

| | Violation | Condition I | Condition II | Condition III | Condition IV | Condition V |
|----------------------------|--|---|--|---|---|---|
| Critical Violations | | | | | | |
| 2A* | [Food] <u>Time and temperature control for safety (TCS) food</u> not cooked to required minimum <u>internal</u> temperature. | | | | Failure to properly cook <u>one or more</u> meats, comminuted meats, and other [potentially hazardous foods (PHFs)] <u>TCS foods</u> , unless a consumer specifically asks for a serving of [item ordered] <u>food</u> to be cooked below the minimum temperature. | Failure to correct any condition of a <u>public health hazard (PHH)</u> at the time of inspection. Inspector must call office to discuss closing or other enforcement measures. |
| 2B* | Hot <u>TCS</u> food item not held at or above 140° F. | One hot food item out of temperature in one area. Example: [One] <u>one</u> tray of <u>fried</u> 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] <u>one</u> tray of <u>fried</u> chicken wings and a pot of rice held at 115° F; or one tray of <u>fried</u> chicken wings on the steam table and one tray of <u>fried</u> chicken wings in the food preparation area. | Three hot food items out of temperature or the same type of food out of temperature in three different areas. Example: [One] <u>one</u> tray of <u>fried</u> chicken wings, a pot of rice and platter of roast beef held at 115° F; or one tray of <u>fried</u> chicken wings on the steam table, one tray of <u>fried</u> chicken wings in the food preparation area and one basket of <u>fried</u> chicken near the deep fryer. | 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] <u>one</u> tray of <u>fried</u> chicken wings, a pot of rice, platter of roast beef and tureen of beef stew held at 115° F; or one tray of fried chicken wings on the steam table, one tray of <u>fried</u> chicken wings in the food preparation area, one basket of <u>fried</u> chicken near the deep fryer and a rotisserie [machine filled] <u>broiler</u> 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 <u>TCS</u> food item that has been cooked and [refrigerated] <u>cooled</u> is being held for service without first being reheated to 165° F or above for <u>15 seconds</u> within 2 hours. | One cooked and [refrigerated] <u>cooled</u> hot food item not reheated to 165° F before service. Example: chicken soup. | Two cooked and [refrigerated] <u>cooled</u> hot food items not reheated to 165° F before service. Example: chicken soup and baked ham. | Three cooked and [refrigerated] <u>cooled</u> hot food items not reheated to 165° F before service. Example: chicken soup, baked ham and sliced turkey. | Four or more cooked and [refrigerated] <u>cooled</u> hot food items not reheated to 165° F before service. Example: baked ham, sliced turkey, meatloaf and lobster bisque. | |

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| 2D | Precooked [potentially hazardous] <u>TCS food in hermetically sealed and intact packages</u> 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: <u>tray of beef patties</u> . | Two pre-cooked [commercially prepared] foods not heated to 140° F. Example: <u>two trays of beef patties</u> . | Three pre-cooked [commercially prepared] foods not heated to 140° F. Example: <u>two trays of beef patties[,] and one pot of clam chowder</u> [and smoked turkey]. | Four or more pre-cooked [commercially prepared] foods not heated to 140° F. Example: <u>two trays of beef patties</u> , and <u>two pots of clam chowder</u> [, 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] <u>chicken</u> or poultry breast [being] cooked from a frozen state. Example: <u>whole chicken</u> [breast]. | Two or more whole poultry or poultry breasts [being] cooked from a 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, <u>poultry, eggs</u> or molluscan shellfish served <u>or offered</u> raw or undercooked without [prior notification to customer] <u>written consumer advisory</u> . | <u>Serving or offering raw or undercooked meat, eggs, fish or shellfish without written consumer advisory.</u> | | | [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 <u>TCS</u> food item held above 41° F [(smoked fish and Reduced Oxygen Packaged food above 38°F), except during necessary preparation]; <u>smoked, processed fish above 38° F; intact raw eggs above 45° F; or reduced oxygen packaged (ROP) TCS foods above required temperatures except during active necessary preparation.</u> | 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] <u>two</u> 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 <u>or the same food item out of temperature in three different areas.</u> 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 <u>or the same food item out of temperature in four different areas.</u> 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. |

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| | | | | | | |
|-----|---|---|---|--|---|---|
| 2H* | [Food] <u>After cooking or removal from hot holding, TCS food</u> 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] <u>fried turkey at 70° F after being refrigerated for four hours.</u> | Two food items not cooled by approved method. Example: [two whole, cooked turkeys] <u>one whole fried turkey at 70° F after being refrigerated for four hours and a six-inch high container filled to within one inch of top with beef stew at 80° F after two hours of refrigeration.</u> | Three food items not cooled by approved method. Example: [two whole, cooked turkeys and one container of deep pot chicken stew] <u>one whole fried turkey at 70° F after being refrigerated for four hours and a six-inch high container filled to within one inch of top with beef stew at 80° F after two hours of refrigeration and six pound cooked beef rib roast not cut into smaller pieces before being placed in refrigerator to cool.</u> | 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] <u>one whole fried turkey at 70° F after being refrigerated for four hours and a six-inch high container filled to within one inch of top with six inches of beef stew at 80° F after two hours of refrigeration and six pound cooked beef rib roast not cut into smaller pieces before being placed in refrigerator to cool and 18 inch high pot filled to within one inch of top with turkey chili at 85° F after three hours refrigeration.</u> | 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] <u>TCS food removed from cold holding or prepared from or combined with ingredients at room temperature</u> not cooled by an approved method to 41° F or below within 4 hours. | One food item <u>removed from cold holding or prepared from ambient temperature ingredients</u> not cooled to 41°F. Example: <u>one container of tuna salad prepared with canned tuna</u> [above 41° F]. | Two food items <u>foods removed from cold holding or prepared from ambient temperature ingredients</u> not cooled to 41°F. Example: a container of <u>tuna salad</u> and a <u>container of salmon [salads] salad</u> prepared with canned tuna and salmon [above 41° F]. | Three food items <u>removed from cold holding or prepared from ambient temperature ingredients</u> not cooled to 41°F. Example: <u>tuna, chicken</u> and salmon salads prepared with <u>canned tuna, chicken</u> and salmon [, and open can of sardines above 41° F]. | Four or more food items <u>removed from cold holding or prepared from ambient temperature ingredients</u> not cooled to 41°F. Example: <u>tuna, chicken, crab</u> and salmon salads prepared with <u>canned tuna, chicken, crab</u> and salmon [, and open cans of sardines and anchovies above 41°F]. | |

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| 2J* | [Reduced oxygen packaged (ROP)] <u>ROP TCS</u> food not cooled <u>to required temperatures</u> by an approved method [whereby the internal food 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] <u>as specified in the approved HACCP plan.</u> | 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 1 lb 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)] <u>or home prepared; or live animal slaughtered in establishment; or ROP fish not frozen before processing; or ROP food prepared on premises transported to another site.</u> | | | | One or more food items [not from an approved] <u>from an unapproved or unknown source, or home canned or home prepared; or live animal slaughtered in establishment.</u> Example: wild mushrooms or home canned [jellies] <u>beets</u> or ROP fish not frozen before processing <u>or home prepared meat balls, curry, rice or lasagna.</u> | 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[.]; <u>not or improperly tagged/labeled; tags not retained for 90 days.</u> | | | | One or more containers or kind of shellfish not from an approved source[.]; <u>not or improperly tagged/labeled; tags not retained for 90 days.</u> 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. |

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| 3C* | [Eggs found dirty/cracked; liquid, frozen or powdered eggs not pasteurized] <u>Unclean or cracked whole eggs or unpasteurized liquid, frozen or powdered eggs kept or used.</u> | 1-6 [dirty/cracked] <u>unclean or cracked eggs</u> or liquid, frozen, or powdered eggs not pasteurized. Example: four [dirty and/or] cracked eggs; or one container of unpasteurized liquid eggs. | 7-12 [dirty/cracked] <u>unclean or cracked eggs</u> ; or 2 containers of liquid, frozen, or powdered eggs not pasteurized. Example: nine [dirty and/or] cracked eggs; or two containers of unpasteurized liquid eggs. | 13-24 [dirty/cracked eggs] <u>unclean or cracked</u> ; or three containers of liquid, frozen, or powdered eggs not pasteurized. Example: 16 [dirty and/or] <u>unclean or cracked eggs</u> ; or 14 [dirty and/or] <u>unclean or cracked eggs</u> and two containers of unpasteurized liquid eggs. | 25 or more [dirty/cracked] <u>unclean or cracked eggs</u> ; or four containers of liquid, frozen, or powdered eggs not pasteurized. Example: 25 or more [dirty and/or] <u>unclean or cracked eggs</u> ; or [18 dirty and/or cracked eggs and one container] <u>four containers</u> 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] <u>Food packages, canned food, hermetically sealed container not suitable for human consumption. Packages</u> swollen, leaking or rusted [and], without "Do Not Use" label or not segregated from other consumable food items. | 1-6 [cans of food products] <u>food packages</u> swollen, leaking or rusted and not segregated from consumable food. Example: one can of tomato paste swollen and one can of salmon rusted and stored on food storage shelf. | 7-12 [cans of food products] <u>food packages</u> swollen, leaking or rusted and not segregated from consumable 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. | 13-18 [cans of food products] <u>food packages</u> swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato paste swollen, two cans of salmon and two cans of mushrooms rusted and stored on food storage shelf. | 19 or more [cans of products] <u>food packages</u> swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato 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. | Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures. |
| 3E* | [Potable water supply inadequate] <u>No or inadequate potable water supply.</u> Water or ice not potable or from unapproved source. <u>Bottled water not NY State certified.</u> Cross connection in potable water supply system. | | | | <u>No potable water.</u> 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. |

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FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS - A GUIDE TO CONDITIONS

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| 3F* | Unpasteurized milk or milk product [present] <u>(except aged cheese) served.</u> | | | | Unpasteurized milk or milk product [present] <u>served.</u> | 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] <u>fruit or vegetables</u> not properly washed prior to <u>cutting or serving.</u> | [1 kind of raw food type] <u>One raw fruit or vegetable</u> not properly washed prior to <u>cutting or serving.</u> Example: [2 heads of lettuce] <u>an apple.</u> | [2 kinds of raw food types] <u>Two raw fruits or vegetables</u> not properly washed prior to <u>cutting or serving.</u> Example: two heads of lettuce [and 1 bunch of carrots]. | [3 kinds of raw food types] <u>Three raw fruits or vegetables</u> not properly washed prior to <u>cutting or serving.</u> Example: two heads of lettuce[, one bunch of carrots] and one [bunch] <u>head</u> of broccoli. | [4 or more kinds of raw food types] <u>Four or more raw fruits or vegetables</u> not properly washed prior to <u>cutting or serving.</u> Example: [2] <u>two</u> heads of lettuce, 1 bunch of carrots, 1 bunch] <u>one head</u> of broccoli and [1] <u>one</u> head of cabbage. | |
| 3I* | <u>Unpasteurized juice packaged and sealed on premises not labelled or label incomplete; no warning statement.</u> | | | | <u>One or more packaged juice products not or improperly labeled.</u> Example: <u>orange and carrot juice produced and bottled with sealed cap by the establishment without a label or only a partial label.</u> | <u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss embargoing product, closing or other enforcement measures.</u> |
| 4A | Food Protection Certificate (FPC) not held by <u>manager or supervisor of food operations.</u> | | | | | <u>No FPC [not held by the supervisor of food operations] holder.</u> |

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| 4B* | Food worker <u>spits</u> , prepares food or [handles] <u>touches</u> utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand. | | | | Food worker <u>spits</u> ; prepares food or [handles] <u>touches</u> 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 <u>or other barrier</u> 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 sandwiches, one food worker in kitchen 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 <u>or does not change gloves when gloves are contaminated.</u> | | | | Food worker does not wash hands after [visiting] <u>using</u> the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands <u>or does not change gloves when gloves are contaminated.</u> | Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures. |

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| 4E* | Toxic chemical <u>or</u> <u>pesticide</u> improperly labeled, stored or used [so] <u>such</u> that <u>food</u> contamination [of food] may occur. | One toxic chemical <u>or</u> <u>pesticide</u> improperly labeled, stored or used [so] <u>such</u> that contamination of food may occur. Example: roach spray <u>stored on shelf with boxes of pasta.</u> | Two toxic chemicals <u>or</u> <u>pesticides</u> improperly labeled, stored or used [so] <u>such</u> that contamination of food may occur. Example: roach spray and bleach <u>stored on shelf with boxes of pasta.</u> | Three toxic chemicals <u>or</u> <u>pesticides</u> improperly labeled, stored or used [so] <u>such</u> that contamination of food may occur. Example: roach spray, bleach and [butane] <u>stainless steel cleaner stored on shelf with boxes of pasta.</u> | Four or more toxic chemicals <u>or</u> <u>pesticides</u> improperly labeled, stored, or used [so] <u>such</u> that contamination of food may occur. Example: roach spray, bleach, [butane] <u>stainless steel cleaner</u> and rat poison <u>stored on shelf with boxes of pasta.</u> | 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 <u>any other</u> area used by employees or patrons contaminated by sewage or liquid waste. | | | | Food, <u>or</u> food preparation [area,] <u>or</u> food storage area, or <u>any</u> 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] <u>TCS</u> food re-served. | | | | Unprotected [potentially hazardous] <u>TCS</u> food re-served. Example: bowl of cooked rice <u>re-served to other patron.</u> | Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures. |

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| 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 with HACCP plan. | Two food items or two [batches] <u>containers</u> of the same food located in two areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce and cooked chicken contaminated by raw chicken; or adulterated sausage and fish; or ROP beef stew and ROP chicken fricassee not discarded in accordance with HACCP [Plan] <u>plan</u> . | Three food items or three [batches] <u>containers</u> 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 contaminated by non-potable water; or ROP beef stew, ROP chicken fricassee and ROP pork tenderloin not discarded in accordance with HACCP [Plan] <u>plan</u> ; or a tray of chicken contaminated with mice droppings in 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. | Four or more food items or four or more [batches] <u>containers</u> 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 fricassee, ROP pork tenderloin and meat sauce not discarded in accordance with HACCP [Plan] <u>plan</u> ; 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 contaminated with dust and debris, a pan of chicken on the service counter cross-contaminated with raw beef drippings and chicken contaminated by mice droppings[in the basement walk-in refrigerator. | 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 <u>non-TCS</u> 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. | |

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| 4J | [Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous] <u>Properly calibrated thermometer or thermocouple not provided or not readily accessible in food preparation, hot/cold holding areas, to measure temperatures of TCS foods during cooking, cooling, reheating and holding.</u> | <u>Properly calibrated thermometer or thermocouple not provided, or readily accessible to measure temperature of TCS foods.</u> | | | [Appropriate thermometer(s) or thermocouple not provided or used to measure the temperature of potentially hazardous foods.] | |
| 4K | Evidence of rats or live rats in [facility's] <u>establishment's</u> food and/or non-food areas. | Rats [present] or <u>evidence of rats</u> in the [facility's] <u>establishment's</u> food or non-food areas. Example: 1-10 fresh rat droppings in [one area] <u>the establishment.</u> | Rats [present] or <u>evidence of rats</u> in the [facility's] <u>establishment's</u> food or non-food areas, demonstrated by 11-30 fresh rat droppings in [one area or 1-10 rat droppings in two areas] <u>the establishment.</u> Example: 25 fresh rat droppings in the food preparation area; [or 10] <u>and 5</u> 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] or <u>evidence of rats</u> in the [facilities] <u>establishment's</u> food or non-food areas, demonstrated by 31-70 rat droppings [one area; 11-30 rat droppings in two areas; or 1-10 fresh rat droppings in three areas] <u>in the establishment.</u> Example: 55 fresh rat droppings in food preparation area[; or] <u>and 14</u> 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] or <u>evidence of rats</u> in the [facility's] <u>establishment's</u> 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 droppings in four areas] <u>the establishment.</u> Example: 80 fresh rat droppings in food preparation area[; or] <u>and 30</u> 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] <u>more than 100</u> droppings; and/or other conditions conducive to infestation of rats, e.g., holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures. |

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| 4L | Evidence of mice or live mice [present] in [facility's] <u>establishment's</u> food and/or non-food areas. | Mice [present] or <u>evidence of mice</u> in the [facility's] <u>establishment's</u> food or non-food areas; 1-10 fresh mice droppings in one area. Example: 8 fresh mice droppings found in pantry. | Mice [present] or <u>evidence of mice</u> in the [facility's] <u>establishment's</u> 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] or <u>evidence of mice</u> in the [facility's] <u>establishment's</u> 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] or <u>evidence of mice</u> in the [facility's] <u>establishment's</u> 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 mice droppings in basement, food preparation area, bathroom and garbage disposal area. | Two or more live mice and/or [greater] <u>more</u> than 100 fresh mice droppings and/or other conditions exist conducive to infestation of mice, e.g., 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] <u>establishment's</u> food and/or non-food areas. | [Roaches] <u>1-5 roaches</u> [present] in the [facility's] <u>establishment's</u> food and non-food areas. Example: 2 live roaches in the dry food area. | Roaches [present] in the [facility's] <u>establishment's</u> food and and/or non-food areas. 6-10 roaches in one area; or 1-5 in two areas. Example: seven live roaches in the food preparation area; or two roaches in the dry food storage area and one in the basement. | Roaches [present] in the [facility's] <u>establishment's</u> food and/or 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; four roaches in the dry food storage area and five roaches in the basement; or one live roach observed in walk-in, food preparation area and dry storage. | Roaches [present] in the [facility's] <u>establishment's</u> 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 five roaches in the basement; or one live roach observed in walk-in, food preparation area, garbage area and dry storage area. | [Greater] <u>More</u> 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. |

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| 4N | <p>Filth flies or food/refuse/sewage associated (FRSA) flies <u>or other nuisance pests</u> in facility's food and/or non-food areas. [Filth] <u>FRSA</u> flies include house flies, [little house flies,] blow flies, bottle flies, flesh flies, drain flies, [and] Phorid flies <u>and fruit flies</u>. [Food/refuse/sewage associated flies include fruit flies, drain flies and Phorid flies.]</p> | <p>[2-5] <u>1-5</u> filth flies or FRSA flies in the food preparation or food storage area during November 1 through March 1. Example: two flies in dry non-food area in January.</p> | <p>6-10 filth flies or FRSA flies in one area; or 2-5 filth flies in two areas. Example: seven live flies in food preparation area; or two flies in the dry food storage area and one in basement.</p> | <p>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; four flies in the dry food storage area and five flies in basement; or one fly observed in walk-in refrigerator, food preparation area and dry storage area.</p> | <p>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 five filth flies in basement; or two filth flies observed in walk-in refrigerator, food preparation area, garbage area and dry storage area.</p> | <p>More than 30 filth flies, FRSA 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, e.g., openings to the outer air, water, food, decaying matter and/or sewage. Inspector must call office to discuss closing or other enforcement measures.</p> |
| 4O | <p>Live animal other than fish in tank or service animal present in [facility's] establishment's food and/or non-food areas.</p> | <p>Live animal in establishment. Example: <u>one companion dog on chair in outdoor dining area, or one live cat within establishment or one chicken in rear yard.</u></p> | <p>Two live animals in establishment. Example: <u>Two live birds in dining area or goat and chicken in rear yard or two cats in establishment.</u></p> | <p>Three live animals in establishment. Example: <u>Two cockatoos in cage and live cat in dining room area or two chickens and lamb in rear yard.</u></p> | <p>Four or more live animals in establishment. Example: <u>Two caged cockatoos and two live cats in dining room area or three chickens, a lamb and a goat in rear yard.</u></p> | |
| 4P* | <p><u>Food held, kept, offered, prepared, processed, packaged or served with prohibited substance.</u></p> | | | | <p><u>Any food held, kept, offered, prepared, processed, packaged or served with any prohibited substance.</u></p> | <p><u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u></p> |

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| 5A* | Sewage disposal system <u>is not provided</u> , improper or unapproved. | | | | <u>No sewage disposal system</u> . 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.] <u>Carbon monoxide (CO) level at or exceeding 9 ppm.</u> | | | | Harmful, noxious gas or vapor detected. [CO equal to or greater than 13 ppm.] <u>CO level at or exceeding 9 ppm.</u> | 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 <u>or equipment</u> improperly constructed [or located; or unacceptable], <u>placed or maintained</u> . <u>Unacceptable material used</u> . <u>Culinary sink or other acceptable method not provided for washing food.</u> | 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 <u>food</u> 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, acidic foods placed in pewter bowl and solder and flux used to repair food contact equipment <u>or no culinary sink or other acceptable method provided for washing food.</u> | Failure to correct [as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance] <u>on any</u> inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures. |

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| <p>5D+</p> | <p>[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.] <u>No hand wash facility in or adjacent to toilet rooms or within 25 feet of food preparation or service or ware washing area. Hand wash facility not accessible or obstructed by door, equipment or used for non-hand washing purposes. Hand wash facility without hot and cold running water or water at inadequate pressure. No soap or acceptable hand-drying device.</u></p> | | | | <p>Fully equipped hand wash sinks, to include soap and <u>hand drying device or disposable single use [paper] towels,</u> not provided [or conveniently located in all food preparation areas] <u>where required or hand wash sink not accessible or obstructed. No potable water or water not at adequate pressure at hand wash sink.</u></p> | <p>Failure to correct [as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance] <u>on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u></p> |
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| 5E+ | <p>Toilet facility not provided for employees or for patrons when required. <u>Shared patron-employee toilet accessed through kitchen, food prep or storage or utensil washing area.</u></p> | | | | <p>Toilet facility not provided for employees or for patrons when required. <u>Shared patron-employee toilet accessed through kitchen, food prep or storage or utensil washing area.</u></p> | <p>Failure to correct [as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance] <u>on any</u> inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</p> |
| 5F+ | <p>[Insufficient] <u>Inadequate</u> or no refrigerated or hot holding equipment to keep [potentially hazardous] <u>TCS</u> foods at required temperatures. <u>Outdoor refrigerator not locked, secured.</u></p> | | | | <p>Refrigerated or hot holding equipment for [PHFs] <u>TCS food inadequate</u> or not provided. <u>Outdoor refrigerator not locked, secured.</u></p> | <p>Failure to correct [as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance] <u>on any</u> inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</p> |

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| 5G+ | <p>Separate, enclosed, properly equipped <u>and sized</u> cleaning and service area not provided <u>in mobile food vending commissary: street, sidewalk used for cleaning units.</u> [(Mobile Vending Commissary)]</p> | | | | <p>Separate, enclosed, properly equipped <u>and sized</u> cleaning and service area not provided. <u>Street, sidewalk used for cleaning units.</u></p> | <p>Failure to correct [as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance] <u>on any</u> inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</p> |
| 5H+ | <p>No facilities available to wash, rinse, and sanitize utensils [and/or], <u>dishware, glassware, equipment or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers.</u></p> | | | | <p>No facilities available to wash, rinse and sanitize utensils [and], <u>dishware, glassware, equipment or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers.</u></p> | <p>Failure to correct. Inspector must call office to discuss enforcement measures.</p> |
| 5I+ | <p>Refrigeration used to implement HACCP plan for ROP foods not equipped with an electronic system that continuously monitors time and temperature.</p> | | | | <p>Refrigeration used to implement HACCP plan <u>for ROP foods</u> not equipped with an electronic system that continuously monitors time and temperature.</p> | <p>Inspector must call office to discuss closing or other enforcement measures.</p> |

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| 6A | <p>Personal cleanliness inadequate. Outer garment soiled with possible contaminant. <u>Food worker not properly dressed; sleeveless garment worn or bare midriff exposed.</u> Effective hair restraint not worn [in an area where food is prepared] <u>where required.</u> <u>Jewelry worn on hands or arms; fingernail polish worn or fingernails not kept clean and trimmed.</u></p> | <p>One food worker [observed] without clean outer garment or hair restraint <u>or wearing prohibited jewelry or fingernail polish, or fingernails not kept clean and trimmed.</u></p> | <p>Two food workers [observed] without clean outer garments and/or hair restraints <u>or wearing prohibited jewelry or fingernail polish or fingernails not kept clean and trimmed.</u></p> | <p>Three food workers [observed] without clean outer garments and/or hair restraints <u>or wearing prohibited jewelry or fingernail polish or with fingernails not kept clean and trimmed.</u></p> | <p>Four or more food workers [observed] without clean outer garments and/or hair restraints, <u>or wearing prohibited jewelry or fingernail polish or fingernails not kept clean and trimmed.</u></p> | |
| 6B | <p>Tobacco <u>or e-cigarette</u> use, eating, or drinking from open container in food preparation[, food storage or dishwashing area] <u>or other area where food, equipment or utensils may be exposed to contamination.</u></p> | <p>One food worker eating, smoking and/or drinking from open container in food preparation or ware washing areas [or evidence of tobacco use, eating or drinking in food preparation, food storage and dishwashing area].</p> | <p>Two food workers eating, smoking and/or drinking from open container in food <u>preparation</u> or ware washing areas.</p> | <p>Three food workers eating, smoking and/or drinking from open container in food <u>preparation</u> or ware washing areas.</p> | <p>Four or more food workers eating, smoking and/or drinking from open container in food <u>preparation</u> or ware washing areas.</p> | |
| 6C | <p>Food, <u>supplies or equipment</u> not protected from potential source of contamination during storage, preparation, transportation, display or service.</p> | <p>One food item or kind of <u>supply</u> not protected during storage, preparation, transportation, display or service. <u>Example: one tray of uncovered assorted pastries or supply of clean table linen in customer self-service area.</u></p> | <p>Two food items or <u>supplies</u> not protected during storage, preparation, transportation, display or service. <u>Example: one tray of uncovered pastries or supply of clean table linen in customer self-service area and one cooked steak on prep table under fly strip.</u></p> | <p>Three food items or <u>supplies</u> not protected during storage, preparation, transportation, display or service. <u>Example: one tray of uncovered pastries or supply of clean table linen in customer self-service area; one cooked steak on prep table under fly strip and self-service buffet without sneeze guard.</u></p> | <p>Four or more food items or <u>supplies</u> not protected during storage, preparation, transportation, display or service. <u>Example: one tray of uncovered pastries or supply of clean table linen in customer self-service area; one cooked steak on prep table under fly strip, buffet without sneeze guard and uncovered bucket of marinating chicken on floor of walk-in refrigerator.</u></p> | |

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| 6D | Food contact surface not <u>properly</u> washed, rinsed and sanitized after [each use and following] any activity [when] <u>where</u> contamination may have occurred. | One food contact surface not washed[.], rinsed or sanitized after any activity [when] <u>where</u> contamination may have occurred. Example: Meat slicer <u>blade</u> encrusted with old food debris. | Two food contact surfaces not washed, rinsed or sanitized after any activity [when] <u>where</u> contamination may have occurred. Example: Meat slicer <u>blade</u> and cutting board encrusted with old food debris. | Three food contact surfaces not properly washed, rinsed or sanitized after any activity [when] <u>where</u> contamination may have occurred. Example: Meat slicer <u>blade</u> , 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] <u>where</u> contamination may have occurred. Example: Meat slicer <u>blade</u> , wooden cutting board, can opener, and food preparation table encrusted with old food debris, and the interior of the ice machine [observed] <u>contaminated</u> with mold. | |
| 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. Example: <u>in-use ice scoop on top of ice machine.</u> | Two sanitized pieces of equipment or utensils improperly used or stored. Example: <u>in-use ice scoop on top of ice machine and knives stored between food preparation table and wall.</u> | Three sanitized pieces of equipment or utensils improperly used or stored. Example: <u>in-use ice scoop on top of ice machine; clean sanitized knives stored between food preparation table and wall; and in-use food utensils in container of water not heated to 135° F.</u> | Four or more sanitized pieces of equipment or utensils improperly used or stored. Example: <u>in-use ice scoop on top of ice machine; clean sanitized knives stored between food preparation table and wall, in-use food utensils in container of water not heated to 135° F; and clean and sanitized food tags stored in cash register.</u> | |

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| 6F | Wiping cloths soiled or not stored in sanitizing solution; or <u>inadequately sanitized.</u> | [Two or more] <u>Wiping cloth soiled or not stored in sanitizing solution; or inadequately sanitized.</u> <u>Example: one</u> wiping [cloths] <u>cloth</u> 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 contaminants from] <u>ensure proper sanitization of</u> wiping cloths. | [Two] <u>Wiping cloths soiled or not stored in sanitizing solution; or inadequately sanitized.</u> <u>Example: one</u> 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] <u>Wiping cloths soiled and not stored in sanitizing solution and inadequately sanitized.</u> <u>Example: two</u> or more wiping cloths used to clean food contact surfaces are not stored in sanitizing solutions, <u>and</u> the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths <u>is either</u> not provided [and] <u>or the</u> sanitizer solution <u>is</u> not at appropriate level to [effectively remove contaminants from] <u>ensure proper sanitization of</u> 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 <u>approved</u> HACCP plan has been properly implemented. | | | | | Record and logs not maintained to show <u>approved</u> HACCP plan has been properly implemented. Inspector must call office to discuss corrective action or other enforcement measures. |

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FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS - A GUIDE TO CONDITIONS

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|----|--|--|--|--|--|---|
| 6I | [Food] <u>ROP TCS food</u> not labeled in accordance with <u>approved HACCP plan</u> . | | | | [Food] <u>ROP TCS food</u> not labeled in accordance with <u>approved HACCP plan</u> . | Inspector must call office to discuss corrective action or other enforcement measures. |
| 6J | <u>Commissary or other approved facility maintains no or incomplete records of mobile food vending units serviced.</u> | | | | | <u>No or incomplete records kept. Inspector must call office to discuss corrective action.</u> |
| 7A | Duties of an officer of the department interfered with or obstructed. | | | | | Duties of an officer of the department interfered with or obstructed. <u>Inspector must call office to discuss closing or other enforcement measures.</u> |

Explanatory Note: With respect to violations 4K, 4L, 4M, and 4N, when different types of pests are observed and cited, the violation category with the highest condition level, regardless of the type of pest will form the basis for calculating the condition level and points. For example, if condition level I of rats (4K) and condition level III of flies (4N) are observed, seven points at condition level III will be assessed as a pest violation. However, when the Department determines that the combined conditions (pests and harborage) constitute an imminent health hazard, as defined in NYC Health Code §81.03, the violation shall be scored at the highest condition level (V).

| | Violation | Condition I | Condition II | Condition III | Condition IV | Condition V |
|--|-----------|-------------|--------------|---------------|--------------|-------------|
|--|-----------|-------------|--------------|---------------|--------------|-------------|

General Violations

| | | | | | | |
|----|--|--|--|--|--|--|
| 8A | [Facility not vermin proof.] Harborage or conditions conducive to attracting [vermin] <u>pests</u> to the premises and/or allowing [vermin] <u>pests</u> to exist <u>when pests or signs of pests are present.</u> | | | 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 <u>when pests or signs of pests are present.</u> | 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 <u>when pests or signs of pest are present.</u> | |
|----|--|--|--|--|--|--|

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| 8B | <p>[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.] <u>Garbage receptacles not pest or water resistant; or not covered with tight fitting lids, except while in active use. Garbage receptacles not cleaned after emptying and prior to reuse.</u></p> | <p>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. <u>Garbage can uncovered when not in active use. Garbage can not pest or water resistant. Cans and covers not cleaned after emptying and before reuse.</u></p> | <p>[Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for 32-gallon garbage can used to put garbage out overnight and garbage grinder can encrusted with old food.]</p> | <p>[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.]</p> | <p>[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.]</p> | |
| 8C | <p>Pesticide use not in accordance with label or applicable laws. [Prohibited chemical used/stored. Open bait station used.] <u>Pesticides, other toxic chemicals improperly used/stored. Unprotected, unlocked bait station used.</u></p> | <p>One prohibited pesticide, chemical or bait station <u>in establishment or not used in accordance with label or applicable laws.</u></p> | <p>Two types of prohibited pesticides, chemicals or bait stations <u>in establishment or not used in accordance with label or applicable laws.</u></p> | <p>Three types of prohibited pesticides, chemicals or bait stations <u>in establishment or not used in accordance with label or applicable laws.</u></p> | <p>Four or more types of prohibited pesticides, chemicals or bait stations <u>in establishment or not used in accordance with label or applicable laws.</u></p> | <p>Failure to correct. Inspector must call office to discuss enforcement measures.</p> |
| 9A | <p>[Canned food product dented and] <u>Cans of food with dented body damage not segregated from [consumable food] other cans for return to distributor.</u></p> | <p>1-6 cans dented Example: one dented can of tomato paste stored on food storage shelf not segregated.</p> | <p>7-12 cans dented. Example: seven dented cans of tomato paste stored on food storage shelf not segregated.</p> | <p>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.</p> | <p>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.</p> | |

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| 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, beefsteak, 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 [item] <u>items</u> 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] <u>chipped, cracked, worn or in a condition where it cannot be</u> 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. | |
| 9D | <u>Food service operation occurring in room or area used as living or sleeping quarters.</u> | <u>Food service operation occurring in one room used as living or sleeping quarters.</u> | <u>Food service operation occurring in two rooms used as living or sleeping quarters.</u> | <u>Food service operation occurring in three rooms used as living or sleeping quarters.</u> | <u>Food service operation occurring in four or more rooms used as living or sleeping quarters.</u> | |
| 9E | <u>"Wash hands" sign not posted at hand wash facility.</u> | <u>"Wash hands" sign not posted at hand wash facility.</u> | | | | |
| 10A | Toilet facility not maintained [and] or <u>not</u> provided with toilet paper, waste receptacle [and] or <u>or</u> self-closing door. | One toilet facility not maintained [and] or <u>not</u> provided with toilet paper, waste receptacle [and] or <u>or</u> self-closing door. | Two toilet facilities not maintained [and] or <u>not</u> provided with toilet paper, waste receptacle [and] or <u>or</u> a self-closing door. | Three toilet facilities not maintained [and] or <u>not</u> provided with toilet paper, waste receptacle [and] or <u>or</u> a self-closing door. | Four or more toilet facilities not maintained [and] or <u>not</u> provided with toilet paper, waste receptacle [and] or <u>or</u> a self-closing door. | |

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| 10B | <p>Plumbing not properly installed or maintained; [anti-siphonage or backflow] <u>back-siphonage or back-flow</u> prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly. <u>Condensation or liquid waste improperly disposed of.</u></p> | <p>One [backflow] <u>back-flow</u> prevention device not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into a bucket.</p> | <p>Two [backflow] <u>back-flow</u> prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation drained into a bucket and air conditioner draining onto sidewalk.</p> | <p>Three [backflow] <u>back-flow</u> 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.</p> | <p>Four or more [backflow] <u>back-flow</u> 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.</p> | <p>[Sewage disposal system in disrepair or not functioning properly, 5A also cited] <u>Five or more back-flow prevention devices not installed or equipment or floor not properly drained.</u> Example: <u>refrigerator condensation draining into bucket, two air conditioners draining onto sidewalk, no vacuum breaker provided on the hose connected to a faucet and no vacuum breaker provided on the hose connected to an ice machine.</u></p> |
| 10C | <p>Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.</p> | <p>One instance of inadequate lighting. <u>Example: lighting at work surface of food preparation table is 323 lux.</u></p> | <p>Two instances of inadequate lighting. <u>Example: lighting at food prep table work surface is 323 lux, and 108 lux under self-service buffet sneeze guard.</u></p> | <p>Three instances of inadequate lighting. <u>Example: lighting at food prep table work surface is 323 lux, 108 lux under self-service buffet sneeze guard and 54 lux in reach-in refrigerator.</u></p> | <p>Four or more instances of inadequate lighting. <u>Example: lighting at food prep table work surface is 323 lux, 108 lux under self-service buffet sneeze guard, 54 lux in reach-in refrigerator and 70 lux in dry storage area.</u></p> | |
| 10D | <p>Mechanical or natural ventilation system not provided, improperly installed, in disrepair and/or fails to prevent excessive build-up of grease, heat, steam condensation vapors, odors, smoke, and fumes.</p> | <p>One mechanical or natural ventilation system not provided or inadequate. Example: no ventilation provided in bathroom.</p> | <p>Two mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided in bathroom and exhaust hood not sufficient to remove excess fumes in kitchen.</p> | <p>Three mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided in bathroom, exhaust hood not sufficient to remove excess fumes in kitchen and grease collecting on walls.</p> | <p>Four mechanical or natural ventilation systems not provided or inadequate. 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.</p> | |

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| 10E | Accurate thermometer not provided <u>or not properly located</u> 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] <u>unit</u> . | 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] <u>unit</u> . | 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] <u>unit</u> . | 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] <u>unit</u> . | |
| 10F | [Non-food contact surface improperly constructed. Unacceptable material used.] Non-food contact surface or equipment improperly maintained [and/or] <u>or made of unacceptable material, not kept clean or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath [the unit] equipment or other structures.</u> | One non-food contact surface [improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or] <u>or piece of equipment made of unacceptable material, not kept clean or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the [unit] equipment or other structures.</u> Example: wall in food preparation area made of material not easily cleaned. | Two non-food contact surfaces [improperly constructed. Unacceptable material used. Non-food contact surfaces or equipment improperly maintained and/or] <u>or pieces of equipment made of unacceptable material, not kept clean or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the [unit] equipment or other structures.</u> Example: wall in food preparation area made of material not easily cleaned and build-up of grease on the wall adjacent to permanently installed convection oven which is not easily moveable or properly spaced to allow cleaning. | Three non-food contact surfaces [improperly constructed. Unacceptable material used. Non-food contact surfaces or equipment improperly maintained and/or] <u>or pieces of equipment made of unacceptable material, not kept clean or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the [unit] equipment or other structures.</u> Example: wall in food preparation area made of material not easily cleaned, build-up of grease [on] the wall adjacent to permanently installed convection oven which is not easily moveable or properly spaced to allow cleaning, <u>and</u> dried encrusted grease and old food debris under the walk-in refrigerator which is not properly sealed to the floor. | Four non-food contact surfaces [improperly constructed. Unacceptable material used. Non-food contact surfaces or equipment improperly maintained and/or] <u>or pieces of equipment made of unacceptable material, not kept clean or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the [unit] equipment or other structures.</u> 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 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. | |

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| [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] 10G | Proper sanitization not used or provided for utensil ware washing operation. <u>No test kit.</u> | [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)] <u>Sanitization inadequate for mechanical or manual warewashing.</u> | |
| [10I] 10H | Single service item reused, [improperly] <u>not protected from contamination when transported, stored, dispensed</u> ; not used when required. | [Single] <u>One type of single service item</u> reused, [improperly] <u>not protected from contamination when transported, stored, dispensed</u> or not used when required. Example: drinking straws not protected from contamination. | [Single] <u>Two types of single service [item] items</u> reused, [improperly] <u>not protected from contamination when transported, stored, dispensed</u> or not used when required. Example: drinking straws not properly dispensed and paper plates not protected from contamination. | [Single] <u>Three types of single service [item] items</u> reused, [improperly] <u>not protected from contamination when transported, stored, dispensed, not used</u> when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination and forks not protected from contamination. | [Single] <u>Four or more types of single service [item] items</u> reused, [improperly] <u>not protected from contamination when transported, stored, dispensed, not used</u> when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination, 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.] | - | - | - | |
| [10L] | [Toilet facility used by women does not have at least one covered garbage receptacle.] | [Toilet facilities used by women do not have at least one covered garbage receptacle.] | - | - | - | |

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|-------|---|--|---|--|--|--|
| [10M] | [Bulb not shielded or shatterproof, in areas where there is extreme heat, temperature changes or where accidental contact may occur.] | [One instance of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator.] | [Two instances of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator and unshielded bulb above the self-service buffet.] | [Three instances of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator, unshielded bulbs under ventilation hood, and heat lamp above the sliced roast beef in the service area not shatterproof.] | [Four or more instances of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator, unshielded bulbs under ventilation hood, heat lamp above the roast in the service area not shatterproof, and unshielded bulbs at salad bar.] | |
| [99B] | [General other.] | | | | | |

Note: When examples are provided to illustrate the kinds of violations included in a condition level, the examples are not intended to cover all the possible violations of the applicable Health Code or other law cited. These examples are only intended to help establishment operators to determine the extent of their violations.

APPENDIX 23-C FOOD SERVICE ESTABLISHMENT AND NON-RETAIL FOOD PROCESSING ESTABLISHMENT PENALTY SCHEDULE

SCORED VIOLATIONS

| VIOLATION CODE | CITATION | CATEGORY | VIOLATION DESCRIPTION | VIOLATION PENALTY CONDITION I* | VIOLATION PENALTY CONDITION II* | VIOLATION PENALTY CONDITION III* | VIOLATION PENALTY CONDITION IV* | VIOLATION PENALTY CONDITION V* |
|-----------------------|--------------------------|-----------------------------|--|---------------------------------------|--|---|--|---------------------------------------|
| <u>02A</u> | <u>NYCHC 81.09(c)</u> | <u>Public Health Hazard</u> | <u>Time and temperature control for safety ("TCS") hot food not heated to 140°F for 15 seconds</u> | | | | <u>\$400</u> | <u>\$600</u> |
| 02A | NYCHC 81.09(c)(1) | Public Health Hazard | Poultry, poultry stuffing, <u>parts and ground, comminuted poultry</u> not heated to 165°F for 15 seconds | | | | \$400 | \$600 |
| 02A | NYCHC 81.09(c)(2) | Public Health Hazard | Pork/food containing pork not heated to 150°F for 15 seconds | | | | \$400 | \$600 |
| 02A | NYCHC 81.09(c)(3) | Public Health Hazard | Rare roast beef/steak not heated to minimum time/temperature | | | | \$400 | \$600 |
| 02A | NYCHC 81.09(c)(4) | Public Health Hazard | <u>Ground, comminuted meat, foods containing ground, comminuted meat</u> not heated to 158°F | | | | \$400 | \$600 |
| 02A | NYCHC 81.09(c)(5) | Public Health Hazard | Stuffed meats, fish, ratites and tenderized meats not heated to 165°F for 15 seconds; <u>injected, mechanically tenderized meats</u> not heated to 155°F | | | | \$400 | \$600 |
| 02A | NYCHC 81.09(c)(6) | Public Health Hazard | Shell eggs/food containing shell eggs not heated 145°F for 15 seconds | | | | \$400 | \$600 |
| [02A] | [NYCHC 81.09(c)] | [Public Health Hazard] | [Other potentially hazardous hot food not heated to 140°F for 15 seconds] | | | | [400] | [\$600] |
| <u>02A</u> | <u>NYCHC 81.09(c)(7)</u> | <u>Public Health Hazard</u> | <u>Raw animal food cooked in microwave not heated to 165°F, not covered, rotated or stirred, not held for 2 minutes</u> | | | | <u>\$400</u> | <u>\$600</u> |
| 02B | NYCHC 81.09(a) | Public Health Hazard | Hot [potentially hazardous] <u>TCS</u> food not held at 140°F or above | | | | \$250 | \$300 |

| | | | | | | | | |
|-------|---------------------|------------------------|--|---------|---------|---------|---------|---------|
| 02C | NYCHC 81.09(d) | CRITICAL | Previously [heated and cooled potentially hazardous hot] <u>cooked and cooled TCS</u> food not reheated to 165°F for 15 seconds within 2 hours | \$200 | \$200 | \$250 | \$300 | |
| 02D | NYCHC 81.09(d)(2) | CRITICAL | Commercially processed [potentially hazardous] <u>TCS</u> food not heated to 140°F within 2 hours | \$200 | \$200 | \$250 | \$300 | |
| 02E | NYCHC 81.09(f)(5) | CRITICAL | Whole frozen poultry or poultry breast, other than a single portion, cooked frozen or partially thawed | \$200 | \$200 | | | |
| 02F | NYCHC 81.11 | CRITICAL | Meat, fish, or shellfish <u>offered, served raw</u> or partially cooked <u>with no written consumer advisory</u> | \$200 | | | [\$300] | |
| 02G | NYCHC 81.09(a) | Public Health Hazard | Cold [potentially hazardous] <u>TCS</u> food not held at 41°F or below | \$250 | \$300 | \$350 | \$400 | \$600 |
| 02G | NYCHC 81.09(a)(3) | Public Health Hazard | Processed or smoked fish not held at or below 38°F | \$250 | \$300 | \$350 | \$400 | \$600 |
| 02G | NYCHC 81.09(a)(2) | Public Health Hazard | Eggs not held at ambient temperature of 45°F or below | \$250 | \$300 | \$350 | \$400 | \$600 |
| 02G | NYCHC 81.12(d)(2) | Public Health Hazard | Reduced oxygen packaged raw <u>TCS</u> foods not held at proper temperatures | \$250 | \$300 | \$350 | \$400 | \$600 |
| [02G] | [NYCHC 81.12(d)(4)] | [Public Health Hazard] | [Reduced oxygen packaged cold foods not held at proper temperatures] | [\$250] | [\$300] | [\$350] | [\$400] | [\$600] |
| 02G | NYCHC 81.12(d)(4) | Public Health Hazard | Reduced oxygen packaged <u>TCS</u> foods not held at proper temperatures | \$250 | \$300 | \$350 | \$400 | \$600 |
| 02H | NYCHC 81.09(e) | Public Health Hazard | [Potentially hazardous] <u>TCS</u> food not cooled by approved method | \$250 | \$300 | \$350 | \$400 | \$600 |
| 02I | NYCHC 81.09(e)(2) | CRITICAL | [Potentially hazardous] <u>TCS</u> food not cooled to 41°F when prepared from ambient temperature ingredients within 4 hours | \$200 | \$200 | \$250 | \$300 | |
| 02J | NYCHC 81.12(d)(4) | Public Health Hazard | Reduced oxygen packaged <u>TCS</u> foods not properly cooled | \$250 | \$300 | \$350 | \$400 | \$600 |
| 03A | NYCHC 81.04 | Public Health Hazard | Food [not] from [an approved] <u>unapproved or unknown source, or home cooked</u> | | | | \$400 | \$600 |

| | | | | | | | | |
|------------|-----------------------|-----------------------------|--|-------|-------|-------|--------------|--------------|
| 03A | NYCHC 81.12(c) | Public Health Hazard | Reduced oxygen packaged foods not from an approved source | | | | \$400 | \$600 |
| 03A | NYCHC 81.12(e) | Public Health Hazard | Reduced oxygen [packaging] <u>packaged</u> fish not frozen before processing | | | | \$400 | \$600 |
| 03A | NYCHC 81.04(b) | Public Health Hazard | Meat not from an approved source | | | | \$400 | \$600 |
| <u>03A</u> | <u>NYCHC 81.04(d)</u> | <u>Public Health Hazard</u> | <u>Exotic and game animals' meat not from an approved source</u> | | | | <u>\$400</u> | <u>\$600</u> |
| <u>03A</u> | <u>NYCHC 81.07(m)</u> | <u>Public Health Hazard</u> | <u>Animal slaughter in establishment</u> | | | | <u>\$400</u> | <u>\$600</u> |
| 03B | NYCHC 81.04(c) | Public Health Hazard | Shellfish not from an approved source | | | | \$400 | \$600 |
| 03B | NYCHC 81.04(c) | Public Health Hazard | Shellfish improperly tagged or labeled | | | | \$400 | \$600 |
| 03B | NYCHC 81.04(c) | Public Health Hazard | Shellfish required tags not retained at least 90 days | | | | \$400 | \$600 |
| 03B | NYCHC 81.04(c) | Public Health Hazard | [Wholesale shellfish] <u>Shellfish</u> records not on premises | | | | \$400 | \$600 |
| 03C | NYCHC 81.07(c) | Public Health Hazard | [Eggs] <u>Whole eggs</u> cracked, [dirty or] <u>not clean</u> ; <u>other eggs</u> unpasteurized | \$250 | \$300 | \$350 | \$400 | \$600 |
| 03D | NYCHC 81.07(b) | Public Health Hazard | Food packages [damaged; cans of], <u>hermetically sealed containers, or canned food swollen, leaking and/or rusted; not labeled; not segregated from intact cans</u> | \$250 | \$300 | \$350 | \$400 | \$600 |
| 03E | NYCHC 81.20(a) | Public Health Hazard | Potable water not provided; inadequate | | | | \$400 | \$600 |
| 03E | NYCHC 141.13 | Public Health Hazard | Bottled water not from an approved source; <u>not state certified</u> | | | | \$250 | \$250 |
| 03E | NYCHC 81.20(a) | Public Health Hazard | Cross-connection observed between potable and non-potable water | | | | \$400 | \$600 |
| 03E | NYCHC 81.20(c) | Public Health Hazard | Carbon dioxide gas lines unacceptable, improper materials used | | | | \$400 | \$600 |

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|-----|-------------------|----------------------|---|-------|-------|-------|-------|-------|
| 03F | NYCHC 81.07(k) | Public Health Hazard | Unpasteurized milk and milk products (except aged cheese) served | | | | \$400 | \$600 |
| 03G | NYCHC 81.07(a)(4) | CRITICAL | [Fruits] Raw fruits and vegetables not washed prior to <u>cutting</u> , serving | \$200 | \$200 | \$250 | \$300 | |
| 03I | NYCHC 81.04(e) | Public Health Hazard | Juice packaged on premises with no or incomplete label, no warning statement | | | | \$400 | \$600 |
| 04A | NYCHC 81.15(a) | CRITICAL | Food Protection Certificate not held by supervisor or manager of food operations | | | | | \$600 |
| 04B | NYCHC 81.13(a) | Public Health Hazard | Food worker spitting in establishment | | | | \$400 | \$600 |
| 04B | NYCHC 81.13(a) | Public Health Hazard | Food worker with illness, communicable disease and/or injury preparing food | | | | \$400 | \$600 |
| 04C | NYCHC 81.07(j) | Public Health Hazard | Bare hand contact with ready-to-eat food | \$250 | \$300 | \$350 | \$400 | \$600 |
| 04D | NYCHC 81.13(d) | Public Health Hazard | Food worker failed to wash hands after contamination; <u>or change gloves when required</u> | | | | \$400 | \$600 |
| 04E | NYCHC 81.23(d)(3) | Public Health Hazard | Pesticides not properly [used; food, equipment, utensils, etc., not protected from pesticide contamination] <u>labeled, stored or used such that food contamination may occur</u> | \$250 | \$300 | \$350 | \$400 | \$600 |
| 04E | NYCHC 81.17(g) | Public Health Hazard | Toxic chemicals not properly labeled, stored or used such that food contamination may occur | \$250 | \$300 | \$350 | \$400 | \$600 |
| 04F | NYCHC 81.20(b) | Public Health Hazard | [Sewage and liquid waste not properly disposed of] <u>Food preparation, food storage, or other area contaminated by sewage or liquid waste</u> | | | | \$400 | \$600 |
| 04G | NYCHC 81.07(l) | Public Health Hazard | Unprotected [potentially hazardous] <u>TCS</u> food re-served | | | | \$400 | \$600 |
| 04H | NYCHC 81.07(a)(2) | Public Health Hazard | Food not protected from cross-contamination | \$250 | \$300 | \$350 | \$400 | \$600 |

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|-----|-----------------------|-----------------------------|--|--|-------|-------|---------|-------|
| 04H | NYCHC 81.07(a) | Public Health Hazard | Food in contact with toxic material | \$250 | \$300 | \$350 | \$400 | \$600 |
| 04H | NYCHC 81.07(a) | Public Health Hazard | Food not protected from adulteration or contamination | \$250 | \$300 | \$350 | \$400 | \$600 |
| 04H | NYCHC 81.06(b)(3) | Public Health Hazard | Food not discarded in accordance with HACCP plan | \$250 | \$300 | \$350 | \$400 | \$600 |
| 04I | NYCHC 81.07(l) | CRITICAL | [Food other than in sealed packages] <u>Unprotected non-TCS food re-served</u> | \$200 | \$200 | \$250 | \$300 | |
| 04J | NYCHC 81.09(g) | CRITICAL | Thermometer not provided, calibrated properly, <u>or</u> accessible for use [and/or inadequate] | \$200 | | | [\$300] | |
| 04J | NYCHC 81.12(g)(1) | CRITICAL | Thermocouple not provided <u>for ROP TCS foods</u> | \$200 | | | [\$300] | |
| 04K | NYCHC 81.23(a) | CRITICAL | [Evidence of rats] <u>Rats or evidence of rats</u> | \$200 | \$200 | \$250 | \$300 | \$350 |
| 04L | NYCHC 81.23(a) | CRITICAL | [Evidence of mice] <u>Mice or evidence of mice</u> | \$200 | \$200 | \$250 | \$300 | \$350 |
| 04M | NYCHC 81.23(a) | CRITICAL | [Evidence of] <u>Live roaches</u> | \$200 | \$200 | \$250 | \$300 | \$350 |
| 04N | NYCHC 81.23(a) | CRITICAL | Filth <u>or FRSA flies, other nuisance pests</u> | \$200 | \$200 | \$250 | \$300 | \$350 |
| 04O | NYCHC 81.25 | CRITICAL | Live animal other than fish in tank or service animal | \$200 | \$200 | \$250 | \$300 | \$350 |
| 04P | <u>SSC 14-1.89(a)</u> | <u>Public Health Hazard</u> | <u>Non-food grade liquid nitrogen, dry ice added to food</u> | <u>Condition levels are not applicable. Penalty is \$250 for first violation and \$500 for each subsequent violation</u> | | | | |
| 04P | <u>SSC 14-1.89(d)</u> | <u>Public Health Hazard</u> | <u>Dry ice "smoke" or liquid nitrogen "fog" effect remains at time of service</u> | | | | | |
| 04P | <u>NYCHC 71.05</u> | <u>Public Health Hazard</u> | <u>Food held, kept, prepared, processed, packaged or served with prohibited substance</u> | | | | \$400 | \$600 |
| 05A | NYCHC 81.20(b) | Public Health Hazard | Sewage disposal system [improper] <u>not provided, inadequate</u> or unapproved | | | | \$400 | \$600 |
| 05B | NYCHC 81.19(c) | Public Health Hazard | Harmful noxious gas or vapor detected; CO levels at or exceeding 9 ppm | | | | \$400 | \$600 |
| 05C | NYCHC 81.17(d) | CRITICAL | Food contact surface, <u>equipment</u> improperly constructed, located and/or made of unacceptable materials | \$200 | \$200 | \$250 | \$300 | \$350 |

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|------------|-----------------------|-----------------|--|-------|-------|-------|-------|--------------|--------------|
| 05C | NYCHC 81.07(a)(1) | CRITICAL | Culinary sink or alternative method not provided for washing food | \$200 | \$200 | \$250 | \$300 | \$350 | |
| 05D | NYCHC 81.21(a) | CRITICAL | Hand [washing] <u>wash</u> facilities not provided or not located where required | | | | | \$300 | \$350 |
| 05D | NYCHC 81.21(a)(1) | CRITICAL | Hand [washing] <u>wash</u> facilities not provided within 25 feet of food preparation, <u>food service</u> area or ware washing area | | | | | \$300 | \$350 |
| 05D | NYCHC 81.21(a) | CRITICAL | Hand wash facility not provided with potable running water, or properly equipped | | | | | \$300 | \$350 |
| 05D | NYCHC 81.21(b) | CRITICAL | Hand wash facility [inadequate] <u>without soap, drying device</u> | | | | | \$300 | \$350 |
| 05E | NYCHC 81.22(a) | CRITICAL | Toilet facilities not provided for employees | | | | | \$300 | \$350 |
| 05E | NYCHC 81.22(b) | CRITICAL | Toilet facilities not provided for patrons | | | | | \$300 | \$350 |
| 05E | NYCHC 81.22(d) | CRITICAL | Shared patron/employee toilet accessed through kitchen, food prep or storage <u>or utensil washing area</u> | | | | | \$300 | \$350 |
| 05F | NYCHC 81.18 | CRITICAL | Hot or cold holding equipment not provided or inadequate | | | | | \$300 | \$350 |
| <u>05F</u> | <u>NYCHC 81.18</u> | <u>CRITICAL</u> | <u>Outdoor refrigerator not locked, secure</u> | | | | | \$300 | <u>\$350</u> |
| 05G | NYCHC 89.27(c) | CRITICAL | Enclosed service area not provided, equipped in mobile food vending commissary | | | | | \$300 | \$350 |
| <u>05G</u> | <u>NYCHC 89.27(d)</u> | <u>CRITICAL</u> | <u>Mobile food vending units cleaned or serviced on street or sidewalk outside commissary</u> | | | | | \$300 | \$350 |
| 05H | NYCHC 81.29 | CRITICAL | Manual or mechanical tableware, utensil and/or ware washing facilities not provided | | | | | \$300 | \$350 |
| <u>05H</u> | <u>NYCHC 81.46</u> | <u>CRITICAL</u> | <u>No approved SOP for refillable consumer containers</u> | | | | | <u>\$300</u> | <u>\$350</u> |
| 05I | NYCHC 81.12(d)(5) | CRITICAL | Refrigeration unit <u>used for ROP foods</u> not equipped with an electronic system | | | | | \$300 | \$350 |

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|------------|-----------------------|-----------------|---|--------------|--------------|--------------|--------------|----------|----------|
| 06A | NYCHC 81.13 | CRITICAL | Food worker does not maintain personal cleanliness | \$200 | <u>\$200</u> | <u>\$250</u> | \$300 | [\$350] | |
| 06A | NYCHC 81.13(e) | CRITICAL | Fingernails not clean, trimmed, or with nail polish | \$200 | \$200 | \$250 | \$300 | | |
| 06A | NYCHC 81.13(c) | CRITICAL | Clean outer garment not worn | \$200 | \$200 | \$250 | \$300 | | |
| 06A | NYCHC 81.13(b) | CRITICAL | Effective hair restraint not worn | \$200 | \$200 | \$250 | \$300 | | |
| <u>06A</u> | <u>NYCHC 81.13(f)</u> | <u>CRITICAL</u> | <u>Jewelry worn on arm(s) or hand(s)</u> | <u>\$200</u> | <u>\$200</u> | <u>\$250</u> | <u>\$300</u> | | |
| 06B | NYCHC 81.13(h) | CRITICAL | Eating, drinking in food preparation or [service] other areas | \$200 | \$200 | \$250 | \$300 | | |
| 06B | NYCHC 81.13(g) | CRITICAL | Smoking tobacco, using electronic cigarette or other substance in establishment | \$200 | \$200 | \$250 | \$300 | | |
| 06C | NYCHC 81.07(a) | CRITICAL | Food not protected from contamination | \$200 | \$200 | \$250 | \$300 | | |
| 06C | NYCHC 81.07(q) | CRITICAL | Unnecessary traffic through food prep area | \$200 | \$200 | \$250 | \$300 | | |
| 06C | NYCHC 81.07(d) | CRITICAL | Food not properly protected when stored | \$200 | \$200 | \$250 | \$300 | | |
| 06C | NYCHC 81.07(e) | CRITICAL | Food not properly protected when displayed | \$200 | \$200 | \$250 | \$300 | | |
| [06C] | [NYCHC 81.07(e)] | [CRITICAL] | [Supplies and equipment placed under overhead sewage pipe] | [\$200] | [\$200] | [\$250] | [\$300] | | |
| 06C | NYCHC 81.07(f) | CRITICAL | Condiments for self service not properly dispensed | \$200 | \$200 | \$250 | \$300 | | |
| [06C] | [NYCHC 81.31] | [CRITICAL] | [Cooking by FSE on street, sidewalk, except as authorized by Articles 88, 89] | | | | | | [\$350] |
| <u>06C</u> | <u>NYCHC 81.07(i)</u> | <u>CRITICAL</u> | <u>Supplies and equipment under or near source of contamination</u> | <u>\$200</u> | <u>\$200</u> | <u>\$250</u> | <u>\$300</u> | | |
| 06D | NYCHC 81.27(b) | CRITICAL | Food contact surface not [sanitized; and/or not clean to sight and/or touch] washed, rinsed and sanitized when required | \$200 | \$200 | \$250 | \$300 | | |
| [06D] | [NYCHC 81.27(b)] | [CRITICAL] | [Equipment with food contact surfaces not clean and sanitized] | [\$200] | [\$200] | [\$250] | [\$300] | | |
| 06E | NYCHC 81.07(h) | CRITICAL | In-use food dispensing utensil not properly stored | \$200 | \$200 | \$250 | \$300 | | |
| 06E | NYCHC 81.07(g) | CRITICAL | Ice not properly dispensed | \$200 | \$200 | \$250 | \$300 | | |

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|-------|--------------------------|----------------------|---|--------------|--------------|--------------|---------|--------------|
| 06E | NYCHC 81.07(h) | CRITICAL | Food dispensing utensil not provided | \$200 | \$200 | \$250 | \$300 | |
| 06F | NYCHC 81.27(c) | CRITICAL | Wiping cloth improperly stored and/or sanitized | \$200 | \$200 | \$200 | | |
| 06F | <u>SSC 14-1.112(c)</u> | <u>CRITICAL</u> | <u>No test kit for measuring sanitizing solution concentration</u> | <u>\$200</u> | <u>\$200</u> | <u>\$200</u> | | |
| 06G | NYCHC 81.06(b) [and (c)] | Public Health Hazard | [Approved] <u>No approved HACCP plan; approved HACCP plan not maintained on premises [or not approved]</u> | | | | \$400 | \$600 |
| 06H | NYCHC 81.06(b)(4) | CRITICAL | [Records] <u>HACCP records</u> and logs not maintained on site | | | | | \$350 |
| 06I | NYCHC 81.12(d)(6) | CRITICAL | [Food] <u>ROP TCS food</u> not labeled in accordance with the approved HACCP plan | | | | \$300 | \$350 |
| 06J | <u>NYCHC 89.27(b)</u> | <u>CRITICAL</u> | <u>Mobile food vending unit records incomplete or not maintained by commissary</u> | | | | | <u>\$350</u> |
| 07A | NYCHC 3.15(a) | CRITICAL | Obstruction of Department personnel | | | | | \$1,000 |
| 08A | NYCHC 81.23(a) | CRITICAL | [Conditions] <u>Harborage or conditions conducive to pests with pests, signs of pests</u> | | | \$200 | \$200 | |
| [08A] | [NYCHC 81.23(b)] | [GENERAL] | [Prevention and control measures not used for pest management] | | | [\$200] | [\$200] | |
| 08A | NYCHC 81.23(b)(3) | GENERAL | Door openings into the establishment from the outside not properly equipped <u>when pests or signs of pests present</u> | | | \$200 | \$200 | |
| [08A] | [NYCHC 81.23(b)(4)] | [GENERAL] | [Pest monitors incorrectly used] | | | [\$200] | [\$200] | |
| [08A] | [NYCHC 81.23(b)(2)] | [GENERAL] | [Contract with pest exterminator or record of pest extermination activities not kept on premises] | [\$200] | | [\$200] | [\$200] | |
| 08B | NYCHC 81.24(a) | GENERAL | Garbage [not properly removed or stored] <u>cans not pest or water resistant; not covered with tight-fitted lids</u> | \$200 | [\$200] | [\$200] | [\$200] | |
| 08B | NYCHC 81.24(c) | GENERAL | Garbage receptacles and covers not cleaned after emptying and prior to reuse | \$200 | \$200 | \$200 | \$200 | |

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|------------|-----------------------|----------------|--|--------------|--------------|-------|--------------|-------|
| 08C | NYCHC 81.23(d) | GENERAL | Pesticides not properly labeled, not authorized for use, or [improperly] used | \$200 | \$200 | \$200 | \$200 | \$200 |
| 08C | NYCHC 81.23(d)(4) | GENERAL | Open bait station [observed] <u>used</u> | \$200 | \$200 | \$200 | \$200 | \$200 |
| 08C | NYCHC 81.17(g) | GENERAL | Toxic materials not properly stored | \$200 | \$200 | \$200 | \$200 | \$200 |
| 09A | NYCHC 81.07(b) | GENERAL | [Canned observed dented and] <u>Dented food cans</u> not segregated from [other consumable foods] <u>intact packages</u> | \$200 | \$200 | \$200 | \$200 | |
| 09B | NYCHC 81.09(f) | GENERAL | Thawing procedures improper | \$200 | \$200 | \$200 | \$200 | |
| 09C | NYCHC 81.17(d)(1) | GENERAL | Food contact surface improperly constructed and maintained; not easily cleanable | \$200 | \$200 | \$200 | \$200 | |
| <u>09C</u> | <u>NYCHC 81.07(m)</u> | <u>GENERAL</u> | <u>Tank holding edible live fish, other aquatic animals not clean, free of debris, algae</u> | <u>\$200</u> | <u>\$200</u> | \$200 | <u>\$200</u> | |
| 09D | NYCHC 81.17(a)(2) | GENERAL | <u>Food processed, prepared, packed, or stored in a private home or apartment, or food service establishment rooms used as sleeping or living quarters</u> | <u>\$200</u> | <u>\$200</u> | \$200 | <u>\$200</u> | |
| 09E | NYCHC 81.21(c) | GENERAL | <u>Wash hands sign not posted</u> | <u>\$200</u> | | | | |
| 10A | NYCHC 81.22(c) | GENERAL | Toilet facility not properly maintained | \$200 | \$200 | \$200 | \$200 | |
| 10A | NYCHC 81.22(c) | GENERAL | Toilet facility not properly supplied | \$200 | \$200 | \$200 | \$200 | |
| 10A | SSC 14-1.142(a) | GENERAL | Toilet room not completely enclosed with self-closing door | \$200 | \$200 | \$200 | \$200 | |
| 10B | NYCHC 81.20(a) | GENERAL | Potable water not protected from [backflow, back siphonage] <u>back-flow, back-siphonage</u> or cross-connection | \$200 | \$200 | \$200 | \$200 | \$200 |
| 10B | NYCHC 81.20(b) | GENERAL | Improper disposal of sewage or liquid waste | \$200 | \$200 | \$200 | \$200 | \$200 |
| 10B | NYCHC 81.20(b) | GENERAL | Condensation pipes not properly installed or maintained | \$200 | \$200 | \$200 | \$200 | \$200 |
| 10C | NYCHC 81.19(a) | GENERAL | Lighting insufficient; inadequate | \$200 | \$200 | \$200 | \$200 | |
| 10D | NYCHC 81.19(c) | GENERAL | Ventilation (mechanical or natural) not provided or inadequate | \$200 | \$200 | \$200 | \$200 | |

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|------------------|--|-----------|--|---------|---------|---------|---------|
| 10E | NYCHC 81.18(a)(3) | GENERAL | [Thermometers] <u>Accurate thermometers not provided or not properly located</u> in cold storage and/or refrigerator unit | \$200 | \$200 | \$200 | \$200 |
| 10E | NYCHC 81.18(b)(1) | GENERAL | [Thermometers] <u>Accurate thermometers not provided or not properly located</u> in hot storage or holding unit | \$200 | \$200 | \$200 | \$200 |
| 10F | NYCHC 81.17(e)(1) | GENERAL | Flooring [improperly constructed and/or]; <u>unacceptable material used, not maintained or not clean</u> | \$200 | \$200 | \$200 | \$200 |
| 10F | NYCHC 81.17(e)(2) | GENERAL | Non-food contact surfaces (wall, ceiling, floors) [improperly constructed/maintained]; <u>unacceptable materials used: not maintained or not clean</u> | \$200 | \$200 | \$200 | \$200 |
| 10F | NYCHC 81.17(e)(3) | GENERAL | Non-food contact surface (<u>equipment, fixtures, decorative material, fans, etc.</u>) not [properly maintained or equipment not properly maintained] <u>clean or not in working order</u> | \$200 | \$200 | \$200 | \$200 |
| [10G] | [NYCHC 81.17(a)(2)] | [GENERAL] | [Food being processed, prepared, packed, or stored in a private home or apartment.] | [\$200] | [\$200] | [\$200] | [\$200] |
| [10H] <u>10G</u> | NYCHC 81.29(a) | GENERAL | Hot water manual ware washing inadequate | \$200 | \$200 | \$200 | \$200 |
| [10H] <u>10G</u> | NYCHC 81.29(a) | GENERAL | Manual chemical sanitizing procedure inadequate | \$200 | \$200 | \$200 | \$200 |
| [10H] <u>10G</u> | NYCHC 81.29(b)(1) | GENERAL | High temperature mechanical ware washing inadequate | \$200 | \$200 | \$200 | \$200 |
| [10H] <u>10G</u> | NYCHC 81.29(b)(2) | GENERAL | Mechanical chemical sanitizing procedure inadequate | \$200 | \$200 | \$200 | \$200 |
| [10H] <u>10G</u> | NYCHC [81.29(a)] <u>81.29(a)(3)(B)</u> | GENERAL | Test kit not accurate or used for manual dishwashing | \$200 | \$200 | \$200 | \$200 |

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|------------------|-------------------|-----------|--|---------|---------|---------|---------|--|---------|
| [10H] <u>10G</u> | NYCHC 81.29(b)(2) | GENERAL | Test kit not accurate or used for mechanical dishwashing | \$200 | \$200 | \$200 | \$200 | | |
| [10I] <u>10H</u> | NYCHC 81.07(o) | GENERAL | Single service items improperly stored or reused | \$200 | \$200 | \$200 | \$200 | | |
| [10I] <u>10H</u> | NYCHC 81.07(o) | GENERAL | Drinking straws improperly dispensed | \$200 | \$200 | \$200 | \$200 | | |
| [10J] | [NYCHC 81.21(c)] | [GENERAL] | [Wash hands sign not posted] | [\$200] | | | | | |
| [99B] | [Miscellaneous] | [GENERAL] | | [\$200] | [\$200] | [\$200] | [\$200] | | [\$200] |

CHAPTER 23-APPENDIX 23-C FOOD SERVICE ESTABLISHMENT AND NON-RETAIL FOOD PROCESSING ESTABLISHMENT PENALTY SCHEDULE

UNSCORED VIOLATIONS

| <u>VIOLATION CODE</u> | <u>CITATION</u> | <u>VIOLATION DESCRIPTION</u> | <u>APPEARANCE PENALTY*</u> | <u>DEFAULT PENALTY</u> |
|------------------------------|---------------------------------|---|--|-------------------------------------|
| <u>15-01</u> | <u>NYSPHL 1399-o</u> | <u>Smoking or electronic cigarette use allowed in prohibited area</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>15-05</u> | <u>Admin. Code 17-177(b)</u> | <u>Tobacco vending machine in public place other than tavern</u> | <u>\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-06</u> | <u>Admin. Code 17-177(c)(1)</u> | <u>Tobacco vending machine less than 25 feet from tavern entry</u> | <u>\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-07</u> | <u>Admin. Code 17-177(c)(1)</u> | <u>Tobacco vending machine not directly visible to premises owner</u> | <u>\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-08</u> | <u>Admin. Code 17-177(d)</u> | <u>Tobacco vending machine sign not durable or lacks required information</u> | <u>\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-09</u> | <u>Admin. Code 17-177(d)</u> | <u>Sign not posted on tobacco vending machine or not visible to the public</u> | <u>\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-13</u> | <u>Admin. Code 17-176(b)</u> | <u>Tobacco products distributed at less than basic cost</u> | <u>\$500 (1st violation); \$1,000 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-14</u> | <u>Admin. Code 17-176.1(b)</u> | <u>Selling discounted cigarettes</u> | <u>\$1,000 (1st violation); \$2,000 (2nd violation in 5 years); \$5,000 (3rd and subsequent violations in 5 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-15</u> | <u>Admin. Code 17-176.1(c)</u> | <u>Selling discounted tobacco products</u> | <u>\$1,000 (1st violation); \$2,000 (2nd violation in 5 years); \$5,000 (3rd and subsequent violations in 5 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-16</u> | <u>Admin. Code 17-176.1(d)</u> | <u>Selling cigarettes, other tobacco products, non-tobacco shisha below the price floor</u> | <u>\$1,000 (1st violation); \$2,000 (2nd violation in 5 years); \$5,000 (3rd and subsequent violation in 5 years)</u> | <u>Same as appearance penalties</u> |

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|--------------|---------------------------|--|---|-------------------------------------|
| <u>15-17</u> | <u>NYSPL 1399-cc(2)</u> | <u>Sale of tobacco products, herbal cigarettes, liquid nicotine, shisha, electronic cigarettes to underage individual</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-cc(2)</u> | <u>Failure to conspicuously post the required tobacco sign</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-cc(3)</u> | <u>Failure to obtain proper identification from purchaser</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-cc(5)</u> | <u>Failure to obtain proper identification from purchaser</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-cc(5)</u> | <u>Improper use of electronic transaction information</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-cc(7)</u> | <u>Failure to store tobacco products, herbal cigarettes behind a counter accessible only to store personnel or in a locked container</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-dd</u> | <u>Unlawful sale of tobacco products, herbal cigarettes, or electronic cigarettes in vending machines</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-ee (2)</u> | <u>Sale of tobacco products with a suspended or revoked retail dealer registration</u> | <u>\$2,500</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-gg</u> | <u>Unlawful out-of-package sales or minimum package size violation</u> | <u>\$1,000 (1st violation); \$1,500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-ll</u> | <u>Unlawful sale of bidis</u> | <u>\$500</u> | <u>Same as appearance penalties</u> |
| <u>15-17</u> | <u>NYSPL 1399-mm</u> | <u>Unlawful sale of gutka</u> | <u>\$500</u> | <u>Same as appearance penalties</u> |
| <u>15-21</u> | <u>Admin. Code 17-715</u> | <u>Flavored tobacco products sold, offered for sale</u> | <u>\$1,000 (1st violation; \$2,000 (2nd violation in 36 months); \$5,000 (3rd and subsequent violations in 36 months)</u> | <u>Same as appearance penalties</u> |
| <u>15-22</u> | <u>24 RCNY 28-06</u> | <u>No original labels of tobacco and non-tobacco smoking products currently sold, offered for sale</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-26</u> | <u>24 RCNY 10-11(b)</u> | <u>"No smoking" sign not posted at hotel entrance or elevators where ashtrays are placed</u> | <u>\$500</u> | <u>\$1,000</u> |

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| <u>15-27</u> | <u>24 RCNY 10-12(a)</u> | <u>Required signage not conspicuously posted.</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-28</u> | <u>24 RCNY 10-12(c)</u> | <u>Non-compliant signage</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>15-29</u> | <u>24RCNY 10-12(c)(iv)(D)</u> | <u>Smoking or electronic cigarette use signage lacks required warning</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-30</u> | <u>24 RCNY10-20(a)</u> | <u>Hookah equipment in Non-tobacco Hookah Establishment (NTHE) not cleaned, sanitized</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-31</u> | <u>24 RCNY 10-20(b)</u> | <u>New individually wrapped mouthpiece not provided to each NTHE hookah patron</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-32</u> | <u>24 RCNY 10-21(d)</u> | <u>Warning sign re dangers of hookah smoking not posted at street entrance to NTHE</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-33</u> | <u>24 RCNY 10-21(e)</u> | <u>Warning sign re: dangers of hookah smoking not posted in each room or area of NTHE where smoking is allowed</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-34</u> | <u>24 RCNY 13-04(a)</u> | <u>Retail dealer tobacco, non-tobacco age restriction signage not conspicuously posted</u> | <u>\$500</u> | <u>1,000</u> |
| <u>15-35</u> | <u>24 RCNY 13-04(a)</u> | <u>Retail dealer tobacco, non-tobacco age restriction signage non-compliant</u> | <u>\$500</u> | <u>1,000</u> |
| <u>15-35</u> | <u>24 RCNY 13-04(b)</u> | <u>Retail dealer cigarette tax stamp sign not posted conspicuously</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-35</u> | <u>24 RCNY 13-04(b)</u> | <u>Retail dealer cigarette tax stamp signage non-compliant</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-36</u> | <u>24 RCNY 10-21(g)</u> | <u>Sign prohibiting entry of persons under 21 not posted at public entrance(s) to NTHE</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>15-37</u> | <u>Admin. Code 17-504(f)</u> | <u>Workplace SFAA policy not prominently posted in workplace</u> | <u>\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalty</u> |

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| <u>15-38</u> | <u>Admin. Code 17-506(b)</u> | <u>Screen shot prohibiting smoking, electronic cigarette use not shown in motion picture theatre</u> | <u>\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalty</u> |
| <u>15-39</u> | <u>Admin. Code 17-506(d)</u> | <u>Ashtray in smoke-free area</u> | <u>\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalty</u> |
| <u>15-40</u> | <u>Admin. Code 17-506.1(b)(1)</u> | <u>Initial multiple dwelling smoking policy not distributed to tenants or posted by owner</u> | <u>\$100</u> | <u>Same as appearance penalty</u> |
| <u>15-41</u> | <u>Admin. Code 17-506.1(b)(7)</u> | <u>Multiple dwelling smoking policy not distributed to tenants or posted annually by owner</u> | <u>\$100</u> | <u>Same as appearance penalty</u> |
| <u>15-42</u> | <u>Admin. Code 17-508(b)</u> | <u>Failure to make a good faith effort to inform smokers or electronic cigarette users of Smoke-Free Air Act prohibitions</u> | <u>\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalty</u> |
| <u>15-47</u> | <u>24 RCNY 13-06(a)</u> | <u>"Minimum age" sign not posted; required information missing from sign</u> | <u>\$500</u> | <u>1,000</u> |
| <u>15-48</u> | <u>Admin. Code 17-703.1</u> | <u>Cigarette tax stamp sign not posted</u> | <u>\$500</u> | <u>1,000</u> |
| <u>15-49</u> | <u>Admin. Code 17-703.2</u> | <u>Sale of cigarette package without tax stamp</u> | <u>**\$2,000 (1st violation); \$5,000 (2nd and subsequent violations in 3 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-50</u> | <u>Admin. Code 17-704</u> | <u>Cigarettes, tobacco products sold in packages without health warning or not in minimum quantities</u> | <u>\$1,000 (1st violation), \$5,000 (2nd and subsequent violations in 3 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-51</u> | <u>Admin. Code 17-704(a)</u> | <u>Out of package sale of tobacco product(s)</u> | <u>**\$1,000 (1st violation), \$5,000 (2nd and subsequent violations in 3 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-52</u> | <u>Admin. Code 17-704(b)</u> | <u>Cigars priced at or below \$3.00 each sold in packages containing less than four cigars</u> | <u>\$1,000 (1st violation), \$2,000 (2nd and subsequent violations in 3 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-53</u> | <u>Admin. Code 17-704.1</u> | <u>Unlawful delivery of cigarettes, tobacco products or electronic cigarettes</u> | <u>\$1,000 (1st violation), \$2,000 (2nd and subsequent violations in 3 years)</u> | <u>Same as appearance penalties</u> |
| <u>15-54</u> | <u>Admin. Code 17-705</u> | <u>Employee under 18 years of age selling tobacco products without direct supervision of an adult retailer</u> | <u>**\$1,000(1st violation); \$2,000 (2nd and subsequent violations in 36 months)</u> | <u>Same as appearance penalties</u> |

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| <u>15-55</u> | <u>Admin. Code 17-706(a)</u> | <u>Sale of cigarettes, tobacco products, liquid nicotine to persons under 21 years of age</u> | <u>**\$1000 (1st); \$2,000 (2nd or subsequent in 36 months)</u> | <u>Same as appearance penalties</u> |
| <u>15-55</u> | <u>Admin. Code 17-706(a)</u> | <u>Sale of cigarettes, tobacco products, liquid nicotine, electronic cigarettes, or non-tobacco smoking products to persons under 21 years of age</u> | <u>**\$1,000(1st violation); \$2,000 (2nd and subsequent violations in 36 months)</u> | <u>Same as appearance penalties</u> |
| <u>15-55</u> | <u>Admin. Code 17-706(a-1)</u> | <u>Sale of electronic cigarettes to persons under 21 years of age</u> | <u>\$1000 (1st violation); \$2,000 (2nd and subsequent in 36 months)</u> | <u>Same as appearance penalties</u> |
| <u>15-55</u> | <u>Admin. Code 17-706(b)</u> | <u>Sale of non-tobacco smoking products to persons under 21 years of age</u> | <u>**\$1,000 (1st violation); \$2,000 (2nd and subsequent violations in 36 months)</u> | <u>Same as appearance penalties</u> |
| <u>15-56</u> | <u>Admin. Code 17-719(a)</u> | <u>Person under 21 years of age allowed entry to non-tobacco hookah establishment</u> | <u>\$200 (1st violation); \$500 (2nd and subsequent violations)</u> | <u>Same as appearance penalties</u> |
| <u>16-01</u> | <u>NYCHC 81.08(a)</u> | <u>Cooking oil, shortening or margarine contains 0.5 grams or more of artificial trans fat</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-02</u> | <u>NYCHC 81.08(c)</u> | <u>Nutritional fact labels and/or ingredient label is not maintained on site</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information is not posted on menu and menu board</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Total number of calories or total number of discrete calories not posted</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information not posted for standard menu items offered in different varieties</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information not posted for combination meals</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information not posted for toppings</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information font, appearance, term used improper</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information improperly posted for standard menu items offered in three or more combinations</u> | <u>\$200</u> | <u>\$400</u> |

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| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information for standard menu item offered in two different combinations not posted with a slash between both calorie counts</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information for standard menu items that come in two different varieties not posted with a slash between both calorie counts</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-03</u> | <u>NYCHC 81.50(c)</u> | <u>Calorie information improperly posted for standard menu items offered in three or more different varieties</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-04</u> | <u>NYCHC 81.50(d)</u> | <u>Required succinct nutritional statements not posted on menu(s) for adults and children</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-06</u> | <u>NYCHC 81.50(e)</u> | <u>Additional nutritional information statement not posted</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-06</u> | <u>NYCHC 81.50(e)</u> | <u>Written nutritional information not provided in a manner required by federal law</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-08</u> | <u>NYCHC 81.49(b)(1)</u> | <u>No sodium warning icon where required</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-09</u> | <u>NYCHC 81.49(b)(1)</u> | <u>Sodium warning icon non-compliant with design specifications</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-10</u> | <u>NYCHC 81.49(b)(2)</u> | <u>No sodium warning statement at point of purchase</u> | <u>\$200</u> | <u>\$400</u> |
| <u>16-11</u> | <u>Admin. Code 17-199.11(b)</u> | <u>Prohibited drink listed on children's meal menu</u> | <u>\$200</u> | <u>Same as appearance penalty</u> |
| <u>17-01</u> | <u>24 RCNY 32-03</u> | <u>"Dogs allowed" sign not posted at or near entrance</u> | <u>\$250</u> | <u>\$500</u> |
| <u>17-02</u> | <u>24 RCNY 32-03</u> | <u>"Dogs allowed" sign incomplete</u> | <u>\$250</u> | <u>\$500</u> |
| <u>17-03</u> | <u>24 RCNY 32-04(c)</u> | <u>Effective barrier not provided</u> | <u>\$250</u> | <u>\$500</u> |
| <u>18-01</u> | <u>NYCHC 81.05(a)</u> | <u>No current valid permit, registration, other authorization to operate establishment</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>18-02</u> | <u>NYCHC 88.05(c)</u> | <u>No current valid permit to operate temporary food service establishment</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>18-08</u> | <u>NYCHC 5.15</u> | <u>Permit not conspicuously displayed</u> | <u>\$200</u> | <u>\$400</u> |

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| <u>18-10</u> | <u>NYCHC 88.05(a)</u> | <u>Failure of temporary event sponsor to exclude vendor without current valid permit</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>18-11</u> | <u>NYCHC 81.15(b)</u> | <u>Food protection certificate not available for inspection</u> | <u>\$200</u> | <u>\$400</u> |
| <u>18-12</u> | <u>NYCHC 3.19</u> | <u>Department document unlawfully reproduced or altered</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>18-12</u> | <u>NYCHC 3.19</u> | <u>Submitting false, misleading statements, documents; documents unlawfully reproduced or altered</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>18-13</u> | <u>NYCHC 3.05(a)</u> | <u>Failure to comply with an Order of the Board of Health, Commissioner or Department</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>18-14</u> | <u>NYCHC 3.17</u> | <u>Notice, Order or other posted material of the Department mutilated, obstructed, or removed</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>18-15</u> | <u>NYCHC 81.43(a)</u> | <u>Foodborne illness; failure to notify department</u> | <u>\$200</u> | <u>\$400</u> |
| <u>18-25</u> | <u>NYCHC 81.05(h)</u> | <u>Operator of shared kitchen allows unpermitted user</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>18-25</u> | <u>NYCHC 88.05(b)</u> | <u>Temporary event sponsor failed to provide list of all participating establishments at least 30 days before event</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>19-01</u> | <u>16 RCNY 1-11(c)(1)</u> | <u>Organics containers not provided</u> | <u>\$250 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalties</u> |
| <u>19-02</u> | <u>16 RCNY 1-11(c)(1)</u> | <u>Organics containers not labeled</u> | <u>\$250 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalties</u> |
| <u>19-03</u> | <u>16 RCNY 1-11(d)(2)</u> | <u>Failure to post sign in organics collection areas</u> | <u>\$250 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalties</u> |
| <u>19-04</u> | <u>Admin. Code 16-329(c)</u> | <u>Possess, sell expanded polystyrene single service articles</u> | <u>\$250 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)</u> | <u>Same as appearance penalties</u> |

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| <u>20-01</u> | <u>24 RCNY 27.03(c)</u> | <u>Allergy poster not posted or not in correct location</u> | <u>\$100</u> | <u>\$100</u> |
| <u>20-02</u> | <u>24 RCNY 27.03(b)</u> | <u>Allergy poster not in language(s) understood by all food workers</u> | <u>\$100</u> | <u>\$100</u> |
| <u>20-03</u> | <u>24 RCNY 27.03(b)</u> | <u>Allergy poster not approved by the Department</u> | <u>\$100</u> | <u>\$100</u> |
| <u>20-04</u> | <u>Admin. Code 17-172(a)</u> | <u>"Choking" poster not posted</u> | <u>\$200</u> | <u>\$200</u> |
| <u>20-04</u> | <u>Admin. Code 17-173(2)(b)</u> | <u>Alcohol use during pregnancy sign not posted</u> | <u>\$100</u> | <u>\$100</u> |
| <u>20-04</u> | <u>24 RCNY 18-02</u> | <u>Resuscitation equipment not available</u> | <u>\$200</u> | <u>\$400</u> |
| <u>20-05</u> | <u>24 RCNY 23-07(f)</u> | <u>Current letter grade or "Grade Pending" card not conspicuously posted or visible to passersby</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>20-06</u> | <u>24 RCNY 23-07</u> | <u>Current letter grade or Grade Pending card not posted</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>20-06</u> | <u>24 RCNY 23-06(d)</u> | <u>Grade card not posted after reopening when FSE ordered closed by BFSCS</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>20-07</u> | <u>24 RCNY 23-07</u> | <u>Grade card removed, destroyed, modified, obscured or otherwise tampered with</u> | <u>\$1,000</u> | <u>Same as appearance penalty</u> |
| <u>20-08</u> | <u>Admin. Code 17-1507(a)</u> | <u>Failure to post or conspicuously post healthy eating information</u> | <u>\$500</u> | <u>Same as appearance penalty</u> |
| <u>26-04</u> | <u>NYCHC 89.27(b)</u> | <u>Required records incomplete or not maintained by commissary</u> | <u>\$200</u> | <u>\$400</u> |
| <u>28-01</u> | <u>NYCHC 3.07</u> | <u>Failure to take reasonable precautions to protect health and safety, e.g., by not securing CO2 or liquefied petroleum gas (LPG) containers</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>28-01</u> | <u>NYCHC 3.09</u> | <u>Failure to abate or remediate nuisance</u> | <u>\$1,000</u> | <u>\$2,000</u> |
| <u>28-01</u> | <u>NYCHC 131.07(c)(2)</u> | <u>Insufficient heat in commercial premises</u> | <u>\$300</u> | <u>\$600</u> |
| <u>28-02</u> | <u>NYCHC 81.07(p)</u> | <u>Microwave safe container not marked or used</u> | <u>\$200</u> | <u>\$400</u> |
| <u>28-03</u> | <u>NYCHC 81.19(b)</u> | <u>Light fixtures not shielded, shatterproofed, or otherwise protected from accidental breakage</u> | <u>\$200</u> | <u>\$400</u> |

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| <u>28-04</u> | <u>NYCHC 81.12(g)</u> | <u>Equipment used for ROP not approved by the Department</u> | <u>\$200</u> | <u>\$400</u> |
| <u>28-05</u> | <u>NYCHC 71.05</u> | <u>Adulterated or misbranded food possessed, manufactured, produced, packed, sold, offered for sale, delivered or given away</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>28-06</u> | <u>NYCHC 81.23(b)(2)</u> | <u>Contract with pest management professional, record of pest exterminations, activities not kept on premises</u> | <u>\$200</u> | <u>\$400</u> |
| <u>28-07</u> | <u>NYCHC 81.31</u> | <u>Unauthorized FSE street, sidewalk cooking</u> | <u>\$350</u> | <u>\$700</u> |
| <u>28-09</u> | <u>NYCHC 88.15</u> | <u>No, or insufficient toilets, sinks provided by temporary event sponsor</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>28-10</u> | <u>NYCHC 88.19</u> | <u>No, insufficient refuse, trash containers; temporary event area not maintained by sponsor</u> | <u>\$500</u> | <u>\$1,000</u> |
| <u>99-00</u> | <u>NYCHC miscellaneous</u> | <u>Other Health Code unscored violations</u> | <u>\$200</u> | <u>\$400</u> |

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*An appearance penalty is imposed if a respondent appears at a hearing. A respondent appears at a hearing if the respondent physically attends a hearing; attends a hearing remotely by telephone or via the internet; or pleads in violation in accepting a settlement offer.

****Repeat violation penalties for tobacco and non-tobacco smoking and sales.** In accordance with Administrative Code section 17-710(a)(5), violations of sections 17-703, 17-703.2, 17-704(a), 17-704.1(a), 17-705 and 17-706(a) and (b) of the Administrative Code must be included in determining the number of sustained repeat violations committed by a tobacco product license holder and subsequent license holder at a place of business unless the subsequent license holder submits documentation of an arm's length transaction in acquiring the business. A violation is considered sustained if the respondent (i) pleads in violation or guilty; (ii) is found in violation or guilty by a decision of a hearing officer as a result of an appearance or if found in default; or (iii) enters into a settlement agreement.

The penalties listed in this Appendix for violations of New York City Health Code sections 3.05(a), 3.07, 3.09, 3.15, 3.17 and 3.19 shall apply to any notice of violation or civil summons issued by the Department citing these provisions, regardless of whether the respondent is operating a food service establishment.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Violations Schedule for Food Service Establishments

REFERENCE NUMBER: 2019 RG 028

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: November 25, 2019

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Violations Schedule for Food Service Establishments

REFERENCE NUMBER: DOHMH-101

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) None of the proposed changes affect current policy and practice regarding cure periods.

/s/ Francisco X. Navarro
Mayor's Office of Operations

November 26, 2019
Date