

CHAPTER 23
FOOD SERVICE ESTABLISHMENT INSPECTION PROCEDURES

§23-01 Definitions and construction of words and terms.

§23-02 Scoring of sanitary inspections.

§23-03 Letter grading.

§23-04 Intervals between inspection cycles.

§23-05 Notices of violation and penalties for sustained violations.

§23-06 Revocation or suspension of permits.

§23-07 Posting letter grades.

§23-08 Effect of other laws and construction.

§23-09 Submitting proof of correction for eligible first-time violations.

§23-10 Acceptance of proof of correction for eligible first-time violations.

**Appendix 23-A: Food Service Establishment & Non-Retail Food Processing Establishment-
Inspection Worksheet**

**Appendix 23-B: Food Service Establishment Inspection Scoring Parameters - A Guide To
Conditions**

**Appendix 23-C: Food Service Establishment And Non-Retail Food Processing
Establishment Penalty Schedule - Scored Violations**

**Appendix 23-C: Food Service Establishment And Non-Retail Food Processing
Establishment Penalty Schedule - Unscored Violations**

§23-01 Definitions and construction of words and terms.

Compliance inspection shall mean an inspection not for the purposes of grading conducted within a cycle.

Condition level shall mean the value (I, II, III, IV or V) based on the number, magnitude or pervasiveness of occurrences, or the seriousness of risk presented by a violation.

Critical violations shall mean the violations of the Health Code or other applicable law listed under the classification critical violations in Appendix 23-A of these rules.

Cure means that the respondent has submitted proof of having corrected a first-time violation and the Department has accepted such proof.

First-time violation means a violation of law, identified in Appendix 23-C of this Chapter, committed by a respondent for the first time and cited on a summons that either is pending or has not been adjudicated by OATH as defaulted or sustained.

Food service establishment or **establishment** shall have the same meaning as the definition in § 81.03 of the Health Code, except that it shall not include mobile food vending units.

General violations shall mean violations listed under the classification "general violations" in Appendix A and Appendix B of this Chapter.

Grade card shall mean the card containing the letter grade associated with the score for an inspection.

Grade pending card shall mean the card issued by the Department to an establishment indicating that an establishment's grade for the current cycle is in the process of being determined.

Health Tribunal means the Health Tribunal at OATH, the adjudicatory body established by §558 of the New York City Charter, formerly known as the Department's Administrative Tribunal, whose operation was transferred to OATH by Executive Order No.148, effective July 3, 2011.

Initial inspection shall mean the first sanitary inspection within an inspection cycle.

Inspection cycle shall mean a series of related inspections consisting of at least an initial inspection and including, if triggered by the initial or any subsequent inspections within that cycle, a reinspection and any compliance inspections conducted by the Department because of a previous inspection score in that cycle.

Notice of violation means the document issued by the Department to a respondent that specifies the charges forming the basis of an adjudicatory proceeding at the Health Tribunal and seeks a monetary penalty.

OATH shall mean the Office of Administrative Trials and Hearings of the City of New York.

Operating or in operation shall mean that a food service establishment is receiving, preparing, storing or serving food or that the establishment is open to the public.

Pre-permit inspection shall mean a sanitary inspection conducted prior to permit approval to determine compliance of a food service establishment with the Health Code and other applicable law, regardless of whether the establishment is in operation.

Pre-permit serious item is a violation, identified in Appendix 23-A of this Chapter by a plus (+) sign that shall be corrected prior to approval of the permit.

Public health hazards are critical violations or conditions that are known to contribute directly to food-borne illness or disease, identified with an asterisk (*) in Appendix 23-A of this Chapter, and which include, but are not limited to, imminent health hazards defined in Article 81 of the Health Code and Part 14 of the State Sanitary Code.

Reinspection shall mean a sanitary inspection conducted for the purpose of grading following receipt of a score of 14 or more points on an initial inspection.

Re-opening inspection shall mean the pre-operational inspection conducted after the Department closes an establishment to determine whether conditions leading to the closing have been corrected.

Sanitary inspection shall mean any on-site review by the Department of a food service establishment's physical facilities, food handling operations, equipment, sanitary condition, maintenance and worker hygiene practices. The term may but shall not be limited to include initial, reinspection, compliance and pre-permit inspections.

Summons means a document, including a notice of violation, issued by the Department to a respondent, that specifies the charges forming the basis of an adjudicatory proceeding at OATH.

§23-02 Scoring of sanitary inspections.

The Department shall when conducting a sanitary inspection assess points only for those violations, violation conditions and condition levels listed in Appendix 23-A (Food Service Establishment Sanitary Inspection Scoring Worksheet) and Appendix 23-B (Food Service Establishment Sanitary Inspection Scoring Parameters--A Guide to Conditions)

to this Chapter. Terms used in these appendices shall have the same meaning as their definitions in Article 81 of the Health Code.

§23-03 Letter grading.

- (a) The Department, whenever practicable and subject to §23-04, shall conduct an inspection cycle at least annually at each food service establishment required by §81.51 of the Health Code to post a letter grade for the purpose of issuing such establishment a grade that identifies and represents that establishment's compliance with those laws and regulations that require it to operate in a sanitary manner so as to protect public health. Based on the results of either the initial inspection or reinspection in a cycle, an establishment shall in accordance with these rules be issued a letter grade of either "A," "B," or "C" for that cycle, except that an establishment shall not receive any grade if the Department orders that it be closed.
- (b) The Department shall issue a letter grade of "A" to any establishment that receives fewer than 14 points on either the initial inspection or reinspection in a cycle.
- (c) The Department shall not issue a letter grade to any establishment receiving 14 or more points on an initial inspection, but shall schedule a reinspection to occur no sooner than 7 days after the initial inspection. The Department shall on the reinspection issue a letter grade of "B" to any establishment receiving 14-27 points and a letter grade of "C" to any establishment receiving 28 or more points.
- (d) The Department in any cycle may, in addition to conducting an initial and any reinspection for the purpose of issuing an establishment a letter grade, also conduct a compliance inspection after any inspection that results in a score of 28 points or more. The score received on any compliance inspection shall not change an establishment's letter grade for that cycle.

§23-04 Intervals between inspection cycles.

- (a) A food service establishment shall post its letter grade until the Department issues it a new letter grade card or until a "grade pending" card is required to be posted in the establishment's next inspection cycle. The Department shall not wait one year to schedule the next inspection cycle for any establishment that receives 14 or more points on its initial inspection, but instead the interval of time between the final inspection in such cycle and the initial inspection in the establishment's next cycle shall be determined by the higher score from either its initial inspection or its reinspection:
 - (1) An initial inspection commencing a new cycle shall be conducted 150 to 210 days after the reinspection at an establishment that receives a score of 14 to 27 points on an initial inspection or reinspection and does not score 28 or more points on either of these inspections.
 - (2) An initial inspection commencing a new cycle shall be conducted 90 to 150 days after the final inspection of the cycle at an establishment that receives a score of 28 or more points on its initial inspection or reinspection.
 - (3) An initial inspection commencing a new cycle shall be conducted within 60 to 120 days of reopening for an establishment that is authorized by the Department to reopen following a Department closure that occurs on an initial or reinspection of that establishment.
- (b) Notwithstanding any other provision of this Chapter to the contrary, in circumstances when the Department believes there is an increased risk to public health, nothing in

this section shall prohibit the Department from inspecting an establishment and treating that inspection as the initial inspection in a new cycle. Such circumstances include, but are not limited to, an establishment having a history of Department closure(s), being the subject of complaints of unsanitary conditions, or being compromised following an environmental emergency.

§23-05 Notices of violation and penalties for sustained violations.

- (a) The Department shall issue a notice of violation whenever a food service establishment is cited on any sanitary inspection for one or more critical violations or accumulates 14 or more points, regardless of whether any critical violations are cited on such inspection.
- (b) All violations shall be recorded and/or cited individually on inspection reports and notices of violation.
- (c) A Health Tribunal hearing examiner must impose the penalty set forth in Appendix C for any sustained violation.

§23-06 Revocation or suspension of permits.

- (a) Findings of serious and persistent violations or uncorrected public health hazards on any sanitary inspection may provide the basis for commencement of a proceeding to revoke or suspend a permit pursuant to Article 5 of the Health Code.
- (b) The Department shall post signs on any establishment that it orders closed indicating that such establishment is not open to the public and shall remove any posted grade-related card.
- (c) Prior to authorizing any closed establishment being allowed to re-open, the Department shall conduct a re-opening inspection. The Department may conduct as many inspections as it deems necessary to determine whether the establishment is in compliance with applicable law and may be reopened for operation.
- (d) If an establishment that is required by §81.51 of the Health Code to post a letter grade is closed and then allowed to re-open, upon re-opening, the grade card that had been posted by the establishment before the closure will be posted again, except that where the closure occurred on the establishment's initial inspection, a "grade pending" card shall be posted, and any grade card previously posted shall be removed, and where the closure occurred on a reinspection a "grade pending" card or the letter grade card corresponding to the score on the reinspection shall be posted.

§23-07 Posting letter grades.

- (a) The Department shall at the time of inspection provide any establishment required by §81.51 of the Health Code to post a letter grade that receives a score of 13 or less on an initial or reinspection with a grade card displaying the letter grade "A," which shall be posted immediately by the establishment.
- (b) If an establishment required by §81.51 of the Health Code to post a letter grade receives a score of 14 or more points on an initial inspection, and is not closed by the Department, it shall continue to post its grade card from the prior cycle until its reinspection. If the establishment has been issued no prior grade card, it shall have no posting until its reinspection.

- (c) If an establishment required by §81.51 of the Health Code to post a letter grade receives a score of 14 or more points on the reinspection, and is not closed by the Department, the Department shall provide the establishment with a "grade pending" card and a grade card displaying the letter grade that corresponds with its inspection score at the reinspection. The establishment shall immediately post either the grade card or the "grade pending" card. If the establishment elects to post the "grade pending" card, it may only do so until it has had an opportunity to be heard at the Health Tribunal pursuant to subdivision (d) of this section and §81.51 of the Health Code.
- (d) Effect of adjudication at the Health Tribunal on grading of establishments required by §81.51 of the Health Code to post letter grades:
 - (1) If the establishment appears personally at the Health Tribunal and as a result of such proceeding the score received on a reinspection does not change the grade, the establishment shall immediately upon receipt of the notice of decision remove any posted "grade pending" card and post the grade card provided by the Department at such inspection.
 - (2) Subject to the provisions of paragraph (3) of this subdivision, if the establishment does not appear at the Health Tribunal on or before the scheduled hearing date, the establishment shall, on the date of the hearing, post the letter grade card provided by the Department at the reinspection.
 - (3) If the establishment appears at the Health Tribunal on the scheduled date, but the hearing is unable to proceed for any reason, or if the establishment makes a timely request for an adjournment and such adjournment is granted, the establishment may continue to post the "grade pending" card and defer posting the letter grade card until the adjourned hearing date. In no event shall an establishment fail to post the grade card after the adjourned hearing date if the establishment is not able to proceed on such date.
 - (4) If the establishment appears at the Health Tribunal and as a result of such proceeding the score received for the reinspection changes in a way that results in a change of grade, the Department shall provide the establishment with a new letter grade card that shall be promptly posted by the establishment in place of any other letter grade card or "grade pending" card.
 - (5) If the establishment receives notice of decision by mail, the establishment shall immediately upon receipt of the notice of decision remove any grade pending card and post the grade card provided with the notice of decision, if any. If no new grade card is issued with the notice of decision, the establishment shall immediately post the grade card issued by the Department at the reinspection.
 - (6) When an establishment settles the notice of violation issued at the reinspection by mail, online, or in person, the establishment shall immediately upon settlement post the grade card issued by the Department at such reinspection.
 - (7) The disposition of any notice of violation at the Health Tribunal shall not affect any provision of this Chapter or other applicable law other than the issuance of a grade.
- (e) An establishment required by §81.51 of the Health Code to post a letter grade shall shred or otherwise dispose of all non-current letter grade cards and "grade pending" cards in a manner that prevents reuse of the cards.

- (f) The "grade pending" or letter grade card shall be posted in a conspicuous place where it is visible to passersby. The card shall be placed on the front window, door or exterior wall of an establishment required by §81.51 of the Health Code to post a letter grade. The card shall be within five feet of the front door or other opening to the establishment where customers enter from the street, at a vertical height no less than four feet and no more than six feet from the ground or floor. An establishment without a direct entrance from the street shall post the grade card or "grade pending" card at a place designated by the Department at its immediate point of entry so that it is clearly visible to passersby.
- (g) Letter grade cards shall not be removed except when authorized by the Department.

§23-08 Effect of other laws and construction.

- (a) These rules shall be read and enforced in accordance with all applicable provisions of law, including, but not limited to, the State Public Health Law and Sanitary Code, the New York City Health Code, and Title 17 of the Administrative Code of the City of New York.
- (b) No provision herein shall limit the authority of the Department to conduct such other inspections or take any other action it deems necessary, to enforce any provision of law within the jurisdiction of the Department.
- (c) If any provision of this Chapter is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this Chapter.

§23-09 Submitting proof of correction for eligible first-time violations.

- (a) Submission of proof of correction must be in writing in a form approved or provided by the Department.
- (b) The proof must be submitted to the Department electronically or in person within seven (7) calendar days of the date the violation was issued as recorded on the summons, except that the cure period of a first-time violation of Administrative Code § 17-504(f) is within thirty (30) days of the issuance of the notice of violation.
- (c) Such proof must be affirmed by the permittee or their authorized representative that it is complete and accurate to the best of such person's knowledge.
- (d) Submission of any false statements in support of a proof of correction may be subject to penalties prescribed for violations of Health Code § 3.19 and other applicable law.
- (e) A permittee whose first-time violation is pending at OATH for adjudication is not eligible to submit a proof of correction for a subsequent identical violation.

§23-10 Acceptance of proof of correction for eligible first-time violations.

- (a) The Department must accept the proof of correction if it determines that the proof is adequately documented and submitted timely in accordance with §23-09 of this Chapter. Acceptance of proof of correction constitutes a cure and an admission of the violation for all purposes, except as provided in subdivision (b) of this section.
- (b) A first-time violation whose proof of correction has been accepted by the Department will not be subject to a civil penalty.

- (c) The determination of whether a violation is a first-time violation shall be based solely on the records of the Department.
- (d) The Department may require further documentation in addition to the proof of correction and may inspect the establishment or take any other action as it deems necessary before acceptance or rejection of such proof.
- (e) Nothing in this Chapter limits the authority of the Department to conduct other inspections or take any other action it deems necessary to enforce any provision of law within the jurisdiction of the Department.

**APPENDIX 23-A:
FOOD SERVICE ESTABLISHMENT & NON-RETAIL FOOD PROCESSING ESTABLISHMENT INSPECTION WORKSHEET**

Critical Violations		Conditions					Score																		
		I	II	III	IV	V																			
Time and Temperature Control for Safety (TCS) Food Temperature																									
2A* Food not cooked to required minimum internal temperature: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;">Food</th> <th style="width: 70%;">Required Minimum Internal Temperature at or above</th> </tr> </thead> <tbody> <tr> <td>Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratites</td> <td>165° F for 15 seconds with no interruption of the cooking process</td> </tr> <tr> <td>Ground meat, and food containing ground and comminuted meat</td> <td>158° F with no interruption of the cooking process, except per individual customer request</td> </tr> <tr> <td>Pork, any food containing pork</td> <td>150° F for 15 seconds</td> </tr> <tr> <td>Mechanically tenderized or injected meats</td> <td>155°F</td> </tr> <tr> <td>Whole meat roasts and beef steak</td> <td>Required temperature and time listed in 81.09(c)(3), except per individual customer request</td> </tr> <tr> <td>Raw animal foods cooked in microwave</td> <td>165°F, covered, rotated or stirred for 2 minutes</td> </tr> <tr> <td>Shell eggs</td> <td>145°F for 15 seconds, except per individual customer request</td> </tr> <tr> <td>All other foods</td> <td>140°F for 15 seconds</td> </tr> </tbody> </table>		Food	Required Minimum Internal Temperature at or above	Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratites	165° F for 15 seconds with no interruption of the cooking process	Ground meat, and food containing ground and comminuted meat	158° F with no interruption of the cooking process, except per individual customer request	Pork, any food containing pork	150° F for 15 seconds	Mechanically tenderized or injected meats	155°F	Whole meat roasts and beef steak	Required temperature and time listed in 81.09(c)(3), except per individual customer request	Raw animal foods cooked in microwave	165°F, covered, rotated or stirred for 2 minutes	Shell eggs	145°F for 15 seconds, except per individual customer request	All other foods	140°F for 15 seconds	-	-	-	10	28	
Food	Required Minimum Internal Temperature at or above																								
Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratites	165° F for 15 seconds with no interruption of the cooking process																								
Ground meat, and food containing ground and comminuted meat	158° F with no interruption of the cooking process, except per individual customer request																								
Pork, any food containing pork	150° F for 15 seconds																								
Mechanically tenderized or injected meats	155°F																								
Whole meat roasts and beef steak	Required temperature and time listed in 81.09(c)(3), except per individual customer request																								
Raw animal foods cooked in microwave	165°F, covered, rotated or stirred for 2 minutes																								
Shell eggs	145°F for 15 seconds, except per individual customer request																								
All other foods	140°F for 15 seconds																								
2B* Hot TCS food item not held at or above 140° F.		7	8	9	10	28																			
2C Hot TCS food item that has been cooked and cooled is being held for service without first being reheated to 165° F or above for 15 seconds within 2 hours.		5	6	7	8	-																			
2D Precooked TCS food in hermetically sealed and intact packages from commercial food processing and non-retail processing establishments not heated to 140° F within 2 hours.		5	6	7	8	-																			
2E Whole frozen poultry or poultry breasts, other than a single portion, cooked frozen or partially thawed.		5	6	-	-	-																			
2F Meat, fish, poultry, eggs or molluscan shellfish served or offered raw or undercooked without written consumer advisory.		5	-	-	-	-																			
2G* Cold TCS food item held above 41°F; 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 except during active necessary preparation.		7	8	9	10	28																			

2H*	After cooking or removal from hot holding, TCS food not cooled by an approved method whereby the internal product temperature is reduced from 140° F to 70° F or less within 2 hours, and from 70° F to 41° F or less within 4 additional hours.	7	8	9	10	28	
2I	TCS food removed from cold holding or prepared from or combined with ingredients at room temperature not cooled by an approved method to 41° F or below within 4 additional hours.	5	6	7	8	–	
2J*	ROP TCS foods not cooled by an approved method as specified in approved HACCP plan.	7	8	9	10	28	
Food Source							
3A*	Food from unapproved or unknown source or home canned or home prepared. Live animal slaughtered in establishment. ROP fish not frozen before processing; or ROP foods prepared on premises sold or distributed to another business entity or offered packaged directly to consumers.	–	–	–	10	28	
3B*	Shellfish not from approved source, not or improperly tagged/labeled; tags not retained for 90 days.	–	–	–	10	28	
3C*	Unclean or cracked whole eggs or unpasteurized liquid, frozen or powdered eggs kept or used.	7	8	9	10	28	
3D*	Food packages, canned food, hermetically sealed containers swollen, leaking or rusted, or otherwise damaged, without “Do Not Use” label and not segregated from other consumable food items.	7	8	9	10	28	
3E*	No or inadequate potable water supply. Water or ice not potable or from unapproved source. Bottled water not NY State certified. Cross connection in potable water supply system.	–	–	–	10	28	
3F*	Unpasteurized milk or milk product (except certain aged cheese) served.	–	–	–	10	28	
3G	Raw fruit or vegetables not properly washed prior to cutting or serving.	5	6	7	8	–	
3I*	Unpasteurized juice packaged and sealed on premises not labeled or label incomplete; no warning statement.	–	–	–	10	28	
Food Protection							
4A	Food Protection Certificate (FPC) not held by manager or supervisor of food operations.	–	–	–	–	10	
4B*	Food worker spits; prepares food or touches utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.	–	–	–	10	28	
4C*	Food worker does not use utensil or other barrier 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 or does not change gloves when gloves are contaminated.	–	–	–	10	28	
4E*	Toxic chemicals or pesticides improperly labeled, stored or used such that food contamination may occur.	7	8	9	10	28	

4F*	Food preparation area, food storage area, or other area used by employees or patrons, contaminated by sewage or liquid waste.	–	–	–	10	28	
4G*	Unprotected TCS 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 non-TCS food re-served.	5	6	7	8	–	
4J	Properly calibrated thermometer or thermocouple not provided or not readily accessible in food preparation and hot/cold holding areas to measure temperatures of TCS foods during cooking, cooling, reheating, and holding.	5	–	–	–	–	
4K	Evidence of rats or live rats in establishment's food or non-food areas.	5	6	7	8	28	
4L	Evidence of mice or live mice in establishment's food or non-food areas.	5	6	7	8	28	
4M	Live roaches in establishment's food or non-food areas.	5	6	7	8	28	
4N	Filth flies or food/refuse/sewage associated (FRSA) flies or other nuisance pests in establishment's food and/or non-food areas. FRSA flies include house flies, blow flies, bottle flies, flesh flies, drain flies, Phorid flies and fruit flies.	5	6	7	8	28	
4O	Live animals other than fish in tank or service animal in establishment's food or non-food areas.	5	6	7	8	–	
4P	Food containing a prohibited substance held, kept, offered, prepared, processed, packaged, or served.	–	–	–	10	28	
Facility Design and Construction							
5A*	Sewage disposal system not provided, improper, inadequate or unapproved.	–	–	–	10	28	
5B*	Harmful, noxious gas or vapor detected. Carbon monoxide (CO) level at or exceeding nine (9) ppm.	–	–	–	10	28	
5C+	Food contact surface, refillable, reusable containers, or equipment improperly constructed placed or maintained. Unacceptable material used. Culinary sink or other acceptable method not provided for washing food.	7	8	9	10	28	
5D+	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.	–	–	–	10	28	
5E+	Toilet facility not provided for employees or for patrons when required. Shared patron-employee toilet accessed through kitchen, food prep or storage area or utensil washing area.	–	–	–	10	28	
5F+	Inadequate or no refrigerated or hot holding equipment to maintain TCS foods at required temperatures. Outdoor refrigerator not locked, secured.	–	–	–	10	28	

5G+	Separate, enclosed, properly equipped and sized cleaning and service area not provided in mobile food commissary; street, sidewalk used for cleaning units.	–	–	–	10	28	
5H+	No facilities available to wash, rinse, and sanitize dishware, glassware, utensils, equipment or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers.	–	–	–	10	28	
5I+	Refrigeration used to implement HACCP plan for ROP foods not equipped with an electronic system that continuously monitors time and temperature.	–	–	–	10	28	
Food Worker Hygiene and Other Food Protection							
6A	Personal cleanliness inadequate. Outer garment soiled with possible contaminant. Effective hair restraint not worn when required. Jewelry worn on hands or arms: fingernail polish worn; or fingernails not kept clean and trimmed.	5	6	7	8	–	
6B	Tobacco or e-cigarette use, eating, or drinking from open container in food preparation or other area where food, equipment or utensils may be exposed to contamination.	5	6	7	8	–	
6C	Food, supplies, or equipment not protected from potential source of contamination during storage, preparation, transportation, display, service or from customer's refillable, reusable container.	5	6	7	8	–	
6D	Food contact surface not properly washed, rinsed and sanitized after any activity where 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; inadequately sanitized.	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 show that approved HACCP plan has been properly implemented.	–	–	–	–	28	
6I	ROP TCS food not labeled in accordance with approved HACCP plan.	–	–	–	10	28	
6J	Refillable, reusable beverage container filled with TCS foods.	5	6	7	8	–	
Other Criticals							
7A	Duties of an officer of the Department interfered with or obstructed.	–	–	–	–	28	
						Critical Violations Total:	

General Violations		Conditions					Score
		I	II	III	IV	V	
Garbage, Waste Disposal and Pest Management							
8A	Harborage or conditions conducive to attracting pests to the premises and/or allowing pests to exist when pests or signs of pests are present.	–	–	4	5	–	
8B	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.	2	–	–	–	–	
8C	Pesticide use not in accordance with label or applicable laws. Pesticides, other toxic chemicals improperly used/stored. Unprotected, unlocked bait station used.	2	3	4	5	28	
Food Protection							
9A	Cans of food with dented body damage not segregated from other cans for return to distributor.	2	3	4	5	–	
9B	Thawing procedures improper.	2	3	4	5	–	
9C	Food contact surface chipped, cracked, worn, or in a condition where it cannot be properly maintained or cleaned.	2	3	4	5	–	
9D	Food service operation occurring in room or area used as living or sleeping quarters.	2	3	4	5	–	
9E	“Wash hands” sign not posted at hand wash facility.	2	–	–	–	–	
Facility Maintenance							
10A	Toilet facility not maintained or provided with toilet paper, waste receptacle or self-closing door.	2	3	4	5	–	
10B	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.	2	3	4	5	28	
10C	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage areas.	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	–	
10E	Accurate thermometer not provided or properly located in refrigerated or hot holding equipment.	2	3	4	5	–	
10F	Non-food contact surface or equipment improperly maintained 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 equipment or other structures.	2	3	4	5	–	

10G Proper sanitization not used or provided for ware washing operation. No test kit.	-	-	-	5	-	
10H Single service item reused, not protected from contamination when transported, stored, or dispensed; not used when required.	2	3	4	5	-	
	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*	Time and temperature control for safety (TCS) food not cooked to required minimum internal temperature.				Failure to properly cook one or more meats, comminuted meats, and other TCS foods, unless a consumer specifically asks for a serving of food to be cooked below the minimum temperature.	Failure to correct any condition of a public health hazard (PHH) at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2B*	Hot TCS food item not held at or above 140° F.	One hot food item out of temperature in one area. Example: one tray of fried chicken wings held at 115° F.	Two hot food items out of temperature or the same type of food out of temperature in two different areas. Example: one tray of fried chicken wings and a pot of rice held at 115° F; or one tray of fried chicken wings on the steam table and one tray of fried 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 tray of fried chicken wings, a pot of rice and platter of roast beef held at 115° F; or one tray of fried chicken wings on the steam table, one tray of fried chicken wings in the food preparation area and one basket of fried 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 tray of fried 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 fried chicken wings in the food preparation area, one basket of fried chicken near the deep fryer and a rotisserie broiler 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 TCS food item that has been cooked and cooled is being held for service without first being reheated to 165° F or above for 15 seconds within 2 hours.	One cooked and cooled hot food item not reheated to 165° F before service. Example: chicken soup.	Two cooked and cooled hot food items not reheated to 165° F before service. Example: chicken soup and baked ham.	Three cooked and cooled hot food items not reheated to 165° F before service. Example: chicken soup, baked ham and sliced turkey.	Four or more cooked and cooled hot food items not reheated to 165° F before service. Example: baked ham, sliced turkey, meatloaf and lobster bisque.	
2D	Precooked TCS food in hermetically sealed and intact packages from commercial food processing establishment not heated to 140° F within 2 hours.	One precooked food not heated to 140° F. Example: tray of beef patties.	Two pre-cooked foods not heated to 140° F. Example: two trays of beef patties.	Three pre-cooked foods not heated to 140° F. Example: two trays of beef patties and one pot of clam chowder.	Four or more pre-cooked foods not heated to 140° F. Example: two trays of beef patties, and two pots of clam chowder.	
2E	Whole frozen poultry or poultry breasts, other than a single portion, cooked frozen or partially thawed.	One whole chicken or poultry breast cooked from a frozen state. Example: whole chicken.	Two or more whole poultry or poultry breasts 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, poultry, eggs or molluscan shellfish served or offered raw or undercooked without written consumer advisory.	Serving or offering raw or undercooked meat, eggs, fish or shellfish without written consumer advisory.				

2G*	Cold TCS food item held above 41° F; 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.	One cold food item out of temperature in one area. Example: one slab of unsliced smoked salmon or packet or one 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 two 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 or the same food item out of temperature in three different areas. 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 or the same food item out of temperature in four different areas. Example: one slab of smoked salmon above 38° F and tray of sliced tomatoes, bowl of garlic in oil mixture, and bowl of cooked collard greens above 41° F; or one tray of potato salad in the service display case, one tray of potato salad in the reach-in refrigerator, and one tray of potato salad on the food preparation table above 41° F.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2H*	After cooking or removal from hot holding, TCS food not cooled by an approved method whereby the internal product temperature is reduced from 140° F to 70° F or less within 2 hours and from 70° F to 41° F or less within 4 additional hours.	One food item not cooled by approved method. Example: one whole fried turkey at 70° F after being refrigerated for four hours.	Two food items not cooled by approved method. Example: 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.	Three food items not cooled by approved method. Example: 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.	Four or more food items not cooled by approved method. Example: 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.	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	TCS food removed from cold holding or prepared from or combined with ingredients at room temperature not cooled by an approved method to 41° F or below within 4 hours.	One food item removed from cold holding or prepared from ambient temperature ingredients not cooled to 41°F. Example: one container of tuna salad prepared with canned tuna.	Two food items removed from cold holding or prepared from ambient temperature ingredients not cooled to 41°F. Example: a container of tuna salad and a container of salmon salad prepared with canned tuna and salmon.	Three food items removed from cold holding or prepared from ambient temperature ingredients not cooled to 41°F. Example: tuna, chicken and salmon salads prepared with canned tuna, chicken and salmon.	Four or more food items removed from cold holding or prepared from ambient temperature ingredients not cooled to 41°F. Example: tuna, chicken, crab and salmon salads prepared with canned tuna, chicken, crab and salmon.	
2J*	ROP TCS food not cooled to required temperatures by an approved method as specified in the approved HACCP plan.	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 or home prepared; or live animal slaughtered in establishment; or ROP fish not frozen before processing; or ROP food prepared on premises sold or distributed to another business entity or offered packaged directly to consumers.				One or more food items from an unapproved or unknown source, or home canned or home prepared; or live animal slaughtered in establishment. Example: wild mushrooms or home canned beets or ROP fish not frozen before processing or home prepared meat balls, curry, rice, lasagna or frozen ROP chicken with mushroom sauce offered directly to the customer, through the internet, or through a third-party delivery service.	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; not or improperly tagged/labeled; tags not retained for 90 days.				One or more containers or kind of shellfish not from an approved source; not or improperly tagged/labeled; tags not retained for 90 days. Example: clams not tagged, oyster tags not retained for 90 days, mussels improperly labeled and mussels not tagged.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3C*	Unclean or cracked whole eggs or unpasteurized liquid, frozen or powdered eggs kept or used.	1-6 unclean or cracked eggs or liquid, frozen, or powdered eggs not pasteurized. Example: four cracked eggs; or one container of unpasteurized liquid eggs.	7-12 unclean or cracked eggs; or 2 containers of liquid, frozen, or powdered eggs not pasteurized. Example: nine cracked eggs; or two containers of unpasteurized liquid eggs.	13-24 unclean or cracked; or three containers of liquid, frozen, or powdered eggs not pasteurized. Example: 16 unclean or cracked eggs; or 14 unclean or cracked eggs and two containers of unpasteurized liquid eggs.	25 or more unclean or cracked eggs; or four containers of liquid, frozen, or powdered eggs not pasteurized. Example: 25 or more unclean or cracked eggs; or four containers 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*	Food packages, canned food, hermetically sealed containers swollen, leaking or rusted, or without "Do Not Use" label and not segregated from other consumable food items.	1-6 Food packages swollen, leaking or rusted and not segregated from consumable food. Example: one can of tomato paste rusted and one pouch of salmon leaking and stored on food storage shelf.	7-12 Food packages swollen, leaking or rusted and not segregated from consumable food. Example: three cans of tomato paste and two cans of mushrooms rusted and two pouches of salmon leaking and stored on food storage shelf.	13-18 Food packages swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato paste and two cans of mushrooms rusted and two pouches of salmon and two pouches of mayonnaise leaking and stored on food storage shelf.	19 or more Food packages swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato paste and two cans of mushrooms rusted, two pouches of salmon and two pouches of mayonnaise leaking, 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*	No or inadequate potable water supply. Water or ice not potable or from unapproved source. Bottled water not NY State certified. Cross connection in potable water supply system.				No potable water. 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.
3F*	Unpasteurized milk or milk product (except aged cheese) served.				Unpasteurized milk or milk product served.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3G	Raw fruit or vegetables not properly washed prior to cutting or serving.	One raw fruit or vegetable not properly washed prior to cutting or serving. Example: an apple.	Two raw fruits or vegetables not properly washed prior to cutting or serving. Example: two heads of lettuce.	Three raw fruits or vegetables not properly washed prior to cutting or serving. Example: two heads of lettuce and one head of broccoli.	Four or more raw fruits or vegetables not properly washed prior to cutting or serving. Example: two heads of lettuce, 1 bunch of carrots, one head of broccoli and one head of cabbage.	

3I*	Unpasteurized juice packaged and sealed on premises not labelled or label incomplete; no warning statement.				One or more packaged juice products not or improperly labeled. Example: orange and carrot juice produced and bottled with sealed cap by the establishment without a label or only a partial label.	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.
4A	Food Protection Certificate (FPC) not held by manager or supervisor of food operations.					No FPC holder.
4B*	Food worker spits, prepares food or touches utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.				Food worker spits; prepares food or touches 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 utensil or other barrier 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 or does not change gloves when gloves are contaminated.				Food worker does not wash hands after using the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands or does not change gloves when gloves are contaminated.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4E*	Toxic chemical or pesticide improperly labeled, stored or used such that food contamination may occur.	One toxic chemical or pesticide improperly labeled, stored or used such that contamination of food may occur. Example: roach spray stored on shelf with boxes of pasta.	Two toxic chemicals or pesticides improperly labeled, stored or used such that contamination of food may occur. Example: roach spray and bleach stored on shelf with boxes of pasta.	Three toxic chemicals or pesticides improperly labeled, stored or used such that contamination of food may occur. Example: roach spray, bleach and stainless steel cleaner stored on shelf with boxes of pasta.	Four or more toxic chemicals or pesticides improperly labeled, stored, or used such that contamination of food may occur. Example: roach spray, bleach, stainless steel cleaner and rat poison stored on shelf with boxes of pasta.	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 preparation area, food storage area, or any other area used by employees or patrons contaminated by sewage or liquid waste.				Food preparation or food storage area, or any 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 TCS food re-served.				Unprotected TCS food re-served. Example: bowl of cooked rice re-served to other patron.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4H*	Raw, cooked or prepared food is adulterated, contaminated or cross-contaminated, or not discarded in accordance with HACCP plan.	One food item is spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce contaminated by raw chicken or custard cream contaminated by mice droppings; or one package of ROP chicken not discarded in accordance with HACCP plan.	Two food items or two containers 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.	Three food items or three containers 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; 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 containers 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; 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 non-TCS food re-served.	One unprotected food item re-served. Example: unwrapped crackers.	Two unprotected foods items re-served. Example: unwrapped crackers and bread.	Three unprotected food items re-served. Example: unwrapped crackers, bread and pickles.	Four or more unprotected food items re-served. Example: unwrapped crackers, bread, pickles and breadsticks.	

4J	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.	Properly calibrated thermometer or thermocouple not provided, or readily accessible to measure temperature of TCS foods.				
4K	Evidence of rats or live rats in establishment's food and/or non-food areas.	Rats or evidence of rats in the establishment's food or non-food areas. Example: 1-10 fresh rat droppings in the establishment.	Rats or evidence of rats in the establishment's food or non-food areas, demonstrated by 11-30 fresh rat droppings in the establishment. Example: 25 fresh rat droppings in the food preparation area; and 5 fresh rat droppings in dry food storage area.	Rats or evidence of rats in the establishment's food or non-food areas, demonstrated by 31-70 rat droppings in the establishment. Example: 55 fresh rat droppings in food preparation area and 14 rat droppings in dry food storage area.	Rats or evidence of rats in the establishment's food or non-food areas, demonstrated by 1-2 live rats and/or 71-100 rat droppings in the establishment. Example: 80 fresh rat droppings in food preparation area and 30 fresh rat droppings in dry food storage area and 16 in basement or less than 10 fresh rat droppings in basement, food prep.	Three or more live rats and/or more than 100 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.

4L	Evidence of mice or live mice in establishment's food and/or non-food areas.	Mice or evidence of mice in the establishment's food or non-food areas; 1-10 fresh mice droppings in one area. Example: 8 fresh mice droppings found in pantry.	Mice or evidence of mice in the establishment's food or non-food areas. 11-30 fresh mice droppings in one area or 1-10 in two areas. Example: 25 fresh mice droppings in the food preparation area; or 10 fresh mice droppings in dry food storage area and 10 in the basement.	Mice or evidence of mice in the establishment's food or non-food areas. 31-70 mice droppings in one area, 11-30 in two areas; or 1-10 in three areas. Example: 55 fresh mice droppings in food preparation area; 14 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in the basement, food preparation area and bathroom.	Mice or evidence of mice in the establishment's food or non-food areas; 1-2 live mice and/or 71-100 mice droppings in one area; 31-70 in two areas, 11-30 in three areas; or 1-10 in four areas. Example: 80 fresh mice droppings in food preparation area; 30 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 mice droppings in basement, food preparation area, bathroom and garbage disposal area.	Two or more live mice and/or more 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 in establishment's food and/or non-food areas.	1-5 roaches in the establishment's food and non-food areas. Example: 2 live roaches in the dry food area.	Roaches in the establishment's 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 in the establishment's 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 in the establishment's food and non-food areas; 16-20 roaches in one area, 11-15 in two areas; 6-10 in three areas; or 1-5 in four areas. Example: 17 live roaches in the food preparation area; 10 roaches in the dry food storage area and five roaches in the basement; or one live roach observed in walk-in, food preparation area, garbage area and dry storage area.	More than 20 live roaches and/or other conditions exist conducive to infestation of roaches. Example: 45 live roaches and condition conducive to infestation such as holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.

4N	Filth flies or food/refuse/sewage associated (FRSA) flies or other nuisance pests in facility's food and/or non-food areas. FRSA flies include house flies, blow flies, bottle flies, flesh flies, drain flies, Phorid flies and fruit flies.	1-5 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.	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.	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.	16-30 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.	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.
4O	Live animal other than fish in tank or service animal present in establishment's food and/or non-food areas.	Live animal in establishment. Example: one companion dog on chair in outdoor dining area, or one live cat within establishment or one chicken in rear yard.	Two live animals in establishment. Example: Two live birds in dining area or goat and chicken in rear yard or two cats in establishment.	Three live animals in establishment. Example: Two cockatoos in cage and live cat in dining room area or two chickens and lamb in rear yard.	Four or more live animals in establishment. Example: Two caged cockatoos and two live cats in dining room area or three chickens, a lamb and a goat in rear yard.	
4P*	Food containing a prohibited substance held, kept, offered, prepared, processed, packaged, or served.				Any food held, kept, offered, prepared, processed, packaged or served with any prohibited substance.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

5A*	Sewage disposal system is not provided, improper or unapproved.				No sewage disposal system. Sewage or liquid waste is not disposed of in an approved or sanitary manner.	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. Carbon monoxide (CO) level at or exceeding 9 ppm.				Harmful, noxious gas or vapor detected. CO level at or exceeding 9 ppm.	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, refillable, reusable containers, or equipment improperly constructed, placed or maintained. Unacceptable material used. Culinary sink or other acceptable method not provided for washing food.	One food contact, refillable, reusable container 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, refillable, reusable containers or pieces of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit and customer's refillable, reusable container made from polystyrene.	Three food contact surfaces, refillable, reusable containers or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves of a walk-in unit, customer's refillable, reusable container made from polystyrene, cutting board made from untreated wood and acidic foods placed in pewter bowl.	Four or more food contact surfaces, refillable, reusable containers 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 or no culinary sink or other acceptable method provided for washing food.	Failure to correct on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.

5D+	<p>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.</p>				<p>Fully equipped hand wash sinks, to include soap and hand drying device or disposable single use towels, not provided where required or hand wash sink not accessible or obstructed. No potable water or water not at adequate pressure at hand wash sink.</p>	<p>Failure to correct on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</p>
5E+	<p>Toilet facility not provided for employees or for patrons when required. Shared patron-employee toilet accessed through kitchen, food prep or storage or utensil washing area.</p>				<p>Toilet facility not provided for employees or for patrons when required. Shared patron-employee toilet accessed through kitchen, food prep or storage or utensil washing area.</p>	<p>Failure to correct on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</p>

5F+	Inadequate or no refrigerated or hot holding equipment to keep TCS foods at required temperatures. Outdoor refrigerator not locked, secured.				Refrigerated or hot holding equipment for TCS food inadequate or not provided. Outdoor refrigerator not locked, secured.	Failure to correct on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5G+	Separate, enclosed, properly equipped and sized cleaning and service area not provided in mobile food vending commissary; street, sidewalk used for cleaning units.				Separate, enclosed, properly equipped and sized cleaning and service area not provided. Street, sidewalk used for cleaning units.	Failure to correct on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5H+	No facilities available to wash, rinse, and sanitize utensils, dishware, glassware, equipment or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers.				No facilities available to wash, rinse and sanitize utensils, dishware, glassware, equipment or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers.	Failure to correct. Inspector must call office to discuss enforcement measures.

5I+	Refrigeration used to implement HACCP plan for ROP foods not equipped with an electronic system that continuously monitors time and temperature.				Refrigeration used to implement HACCP plan for ROP foods not equipped with an electronic system that continuously monitors time and temperature.	Inspector must call office to discuss closing or other enforcement measures.
6A	Personal cleanliness inadequate. Outer garment soiled with possible contaminant. Effective hair restraint not worn where required. Jewelry worn on hands or arms; fingernail polish worn or fingernails not kept clean and trimmed.	One food worker without clean outer garment or hair restraint or wearing prohibited jewelry or fingernail polish, or fingernails not kept clean and trimmed.	Two food workers without clean outer garments and/or hair restraints or wearing prohibited jewelry or fingernail polish or fingernails not kept clean and trimmed.	Three food workers without clean outer garments and/or hair restraints or wearing prohibited jewelry or fingernail polish or with fingernails not kept clean and trimmed.	Four or more food workers without clean outer garments and/or hair restraints, or wearing prohibited jewelry or fingernail polish or fingernails not kept clean and trimmed.	
6B	Tobacco or e-cigarette use, eating, or drinking from open container in food preparation or other area where food, equipment or utensils may be exposed to contamination.	One food worker eating, smoking and/or drinking from open container in food preparation or ware washing areas.	Two food workers eating, smoking and/or drinking from open container in food preparation or ware washing areas.	Three food workers eating, smoking and/or drinking from open container in food preparation or ware washing areas.	Four or more food workers eating, smoking and/or drinking from open container in food preparation or ware washing areas.	

6C	Food, supplies or equipment not protected from potential source of contamination during storage, preparation, transportation, display or service or from customer's refillable, reusable container.	One food item or kind of supply not protected during storage, preparation, transportation, display or service or from customer's refillable, reusable container. Example: one tray of uncovered assorted pastries or supply of clean table linen in customer self-service area or customer's refillable, reusable container directly touches the cappuccino milk frother.	Two food items or supplies not protected during storage, preparation, transportation, display or service or from customer's refillable, reusable container. 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.	Three food items or supplies not protected during storage, preparation, transportation, display or service or from customer's refillable, reusable container. 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.	Four or more food items or supplies not protected during storage, preparation, transportation, display or service or from customer's refillable, reusable container. 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, customer's refillable, reusable container directly touches the cappuccino milk frother, buffet without sneeze guard and uncovered bucket of marinating chicken on floor of walk-in refrigerator.	
6D	Food contact surface not properly washed, rinsed and sanitized after any activity where contamination may have occurred.	One food contact surface not washed, rinsed or sanitized after any activity where contamination may have occurred. Example: Meat slicer blade encrusted with old food debris.	Two food contact surfaces not washed, rinsed or sanitized after any activity where contamination may have occurred. Example: Meat slicer blade and cutting board encrusted with old food debris.	Three food contact surfaces not properly washed, rinsed or sanitized after any activity where contamination may have occurred. Example: Meat slicer blade, 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 where contamination may have occurred. Example: Meat slicer blade, wooden cutting board, can opener, and food preparation table encrusted with old food debris, and the interior of the ice machine contaminated 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: in-use ice scoop on top of ice machine.	Two sanitized pieces of equipment or utensils improperly used or stored. Example: in-use ice scoop on top of ice machine and knives stored between food preparation table and wall.	Three sanitized pieces of equipment or utensils improperly used or stored Example: 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.	Four or more sanitized pieces of equipment or utensils improperly used or stored. Example: 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.	
6F	Wiping cloths soiled or not stored in sanitizing solution; or inadequately sanitized.	Wiping cloth soiled or not stored in sanitizing solution; or inadequately sanitized. Example: one wiping cloth 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 ensure proper sanitization of wiping cloths.	Wiping cloths soiled or not stored in sanitizing solution; or inadequately sanitized. Example: one 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.	Wiping cloths soiled and not stored in sanitizing solution and inadequately sanitized. Example: two or more wiping cloths used to clean food contact surfaces are not stored in sanitizing solutions, and the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths is either not provided or the sanitizer solution is not at appropriate level to ensure proper sanitization of 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 approved HACCP plan has been properly implemented.					Record and logs not maintained to show approved HACCP plan has been properly implemented. Inspector must call office to discuss corrective action or other enforcement measures.
6I	ROP TCS food not labeled in accordance with approved HACCP plan.				ROP TCS food not labeled in accordance with approved HACCP plan.	Inspector must call office to discuss corrective action or other enforcement measures.
6J	Refillable, reusable beverage container filled with TCS foods.	One food worker filled a customer's reusable beverage container with mixed fruit milk smoothie.	Two food workers filled a customer's reusable beverage container with fruit milk smoothie, or one food worker filled two customer's containers with mixed fruit milk smoothie.	Three food workers filled a customer's reusable beverage container with fruit milk smoothie, or one food worker filled three customer's containers with mixed fruit milk smoothie.	Four or more food workers filled a customer's reusable beverage container with fruit milk smoothie, or one food worker filled three customer's containers with mixed fruit milk smoothie.	
7A	Duties of an officer of the department interfered with or obstructed.					Duties of an officer of the department interfered with or obstructed. Inspector must call office to discuss closing or other enforcement measures.

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	Harborage or conditions conducive to attracting pests to the premises and/or allowing pests to exist when pests or signs of pests are present.			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 when pests or signs of pests are present.	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 when pests or signs of pest are present.	
8B	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.	Garbage equipment and facilities not maintained or provided. Example: tight fitting lid not provided for 32-gallon garbage can used to put garbage out overnight. Garbage can uncovered when not in active use. Garbage can not pest or water resistant. Cans and covers not cleaned after emptying and before reuse.				
8C	Pesticide use not in accordance with label or applicable laws. Pesticides, other toxic chemicals improperly used/stored. Unprotected, unlocked bait station used.	One prohibited pesticide, chemical or bait station in establishment or not used in accordance with label or applicable laws.	Two types of prohibited pesticides, chemicals or bait stations in establishment or not used in accordance with label or applicable laws.	Three types of prohibited pesticides, chemicals or bait stations in establishment or not used in accordance with label or applicable laws.	Four or more types of prohibited pesticides, chemicals or bait stations in establishment or not used in accordance with label or applicable laws.	Failure to correct. Inspector must call office to discuss enforcement measures.

9A	Cans of food with dented body damage not segregated from other cans for return to distributor.	1-6 cans dented Example: one dented can of tomato paste stored on food storage shelf not segregated.	7-12 cans dented. Example: seven dented cans of tomato paste stored on food storage shelf not segregated.	13-24 cans dented Example: seven dented cans of tomato paste and six dented cans of soy sauce stored on food storage shelf not segregated.	25 or more cans dented. Example: seven dented cans of tomato paste, ten dented cans of soy sauce, and five dented cans of tuna fish stored on food storage shelf not segregated.	
9B	Thawing procedures improper.	One frozen food item improperly thawed. Example: whole chicken or beefsteak improperly thawed.	Two frozen food items improperly thawed or the same type of food improperly thawed in two different areas. Example: two chickens and beefsteak improperly thawed or chicken breast improperly thawed in sink and chicken legs thawed on kitchen counter.	Three frozen food items improperly thawed or the same type of food improperly thawed in three different areas. Example: three chickens, 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 items improperly thawed or the same type of food improperly thawed in four different areas. Example: four chickens, chicken breast, beefsteak, and shrimp improperly thawed; or chicken breast improperly thawed in sink, chicken legs improperly thawed on kitchen counter, chicken breast improperly thawed in bowl in food preparation area, and chicken wings improperly thawed near the deep fat fryer.	
9C	Food contact surface chipped, cracked, worn or in a condition where it cannot be 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	Food service operation occurring in room or area 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.	

9E	"Wash hands" sign not posted at hand wash facility.	"Wash hands" sign not posted at hand wash facility.				
10A	Toilet facility not maintained or not provided with toilet paper, waste receptacle or self-closing door.	One toilet facility not maintained or not provided with toilet paper, waste receptacle or self-closing door.	Two toilet facilities not maintained or not provided with toilet paper, waste receptacle or a self-closing door.	Three toilet facilities not maintained or not provided with toilet paper, waste receptacle or a self-closing door.	Four or more toilet facilities not maintained or not provided with toilet paper, waste receptacle or a self-closing door.	
10B	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.	One back-flow prevention device not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into a bucket.	Two back-flow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation drained into a bucket and air conditioner draining onto sidewalk.	Three back-flow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, air conditioner draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet.	Four back-flow 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.	Five or more back-flow prevention devices not installed or equipment or floor not properly drained. Example: 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.
10C	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.	One instance of inadequate lighting. Example: lighting at work surface of food preparation table is 323 lux.	Two instances of inadequate lighting. Example: lighting at food prep table work surface is 323 lux, and 108 lux under self-service buffet sneeze guard.	Three instances of inadequate lighting. 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.	Four or more instances of inadequate lighting. 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.	

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.	One mechanical or natural ventilation system not provided or inadequate. Example: no ventilation provided in bathroom.	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.	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.	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.	
10E	Accurate thermometer not provided or not properly located 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 unit.	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 unit.	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 unit.	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 unit.	

10F	Non-food contact surface or equipment improperly maintained 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 equipment or other structures.	One non-food contact surface 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 equipment or other structures. Example: wall in food preparation area made of material not easily cleaned.	Two non-food contact surfaces 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 equipment or other structures. 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 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 equipment or other structures. 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, and 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 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 equipment or other structures. 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.	
10G	Proper sanitization not used or provided for utensil ware washing operation. No test kit.				Sanitization inadequate for mechanical or manual warewashing.	

10H	Single service item reused, not protected from contamination when transported, stored, dispensed; not used when required.	One type of single service item reused, not protected from contamination when transported, stored, dispensed or not used when required. Example: drinking straws not protected from contamination.	Two types of single service items reused, not protected from contamination when transported, stored, dispensed or not used when required. Example: drinking straws not properly dispensed and paper plates not protected from contamination.	Three types of single service items reused, not protected from contamination when transported, stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination and forks not protected from contamination.	Four or more types of single service items reused, not protected from contamination when transported, stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination, forks not protected from contamination and plastic forks reused.	
-----	---	---	---	---	--	--

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.

* 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-C:
FOOD SERVICE ESTABLISHMENT AND NON-RETAIL FOOD PROCESSING ESTABLISHMENT PENALTY SCHEDULE**

SCORED VIOLATIONS												
VIOLATION CODE	CITATION	CATEGORY	VIOLATION DESCRIPTION	CURE ACCEPTED OR \$0 PENALTY FIRST-TIME VIOLATIONS	VIOLATION PENALTY CONDITION I*	VIOLATION PENALTY CONDITION II*	VIOLATION PENALTY CONDITION III*	VIOLATION PENALTY CONDITION IV*	VIOLATION PENALTY CONDITION V*			
02A	NYCHC 81.09(c)	Public Health Hazard	Time and temperature control for safety ("TCS") hot food not heated to 140°F for 15 seconds					\$400	\$600			
02A	NYCHC 81.09(c)(1)	Public Health Hazard	Poultry, poultry stuffing, parts and ground, comminuted poultry 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	Ground, comminuted meat, foods containing ground, comminuted meat 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; injected, mechanically tenderized meats 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)(7)	Public Health Hazard	Raw animal food cooked in microwave not heated to 165°F, not covered, rotated or stirred, not held for 2 minutes					\$400	\$600			
02B	NYCHC 81.09(a)	Public Health Hazard	Hot TCS food not held at 140°F or above					\$250	\$300	\$350	\$400	\$500
02C	NYCHC 81.09(d)	Critical	Previously cooked and cooled TCS 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 TCS 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 offered, served raw or partially cooked with no written consumer advisory		\$200					
02G	NYCHC 81.09(a)	Public Health Hazard	Cold TCS food not held at 41°F or below		\$250	\$300	\$350	\$400	\$500	
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 TCS foods not held at proper temperatures		\$250	\$300	\$350	\$400	\$600	
02G	NYCHC 81.12(d)(4)	Public Health Hazard	Reduced oxygen packaged TCS foods not held at proper temperatures		\$250	\$300	\$350	\$400	\$600	
02H	NYCHC 81.09(e)	Public Health Hazard	TCS food not cooled by approved method		\$250	\$300	\$350	\$400	\$500	
02I	NYCHC 81.09(e)(2)	Critical	TCS 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 TCS foods not properly cooled		\$250	\$300	\$350	\$400	\$600	
03A	NYCHC 81.04	Public Health Hazard	Food from unapproved or unknown source, or home cooked					\$400	\$600	
03A	NYCHC 81.12(c)	Public Health Hazard	ROP food products sold or distributed to another business entity or directly to consumers.					\$400	\$600	
03A	NYCHC 81.12(e)	Public Health Hazard	Reduced oxygen packaged fish not frozen before processing					\$400	\$600	
03A	NYCHC 81.04(b)	Public Health Hazard	Meat not from an approved source					\$400	\$600	

03A	NYCHC 81.04(d)	Public Health Hazard	Exotic and game animals' meat not from an approved source							\$400	\$600
03A	NYCHC 81.07(m)	Public Health Hazard	Animal slaughter in establishment							\$400	\$600
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	Shellfish records not on premises							\$400	\$600
03C	NYCHC 81.07(c)	Public Health Hazard	Whole eggs cracked, not clean; other eggs unpasteurized							\$250	\$300
03D	NYCHC 81.07(b)	Public Health Hazard	Food packages, hermetically sealed containers, or packaged food swollen, leaking and/or rusted; not labeled; not segregated from packaged foods	\$200	\$200	\$200	\$200	\$200			
03E	NYCHC 81.20(a)	Public Health Hazard	Potable water not provided; inadequate***	\$0						\$100	\$100
03E	NYCHC 141.13	Public Health Hazard	Bottled water not from an approved source; not state certified	\$0						\$250	\$250
03E	NYCHC 81.20(a)	Public Health Hazard	Cross-connection observed between potable and non-potable water***							\$100	\$100
03E	NYCHC 81.20(c)	Public Health Hazard	Carbon dioxide gas lines unacceptable, improper materials used							\$400	\$600
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	Raw fruits and vegetables not washed prior to cutting, 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						\$400
04B	NYCHC 81.13(a)	Public Health Hazard	Food worker with illness, communicable disease and/or injury preparing food					\$400	\$600
04B	NYCHC 81.13(i)	Public Health Hazard	Food worker spitting in establishment					\$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; or change gloves when required					\$400	\$600
04E	NYCHC 81.23(d)(3)	Public Health Hazard	Pesticides not properly labeled, stored or used such that food contamination may occur		\$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	Food preparation, food storage, or other area contaminated by sewage or liquid waste***	\$0				\$100	\$100
04G	NYCHC 81.07(l)	Public Health Hazard	Unprotected TCS 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
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)	Public Health Hazard	Unprotected non-TCS food re-served		\$200	\$200	\$250	\$300	

04J	NYCHC 81.09(g)	Critical	Thermometer not provided, calibrated properly, or accessible for use		\$200					
04J	NYCHC 81.12(g)(1)	Critical	Thermocouple not provided for ROP TCS foods		\$200					
04K	NYCHC 81.23(a)	Critical	Rats or evidence of rats		\$200	\$200	\$250	\$300	\$350	
04L	NYCHC 81.23(a)	Critical	Mice or evidence of mice		\$200	\$200	\$250	\$300	\$350	
04M	NYCHC 81.23(a)	Critical	Live roaches		\$200	\$200	\$250	\$300	\$350	
04N	NYCHC 81.23(a)	Critical	Filth or FRSA flies, other nuisance pests		\$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	SSC 14-1.89(a)	Public Health Hazard	Non-food grade liquid nitrogen, dry ice added to food		Condition levels are not applicable. Penalty is \$250 for first violation and \$500 for each subsequent violation					
04P	SSC 14-1.89(d)	Public Health Hazard	Dry ice "smoke" or liquid nitrogen "fog" effect remains at time of service							
04P	NYCHC 71.05	Public Health Hazard	Food containing a prohibited substance held, kept, offered, prepared, processed, packaged, or served		\$0					\$400
05A	NYCHC 81.20(b)	Public Health Hazard	Sewage disposal system not provided, inadequate or unapproved***					\$100	\$100	
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, equipment improperly constructed, located and/or made of unacceptable materials	\$200	\$200	\$250	\$300	\$350		
05C	NYCHC 81.46(c)	Critical	Refillable, returnable containers constructed with improper materials.	\$200	\$200	\$250	\$300	\$350		
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 wash facilities not provided or not located where required					\$300	\$350	
05D	NYCHC 81.21(a)(1)	Critical	Hand wash facilities not provided within 25 feet of food preparation, food service 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 without soap, drying device						\$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 or utensil washing area						\$300	\$350
05F	NYCHC 81.18	Critical	Hot or cold holding equipment not provided or inadequate						\$300	\$350
05F	NYCHC 81.18(a)(6)	Critical	Outdoor refrigerator not locked, secure						\$300	\$350
05G	NYCHC 89.27(c)	Critical	Enclosed service area not provided, equipped in mobile food vending commissary						\$300	\$350
05G	NYCHC 89.27(d)	Critical	Mobile food vending units cleaned or serviced on street or sidewalk outside commissary						\$300	\$350
05H	NYCHC 81.29	Critical	Manual or mechanical tableware, utensil and/or ware washing facilities not provided						\$300	\$350
05H	NYCHC 81.46	Critical	No approved standard operating procedure for refillable consumer containers						\$300	\$350
05I	NYCHC 81.12(d)(5)	Critical	Refrigeration unit used for ROP foods not equipped with an electronic system						\$300	\$350
06A	NYCHC 81.13	Critical	Food worker does not maintain personal cleanliness			\$200	\$200	\$250	\$300	
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*****	\$0	\$100	\$100	\$125	\$150		
06A	NYCHC 81.13(f)	Critical	Jewelry worn on arm(s) or hand(s)		\$200	\$200	\$250	\$300		
06B	NYCHC 81.13(h)	Critical	Eating, drinking in food preparation or other areas*****	\$0	\$100	\$100	\$125	\$150		

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(f)	Critical	Condiments for self-service not properly dispensed		\$200	\$200	\$250	\$300	
06C	NYCHC 81.07(i)	Critical	Supplies and equipment under or near source of contamination		\$200	\$200	\$250	\$300	
06C	NYCHC 81.46(a)	Critical	Beverage dispensing equipment not protecting from potential contamination from customer's reusable, refillable container		\$200	\$200	\$250	\$300	
06D	NYCHC 81.27(b)	Critical	Food contact surface not washed, rinsed and sanitized when required		\$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	
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 sanitize*****	\$0	\$100	\$100	\$100		
06F	SSC 14-1.112(c)	Critical	No test kit for measuring sanitizing solution concentration		\$200	\$200			
06G	NYCHC 81.06(b)	Public Health Hazard	No approved HACCP plan; approved HACCP plan not maintained on premises					\$400	\$600
06H	NYCHC 81.06(b)(4)	Critical	HACCP records and logs not maintained on site						\$350
06I	NYCHC 81.12(d)(6)	Critical	ROP TCS food not labeled in accordance with the approved HACCP plan					\$300	\$350
06J	NYCHC 81.46(a)	Critical	Refillable, reusable beverage container filled with TCS foods.		\$200	\$200	\$250	\$300	
07A	NYCHC 3.15(a)	Critical	Obstruction of Department personnel						\$1,000

10D	NYCHC 81.19(c)	General	Ventilation (mechanical or natural) not provided or inadequate		\$200	\$200	\$200	\$200
10E	NYCHC 81.18(a)(3)	General	Accurate thermometers not provided or not properly located in cold storage and/or refrigerator unit		\$200	\$200	\$200	\$200
10E	NYCHC 81.18(b)(1)	General	Accurate thermometers not provided or not properly located in hot storage or holding unit		\$200	\$200	\$200	\$200
10F	NYCHC 81.17(e)(1)	General	Flooring: unacceptable material used, not maintained or not clean***	\$0	\$100	\$100	\$100	\$100
10F	NYCHC 81.17(e)(2)	General	Non-food contact surfaces (wall, ceiling): unacceptable materials used: not maintained or not clean***	\$0	\$100	\$100	\$100	\$100
10F	NYCHC 81.17(e)(3)	General	Non-food contact surface (equipment, fixtures, decorative material, fans, etc.) not clean or not in working order***	\$0	\$100	\$100	\$100	\$100
10G	NYCHC 81.29(a)	General	Hot water manual ware washing inadequate		\$200	\$200	\$200	\$200
10G	NYCHC 81.29(a)	General	Manual chemical sanitizing procedure inadequate		\$200	\$200	\$200	\$200
10G	NYCHC 81.29(b)(1)	General	High temperature mechanical ware washing inadequate		\$200	\$200	\$200	\$200
10G	NYCHC 81.29(b)(2)	General	Mechanical chemical sanitizing procedure inadequate		\$200	\$200	\$200	\$200
10G	NYCHC 81.29(a)(3)(B)	General	Test kit not accurate or used for manual dishwashing		\$200	\$200	\$200	\$200
10G	NYCHC 81.29(b)(2)	General	Test kit not accurate or used for mechanical dishwashing		\$200	\$200	\$200	\$200
10H	NYCHC 81.07(o)	General	Single service items improperly stored or reused		\$200	\$200	\$200	\$200
10H	NYCHC 81.07(o)	General	Drinking straws improperly dispensed		\$200	\$200	\$200	\$200

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

UNSCORED VIOLATIONS					
VIOLATION CODE	CITATION	VIOLATION DESCRIPTION	CURE ACCEPTED OR \$0 PENALTY FIRST-TIME VIOLATIONS	APPEARANCE PENALTY*	DEFAULT PENALTY
15-01	NYSPHL 1399-o	Smoking or electronic cigarette use allowed in prohibited area		\$1,000	\$2,000
15-05	Admin. Code 17-177(b)	Tobacco vending machine in public place other than tavern		\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)	Same as appearance penalties
15-06	Admin. Code 17-177(c)(1)	Tobacco vending machine less than 25 feet from tavern entry		\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)	Same as appearance penalties
15-07	Admin. Code 17-177(c)(1)	Tobacco vending machine not directly visible to premises owner		\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)	Same as appearance penalties
15-08	Admin. Code 17-177(d)	Tobacco vending machine sign not durable or lacks required information		\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)	Same as appearance penalties
15-09	Admin. Code 17-177(d)	Sign not posted on tobacco vending machine or not visible to the public		\$300 (1st violation); \$500 (2nd violation); \$1,000 (3rd and subsequent violations)	Same as appearance penalties
15-13	Admin. Code 17-176(b)	Tobacco products distributed at less than basic cost		\$500 (1st violation); \$1,000 (2nd and subsequent violations)	Same as appearance penalties
15-14	Admin. Code 17-176.1(b)	Selling discounted cigarettes		\$1,000 (1st violation); \$2,000 (2nd violation in 5 years); \$5,000 (3rd and subsequent violations in 5 years)	Same as appearance penalties
15-15	Admin. Code 17-176.1(c)	Selling discounted tobacco products		\$1,000 (1st violation); \$2,000 (2nd violation in 5 years); \$5,000 (3rd and subsequent violations in 5 years)	Same as appearance penalties
15-16	Admin. Code 17-176.1(d)	Selling cigarettes, other tobacco products, non-tobacco shisha below the price floor		\$1,000 (1st violation); \$2,000 (2nd violation in 5 years); \$5,000 (3rd and subsequent violation in 5 years)	Same as appearance penalties
15-17	NYSPHL 1399-cc(2)	Sale of tobacco products, herbal cigarettes, liquid nicotine, shisha, electronic cigarettes to underage individual		\$1,500 (1st violation); \$2,500 (2nd and subsequent violations)	Same as appearance penalties

15-17	NYSPHL 1399-cc(2)	Failure to conspicuously post the required tobacco sign		\$1,500 (1st violation); \$2,500 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-cc(3)	Failure to obtain proper identification from purchaser		\$1,500 (1st violation); \$2,500 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-cc(5)	Improper use of electronic transaction information		\$1,000 (1st violation); \$1,000 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-cc(7)	Failure to store tobacco products, herbal cigarettes behind a counter accessible only to store personnel or in a locked container		\$1,500 (1st violation); \$2,500 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-dd	Unlawful sale of tobacco products, herbal cigarettes, or electronic cigarettes in vending machines		\$1,500 (1st violation); \$2,500 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-dd-1	Public display of tobacco product or electronic cigarette advertisements, or smoking paraphernalia, within 500 feet of a school		\$500 (1st violation); \$1,000 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-ee(2)	Sale of tobacco products with a suspended or revoked retail dealer registration		\$2,500	Same as appearance penalties
15-17	NYSPHL 1399-gg	Unlawful out-of-package sales or minimum package size violation		\$1,500 (1st violation); \$2,500 (2nd and subsequent violations)	Same as appearance penalties
15-17	NYSPHL 1399-ll	Unlawful sale of bidis		\$500	Same as appearance penalties
15-17	NYSPHL 1399-mm	Unlawful sale of gutka		\$500	Same as appearance penalties
15-21	Admin. Code 17-715	Flavored tobacco products sold, offered for sale		\$1,000 (1st violation); \$2,000 (2nd violation in 36 months); \$5,000 (3rd and subsequent violations in 36 months)	Same as appearance penalties
15-22	24 RCNY 28-06	No original labels of tobacco and non-tobacco smoking products currently sold, offered for sale		\$1,000	Same as appearance penalty
15-26	24 RCNY 10-11(b)	"No smoking" sign not posted at hotel entrance or elevators where ashtrays are placed		\$500	\$1,000
15-27	24 RCNY 10-12(a)	Required signage not conspicuously posted.		\$1,000	Same as appearance penalty
15-28	24 RCNY 10-12(c)	Non-compliant signage		\$500	\$1,000
15-29	24 RCNY 10-12(c)(iv)(D)	Smoking or electronic cigarette use signage lacks required warning		\$1,000	Same as appearance penalty

15-30	24 RCNY10-20(a)	Hookah equipment in Non-tobacco Hookah Establishment (NTHE) not cleaned, sanitized		\$1,000	Same as appearance penalty
15-31	24 RCNY 10-20(b)	New individually wrapped mouthpiece not provided to each NTHE hookah patron		\$1,000	Same as appearance penalty
15-32	24 RCNY 10-21(d)	Warning sign re dangers of hookah smoking not posted at street entrance to NTHE		\$1,000	Same as appearance penalty
15-33	24 RCNY 10-21(e)	Warning sign re: dangers of hookah smoking not posted in each room or area of NTHE where smoking is allowed		\$1,000	Same as appearance penalty
15-34	24 RCNY 13-04(a)	Retail dealer tobacco, non-tobacco age restriction signage not conspicuously posted		\$500	Same as appearance penalty
15-34	24 RCNY 13-04(a)	Retail dealer tobacco, non-tobacco age restriction signage non-compliant		\$500	Same as appearance penalty
15-35	24 RCNY 13-04(b)	Retail dealer cigarette tax stamp sign not posted conspicuously		\$500	Same as appearance penalty
15-36	24 RCNY 10-21(g)	Sign prohibiting entry of persons under 21 not posted at public entrance(s) to NTHE		\$1,000	Same as appearance penalty
15-37	Admin. Code 17-504(f)	Workplace SFAA policy not prominently posted in workplace****	\$0	\$50 (1st violation); \$100 (2nd violation) \$150 (3rd and subsequent violations in 12 months)	Same as appearance penalty
15-38	Admin. Code 17-506(b)	Screen shot prohibiting smoking, electronic cigarette use not shown in motion picture theatre		\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)	Same as appearance penalty
15-39	Admin. Code 17-506(d)	Ashtray in smoke-free area		\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)	Same as appearance penalty
15-40	Admin. Code 17-506.1(b)(1)	Initial multiple dwelling smoking policy not distributed to tenants or posted by owner		\$100	Same as appearance penalty
15-41	Admin. Code 17-506.1(b)(7)	Multiple dwelling smoking policy not distributed to tenants or posted annually by owner		\$100	Same as appearance penalty
15-42	Admin. Code 17-508(b)	Failure to make a good faith effort to inform smokers or electronic cigarette users of Smoke-Free Air Act prohibitions		\$400 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)	Same as appearance penalty

15-48	Admin. Code 17-703.1	Cigarette tax stamp sign not posted		**\$500	Same as appearance penalties
15-49	Admin. Code 17-703.2	Sale of cigarette package without tax stamp		**\$2,000 (1st violation); \$5,000 (2nd and subsequent violations in 3 years)	Same as appearance penalties
15-50	Admin. Code 17-704	Cigarettes, tobacco products sold in packages without health warning or not in minimum quantities		\$1,000 (1st violation), \$2,000 (2nd and subsequent violations in 3 years)	Same as appearance penalties
15-51	Admin. Code 17-704(a)	Out of package sale of tobacco product(s)		**\$1,000 (1st violation), \$2,000 (2nd and subsequent violations in 3 years)	Same as appearance penalties
15-52	Admin. Code 17-176.1(f)	Cigars sold or offered for sale for less than the cigar price floor		\$1,000 (1st violation), \$2,000 (2nd and subsequent violations in 3 years)	Same as appearance penalties
15-53	Admin. Code 17-704.1	Unlawful delivery of cigarettes, tobacco products or electronic cigarettes		**\$1,000 (1st violation), \$2,000 (2nd and subsequent violations in 3 years)	Same as appearance penalties
15-54	Admin. Code 17-705	Employee under 18 years of age selling tobacco products without direct supervision of an adult retailer		**\$1,000 (1st violation); \$2,000 (2nd and subsequent violations in 36 months)	Same as appearance penalties
15-55	Admin. Code 17-706(a)	Sale of cigarettes, tobacco products, liquid nicotine to persons under 21 years of age		**\$1000 (1st); \$2,000 (2nd or subsequent in 36 months)	Same as appearance penalties
15-55	Admin. Code 17-706(a)	Sale of cigarettes, tobacco products, liquid nicotine, electronic cigarettes, or non-tobacco smoking products to persons under 21 years of age		**\$1,000 (1st violation); \$2,000 (2nd and subsequent violations in 36 months)	Same as appearance penalties
15-55	Admin. Code 17-706(a-1)	Sale of electronic cigarettes to persons under 21 years of age		\$1000 (1st violation); \$2,000 (2nd and subsequent in 36 months)	Same as appearance penalties
15-55	Admin. Code 17-706	Sale of non-tobacco smoking products to persons under 21 years of age		**\$1,000 (1st violation); \$2,000 (2nd and subsequent violations in 36 months)	Same as appearance penalties
15-56	Admin. Code 17-719(a)	Person under 21 years of age allowed entry to non-tobacco hookah establishment		\$200 (1st violation); \$500 (2nd and subsequent violations)	Same as appearance penalties
16-01	NYCHC 81.08(a)	Cooking oil, shortening or margarine contains 0.5 grams or more of artificial trans fat		\$200	\$400
16-02	NYCHC 81.08(c)	Nutritional fact labels and/or ingredient label is not maintained on site***	\$0	\$100	\$200
16-03	NYCHC 81.50(c)	Calorie information is not posted on menu and menu board		\$200	\$400

16-03	NYCHC 81.50(c)	Total number of calories or total number of discrete calories not posted		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information not posted for standard menu items offered in different varieties		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information not posted for combination meals		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information not posted for toppings		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information font, appearance, term used improper		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information improperly posted for standard menu items offered in three or more combinations		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information for standard menu item offered in two different combinations not posted with a slash between both calorie counts		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information for standard menu items that come in two different varieties not posted with a slash between both calorie counts		\$200	\$400
16-03	NYCHC 81.50(c)	Calorie information improperly posted for standard menu items offered in three or more different varieties		\$200	\$400
16-04	NYCHC 81.50(d)	Required succinct nutritional statements not posted on menu(s) for adults and children		\$200	\$400
16-06	NYCHC 81.50(e)	Additional nutritional information statement not posted		\$200	\$400
16-06	NYCHC 81.50(e)	Written nutritional information not provided in a manner required by federal law		\$200	\$400
16-08	NYCHC 81.49(b)(1)	No sodium warning icon where required		\$200	\$400
16-09	NYCHC 81.49(b)(1)	Sodium warning icon non-compliant with design specifications		\$200	\$400
16-10	NYCHC 81.49(b)(2)	No sodium warning statement at point of purchase		\$200	\$400

16-11	Admin. Code 17-199.11(b)	Prohibited drink listed on children's meal menu***	\$0	\$50	Same as appearance penalty
16-15	Admin. Code § 17-199.18	No added sugar warning icon where required.		\$200	Same as appearance penalty
16-16	Admin. Code § 17-199.18	Added sugar icon non-compliant with design specifications.		\$200	Same as appearance penalty
16-17	Admin. Code § 17-199.18	No added sugar warning statement where required.		\$200	Same as appearance penalty
17-01	24 RCNY 32-03	"Dogs allowed" sign not posted at or near entrance		\$200	\$200
17-03	24 RCNY 32-04(c)	Effective barrier not provided		\$250	\$500
18-01	NYCHC 81.05(a)	No current valid permit, registration, other authorization to operate establishment		\$1,000	\$2,000
18-02	NYCHC 88.05(c)	No current valid permit to operate temporary food service establishment		\$1,000	\$2,000
18-08	NYCHC 5.15	Permit not conspicuously displayed		\$200	\$400
18-10	NYCHC 88.05(a)	Failure of temporary event sponsor to exclude vendor without current valid permit		\$500	\$1,000
18-11	NYCHC 81.15(b)	Food protection certificate not available for inspection		\$200	\$400
18-12	NYCHC 3.19	Department document unlawfully reproduced or altered		\$1,000	\$2,000
18-12	NYCHC 3.19	Submitting false, misleading statements, documents; documents unlawfully reproduced or altered		\$1,000	\$2,000
18-13	NYCHC 3.05(a)	Failure to comply with an Order of the Board of Health, Commissioner or Department		\$1,000	\$2,000
18-14	NYCHC 3.17	Notice, Order or other posted material of the Department mutilated, obstructed, or removed		\$1,000	\$2,000
18-15	NYCHC 81.43(a)	Foodborne illness; failure to notify department		\$200	\$400
18-25	NYCHC 81.05(h)	Operator of shared kitchen allows unpermitted user		\$500	\$1,000

18-25	NYCHC 88.05(b)	Temporary event sponsor failed to provide list of all participating establishments at least 30 days before event		\$500	\$1,000
19-01	16 RCNY 1-11(c)(2)	Organics mixed with non-organics materials*****		\$0 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)	Same as appearance penalties
19-02	16 RCNY 1-11(c)(1)	Organics containers not labeled*****		\$0 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)	Same as appearance penalties
19-03	16 RCNY 1-11(d)(2)	Failure to post sign in organics collection areas*****		\$0 (1st violation); \$500 (2nd violation in 12 months); \$1,000 (3rd and subsequent violations in 12 months)	Same as appearance penalties
19-04	Admin. Code 16-329(c)	Possess, sell expanded polystyrene single service articles		\$150 (1st violation); \$250 (2nd violation) \$500 (3rd and subsequent violations in 12 months)	Same as appearance penalties
19-05	Admin. Code § 16-401(b)	Providing single-use plastic stirrers or single-use plastic splash sticks		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty
19-06	Admin. Code § 16- 401(c)(1)	Providing single-use, non-compostable plastic straws to customers without customer request (including providing such straws at a self-serve station)		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty
19-07	Admin. Code § 16- 401(c)(2)	Failure to maintain a sufficient supply of single-use, non-compostable plastic straws		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty
19-08	Admin. Code § 16- 401(c)(2)	Failure to provide a single-use, non-compostable plastic straw upon request		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty
19-09	Admin. Code § 16- 401(c)(2)	Charging a customer for a single-use, non-compostable plastic straw that the customer has requested or inquiring as to the reason a customer has requested such plastic straw		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty
19-10	Admin. Code § 16- 401(c)(3)	Failure to display required signage about plastic straw availability		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty
19-11	Admin. Code § 16-401(d)	Providing compostable plastic straws to be used outside of the food establishment's premises; failure to appropriately dispose of compostable plastic straws; failure to maintain required bins for disposal of compostable plastic straws		\$100 (1st violation); \$200 (2nd violation) \$400 (3rd and subsequent violations in 12 months)	Same as appearance penalty

20-01	24 RCNY 27-03(c)	Allergy poster not posted or not in correct location		\$100	\$100
20-01	NYSPHL § 1356	Allergen or intolerance statement or information not provided when required.		\$100	Same as appearance penalty
20-01	NYSPHL § 1356	Allergen or intolerance notice not translated into common language when required.		\$100	Same as appearance penalty
20-01	NYSPHL § 1356	No method for patrons to indicate food allergies, and/or no allergy information provided for each menu item.		\$100	Same as appearance penalty
20-02	Admin. Code § 17-195.1	Failure to conspicuously post a hyperlink to the Department's inspection lookup tool as required.		\$100	Same as appearance penalty
20-02	24 RCNY 27-03(c)	Allergy poster not in language(s) understood by all food workers		\$100	\$100
20-03	24 RCNY 27-03(b)	Allergy poster not approved by the Department		\$100	\$100
20-04	Admin. Code 17-173(2)(b)	Alcohol use during pregnancy sign not posted***	\$0	\$100	\$100
20-04	24 RCNY 18-02	Resuscitation equipment not available		\$200	\$400
20-04	24 RCNY 18-04	Resuscitation equipment required notice to patrons not posted		\$200	\$400
20-05	24 RCNY 23-07(f)	Current letter grade or "Grade Pending" card not conspicuously posted or visible to passersby		\$500	\$1,000
20-06	24 RCNY 23-07	Current letter grade or Grade Pending card not posted		\$500	\$1,000
20-06	24 RCNY 23-06(d)	Grade card not posted after reopening when FSE ordered closed by BFSCS		\$500	\$1,000
20-07	24 RCNY 23-07	Grade card removed, destroyed, modified, obscured or otherwise tampered with		\$1,000	\$2,000
20-08	Admin. Code 17-1507(a)	Failure to post or conspicuously post healthy eating information***	\$0	\$100	\$200
26-04	NYCHC 89.27(b)	Required records incomplete or not maintained by commissary		\$200	\$400

28-01	NYCHC 3.07	Failure to take reasonable precautions to protect health and safety, e.g., by not securing CO2 or liquefied petroleum gas (LPG) containers		\$1,000	\$2,000
28-01	NYCHC 3.09	Failure to abate or remediate nuisance		\$1,000	\$2,000
28-01	NYCHC 131.07(c)(2)	Insufficient heat in commercial premises		\$300	\$600
28-02	NYCHC 81.07(p)	Microwave safe container not marked or used		\$200	\$400
28-03	NYCHC 81.19(b)	Light fixtures not shielded, shatterproofed, or otherwise protected from accidental breakage		\$200	\$400
28-04	NYCHC 81.12(g)	Equipment used for ROP not approved by the Department		\$200	\$400
28-05	NYCHC 71.05	Adulterated or misbranded food possessed, manufactured, produced, packed, sold, offered for sale, delivered or given away		\$500	\$1,000
28-05	NYCHC 71.06	Labeling required by applicable law not maintained in English		\$500	\$1,000
28-06	NYCHC 81.23(b)(2)	Contract with pest management professional, record of pest exterminations, activities not kept on premises		\$100	\$100
28-07	NYCHC 81.31	Unauthorized FSE street, sidewalk cooking		\$350	\$700
28-09	NYCHC 88.15	No, or insufficient toilets, sinks provided by temporary event sponsor		\$500	\$1,000
28-10	NYCHC 88.19	No, insufficient refuse, trash containers; temporary event area not maintained by sponsor		\$500	\$1,000

*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.

*****First-time violation subject to cure.** First-time violation where a monetary penalty is waived because proof of correction has been accepted. See § 23-09 of this Chapter.

******First-time violation subject to cure with a 30-day cure period.** See, Administrative Code section 17-504.

******* First-time violation subject to a \$0 penalty.**

The penalties listed in this Appendix for violations of 24 RCNY Health Code §§ 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.