

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE
COMMISSIONER OF HEALTH AND MENTAL HYGIENE**

NOTICE OF PUBLIC HEARING

**NOTICE OF INTENTION TO REPEAL AND RECODIFY CHAPTER 23
OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK**

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

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE (THE “DEPARTMENT”) WILL HOLD A PUBLIC HEARING ON THE PROPOSAL FROM 2:00 P.M. TO 4:00 P.M. ON WEDNESDAY, MAY 26, 2010 IN THE SECOND FLOOR AUDITORIUM AT 125 WORTH STREET, NEW YORK, NEW YORK.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK AT THE HEARING SHOULD NOTIFY RENA BRYANT, SECRETARY TO THE DEPARTMENT, IN WRITING, BY MAIL TO 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, OR BY E-MAIL TO resolutioncomments@health.nyc.gov NO LATER THAN 5:00 P.M. TUESDAY MAY 25, 2010. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL WORKING HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

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

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE DEPARTMENT, 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013, (212) 788-5242, BY MAY 14, 2010.

WRITTEN COMMENTS REGARDING THE PROPOSAL MUST BE SUBMITTED TO RENA BRYANT, SECRETARY, BY MAIL TO 125 WORTH STREET CN-31, NEW YORK, NEW YORK 10013, BY FAX TO (212) 788-4315, BY E-MAIL TO resolutioncomments@health.nyc.gov OR ONLINE (WITHOUT ATTACHMENTS) AT <http://www.nyc.gov/html/doh/html/notice/notice.shtml> ON OR BEFORE 5:00 P.M., WEDNESDAY, MAY 26, 2010. ATTACHMENTS TO ONLINE COMMENTS MUST BE MAILED OR FAXED. COMMENTS RECEIVED AFTER MAY 26, 2010 WILL BE CONSIDERED TO THE EXTENT POSSIBLE.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY. THE DEPARTMENT’S GENERAL POLICY IS TO MAKE WRITTEN COMMENTS AVAILABLE FOR PUBLIC VIEWING ON THE INTERNET. ALL COMMENTS

RECEIVED, INCLUDING ANY PERSONAL INFORMATION PROVIDED, WILL BE POSTED WITHOUT CHANGE TO <http://www.nyc.gov/html/doh/html/comment/comment.shtml>.

Statutory Authority

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

STATEMENT OF BASIS AND PURPOSE

In 2005, the Department of Health and Mental Hygiene (“DOHMH” or the “Department”) adopted new rules in Chapter 23 of Title 24 of the Rules of the City of New York for food service establishment sanitary inspection procedures, establishing and modifying with later amendments, a scoring system for such inspections. Chapter 23 includes two appendices demonstrating how a sanitary inspection’s violations are weighted and scored according to their severity.

At its meeting on March 16, 2010, the Board of Health amended §81.51 of the New York City Health Code, authorizing the Department to establish a letter grading program for food service establishments. The Board determined that providing restaurant grading information is feasible, will inform consumer choice and is likely to improve restaurants’ compliance with Health Code requirements and thereby reduce the burden of food borne illness in New York City.

A full development of the rationale for letter grading is set forth in the Statement of Basis and Purpose in the Board of Health resolution adopting §81.51 of the Health Code. The resolution may be found at <http://www.nyc.gov/html/doh/downloads/pdf/notice/2010/Article-81.pdf>.

The proposed Chapter 23 repeals and recodifies current Chapter 23, amending the existing rules governing conduct and scoring of sanitary inspections of food service establishments and for issuing and posting letter grades summarizing the results of inspections. The following changes are proposed.

§23-01. Definitions and construction of words and terms replaces former §23-01, Introduction and Scope, which is being repealed as no longer necessary. Changes to former §23-02, “Definitions and construction of words and terms” renumbered as §23-01 are as follows:

Definitions have been amended for “compliance inspection,” “critical violations,” “initial inspection,” “notice of violation,” “pre-permit inspection,” “public health hazards,” and “sanitary inspection.”

Definitions of “commissioner,” “complaint inspection,” “department,” “full sanitary inspection,” “general violations,” “hazard analysis critical control point,” “numeric point value,” and “reduced oxygen packaging” have been deleted as no longer needed. A provision has been included in §23-02 that terms used in the appendices shall have the same meanings as the definitions in Article 81 of the Health Code.

New definitions have been added for “grade card,” “grade pending card,” “inspection cycle,” “OATH,” “operating or in operation,” “pre-permit serious item,” “reinspection,” “re-opening inspection.”

§23-02. Scoring of sanitary inspections. This section incorporates provisions of current §23-03 (Conduct of Sanitary Inspections) and § 23-06 (Point Values), indicating that points on an inspection will be scored based only on 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).

§23-03. Letter grading. This section is new. It establishes letter grades of “A,” “B,” or “C”; indicates which inspections will result in a grade; and sets forth the inspection scores that correspond to each letter grade. Subdivision (d) provides that the Department will continue to conduct compliance inspections whenever an establishment has 28 or more points, and that these inspections will not be associated with a letter grade.

§23-04. Intervals between inspection cycles. This section is new. It establishes varying periods of time between inspection cycles based on the points scored during either an initial inspection or reinspection, or following an authorized re-opening after the Department closes an establishment. Establishments that score the highest number of points on an initial inspection or reinspection can generally expect to be inspected more frequently than lower-scoring establishments. Subdivision (b) of this section preserves the authority of the Department to conduct compliance inspections when the Department determines there is a heightened public health risk necessitating such inspections, e.g., in the case of food borne illness outbreaks or an establishment having been closed and authorized by the Department to reopen during its prior inspection cycle.

§23-05. Issuance of notices of violation. This section incorporates provisions of current §23-08 (Issuance of Notices of Violation), but deletes provisions concerning sanitary inspections that are not full inspections, as no longer necessary. Current §23-04 (Failure of Sanitary Inspections) would also be repealed because the Department will no longer deem a food service establishment that has scored 28 or more points as having “failed” an inspection.

§23-06 Revocation or suspension of permits. This section amends current § 23-05, preserving provisions related to commencement of proceedings to revoke or suspend permits and adds provisions concerning the effect on an establishment’s letter grade when an establishment that has been closed by the Department is authorized to re-open.

§23-07 Posting letter grades. This section is new. It sets forth requirements for when and where letter grades must be posted and the effects of adjudication of notices of violation at the Department’s Administrative Tribunal on grade posting.

§23-08 Effect of other laws and construction. This section renumbers current § 23-09 but is otherwise unchanged.

Appendix 23-A: “Food Service Establishment Sanitary Inspection Score Worksheet”

Proposed changes are only to conform the name of each violation to those in Appendix 23-B. No changes to point values are proposed.

Appendix 23-B: “Food Service Establishment Sanitary Inspection Scoring Parameters—A Guide to Conditions”

Changes are shown in the chart below, other than edits to correct typographical errors and non-substantive changes that improve clarity.

Current violation number	Proposed change	Rationale
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2B*	Proposing to change the violation so that it addresses hot food out of temperature in different areas of the establishment instead of amounts of food out of temperature. Also, there are currently two separate “2B*” violations. The proposal would combine these and establish one “2B*” violation.	The condition levels for this violation are meant to assess the establishment’s ability to maintain correct holding temperatures for hot foods. Currently, the violation focuses on quantity of food out of temperature. The proposed change would focus on a food service establishment’s ability to consistently maintain food at proper temperatures. An inspector would assess whether a batch of hot food that is out of temperature is an anomaly or a pattern of neglect throughout an establishment’s operation. This enables a differentiation between an acute problem in one area of a food service establishment and a more widespread inability to practice food safety. The current violations create two “2B*” violations: one for a FSE with a varied menu that could have multiple food types improperly held; the other for a FSE with a single food type. Rewriting this violation as proposed better addresses the food safety condition and allows a single “2B*” violation.
2G*	Proposing to change the violation so that it addresses cold food out of temperature in different areas of the establishment instead of amounts of food out of temperature. Also, there are currently two separate “2G*” violations. The proposal would combine these and establish one “2G*” violation.	The condition levels for this violation are meant to assess the establishment’s ability to maintain correct holding temperatures for cold foods. Currently the violation focuses on quantity of food out of temperature. The proposed change would focus on areas of the establishment and whether cold food is being properly held throughout. An inspector would assess whether a batch of cold food that is out of temperature is an anomaly or a pattern of neglect throughout an establishment’s operation. This enables a differentiation between an acute problem in one area of a food service establishment and a more widespread inability to practice food safety. The current violations create two “2G*” violations: one for a FSE with a varied menu that could have multiple food types improperly held; the other for a FSE with a single food type. Rewriting this violation as proposed better address the food safety condition and allows a single “2G*” violation.
2J*	Editing that Reduced Oxygen Packaged (ROP) food not cooled by an approved method whereby the internal product temperature is reduced to 38° F within two hours of cooking	Correcting error and making violation consistent with Health Code § 81.12.

	and if necessary further cooled to a temperature of 34° F within six (instead of four) hours of reaching 38° F.	
3C*	Propose to change the numbers of eggs that fall within the condition levels.	Revised numbers better correspond with typical egg packaging.
3D*	Proposal is to specify that it is not a violation to have dented cans on FSE premises so long as those cans are separated from consumable food items. Changes also revise the numbers of damaged cans that fall within each condition level.	The change is being proposed to address concerns that violations could be issued when a FSE has damaged cans on the premises even when it intends to return or discard those cans. The change to the numbers of cans within each condition levels is proposed in order to better correspond with standard packaging.
3G*	Changing terminology from "product" to "item."	Change in order to clarify what must be properly washed.
4I*	The proposed change would focus on unsafe batches of food or food items in areas of the establishment rather than using pounds of food as a measurement.	The condition levels for this violation are meant to assess the establishment's ability to maintain unadulterated and non-contaminated food. A better measurement of this is the number of unsafe foods or batches of foods in different areas, rather than pounds of food. The more batches or items of food in more areas of the establishment, the greater the indication of an inability to practice food safety.
4N	Delete "Evidence of roaches" so that the violation is only for "live roaches." Also correcting typographical error.	Inspections look for live roaches and not evidence of live roaches. Change in the violation is so that it will conform with actual practice.
4O	Proposal is to change this violation to (a) specify that the violation is only for the presence of filth flies or food/refuse/sewage-associated (FRSA) flies; and (b) apply a condition I violation for 2-5 filth flies only if those flies are observed between November 1-March 1.	The current violation addresses "flying insects," which is too broad; the concern for food safety is regarding only filth flies and food/refuse/sewage-associated flies. The current violation for 2-5 flies at any time of the year is not adequately targeting food safety concerns. Fewer than 6 flies in the period between March 2-October 31 could be incidental, such as due to an open window, and will not result in a violation. However, the presence of these flies in these colder months is indicative of an infestation within the establishment.
4P	Changing the examples to delete extraneous details.	Current examples include extraneous descriptions of customers.
5D+	Specifying that water pressure at a hand wash sink must be adequate to enable acceptable	Change proposed in response to concerns that violations could be issued for low water pressure to specifying that the pressure must be

	hand washing for employees.	sufficient for proper hand washing.
5F+	Adding terminology from 5G.	Change to consolidate with 5G.
5G+	Deleting.	Change to consolidate with 5F.
5H+	Renumbered as 5G+	Renumbering.
5I+	Renumbered as 5H+	Renumbering.
5J	Renumbered as 5I	Renumbering.
5K	Renumbered as 5J	Renumbering.
6A	Specifying that effective hair restraint is required only during food preparation.	Change proposed to make clear when hair restraint must be worn.
6B	(1) Adding “or more” to condition IV violation for workers smoking, eating, drinking in food or washing areas; (2) adding that drinking is prohibited only from open container; (3) changing “dishwashing” to “ware washing.”	(1) Correcting drafting error. (2) Drinking from closed container is permissible and consistent with FDA model food code. (3) Change to use more accurate terminology.
7B	Deleting.	Unnecessary catchall violation.
7C	Deleting	Unnecessary catchall violation.
7D	Deleting	Unnecessary catchall violation.
7E	Deleting	Unnecessary catchall violation.
7F	Deleting	Unnecessary catchall violation.
8A	Propose to delete violations for holes or openings and instead to require adequate pest proofing. Conditions I and II would be deleted.	Proposed revision is to better target poor pest-proofing generally in the establishment, and not to focus simply on holes. A violation would now issue only for condition levels III or IV for failing to pest proof.
8B	Propose to amend this violation to specify that a garbage can may be uncovered when during active use.	Proposed revision is to respond to concerns that a violation could issue for an uncovered garbage can when it is being actively used, such as for disposal of food scraps during food preparation.
9A	The proposed change would (a) delete “severely” and (b) change the number of cans that fall within each condition level.	“Severely” would be deleted to be consistent with FDA Food Code, which states that all dents present a possible threat. Pinhole damage to a can from a dent may be undetectable to the human eye, but still may compromise the integrity of the product. The change to the numbers of cans that correspond to condition levels is to better conform with packaging.
9B	Deleting.	Department intends to propose deleting Article 111 from the Health Code as no longer necessary to promote public health.
9C	Renumbering as 9B. Removing pounds as the basis for setting condition levels.	The condition levels for this violation are meant to assess the establishment’s ability to practice proper thawing procedures. Currently,

		the condition levels include pounds of food as a measurement. A better measurement than poundage is the number of improperly thawed foods or the number of different areas where improperly thawed food is found. The more items of food or the more areas of the establishment with unsafe food, the greater the indication of an inability to practice food safety. Renumbering.
9D	Renumbering to 9C.	Renumbering.
10A, 10L	Violation for failing to have cover on waste receptacle in a toilet facility would no longer be scored. Unscored violation would also clarify that it applies only to a waste receptacle in a facility used by women.	The proposal is not to score this violation because it is only indirectly related to food safety. The change specifying that, pursuant to the Health Code, a covered waste receptacle is required only for a restroom used by women is proposed to address concerns that a violation could be issued under the current rule for an uncovered waste receptacle in any restroom.
10C, 10 M	Proposal is to no longer score the violation for an unshielded or non-shatterproof light bulb and to revise the violation to apply only when the bulb is placed in a way that subjects it to significant temperature changes or where accidental contact may occur.	The change is being proposed to address concerns that violations issue for uncovered or non-shatterproof light bulbs where there is virtually no risk of harm. Under the proposal, the violation would no longer be scored because it is only indirectly related to food safety and it would specify that the violation is only for those bulbs at risk of shattering because of contact or temperature change.
10D	Proposing to revise this violation to specify that the ventilation system must be adequate to prevent excessive build-up of grease, heat, steam, condensation, vapors, odors, smoke and fumes.	In response to concerns that a violation could issue under the current rule for poor ventilation, the proposal violation would give the reasons proper ventilation is needed and the circumstances under which poor ventilation would constitute a violation.
10F	Deleting "Aisle or workspace inadequate."	In response to concerns that a violation could issue for a small workspace, this provision is being deleted. Any food safety violations that arise from having too small a workspace will be address more specifically under other violations.
10I	Combining with 10 J and 10 K. Changing violation to "Proper sanitization not provided for utensil ware washing operation." Changing condition levels to incorporate 10I-K.	Combining violation 10I with 10 J & K and deleting those.
10J	Deleted.	Combining with 10I.
10K	Deleted.	Combining with 10I.

10L	Renumbered as 10J.	Renumbering.
10M	Renumbered as 10K.	Renumbering.
12A	Deleting violation.	No longer necessary.

The proposal is as follows.

Matter in brackets [] is deleted.

Matter that is underlined is new.

Section 1. Chapter 23 (FOOD SERVICE ESTABLISHMENT SANITARY INSPECTION PROCEDURES) and Appendix A and Appendix B of Title 24 of the Rules of the City of New York is repealed and recodified to be printed as follows:

CHAPTER 23
FOOD SERVICE ESTABLISHMENT SANITARY INSPECTION PROCEDURES
AND LETTER GRADING

§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. Issuance of notices of violations.

§23-06. Revocation or suspension of permits.

§23-07. Posting letter grades.

§23-08. Effect of other laws and construction.

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

Administrative Tribunal shall mean the Administrative Tribunal of the Department established in Article 7 of the Health Code.

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.

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.

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 shall have the same meaning as in Article 7 of the Health Code.

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.

§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 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. Issuance of notices of 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.

§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 Department's Administrative Tribunal pursuant to subdivision (d) of this section and §81.51 of the Health Code.

(d) Effect of adjudication at the Administrative Tribunal on grading of establishments required by §81.51 of the Health Code to post letter grades:

(1) If the establishment appears at the Administrative Tribunal and as a result of such proceeding the score received on a reinspection remains unchanged, the establishment shall immediately upon being notified of the 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 Administrative Tribunal on or before the scheduled hearing date, in accordance with Article 7 of the Health Code, 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 Administrative 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 Administrative 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) The disposition of any notice of violation at the Administrative Tribunal shall not effect 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 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.

§2. The list of section headings in Title 24 of the Rules of the City of New York is amended to read as follows:

Chapter	1	Posting Regulations for Vendors of Alcoholic Beverages
	*	*
	*	*
	23	Food Service Establishment Sanitary Inspection Procedures <u>and Letter Grading.</u>

Appendix 23-A

Food Service Establishment Inspection Worksheet

CRITICAL VIOLATIONS	CONDITIONS					SCORE
	I	II	III	IV	V	
<u>FOOD TEMPERATURE</u>						
2A* Food not cooked to required minimum temperature: <ul style="list-style-type: none"> • <u>Poultry, meat stuffing, stuffed meats ≥165° F for 15 seconds</u> • <u>Ground meat and food containing ground meat ≥158° F for 15 seconds</u> • <u>Pork, any food containing pork ≥155° F for 15 seconds</u> • <u>Rare roast beef, rare beefsteak except per individual customer request ≥ required temperature and time</u> • <u>All other foods except shell eggs per individual customer request ≥145° F for 15 seconds</u> 	-	-	-	<u>10</u>	<u>28</u>	
2B* Hot food item not held at or above 140° F.	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
2C Hot food item that has been cooked and refrigerated is being held for service without first being reheated to 165° F or above within 2 hours.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	-	
2D Precooked potentially hazardous food from commercial food processing establishment that is supposed to be heated, but is not heated to 140° F within 2 hours.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	-	
2E Whole frozen poultry or poultry breasts, other than a single portion, is being cooked frozen or partially thawed.	<u>5</u>	<u>6</u>	-	-	-	
2F Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.	-	-	-	<u>8</u>	-	
2G* Cold food item held above 41° F (smoked fish and reduced oxygen packaged foods above 38 °F) except during necessary preparation.	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
2H* Food not cooled by an approved method whereby the internal product temperature is reduced from 140° F to 70° F or less within 2 hours, and from 70° F to 41° F or less within 4 additional hours.	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
2I Food prepared from ingredients at ambient temperature not cooled to 41° F or below within 4 hours.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	-	
2J* Reduced oxygen packaged (ROP) foods not cooked by an approved method whereby the internal food temperature is reduced to 38° F within two hours of cooking and if necessary further cooled to a temperature of 34° F within six hours of reaching 38° F.	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
<u>FOOD SOURCE</u>						
3A* Food from unapproved or unknown source or home canned. Reduced oxygen packaged (ROP) fish not frozen before processing; or ROP foods prepared on premises transported to another site.	-	-	-	<u>10</u>	<u>28</u>	

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

3B*	<u>Shellfish not from approved source, improperly tagged/labeled; tags not retained for 90 days.</u>	-	-	-	<u>10</u>	<u>28</u>	
3C*	<u>Eggs found dirty/cracked; liquid, frozen or powdered eggs not pasteurized.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
3D*	<u>Canned food product observed swollen, leaking and rusted, and not segregated from other consumable food items.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
3E*	<u>Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system observed.</u>	-	-	-	<u>10</u>	<u>28</u>	
3F*	<u>Unpasteurized milk or milk product present.</u>	-	-	-	<u>10</u>	<u>28</u>	
3G	<u>Raw food not properly washed prior to serving.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	-	
FOOD PROTECTION							
4A	<u>Food Protection Certificate not held by supervisor of food operations.</u>	-	-	-	-	<u>10</u>	
4B*	<u>Food worker prepares food or handles utensil when ill with a disease transmissible by food, or have exposed infected cut or burn on hand.</u>	-	-	-	<u>10</u>	<u>28</u>	
4C*	<u>Food worker does not use proper utensil to eliminate bare hand contact with food that will not receive adequate additional heat treatment.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
4D*	<u>Food worker does not wash hands thoroughly after visiting the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands.</u>	-	-	-	<u>10</u>	<u>28</u>	
4E*	<u>Toxic chemical improperly labeled, stored or used such that food contamination may occur.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
4F*	<u>Food, food preparation area, food storage area, area used by employees or patrons, contaminated by sewage or liquid waste.</u>	-	-	-	<u>10</u>	<u>28</u>	
4G*	<u>Unprotected potentially hazardous food re-served.</u>	-	-	-	<u>10</u>	<u>28</u>	
4H*	<u>Food in contact with utensil, container, or pipe that consist of toxic material.</u>	-	-	-	<u>10</u>	<u>28</u>	
4I*	<u>Raw, cooked or prepared food is adulterated, contaminated, cross-contaminated, or not discarded in accordance with HACCP plan.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
4J	<u>Unprotected food re-served.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	-	
4K	<u>Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous foods during cooking, cooling, reheating and holding.</u>	-	-	-	<u>8</u>	-	
4L	<u>Evidence of rats or live rats present in facility's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
4M	<u>Evidence of mice or live mice present in facility's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
4N	<u>Live roaches present in facility's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
4O	<u>Filth flies or food/refuse/sewage-associated (FRSA) flies present in facility's food and/or non-food areas. Filth flies include house flies, little house flies, blow flies, bottle flies and flesh flies. Food/refuse/sewage-associated flies include fruit flies, drain flies and Phorid flies.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
4P	<u>Other live animal present in facility's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	-	
FACILITY DESIGN							

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

5A* Sewage disposal system improper or unapproved.	—	—	—	<u>10</u>	<u>28</u>	
5B* Harmful, noxious gas or vapor detected. CO ≥13 ppm.	—	—	—	<u>10</u>	<u>28</u>	
5C+ Food contact surface improperly constructed or located. Unacceptable material used.	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
5D+ Hand washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure to enable cleanliness of employees not provided at facility. Soap and an acceptable hand-drying device not provided.	—	—	—	<u>10</u>	<u>28</u>	
5E+ Toilet facility not provided for employees or for patrons when required.	—	—	—	<u>10</u>	<u>28</u>	
5F+ Insufficient or no refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures.	—	—	—	<u>10</u>	<u>28</u>	
5G+ Properly enclosed service/maintenance area not provided. (Mobile Food Commissary)	—	—	—	<u>10</u>	<u>28</u>	
5H+ No facilities available to wash, rinse and sanitize utensils and/or equipment.	—	—	—	<u>10</u>	<u>28</u>	
5I Nuisance created or allowed to exist. Facility not free from unsafe, hazardous, offensive or annoying condition.	—	—	—	<u>10</u>	<u>28</u>	
5J+ Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.	—	—	—	<u>10</u>	<u>28</u>	
<u>PERSONAL HYGIENE & OTHER FOOD PROTECTION</u>						
6A Personal cleanliness inadequate. Clean outer garments, effective hair restraint not worn in an area where food is prepared.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	—	
6B Tobacco use, eating, or drinking from open container in food preparation, food storage or dishwashing area observed.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	—	
6C Food not protected from potential source of contamination during storage, preparation, transportation, display or service.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	—	
6D Food contact surface not properly washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	—	
6E Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	—	
6F Wiping cloths soiled or not stored in sanitizing solution.	<u>5</u>	<u>6</u>	<u>7</u>	—	—	
6G* HACCP plan not approved or approved HACCP plan not maintained on premises.	—	—	—	<u>10</u>	<u>28</u>	
6H Records and logs not maintained to demonstrate that HACCP plan has been properly implemented.	—	—	—	—	<u>28</u>	
6I Food not labeled in accordance with HACCP plan.	—	—	—	<u>10</u>	<u>28</u>	
<u>OTHER CRITICALS</u>						
7A Duties of an officer of the Department interfered with or obstructed.	—	—	—	—	<u>28</u>	
					<u>CRITICAL VIOLATIONS TOTAL:</u>	

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

GENERAL VIOLATIONS	CONDITIONS					SCORE
	I	II	III	IV	V	
VERMIN/GARBAGE						
8A Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.	—	—	<u>4</u>	<u>5</u>	—	
8B Garbage receptacles not provided or inadequate, except that garbage receptacle may be uncovered during active use. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
8C Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>28</u>	
FOOD SOURCE						
9A Canned food product observed dented and not segregated from other consumable food items.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
9B Thawing procedures improper.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
9C Food contact surface not properly maintained.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
FACILITY MAINTENANCE						
10A Toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10B Plumbing not properly installed or maintained; anti-siphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>28</u>	
10C Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10D Mechanical or natural ventilation system not provided to prevent excessive build-up of grease, heat, steam condensation vapors, odors, smoke, and fumes. Ventilation system improperly installed or in disrepair.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10E Accurate thermometer not provided in refrigerated or hot holding equipment.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10F Equipment not easily movable or it is sealed to floor, adjoining equipment, adjacent walls or ceiling.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10G Non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10H Food service operation occurring in room used as living or sleeping quarters.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10I Proper sanitization not provided for utensil ware washing operation.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10J Single service item reused, improperly stored, dispensed; not used when required.	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	—	
10K "Wash hands" sign not posted at hand wash facility.	<u>2</u>	—	—	—	—	

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

10L Toilet facility used by women does not have at least one covered garbage receptacle.		
10M Bulb not shielded or shatterproof, in areas where there is extreme heat, temperature changes or where accidental contact may occur.		
OTHER GENERALS		
99B Other General.	<u>2</u>	<u>3</u>
	<u>4</u>	<u>5</u>
		<u>28</u>
	<u>GENERAL VIOLATIONS TOTAL:</u>	
	<u>CRITICAL AND GENERAL COMBINED TOTAL:</u>	

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

* Public Health Hazards (PHH) 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

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

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2D	<u>Precooked potentially hazardous food from commercial food processing establishment that is supposed to be heated, but is not heated to 140° F within 2 hours.</u>	<u>One precooked commercially prepared food not heated to 140° F. Example: beef patties.</u>	<u>Two pre-cooked commercially prepared foods not heated to 140° F. Example: beef patties and clam chowder.</u>	<u>Three pre-cooked commercially prepared foods not heated to 140° F. Example: beef patties, clam chowder and smoked turkey.</u>	<u>Four or more pre-cooked commercially prepared foods not heated to 140° F. Example: beef patties, clam chowder, smoked turkey, corn beef and gyros.</u>	
2E	<u>Whole frozen poultry or poultry breasts, other than a single portion, are being cooked frozen or partially thawed.</u>	<u>One whole poultry or poultry breast being cooked from a frozen state. Example: chicken breast.</u>	<u>Two or more whole poultry or poultry breast being cooked from a frozen state. Example: chicken breast, whole chicken, turkey breast and duck.</u>	<u>Note: For failure to properly cook poultry to the required minimum temperature, *2A cited.</u>		
2F	<u>Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.</u>				<u>Failure to properly cook meats, comminuted meats, fish, shellfish and other PHFs, unless a consumer specifically asks for their order to be cooked below the minimum temperature.</u>	
2G*	<u>Cold food item held above 41° F (smoked fish and Reduced Oxygen Packaged food above 38° F), except during necessary preparation.</u>	<u>One cold food item out of temperature in one area. Example: one smoked salmon above 38° F or one tray of potato salad above 41° F in service display case.</u>	<u>Two cold food items out of temperature or the same food item out of temperature in 2 different areas. Example: one smoked salmon above 38° F and 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.</u>	<u>Three cold food items out of temperature. Example: one 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.</u>	<u>Four cold food items out of temperature. Example: one 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.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>

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	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
2H*	Food not cooled by an approved method whereby the internal product temperature is reduced from 140° F to 70° F or less within 2 hours and from 70° F to 41° F or less within 4 additional hours.	One food item not cooled by approved method. Example: one whole cooked turkey.	Two food items not cooled by approved method. Example: two whole cooked turkeys.	Three food items not cooled by approved method. Example: two whole cooked turkeys and one container of deep pot chicken stew.	Four or more food items not cooled by approved method. Example: two whole cooked turkeys, one container of deep pot chicken stew and 10 pounds of cooked rice.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2I	Food prepared from ingredients at ambient temperature not cooled to 41° F or below within 4 hours.	One food item prepared from ambient temperature ingredients not cooled to 41° F. Example: can-made tuna salad above 41° F.	Two food items prepared from ambient temperature ingredients not cooled to 41° F. Example: can-made tuna and salmon salad above 41° F.	Three food items prepared from ambient temperature ingredients not cooled to 41° F. Example: can-made tuna, salmon salad and open canned sardines above 41° F.	Four or more food items prepared from ambient temperature ingredients not cooled to 41° F. Example: can-made tuna salad, salmon salad, sardines and anchovies above 41° F.	
2J*	Reduced Oxygen Packaged (ROP) food not cooled by an approved method whereby the internal product temperature is reduced to 38° F within two hours of cooking and if necessary further cooled to a temperature of 34° F within six hours of reaching 38° F.	One ROP food item not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages).	Two ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages) and ROP chicken fricassee (two – 2 lb packages).	Three ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages), ROP chicken fricassee (two 2 lb packages) and ROP pork tenderloin (sixteen 8oz packages).	Four ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages), ROP chicken fricassee (two 2 lb packages), ROP pork tenderloin (sixteen 8 oz packages) and meat sauce (six 1lb packages).	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
3A*	Food from <u>unapproved or unknown source or home canned; Reduced Oxygen Packaged (ROP) fish not frozen before processing; or ROP food prepared on premises transported to another site.</u>				One or more food items <u>not from an approved source, or home canned. Example: wild mushrooms or home canned jellies or ROP fish not frozen before processing.</u>	Failure to correct any <u>condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3B*	Shellfish not from <u>approved source, improperly tagged/labeled; tags not retained for 90 days.</u>				One or more shellfish <u>not from an approved source, improperly tagged/labeled; tags not retained for 90 days. Example: clams not tagged, oyster tags not retained for 90 days, mussels improperly labeled and mussels not tagged.</u>	Failure to correct any <u>condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3C*	Eggs found <u>dirty/cracked; liquid, frozen or powdered eggs not pasteurized.</u>	1-6 eggs found <u>dirty/cracked or liquid, frozen, or powdered eggs not pasteurized. Example: 4 eggs found dirty and/or cracked; or one container of unpasteurized liquid eggs found.</u>	7-12 eggs found <u>dirty/cracked; or two containers of liquid, frozen, or powdered eggs not pasteurized. Example: 9 eggs found dirty and/or cracked; or 9 eggs found dirty and/or cracked; or 2 containers of unpasteurized liquid eggs found.</u>	13-24 eggs found <u>dirty/cracked; or three containers of liquid, frozen, or powdered eggs not pasteurized. Example: 16 eggs found dirty and/or cracked; or 14 eggs found dirty and/or cracked; or two containers of unpasteurized liquid eggs found.</u>	25 or more eggs found <u>dirty/cracked; or four containers of liquid, frozen, or powdered eggs not pasteurized. Example: 25 or more eggs found dirty and/or cracked; or 18 eggs found dirty and/or cracked and one container of unpasteurized liquid eggs found.</u>	Failure to correct any <u>condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>

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FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS - A GUIDE TO CONDITIONS

	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
3D*	<u>Canned food product observed swollen, leaking and rusted, and not segregated from other consumable food items.</u>	<u>Cans of food products (1-6) observed swollen, leaking or rusted, with a dent on any seam, or with a sharp crease from a dent. Example: One can of tomato paste swollen and one can of salmon observed rusted at seams and stored on food storage shelf not marked to be returned to distributor.</u>	<u>Cans of food products (7-12) observed swollen, leaking or rusted, with a dent on any seam, or with a sharp crease from a dent. Example: Three cans of tomato paste observed swollen, two cans of salmon and two cans of mushrooms observed rusted at seams and stored on food storage shelf not marked to be returned to distributor.</u>	<u>Cans of food products (13-18) observed swollen, leaking, or rusted, with a dent on any seam, or with a sharp crease from a dent. Example: Ten cans of tomato paste observed swollen, two cans of salmon and two cans of mushrooms observed rusted at seams and stored on food storage shelf not marked to be returned to distributor.</u>	<u>19 or more cans of food products observed swollen, leaking or rusted, with a dent on any seam, or with a sharp crease from a dent. Example: Ten cans of tomato paste observed swollen, two cans of salmon, two cans of mushrooms observed rusted at seams and fifteen cans of bake beans observed leaking and stored on food storage shelf not marked to be returned to distributor.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3E*	<u>Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system observed.</u>				<u>Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system observed.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3F*	<u>Unpasteurized milk or milk product present.</u>				<u>Unpasteurized milk or milk product present.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>

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3G*	<u>Raw food not properly washed prior to serving.</u>	<u>One raw food item was not properly washed prior to serving.</u> <u>Example: two heads of lettuce.</u>	<u>Two raw food items were not properly washed prior to serving.</u> <u>Example: two heads of lettuce and bunch of carrots.</u>	<u>Three raw food items were not properly washed prior to serving.</u> <u>Example: two heads of lettuce, bunch of carrots and bunch of broccoli.</u>	<u>Four or more raw food items were not properly washed prior to serving.</u> <u>Example: two heads of lettuce, bunch of carrots, bunch of broccoli and head of cabbage.</u>	
4A	<u>Food Protection Certificate not held by supervisor of food operations.</u>					<u>FPC not held by the supervisor of food operations or available for inspection by DOHMH personnel.</u>
4B*	<u>Food worker prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.</u>				<u>Food worker prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4C*	<u>Food worker does not use proper utensil to eliminate bare hand contact with food that will not receive adequate additional heat treatment.</u>	<u>One food worker observed preparing ready-to-eat food with bare hands.</u> <u>Example: one food worker at front food preparation area preparing a sandwich.</u>	<u>Two food workers observed preparing ready-to-eat foods with bare hands.</u> <u>Example: one food worker at front food preparation area preparing a sandwich and one in the kitchen preparing Caesar salad.</u>	<u>Three food workers observed preparing ready-to-eat foods with bare hands.</u> <u>Example: one food worker at front food preparation area preparing a sandwich, one in the kitchen preparing Caesar salad and another in the basement preparing shrimp cocktail.</u>	<u>Four or more food workers observed preparing ready-to-eat foods with bare hands.</u> <u>Example: two food workers at front food preparation area preparing a sandwich, one in the kitchen preparing Caesar salad and another in the basement preparing shrimp cocktail.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>

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4D*	<u>Food worker does not wash hands thoroughly after visiting the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands.</u>				<u>Food worker does not wash hands after visiting the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands.</u>	<u>Failure to correct any condition of a PHH at the time of Inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4E*	<u>Toxic chemical improperly labeled, stored or used so that contamination of food may occur.</u>	<u>One toxic chemical improperly labeled, stored or used so that contamination of food may occur. Example: roach spray.</u>	<u>Two toxic chemicals improperly labeled, stored or used so that contamination of food may occur. Example: roach spray and bleach.</u>	<u>Three toxic chemicals improperly labeled, stored or used so that contamination of food may occur. Example: roach spray, bleach and butane.</u>	<u>Four or more toxic chemicals improperly labeled, stored, or used so that contamination of food may occur. Example: roach spray, bleach, butane and rat poison.</u>	<u>Failure to correct any condition of a PHH at the time of Inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4F*	<u>Food, food preparation area, food storage area or area used by employees or patrons contaminated by sewage or liquid waste.</u>				<u>Food, food preparation area, food storage area or area used by employees or patrons contaminated by sewage or liquid waste.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4G*	<u>Unprotected potentially hazardous food re-served.</u>				<u>Unprotected potentially hazardous food re-served. Example: bowl of cooked rice re-served.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4H*	<u>Food in contact with utensil, container or pipe that consists of toxic material.</u>				<u>Food in contact with utensil, container or pipe that consists of toxic material. Example: Serving water in ceramic lead-based pitcher.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>

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4I*	<u>Raw, cooked or prepared food is adulterated, contaminated or cross-contaminated, or not discarded in accordance with HACCP plan.</u>	<u>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.</u>	<u>Two food items or two batches of same food located in two areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce and cooked chicken contaminated by raw chicken; or adulterated sausage and fish; or ROP beef stew and ROP chicken fricassee not discarded in accordance with HACCP Plan.</u>	<u>Three food items or three batches of the same food type located in three areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce, cooked chicken and raw eggs contaminated by raw chicken; or lettuce, tomatoes and figs 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 the chicken contaminated with mice droppings located in the walk-in refrigerator, a basket of chicken under the deep fat fryer contaminated with dust and debris, and</u>	<u>Four or more food items or four or more batches of the same food type in different areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce, cooked chicken, raw eggs and cooked rice contaminated by raw chicken; or ROP beef stew, ROP chicken fricassee, ROP pork tenderloin and meat sauce not discarded in accordance with HACCP Plan, or a tray of the chicken contaminated with mice droppings located in the walk-in refrigerator, a basket of chicken under the deep fat fryer contaminated with dust and debris, and a pan of chicken on the service counter cross-contaminated with raw beef drippings and chicken contaminated by mice droppings in the basement walk-in refrigerator.</u>	<u>Failure to correct any condition of a PHH at the time of Inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4J	<u>Unprotected food re-served.</u>	<u>One unprotected food item re-served. Example: unwrapped crackers.</u>	<u>Two unprotected foods items re-served. Example: unwrapped crackers and bread.</u>	<u>Three unprotected food items re-served. Example: unwrapped crackers, bread and pickles.</u>	<u>Four or more unprotected food items re-served. Example: unwrapped crackers, bread, pickles and breadsticks.</u>	

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4K	<u>Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous foods during cooking, cooling, reheating and holding.</u>				<u>Appropriate thermometer(s) or thermocouple not provided or used to measure the temperature of potentially hazardous foods.</u>	
4L	<u>Evidence of rats or live rats present in facility's food and/or non-food areas.</u>	<u>Rats present in the facility's food or non-food areas. Example: 1-10 fresh rat droppings in one area.</u>	<u>Rats present in the facility's food or non-food areas. 11-30 fresh rat droppings in one area or 1-10 fresh or rat droppings in two areas. Example: 25 fresh rat droppings in the food preparation area; or 10 fresh rat droppings in dry food storage area and 10 fresh rat droppings in the basement, food preparation area, bathroom and garbage disposal area.</u>	<u>Rats present in the facility's food or non-food areas. 31-70 rat droppings one area; 11-30 fresh rat droppings in two areas; or 1-10 fresh rat droppings in three areas. Example: 55 fresh rat droppings in food preparation area; or 14 fresh rat droppings in dry food storage area and 16 in basement; or less than 10 fresh rat droppings in the basement, food preparation area and bathroom.</u>	<u>Rats present in the facilities food or non-food areas. 1-2 live rats and/or 71-100 rat droppings in one area; 31-70 fresh rat droppings in two areas; 11-30 fresh rat droppings in three areas; or 1-10 fresh droppings in four areas. Example: 80 fresh rat droppings in food preparation area; or 30 fresh rat droppings in dry food storage area and 16 in basement or less than 10 fresh rat droppings in basement, food prep.</u>	<u>Three or more live rats and/or greater than 100 rat droppings; and/or other conditions conducive to infestation of rats, i.e. holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.</u>

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4M	Evidence of mice or live mice present in facility's food and/or non-food areas.	Mice present in the facility's food or non-food areas; 1-10 fresh mice droppings in one area. Example: 8 fresh mice droppings found in pantry.	Mice present in the facility's food or non-food areas. 11-30 fresh mice droppings in one area; or 1-10 in two areas. Example: 25 fresh mice droppings in the food preparation area; or 10 fresh mice droppings in dry food storage area and 10 in the basement.	Mice present in the facility's food or non-food areas. 31-70 mice droppings in one areas. 11-30 in two areas; or 1-10 in three areas. Example: 55 fresh mice droppings in food preparation area; 14 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in the basement, food preparation area and bathroom.	Mice present in the facility's food or non-food areas; 1-2 live mice and/or 71-100 mice droppings in one area; 31-70 in two areas, 11-30 in three areas; or 1-10 in four areas. Example: 80 fresh mice droppings in food preparation area; 30 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in basement, food preparation area, bathroom and garbage disposal area.	Two or more live mice and/or greater than 100 fresh mice droppings; and/or other conditions exist conducive to infestation of mice. Example: holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.
4N	Live roaches present in facility's food and/or non-food areas.	Roaches present in the facility's food and non-food areas. Example: 2 live roaches in the dry-food area.	Roaches present in the facility's food and non-food areas. 6-10 roaches in one area; or 1-5 in two areas. Example: 7 live roaches in the food preparation area; or 2 roaches in the dry food storage area and 1 in the basement.	Roaches present in the facility's food and non-food areas; 11-15 roaches in one area; 6-10 in two areas; or 1-5 in three areas. Example: 12 live roaches in the food preparation area; 4 roaches in the dry food storage area and 5 roaches in the basement; or 1 live roach observed in walk-in, food preparation area and dry storage.	Roaches present in the facility's food and non-food areas; 16-20 roaches in one area, 11-15 in two areas; 6-10 in three areas; or 1-5 in four areas. Example: 17 live roaches in the food preparation area; 10 roaches in the dry food storage area and 5 roaches in the basement; or 1 live roach observed in walk-in, food preparation area, garbage area and dry storage area.	Greater than 20 live roaches and/or other conditions exist conducive to infestation of roaches. Example: 45 live roaches and condition conducive to infestation such as holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.

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4O	<p>Filth flies or food/refuse/sewage-associated (FRSA) flies present in facility's food and/or non-food areas. Filth flies include house flies, little house flies, blow flies, bottle flies and flesh flies. Food/refuse/sewage-associated flies include fruit flies, drain flies and Phorid flies.</p>	<p>2-5 filth flies or FRSA flies in one area during November 1 through March 1. Example: 2 flies in dry non-food area in January.</p>	<p>6-10 filth flies or FRSA flies in one area; or 2-5 filth flies in two areas. Example: 7 live flies in food preparation area; or 2 flies in the dry food storage area and 1 in basement.</p>	<p>11-15 filth flies or FRSA flies in one area; 6-10 in two areas; or 2-5 flies in three areas. Example: 12 live flies in food preparation area; 4 flies in the dry food storage area and 5 flies in basement; or 1 fly observed in walk-in refrigerator, food preparation area and dry storage area.</p>	<p>16-20 filth flies or FRSA flies in one area; 11-15 in two areas; 6-10 filth flies in three areas; or 1-5 in four areas. Example: 17 filth flies in food preparation area; 10 filth flies in dry food storage area and 5 filth flies in basement; or 2 filth flies observed in walk-in refrigerator, food preparation area, garbage area and dry storage area.</p>	<p>More than 30 filth flies, FRSA flies and/or other conditions exist conducive to infestation of filth flies. Example: 40 flies in the basement garbage area; and other conditions exist conducive to filth fly infestation, i.e. openings to the outer air, water, food, decaying matter, and/or sewage. Inspector must call office to discuss closing or other enforcement measures.</p>
4P	<p>Other live animal present in facility's food and/or non-food areas.</p>	<p>One customer observed with a live animal. Example: Woman in grey slacks carrying poodle on service line.</p>	<p>Two customers observed with a live animal. Example: One customer observed carrying a poodle on service line and another customer observed with a parrot on shoulder at the salad bar.</p>	<p>Three customers observed with a live animal. Example: One customer observed carrying poodle on service line, second customer observed with a parrot on shoulder at the salad bar, and a third customer observed with a rabbit at the dining table.</p>	<p>Four or more customers observed with a live animals; or live animals residing in the facility. Example: One customer observed carrying poodle on service line, second customer observed with a parrot on shoulder at the salad bar, a third customer observed with a rabbit at the dining table and a fourth customer with a cat on a leash at coffee bar; or one live cat observed in the basement.</p>	

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5A*	<u>Sewage disposal system improper or unapproved.</u>				<u>Sewage or liquid waste is not disposed of in an approved or sanitary manner; or sewage or liquid waste contaminating food, food storage area and food preparation area or area frequented by consumers or employers storage or preparation area.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
5B*	<u>Harmful, noxious gas or vapor detected. CO ≥13 ppm.</u>				<u>Harmful, noxious gas or vapor detected. CO equal to or greater than 13ppm.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures</u>
5C+	<u>Food contact surface improperly constructed or located. Unacceptable material used.</u>	<u>One food contact surface or piece of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit.</u>	<u>Two food contact surfaces or pieces of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit and cutting board made from untreated wood.</u>	<u>Three food contact surfaces or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves of a walk-in unit, cutting board made from untreated wood and acidic foods placed in pewter bowl.</u>	<u>Four or more contact surfaces or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves in a walk-in unit, cutting board made from untreated wood, acidic food placed in pewter bowl and solder and flux used to repair food contact equipment.</u>	<u>Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>

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5D+	<u>Hand washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure to enable cleanliness of employees not provided at facility. Soap and an acceptable hand-drying device not provided.</u>				<u>Fully equipped hand wash sinks, to include soap and paper towels not provided or conveniently located in all food preparation areas.</u>	<u>Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>
5E+	<u>Toilet facility not provided for employees or for patrons when required</u>				<u>Toilet facility not provided for employees or for patrons when required.</u>	<u>Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>
5F+	<u>Insufficient or no refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures.</u>				<u>Refrigerated or hot holding equipment for PHFs not provided.</u>	<u>Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>

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5G+	<u>Properly enclosed service/maintenance area not provided. (Mobile Vending Commissary)</u>				<u>Separate enclosed properly equipped cleaning and service area not provided.</u>	<u>Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>
5H+	<u>No facilities available to wash, rinse, and sanitize utensils and/or equipment.</u>				<u>No facility available to wash, rinse, and sanitize utensils and equipment.</u>	<u>Failure to correct. Inspector must call office to discuss enforcement measures.</u>
5I	<u>Nuisance created or allowed to exist. Facility not free from unsafe, hazardous, offensive, or annoying condition.</u>				<u>Nuisance created or allowed to exist. Facility not free from unsafe, hazardous, offensive, or annoying conditions.</u>	<u>Failure to correct. Inspector must call office to discuss enforcement measures.</u>
5J	<u>Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.</u>				<u>Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.</u>	<u>Inspector must call office to discuss closing or other enforcement measures.</u>
6A	<u>Personal cleanliness inadequate. Clean outer garments, effective hair restraint not worn in an area where food is prepared.</u>	<u>One food worker observed without clean outer garment or hair restraint.</u>	<u>Two food workers observed without clean outer garments and/or hair restraints.</u>	<u>Three food workers observed without clean outer garments and/or hair restraints.</u>	<u>Four or more food workers observed without clean outer garments and/or hair restraints.</u>	

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6B	<u>Tobacco use, eating, or drinking from open container in food preparation, food storage or dishwashing area observed.</u>	<u>One food worker eating, smoking and/or drinking from open container in food or ware washing areas or evidence of tobacco use, eating or drinking in food preparation, food storage and dishwashing area.</u>	<u>Two food workers eating, smoking and/or drinking from open container in food or ware washing areas.</u>	<u>Three food workers eating, smoking and/or drinking from open container in food or ware washing areas.</u>	<u>Four or more food workers eating, smoking and/or drinking from open container in food or ware washing areas.</u>	
6C	<u>Food not protected from potential source of contamination during storage, preparation, transportation, display or service.</u>	<u>One food item not protected during storage, preparation, transportation, display or service.</u>	<u>Two food items not protected during storage, preparation, transportation, display or service.</u>	<u>Three food items not protected during storage, preparation, transportation, display or service.</u>	<u>Four or more food items not protected during storage, preparation, transportation, display or service.</u>	
6D	<u>Food contact surface not washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.</u>	<u>One food contact surface not washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer encrusted with old food debris.</u>	<u>Two food contact surfaces not washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer and cutting board encrusted with old food debris.</u>	<u>Three food contact surfaces not properly washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer, wooden cutting board, and can opener encrusted with old food debris.</u>	<u>Four or more food contact surfaces not properly washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer, wooden cutting board, can opener, and food preparation table encrusted with old food debris, and the interior of the ice machine observed with mold.</u>	
6E	<u>Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.</u>	<u>One sanitized piece of equipment or utensil improperly used or stored</u>	<u>Two sanitized pieces of equipment or utensils improperly used or stored.</u>	<u>Three sanitized pieces of equipment or utensils improperly used or stored.</u>	<u>Four or more sanitized pieces of equipment or utensils improperly used or stored.</u>	

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6F	<u>Wiping cloths soiled or not stored in sanitizing solution.</u>	<u>Two or more wiping cloths used to clean food contact surfaces not stored in sanitizing solution; or test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided; or sanitizer solution not at appropriate level to effectively remove contaminants from wiping cloths.</u>	<u>Two or more wiping clothes 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.</u>	<u>Two or more wiping clothes used to clean food contact surfaces are not stored in sanitizing solutions. the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided and sanitizer solution not at appropriate level to effectively remove contaminants from wiping cloths.</u>		
6G	<u>HACCP plan not approved or approved HACCP plan not maintained on premises.</u>				<u>Approved HACCP plan not maintained on premises.</u>	<u>HACCP plan not approved. Inspector must call office to discuss enforcement measures.</u>
6H	<u>Records and logs not maintained to show HACCP plan has been properly implemented.</u>					<u>Record and logs not maintained to show HACCP plan has been properly implemented. Inspector must call office to discuss corrective action or other enforcement measures.</u>
6I	<u>Food not labeled in accordance with HACCP plan.</u>				<u>Food not labeled in accordance with HACCP plan.</u>	<u>Inspector must call office to discuss corrective action or other enforcement measures.</u>

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7A	<u>Duties of an officer of the department interfered with or obstructed.</u>					<u>Duties of an officer of the department interfered with or obstructed.</u>
General Violations						
8A	<u>Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.</u>			<u>Doors and door thresholds not adequately pest proofed, and/or 1-2 openings in the facility façade (walls, floors, ceilings) and/or condition conducive to pest entry or breeding.</u>	<u>Doors and door thresholds not adequately pest proofed, with quality materials, and/or three or more openings in the facility façade (walls, floors, ceilings) or condition conducive to pest entry or breeding.</u>	
8B	<u>Garbage receptacles not provided or inadequate, except that garbage receptacle may be uncovered during active use. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.</u>	<u>Garbage equipment and facilities not maintained or provided. Example: tight fitting lid not provided for 32-gallon garbage can used to put garbage out overnight.</u>	<u>Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for 32-gallon garbage can used to put garbage out overnight and garbage grinder encrusted with old food.</u>	<u>Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for two 32-gallon garbage cans used to put garbage out overnight and garbage grinder encrusted with old food.</u>	<u>Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for two 32-gallon garbage cans used to put garbage out overnight, garbage grinder encrusted with old food and cardboard boxes, food wrappers and 15 empty carton of milk strewn in the backyard.</u>	
8C	<u>Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.</u>	<u>One prohibited pesticide, chemical or bait station not used in accordance with label or applicable laws.</u>	<u>Two types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.</u>	<u>Three types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.</u>	<u>Four or more types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.</u>	<u>Failure to correct. Inspector must call office to discuss enforcement measures.</u>

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

	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
9A	<u>Canned food product observed dented and not segregated from other consumable food items.</u>	<u>1-6 cans dented. Example: one can of tomato paste observed dented and stored on food storage shelf not marked to be returned to distributor.</u>	<u>7-12 cans dented. Example: seven cans of tomato paste observed dented and stored on food storage shelf not marked to be returned to distributor.</u>	<u>13-24 cans dented. Example: seven cans of tomato paste and six cans of soy sauce observed dented and stored on food storage shelf not marked to be returned to distributor.</u>	<u>25 or more cans dented. Example: seven cans of tomato paste, ten cans of soy sauce, and five cans of tuna fish observed dented and stored on food storage shelf not marked to be returned to distributor.</u>	
9B	<u>Thawing procedures improper.</u>	<u>One frozen food item improperly thawed. Example: chicken or 4lbs. of chicken breast observed improperly thawing.</u>	<u>Two frozen food items improperly thawed or the same type of food improperly thawed in two different areas. Example: two chickens and beefsteak observed improperly thawing or chicken breast improperly thawed in sink and chicken legs thawing on kitchen counter.</u>	<u>Three frozen food items or improperly thawed or the same type of food improperly thawed in three different areas. Example: three chickens, beefsteak, and pork shoulder observed improperly thawing or chicken breast improperly thawed in sink, chicken legs thawing on kitchen counter, and chicken breast thawing in bowl in food preparation area.</u>	<u>Four or more frozen food item improperly thawed or four or more of the same type of food improperly thawed in four different areas. Example: four chickens chicken breast, beefsteak, and shrimp observed improperly thawing or chicken breast improperly thawed in sink, chicken legs thawing on kitchen counter, chicken breast thawing in bowl in food preparation area, and chicken wings thawing near the deep fat fryer.</u>	
9C	<u>Food contact surface not properly maintained.</u>	<u>One food contact surface not properly maintained. Example: one cutting board observed discolored.</u>	<u>Two food contact surfaces not properly maintained. Example: one cutting board observed discolored and one plastic cutting board observed pitted and scratched.</u>	<u>Three food contact surfaces not properly maintained. Example: three cutting boards observed pitted and scratched.</u>	<u>Four or more contact surfaces not properly maintained. Example: three cutting board observed pitted and scratched and four cutting boards at the bar area observed discolored.</u>	

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	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
10A	<u>Toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.</u>	<u>One toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.</u>	<u>Two toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.</u>	<u>Three toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.</u>	<u>Four or more toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.</u>	
10B	<u>Plumbing not properly installed or maintained; anti-siphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.</u>	<u>One backflow prevention device not installed, equipment or floor not properly drained. Example: refrigerator condensation draining into a bucket.</u>	<u>Two backflow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation drained into a bucket and air conditioner draining onto sidewalk.</u>	<u>Three backflow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, air conditioner draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet.</u>	<u>Four or more backflow prevention devices not installed or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, two air conditioners draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet or ice machine.</u>	<u>Sewage disposal system in disrepair or not functioning properly. 5A also cited.</u>
10C	<u>Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.</u>	<u>One instance of lighting inadequate.</u>	<u>Two instances of lighting inadequate.</u>	<u>Three instances of lighting inadequate.</u>	<u>Four or more instances of lighting inadequate.</u>	
10D	<u>Mechanical or natural ventilation system not provided to prevent build-up of grease, heat, steam, condensation, vapors, odors, smoke and fumes, improperly installed or in disrepair.</u>	<u>One mechanical or natural ventilation system not provided or inadequate. Example: no ventilation provided in bathroom.</u>	<u>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.</u>	<u>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.</u>	<u>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.</u>	

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	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
10E	Accurate thermometer not provided in refrigerated or hot holding equipment.	One refrigeration or hot holding unit not provided with accurate thermometer to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Two refrigeration or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Three refrigeration or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Four refrigeration or hot holdings units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	
10F	Equipment not easily movable or sealed to floor, adjoining equipment, adjacent walls or ceiling.	One piece of equipment not properly mounted or easily movable.	Two pieces of equipment not properly mounted or easily movable.	Three pieces of equipment not properly mounted or easily movable.	Four or more pieces of equipment not properly mounted or easily movable.	
10G	Non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained.	One non-food contact surface improperly constructed, unacceptable material used or improperly maintained. Example: wall in food preparation area made from brick.	Two non-food contact surfaces improperly constructed, unacceptable material used or improperly maintained. Example: wall in food preparation area made from brick and build-up of grease on ceiling.	Three non-food contact surfaces improperly constructed, unacceptable material used or improperly maintained. Example: wall in food preparation area made from brick, build-up of grease on ceiling and floor underneath stove encrusted with old dried foods.	Four or more non-food contact surfaces improperly constructed, or unacceptable material used, or improperly maintained. Example: wall in food preparation area made from brick, buildup of grease on ceiling and carpeted floor underneath stove encrusted with old dried foods.	
10H	Food service operation occurring in room used as living or sleeping quarters.	Food service operation occurring in one room used as living or sleeping quarters.	Food service operation occurring in two rooms used as living or sleeping quarters.	Food service operation occurring in three rooms used as living or sleeping quarters.	Food service operation occurring in four or more rooms used as living or sleeping quarters.	

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	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
10I	<u>Proper sanitization not provided for utensil ware washing operation.</u>	<u>Manual ware washing inadequate in that one immersion basket not provided or of incorrect size.</u>	<u>Manual ware washing inadequate in that one immersion basket not provided or of incorrect size and manual ware washing procedure</u>	<u>Manual ware washing inadequate in that one immersion basket not provided or of incorrect size, manual ware washing procedure incorrect and</u>	<u>Minimum final rinse temperature of 170° F not maintained or mechanical dishwasher is not operated as per manufacturer's specifications (time or temperature or chemical concentration).</u>	
10J	<u>Single service item reused, improperly stored, dispensed, not used when required.</u>	<u>Single service item reused, improperly stored, dispensed or not used when required. Example: drinking straws not protected from contamination.</u>	<u>Single service item reused, improperly stored, dispensed or not used when required. Example: drinking straws not properly dispensed and paper plates not protected from contamination.</u>	<u>Single service item reused, improperly stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination and forks not protected from contamination.</u>	<u>Single service item reused, improperly 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.</u>	
10K	<u>"Wash hands" sign not posted at hand wash facility.</u>	<u>"Wash hands" sign not posted at hand wash facility.</u>				
10L	<u>Toilet facility used by women does not have at least one covered garbage receptacle.</u>	<u>Toilet facilities used by women do not have at least one covered garbage receptacle.</u>				
10M	<u>Bulb not shielded or shatterproof, in areas where there is extreme heat, temperature changes or where accidental contact may occur.</u>	<u>One instance lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator.</u>	<u>Two instances of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator and unshielded bulb above the self-service buffet.</u>	<u>Three instances of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator, unshielded bulbs under ventilation hood, and heat lamp above the sliced roast beef in the service area not shatterproof.</u>	<u>Four or more instances of lighting not shielded or shatterproof. Example: six unshielded bulbs in display refrigerator, unshielded bulbs under ventilation hood, heat lamp above the roast in the service area not shatterproof, and unshielded bulbs at salad bar.</u>	
99B	<u>General other.</u>					