



1996-2001

Office of the Mayor
Rudolph W. Giuliani
Deputy Mayors

RUDY WASHINGTON

HEALTH DEPARTMENT OF

1179

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02/08/041

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THE CITY OF NEW YORK

DEPARTMENT OF HEALTH

Rudolph W. Giuliani
Mayor

Neal L. Cohen, M.D.
Commissioner

From: Marina Politis, Assistant Director
Bureau of Inspections

To: Julia Dobbins
Deputy Mayor Rudy Washington's Office

Date: March 4, 1998

Re: Nightclub Enforcement Statistics

The Department regulates food service establishments, as defined in the New York City Health Code a food service is an establishment where food is provided for individual portion service on the premises or sold ready to eat for off-premises consumption. All inspections conducted by the Department are performed by Public Health Sanitarians. In conducting inspections, the Department looks for current, valid permit to operate, and inspects the food processing operation for proper food cooking, cooling, reheating, hot holding, and processing as well as facility and signage requirements, and compliance with the Smoke-Free Air Act. All Notices of violation are returnable to the Department's Administration Tribunal.

The following summarizes the Department of Health's activity with the Inter Agency Task Force for the period beginning 7/ 27/96 to present.

Calender Year	Number of Establishments Inspected	Number of Notices of Violations Issued	Number of Violations for Operating Without a Permit
1996	48	28	16
1997	60	50	45
1998	23	22	14
TOTAL	131	100	75

NEW YORK CITY DEPARTMENT OF HEALTH

FOOD ESTABLISHMENT INSPECTION REPORT

ENVIRONMENTAL HEALTH SERVICES

CAMS NUMBER	ESTAB. TYPE	PERMIT TYPE	PERMIT NO.	EXP. DATE	RECEIPT NO.	FORM NO.	COMPLAINT CONTROL NO.
			0	/ /		98	018900
ADDRESS				FLOORS		BORO	ZIP CODE
OWNER / PERMITTEE				FLOORS		BORO	ZIP CODE
DBA				TELEPHONE NO.		HOURS OF OPERATION	
				()		SU M TU W TH FR SA N	
(INFORMATION UPDATE) DBA				TELEPHONE NO.		HOURS OF OPERATION	
				()		SU M TU W TH FR SA N	
INSPECTION DATE	START TIME	STOP TIME	ID NUMBER	BUREAU	PROGRAM	INSPECTION TYPE	DOCKET NUMBER
/ /							
DECAL NO.	VENDOR LIC. NO.			VENDING LOCATION:			
	0			☐ AT ☐ FRONT OF ☐ OPPOSITE			
SNR. CTR. FACILITY CODE	NUMBER OF SAMPLES AND TEST REQUIRED			BACTERIOLOGICAL			
				CHEMICAL			
CASE NO.				F			

CRITICAL ITEMS (See back for explanations)

CLASS A VIOLATIONS

- ADMINISTRATION
A B C D E F G H I
- POTENTIALLY HAZARDOUS FOOD NOT COOKED TO, OR HELD AT OR ABOVE REQUIRED MINIMUM TEMPERATURE
*A *B *C *D *E *F
- POTENTIALLY HAZARDOUS FOOD NOT COOLED AND HELD AT OR BELOW REQUIRED MINIMUM TEMPERATURE
*A *B *C
- FOOD ADULTERATED OR FROM UNAPPROVED SOURCE
*A *B *C *D *E *F *G
- FOOD PROTECTION: CONTAMINATION BY WORKER
*A *B *C
- FOOD PROTECTION: CONTAMINATION BY OTHER SOURCE
*A *B *C *D *E *F *G
- FACILITY DESIGN AND OTHER CRITICAL ITEMS
*A *B *C *D *E *F *G *H *I

GENERAL ITEMS (See back for explanations)

CLASS B VIOLATIONS

- FOOD PROTECTION: POTENTIAL CONTAMINATION BY WORKER
A B C
- FOOD PROTECTION: POTENTIAL CONTAMINATION BY OTHER SOURCE
A B C D E F G H
- VERMIN, ANIMAL CONTROL AND GARBAGE DISPOSAL
A B C D
- DOCUMENTATION
A B C

CLASS C VIOLATIONS

- FACILITY MAINTENANCE
A B C D E F G H
- CLEANING, SANITIZING, AND OTHER GENERAL ITEMS
A B C D E

CLASS D VIOLATIONS

- SIGNS, DOCUMENTATION, AND NON-FOOD CONTACT SURFACES
A B C D E

- DISTRIBUTION OF TOBACCO PRODUCTS THROUGH VENDING MACHINES, TOBACCO PRODUCT REGULATION ACT AND SMOKE-FREE AIR ACT
Distribution of Tobacco Products Through Vending Machines:
A B C D
Tobacco Product Regulation Act:
E F G H
Smoke-Free Air Act:
I J K L M N

1 2 3

1 2 3

1 2 3

SEATING CAPACITY

RESULTS:

NO. OF CRITICAL ITEMS: (Class A, Letters)

PHH* PPS+ OTHER TOTAL

NO. OF GENERAL ITEMS: (Numbers)

CLASS B CLASS C CLASS D TOTAL

UNLESS AN EARLIER INSPECTION IS DEEMED NECESSARY BY THE DEPARTMENT, YOUR FACILITY WILL BE REINSPECTED ON OR AFTER / /

REPORT RECEIVED BY (SIGNATURE)	INSPECTOR'S SIGNATURE	SUPERVISOR'S SIGNATURE	SUP. ID#	DATE
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WARNING: PENALTY FOR FALSE OR MISLEADING STATEMENTS—ORALLY OR IN WRITING—UP TO \$2000 PER VIOLATION (NYC Health Code Section 3.19)
THE OFFER OF A BRIBE, GRATUITY OR REWARD FOR OFFICIAL MISCONDUCT IS A CRIME.

EHS 198E (REV. 10/97)

WHITE: Office; CANARY: M.I.S.&A; PINK: Establishment; GOLDENROD: Reinspection

CRITICAL ITEMS Class A Violations

1. **ADMINISTRATION**
 - A. Current valid permit, registration or other authorization not available.
 - B. Current valid permit, registration or other authorization to operate Temporary Food Service Establishment not available.
 - C. Food Protection Certificate not held by supervisor of food operations.
 - D. Current valid food vendor license not available.
 - E. Document issued by the Board, Commissioner or Department unlawfully reproduced or altered.
 - F. Notice of the Department or Board mutilated, obstructed, or removed.
 - G. Failure to comply with an Order of the Board, Commissioner or Department.
 - H. Duties of an officer of the Department interfered with or obstructed.
 - I. Nuisance created or allowed to exist. Facility not free from unsaleable, hazardous, offensive or annoying condition.
2. **POTENTIALLY HAZARDOUS FOOD NOT COOKED TO, OR HELD AT OR ABOVE REQUIRED MINIMUM TEMPERATURE**

Food not cooked to required minimum temperature.

Poultry, meat stuffing, stuffed meats,..... ≥ 165°F for 15 seconds

Ground meat ≥ 158°F

Pork, any food containing pork ≥ 155°F for 15 seconds

Rare roast beef, rare beef steak except per individual customer request ≥ required temperature and time

All other foods except shell eggs per individual customer request ≥ 145°F for 15 seconds

Hot food not held at or above 140°F.

Hot food that has been cooked and refrigerated is being held for service without first being reheated to 165°F or above within 2 hours.

Precooked potentially hazardous food from commercial food processing establishment that is to be heated, is not heated to 140°F within 2 hours.

Whole frozen poultry or poultry breasts, other than a single portion, are being cooked frozen or partially thawed.

Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.
3. **POTENTIALLY HAZARDOUS FOOD NOT COOLED AND HELD AT OR BELOW REQUIRED MINIMUM TEMPERATURE**

Cold food held above 45°F (smoked fish above 38°F) except during necessary preparation.

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 45°F or less within 4 additional hours.

Food prepared from ingredients at ambient temperature not cooled to 45°F or below within 4 hours.
4. **FOOD ADULTERATED OR FROM UNAPPROVED SOURCE**
 - A. Food from unapproved or unknown source, spoiled, adulterated, or home canned.
 - B. Shellfish not from approved source, improperly tagged/labeled; tags not retained for 90 days.
 - C. Eggs found dirty, cracked; liquid, frozen or powdered eggs not pasteurized.
 - D. Canned food product observed swollen, leaking, rusted, severely dented.
 - E. Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system observed.
 - F. Unpasteurized milk or milk product present.
 - G. Milk or milk product undated, improperly dated or expired.
5. **FOOD PROTECTION: Contamination by worker**
 - A. Food worker prepares food or handles utensil when ill with a disease transmissible by food, or have exposed infected cut or burn on their hand.
 - B. Food worker does not use proper utensil to eliminate bare hand contact with food that will not receive adequate additional heat treatment.
 - C. Food worker does not wash hands thoroughly after visiting the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands.

6. **FOOD PROTECTION: Contamination by other source**
 - A. Toxic chemical improperly labeled, stored or used so that contamination of food may occur.
 - B. Food, food preparation area, food storage area, area used by employees or patrons, contaminated by sewage or liquid waste.
 - C. Unprotected potentially hazardous food re-served.
 - D. Food in contact with utensil, container, or pipe that consist of toxic material.
 - E. Cooked or prepared food is cross contaminated.
 - F. Appropriately scaled metal stem-type thermometer not provided or used to evaluate temperatures of potentially hazardous foods during cooking, cooling, reheating and holding.
 - G. Vermin or other live animal present in food storage, preparation or service area.
7. **FACILITY DESIGN AND OTHER CRITICAL ITEMS**
 - A. Sewage disposal system improper or unapproved.
 - B. Harmful, noxious gas or vapor detected. CO ≥ 13 ppm.
 - C. Food contact surface improperly constructed or located. Unacceptable material used.
 - D. Hand washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure not provided at facility.
 - E. Toilet facility not provided for employees or for patrons when required.
 - F. Refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures not provided.
 - G. Sufficient refrigerated or hot holding equipment not provided to meet proper time and temperature requirements for potentially hazardous foods.
 - H. Dimensions of mobile food unit exceed prescribed limits.
 - I. Other.

GENERAL ITEMS Class B Violations

8. **FOOD PROTECTION: Potential contamination by worker**
 - A. Personal cleanliness inadequate. Clean outer garment, effective hair restraint not worn.
 - B. Tobacco use, eating, drinking in food preparation, food storage or dishwashing area observed.
 - C. Handwash facility not properly maintained, provided with soap and an acceptable hand drying device.
9. **FOOD PROTECTION: Potential contamination by other source**
 - A. Raw food not properly washed prior to serving.
 - B. Thawing procedures improper.
 - C. Food not protected from potential source of contamination during storage, preparation, transportation, display or service.
 - D. Food contact surface not properly maintained or not washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.
 - E. Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.
 - F. Wiping cloths dirty or not stored in sanitizing solution.
 - G. Acceptable facilities to wash, rinse and sanitize utensils not provided.
 - H. Unprotected food re-served.
10. **VERMIN, ANIMAL CONTROL AND GARBAGE DISPOSAL**
 - A. Vermin or other live animal present in non-food area.
 - B. Facility not vermin proof. Harborage or conditions conducive to vermin exist.
 - C. Garbage receptacles not provided or inadequate. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.
 - D. Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.
11. **DOCUMENTATION**
 - A. Permit or license not conspicuously displayed.
 - B. Manufacture of frozen dessert not authorized on Food Service Establishment permit.
 - C. Failure of event sponsor to exclude vendor without a current valid permit or registration.

Class D Violations

14. **SIGNS, DOCUMENTATION, AND NON-FOOD CONTACT SURFACES**
 - A. "Choking first aid" poster not posted.
 - B. "Alcohol and pregnancy" warning sign not posted.
 - C. "Wash hands" sign not posted at handwash facility.
 - D. Resuscitation equipment: exhaled air resuscitation masks (adult & pediatric), latex gloves; sign not posted.
 - E. Non-food contact surface or equipment improperly maintained.

DISTRIBUTION OF TOBACCO PRODUCTS THROUGH VENDING MACHINES, TOBACCO PRODUCT REGULATION ACT AND SMOKE-FREE AIR ACT

15. **Distribution of Tobacco Products Through Vending Machines:**
 - A. Tobacco vending machine present where prohibited.
 - B. Tobacco vending machine placed less than 25' from entrance to premises.
 - C. Tobacco vending machine not visible to the operator, employee or agent.
 - D. Durable sign with license number, expiration date, address and phone number not posted.
- Tobacco Product Regulation Act:**
 - E. Out-of package sale observed.
 - F. Age restriction on handling not enforced.
 - G. Sale to minor observed.
 - H. Sign prohibiting sale of tobacco products to minors not conspicuously posted.
- Smoke-Free Air Act:**
 - I. "Smoking Permitted" and/or "No Smoking" sign not conspicuously posted. Health warning not present on "Smoking Permitted" sign.
 - J. Ashtray present in smoke-free area.
 - K. Failure to make good faith effort to inform violator.
 - L. Certificate of Seating Capacity not available.
 - M. Use of tobacco product on school premises (at or below the 12th grade level) observed.
 - N. Other.

Class C Violations

12. **FACILITY MAINTENANCE**
 - A. Toilet facility not maintained and provided with toilet paper, waste receptacle and self closing door.
 - B. Plumbing not properly installed or maintained; antisiphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.
 - C. Lighting inadequate. Fixture not shielded.
 - D. Ventilation system not provided, improperly installed or in disrepair.
 - E. Accurate thermometer not provided in refrigerated or hot holding equipment.
 - F. Equipment not easily movable or sealed to floor, adjoining equipment, adjacent walls or ceiling. Aisle or work space inadequate.
 - G. Non-food contact surface improperly constructed. Unacceptable material used.
 - H. Food service operation occurring in room used as living or sleeping quarters.
13. **CLEANING, SANITIZING, AND OTHER GENERAL ITEMS**
 - A. Minimum final rinse temperature of 170°F or proper chemical and temperature levels not maintained in manual utensil washing operation.
 - B. Mechanical dishwasher not operated as per manufacturer's specifications (time/temperature/chemical concentration); machine defective.
 - C. Immersion basket not provided, used or of incorrect size. Incorrect manual technique. Test kit and thermometer not provided or used. Improper drying practices.
 - D. Single service item reused, improperly stored, dispensed; not used when required.
 - E. Other.

* Public Health Hazard that must be corrected immediately.
+ Pre-Permit Serious Item that must be corrected before permit is issued.

mtg 3/4/98

NYC Health Code - State Code
Booklet - outlining reg's for food permit

Critical - "Public Health Hazards"
- Can close immediately
if no compliance

- Food Service Establishment \$280
- Food protection certificate ↓
1 month "check-ups" per year

Bureau of Inspections - 90 inspectors

FINANCE or DCA?
Citywide Licensing Center
42 B'way

3-4 weeks →

Fines -
upwards of 10,000

default/no show
at hearing
Fine doubles

no permit operation \$1,000
N.O.V.

30 days if no permit still -
CLOSED until permit

DOH

Article 88

Temporary Food Establishments

- §88.01 Definitions**
- §88.03 Permit, registration**
- §88.05 Food, sanitary handling, protection against contamination**
- §88.07 Construction, facilities, equipment, apparatus and utensils**
- §88.09 Food; refrigeration or heat treatment required if perishable or potentially hazardous**
- §88.11 Cooking and heating equipment**
- §88.13 Water supply**
- §88.15 Single service articles**
- §88.17 Refuse and trash**
- §88.19 Food Protection Certificate**
- §88.21 Responsibility of Sponsor**
- §88.23 Enforcement and compliance**
- §88.25 Modification**

Introductory Notes:

This Article was added by resolution adopted on May 29, 1985 to regulate temporary food establishments.

§88.01 Definitions. When used in this Article:

(a) Temporary food establishment means any food service establishment as this term is defined in Section 81.03 of this Code which operates at a fixed location for a temporary period of time, not to exceed fourteen (14) consecutive days, in connection with a single event or celebration such as a fair, carnival, circus, public exhibition, festival, religious or fraternal organization, function or transitory gathering.

(b) A temporary food processing establishment means any temporary food establishment on or in which foods are prepared, sliced, mixed, broiled, fried, baked or otherwise processed or on or in which potentially hazardous foods are handled, prepared or served.

10811 RCNY 7-31-92

§88.03 Permit, registration. (a) No person shall maintain or operate a temporary food establishment without a permit or registration certificate issued by the commissioner.

(b) A permit shall be required for temporary food establishments participating in neighborhood events lasting more than one day or more than one block in length.

(c) Temporary food establishments participating in events scheduled for less than one day or limited to one city block shall be registered with this Department in lieu of a permit.

§88.05 Food, sanitary handling, protection against contamination.

(a) There shall be provided in each establishment adequate facilities and equipment, and such precautions shall be taken as may be necessary, or as the department may order for the protection of food from dust, dirt, rodents, insects and other pests, foreign material and other forms of contamination.

(b) Food shall be handled, stored, prepared, or otherwise processed, in a clean and sanitary manner satisfactory to the department.

(c) Food shall be obtained from a commercial establishment under license or permit of a federal, state or local regulatory agency.

§88.07 Construction, facilities, equipment, apparatus and utensils.

(a) Food contact surfaces, equipment and utensils shall be made of such materials and shall be so designed and constructed as to facilitate cleaning and inspection of all parts and shall be smooth and free from cracks or pits. All food contact surfaces are to be kept clean and sanitized immediately prior to and during use as needed to prevent food contamination. The use or keeping of utensils, pots or containers which are chipped, cracked, rusted, corroded, badly worn or in such condition that they cannot be easily cleaned and made sanitary is prohibited.

(b) Equipment, utensils and food contact surfaces shall be clean and, when required by the department, shall be sanitized by a method approved by the department.

§88.09 Food, refrigeration or heat treatment required if perishable or potentially hazardous. (a) Temporary food service establishments may only serve food which requires limited preparation such as hamburgers and frankfurters. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards and similar products, and salads or sandwiches containing meat, poultry, eggs, shellfish or fish, is prohibited unless approved by the commissioner. Perishable or potentially hazardous foods capable of supporting rapid and progressive growth of pathogenic microorganisms shall be kept at all times under appropriate refrigeration at a temperature no higher than 45 degrees Fahrenheit or under appropriate heat treatment at a temperature no lower than 140 degrees Fahrenheit.

(b) The Commissioner may prohibit the sale or service of specific potentially hazardous food or types of foods from temporary food establishments.

§88.11 Cooking and heating equipment. (a) Equipment used for cooking or heating, such as fryers, woks, ovens, stoves, grilles, etc. shall be so constructed, situated and used as not to constitute a hazard.

(b) Storage and use of flammable material and fuel shall be in compliance with the rules, regulations and standards of the New York City Fire Department.

§88.13 Water supply. A convenient supply of hot and cold water shall be available for food preparation and the cleaning of equipment and the washing of hands.

§88.15 Single service articles. Only single service articles as described in §81.03(e) of this Code may be used.

§88.17 Refuse and trash. (a) An adequate number of approved receptacles and containers shall be provided for the storage and disposal of refuse and garbage.

(b) The sponsor, organization, or person in charge of the event shall be responsible for the maintenance of the area and for the removal of accumulated refuse and garbage.

§88.19 Food Protection Certificate. Temporary food processing establishments shall not participate in more than one fair or event within a calendar year unless there is present a supervisor or person in charge who has a certificate indicating successful completion of a course in food handling acceptable to the Department.

§88.21 Responsibility of Sponsor. (a) The sponsor, organization, or person in charge shall not rent space to nor permit any of the facilities under the sponsor's control to be used by any food establishment not possessing a valid permit or registration issued by the Department or other regulatory agency.

(b) The sponsor, organization or person in charge shall submit to the Department, at least 14 days prior to the date of the event, a list of all food establishments and vendors expected to participate in the event.

§88.23 Enforcement and compliance. (a) Temporary food service establishments shall comply with the provisions of this Article and all applicable provisions of this Code.

(b) It is unlawful for any temporary food service establishment to be operated without a permit or registration certificate. Failure to obtain a permit or registration certificate is cause for immediate closure.

§88.25

NEW YORK CITY HEALTH CODE

(c) The Commissioner or his authorized representative may order a temporary food service establishment closed and all food operations discontinued immediately when in his or her judgement continued operation is a danger to public health.

§88.25 Modification. The Commissioner may modify such requirements which present practical difficulties or unusual or unreasonable hardships in a specific instance consistent with the purpose and intent of this Article and this Code.

Article 81

THE NEW YORK CITY HEALTH CODE

Revisions Effective September 1, 1996

EFFECTIVE SEPTEMBER 1, 1996

NOTICE OF THE ADOPTION OF THE REPEAL AND REENACTMENT OF ARTICLE 81, THE REPEAL OF ARTICLES 83, 85, 86 AND 87, AND THE REPEAL OF SECTION 113.19 AND THE AMENDMENT OF SECTIONS 5.07 and 5.09 (i) OF THE NEW YORK CITY HEALTH CODE

IN COMPLIANCE WITH SECTION 1043(b) OF THE NEW YORK CITY CHARTER A NOTICE OF INTENTION OF THE REPEAL AND REENACTMENT OF ARTICLE 81, THE REPEAL OF ARTICLES 83, 85, 86 AND 87, THE REPEAL OF SECTION 113.19 AND THE AMENDMENT OF SECTIONS 5.07 AND 5.09(i) OF THE NEW YORK CITY HEALTH CODE AND NOTICE OF PUBLIC HEARING WAS PRINTED IN THE CITY RECORD ON APRIL 19, 1996. A PUBLIC HEARING WAS HELD ON MAY 28, 1996. AFTER A REVIEW OF THE TRANSCRIPT OF THE PUBLIC HEARING, REVISIONS WERE MADE TO THE PROPOSAL AND THE BOARD OF HEALTH AT ITS JUNE 10, 1996 MEETING ADOPTED THE FOLLOWING RESOLUTION:

Statutory Authority

This amendment to the New York City Health Code is promulgated pursuant to Sections 558 and 1043 of the New York City Charter ("Charter"). Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043 grants the Department of Health rulemaking authority.

Statement of Basis and Purpose

Article 81 of the New York City Health Code regulates the operations of food establishments for the purpose of preventing public health hazards. Article 83 regulates wholesale food establishments, commissaries and food service commissaries. Article 85 regulates retail food processing establishments. Article 86 regulates retail non-processing food establishments. Article 87 regulates restaurants and other eating places and authorizes the issuance of permits to these establishments by the New York City Department of Health. It is proposed that Article 81 be amended and Articles 83, 85, 86 and 87 repealed, assimilating the essence of Articles 83, 85, 86 and 87 into the amended version of Article 81. The proposals would amend a variety of provisions dealing with the preparation of food and the operation of food establishments. Further, it is recommended that the current permit scheme be simplified by replacing it with two permit types: food service establishment and non-retail food processing establishment. The purpose of such proposed amendments is to

-2-

modernize the Health Code, to make it consistent with federal recommendations on the control of public health hazards and to make it consistent with New York State law and regulations.

The proposal to amend these regulations is the result of a recent initiative from the Office of the Mayor to review existing laws, policies and procedures affecting the restaurant industry and to reform the relevant regulations. The effect of the proposed amendments would be to significantly alleviate unnecessary regulatory burdens on restaurant operators. Under current law, the New York State Sanitary Code is applicable in New York City and is enforced by the Department of Health along with the New York City Health Code. The amendments to the Department's rules, if adopted, would conform the rules contained in Article 81 of the New York City Health Code to the provisions of the New York State Sanitary Code dealing with food service establishments. [Title 10 New York Codes, Rules and Regulations, Section 14-1]. Some of the more significant amendments proposed are as follows.

The proposed amendments add to Section 81.03 definitions of "food service establishment" [replacing food establishment and service food establishment], "non-retail food processing establishment" [replacing food processing establishment], "contaminated", "imminent health hazard", "potentially hazardous food", "sanitization", "food vending machine", "food vending machine commissary", "food vending operation", "controlled-location vending machine", "food grade" and any other terms which will add clarity to their meaning as used in this Article.

It is proposed that Section 81.05 (b) [formerly 81.04 (c)] be amended to make the submission of sketches or plans showing the floor layout, equipment, plumbing, ventilation, refuse storage facilities, sewage disposal facilities, and similar information an option of the Department for first time locations and major renovations, rather than a mandatory submission with every permit application. This would make the application process simpler and less costly for the food service establishment owner, thereby creating an atmosphere which encourages compliance. Section 81.07 [replacing 81.05] would be revised to include comprehensive requirements for the sanitary preparation of food to protect against contamination. This includes regulations for the manufacture, display, preparation, processing, storage and packaging of foods, for the personal hygiene of foodhandlers, and for the sources from which food may be obtained.

The proposed amendments also include a revision of Section 81.09 [formerly 81.07] to outline detailed requirements for the storage, refrigeration, thawing and cooking of potentially hazardous foods. The numerical (quantitative) bacterial standards have been deleted because, among experts, there is no agreement as to acceptable microbiological levels, and thus no nationally recognized standards. Adhering to heating time and temperature requirements will, however, ensure that

microbiological contamination will be minimized.

Old Section 81.23(c) required that operators of food service establishments employ or engage the services of a custom applicator or exterminator certified by the New York State Department of Environmental Conservation to provide extermination services in order to maintain establishments free from rodents, insects and other pests. In the New York State Sanitary Code this is not a requirement and it is proposed that the amended Section 81.23(c) merely require extermination and preventive measures against pest control. Additionally, the revised section indicates that pesticides should be properly labeled and authorized for use in accordance with Title 6 of the New York Codes, Rules and Regulations [N.Y.C.R.R.], Part 325, or any successor regulation.

It is proposed that Section 81.29 be amended to delete the subsection (3) specifications for open clothes racks or metal lockers for the street and work clothes of employees. Simpler requirements that dressing and locker areas not be located as to present a contamination hazard would be moved to Section 81.29(d). The proposed revision of Section 81.29 adds the Public Health Law requirement which indicates that food service establishments with a seating capacity of 20 or more, except those in operation on or before December 5, 1977, should provide toilet facilities for patrons. Provisions regarding the supply of toilet tissue and waste receptacles in toilet rooms are also proposed.

The amended Article 81 as proposed, would contain more detailed instructions for the sanitization of equipment and utensils starting with the definition of "sanitization" which was added to Section 81.03. Section 81.37 which covers cleaning methods for premises, equipment and utensils would be expanded to indicate the necessity for the installation of a heating device or fixture to maintain the water at the required temperature for hot water sanitization. In addition, it is proposed that a numerically scaled, indicating thermometer accurate to plus or minus 2 degrees Fahrenheit (1.1 degrees Celsius) should be available at the sink for frequent checks of water temperature. When chemical sanitization is used, the concentrations used should not leave toxic residues on treated surfaces. The proposed amendments mandate that a test kit or other device be used to measure the concentration of the sanitizing solution used.

It is suggested that subsections (b), (c) and (d) be added to the new Section 81.39 [formerly 81.41] to outline penalties for operating without a valid permit, for serious, repeated or persistent violations of any of the provisions of the Code, for interference with Department personnel in the performance of their duties and for operating an establishment so as to create an imminent hazard to public health. In the face of such a hazard, the Department would suspend a permit and order immediate cessation of operations, thereafter providing the establishment with an opportunity to be heard pursuant to rule of the Department. Methods for serving orders or notices on

-4-

owners or operators are authorized by Sections 17-141 or 17-148 of the New York City Administrative Code as outlined in Subsection (e). The old Section 81.43 [Sealing up of insanitary establishments on order of Commissioner] and the old Section 81.45 [Vehicles used to transport food; cleanliness] would be absorbed into the proposed Section 81.39.

Pursuant to Article 2 of the New York State Agriculture and Markets Law and a memorandum of understanding between the New York State Department of Health and the New York State Department of Agriculture and Markets, effective March 1, 1986, the New York City Department of Health no longer exercises jurisdiction over food manufacturing. Food manufacturing is now under the purview of the State Department of Agriculture and Markets. Therefore, it is proposed that the old sections dealing with the pasteurization and labeling requirements for broken out eggs, the denaturing of inedible eggs and the marking of candled case eggs [81.48, 81.49, 81.51, 81.53] be deleted. It is also proposed that the requirement that operators of food service establishments notify the Department about complaints of patrons' illness allegedly resulting from food served in the establishment be transferred from the repealed Article 87 to Section 81.43. The section would specify that operators of food service establishments (and non-retail food processing establishments) also report to the Department any emergency occurrence such as fire, power outage or flood which might result in contamination of food.

It is also proposed that those provisions relating to permits for the above mentioned regulated activities, including fees, be amended to simplify and consolidate the multiplicity of classes into two permit types, and to appropriately adjust fees and expiration dates. The fees proposed for the two (2) new types of permits represent a consolidation of the fees currently collected for the twenty (20) permit classes proposed to be repealed. Although the redistribution of program costs over different permit types results in fee changes on a case by case basis among permittees, the proposal does not represent an overall fee increase in that they are based upon the current fee schedule. The effective date of this Resolution is proposed to be September 1, 1996 so as to ensure that the renewal cycle for existing permits can be completed under the current permit and fee structure.

Article 113 regulates frozen desserts. It is proposed that Section 113.19 be deleted. Labeling of frozen dessert containers, packages and wrappers is regulated by the New York State Department of Agriculture and Markets and by federal regulations. A sign bearing nutritional information about dietary frozen desserts is not required in the New York State Sanitary Code, and presents an unnecessary burden to the operator.

Note-matter underlined is new
matter in brackets [] to be deleted

-5-

RESOLVED, that Article 81 of the New York City Health Code as last amended by resolution adopted by the Board of Health, be and the same hereby is REPEALED and reenacted to be printed together with explanatory notes, to read as follows:

Article 81

FOOD PREPARATION and FOOD ESTABLISHMENTS

§81.01 Scope

§81.03 Definitions

§81.05 Technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments

§81.07 Food: sanitary preparation, protection against contamination

§81.09 Food: temperature requirements

§81.11 Food: disposition if unfit for human consumption; re-service of food prohibited

§81.13 Foodworkers: health: clothing

§81.15 Supervisors of food service establishments and non-retail food processing establishments to complete courses in food protection

§81.17 Food service establishments and non-retail food processing establishments: premises: location: general requirements

§81.19 Food service establishments and non-retail food processing establishments: premises: lighting and ventilation

§81.21 Food service establishments and non-retail food processing establishments: premises: plumbing, water supply, floors, walls and ceilings, vehicles

§81.23 Food service establishments and non-retail food processing establishments:

premises: conditions conducive to rodent or insect and pest life

prohibited: rodent proofing

§81.25 Food service establishments and non-retail food processing establishments:

animals prohibited

§81.27 Food service establishments and non-retail food processing establishments:

foodworker use of tobacco and consumption of food on premises: spitting
prohibited.

§81.29 Food service establishments and non-retail food processing establishments:

premises: employee toilets, wash basins, lockers and patron toilets to be
provided

§81.31 Food service establishments and non-retail food processing establishments:

equipment and utensils to be made of nontoxic materials

§81.33 Food service establishments and non-retail food processing establishments:

equipment and utensils: design, construction and placement

§81.35 Food service establishments and non-retail food processing establishments:

refrigerators and hot storage facilities

§81.37 Food service establishments and non-retail food processing establishments:

cleaning of premises: equipment and utensils: cleaning methods

§81.39 Food service establishments and non-retail food processing establishments:

sealing of unclean equipment, utensils and vehicles: denial, suspension
and revocation of permits: enforcement

§81.41 Dispensing devices used to dispense food: construction, cleanliness.

-7-

refrigeration, safety§81.43 Reporting complaints of patrons' illness, emergency occurrences§81.45 Drinking straws and single service utensils§81.47 Water potability certificates§81.49 Modification by Commissioner

Introductory Notes:

Article 81 was repealed and reenacted and Articles 83, 85, 86 and 87 were repealed on June 10, 1996 to modernize the New York City Health Code, to make it consistent with federal guidelines on the control of public health hazards and to make it consistent with New York State laws and regulations.

§81.01 Scope. The provisions of this Article shall apply equally to all food service establishments and non-retail food processing establishments, except as otherwise limited herein, and shall be construed in a manner that protects the health and safety of the public. All applicable provisions of this Code shall be complied with in addition to the requirements set forth in this Article. Owners and operators of food service establishments and non-retail food processing establishments shall operate so as to prevent health hazards. This Article applies to all establishments formerly classified as eating places, restaurants, retail food processing establishments, retail non-processing food establishments, wholesale food establishments, shellfish and fish markets and commissaries. Any references anywhere in this Code to the aforementioned

establishments are hereby deemed to mean the establishments defined and regulated hereunder.

§81.03 Definitions. When used in this Title and Code:

(a) Contaminated means adulterated or spoiled food, or food and equipment which is exposed to filth, toxic substances, rodent or insect contact or infestation, or potentially hazardous foods held at temperatures between 45 degrees Fahrenheit (7.2 degrees Celsius) and 140 degrees Fahrenheit (60 degrees Celsius) for a period of time exceeding that reasonably required for preparation, including potentially hazardous foods which are not heated or cooked to the temperatures specified in §81.09, or food in or subject to any condition which could permit the introduction of pathogenic microorganisms or foreign matter, including manual contact during service or preparation if such foods will not be subsequently cooked or heated to the temperatures specified in §81.09.

(b) A controlled-location vending machine means a food vending machine which dispenses only food that is not potentially hazardous, can be serviced in a sanitary manner by an untrained person at the location and is located where it is protected from environmental contamination, abuse and vandalism.

(c) Easily cleanable means readily accessible and of such material and finish that residues may be completely removed by normal cleaning methods.

(d) Easily movable equipment means equipment that is mounted on wheels or casters with flexible, extensible, or quick disconnecting utility connections, if any, so

that the equipment may be easily moved for cleaning.

(e) Equipment means all stoves, ranges, microwave ovens, hoods, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steamtables and similar items, other than utensils, used in the operation of a food service establishment or non-retail food processing establishment.

(f) Food-contact surfaces mean the surfaces of equipment, utensils, tableware and kitchenware, such as ladles, colanders, serving spoons, spatulas, pots and pans, which normally come into contact with food or from which liquids and residues may drain back into food or onto other food-contact surfaces.

(g) Food-grade means intended to be used with food products, utensils or equipment without reacting with such food products, and without imparting odor, color or taste to such food products, or approved by the National Sanitation Foundation or its equivalent.

(h) Foodworker means foodhandler or any employee who works in a food service establishment or non-retail food processing establishment, including but not limited to any person described in §11.01(f) of this Code.

(i) Food service establishment means a place where food is provided for individual portion service directly to the consumer whether such food is provided free of charge or sold and whether consumption occurs on or off the premises.

(j) A food vending machine means a self-service device which when activated, dispenses unit servings of food or beverage without requiring replenishing between each vending operation.

-10-

(k) A food vending machine commissary means a place where food, containers or supplies are processed or packaged and prepared for use in food vending machines.

(l) A food vending machine operation means the place where food vending machines are located and includes the food vending machines, machine servicing equipment, utensils, personnel, single-service articles, tables, chairs, that part of the premises used in connection with the food vending machine operation and all other appurtenances required and used to operate and maintain the food vending machines.

(m) Imminent health hazard means any violation, condition, combination of violations or conditions making it probable that food served to the public by the establishment or its continued operation will be injurious or dangerous to the health of any person consuming such food.

(n) Indirect drain means a waste line which does not connect directly with the drainage system, but conveys and discharges liquid wastes through an air break into an approved plumbing fixture or receptacle that is directly connected to the drainage system.

(o) Non-retail food processing establishment means a place where food is processed, prepared, stored or packed for consumption off the premises and not given or sold directly to the consumer. This shall include but not be limited to mobile food vending commissaries, food vending machine commissaries, places where fish or shellfish is kept, sold or offered for sale which are not otherwise regulated or permitted by the Department of Agriculture and Markets or other appropriate regulatory agency.

(p) Potentially hazardous food means any food that consists in whole or in part

-11-

of milk or milk products, eggs, meat, poultry, fish, shellfish, crustacea, cooked potato, cooked rice, or ingredients in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms, or growth of C. botulinum. The term does not include food with a water activity (Aw) value of 0.85 or less, or a hydrogen ion concentration (pH) level of 4.6 or below.

(g) Processed fish means fish that has been cured, salted, marinated, dried, pickled, fermented or smoked for human consumption.

(r) Sanitization means effective bactericidal treatment by heat or chemical means which destroys pathogens on surfaces treated. Acceptable sanitization methods are:

(1) immersion for at least one-half minute in clean hot water at a temperature of not less than 170 degrees Fahrenheit (76.7 degrees Celsius):

(2) immersion for at least one minute in a clean solution containing at least 50 parts per million of available chlorine at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius):

(3) immersion for at least one minute in a clean solution containing at least 12.5 parts per million of available iodine and having pH not higher than 5.0 and at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius):

(4) immersion in a clean solution containing any other food grade chemical sanitizing agent that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as hypochlorite which has been held at a temperature of at least 75 degrees Fahrenheit (23.9 degrees

-12-

Celsius) for one minute:

(5) treatment with culinary-quality steam in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(6) swabbing fixed equipment with a solution of at least twice the strength required for that sanitizing solution when used for immersion.

(s) Single service articles means cups, containers, lids, or closures, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles which are intended by the manufacturer for single eating and drinking usage and generally recognized by the public as items to be discarded after one usage.

(t) Stand means a movable, portable or collapsible structure, framework, device, container, or other contrivance, other than a vehicle or pushcart, used for displaying, keeping or storing any food.

(u) Temporary food service establishment means any food service establishment which operates at a fixed location for a temporary period of time, not to exceed 14 consecutive days, in connection with a single event or celebration such as a fair, carnival, circus, public exhibition, advertising campaign or business promotion, religious or fraternal organization function or transitory gathering. In addition to the provisions of this Article, a temporary food service establishment shall be operated at all times in compliance with the provisions of Article 88 and all applicable provisions of this Code.

(v) Utensil means any tableware, such as knives, forks, spoons, glasses, cups

-13-

and the like, and kitchenware, implements or containers used for storage, preparation, transfer, conveyance or service of food.

(w)wolesale food establishment means any establishment which sells food or which manufactures food for other than retail sale directly to the consumer.

§81.05 Technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments.

(a) An operator of a food service establishment or non-retail food processing establishment shall construct, equip, furnish, maintain and operate such establishment in compliance with this Article and all other applicable federal, state and city laws, rules and regulations.

(b) Prior to new construction or major renovation of a food service establishment or non-retail food processing establishment, or at any time thereafter where the Department determines that the public health and safety requires a Departmental review of the physical plant of such establishment, the Department may require such establishment to submit sketches or plans showing the floor layout, equipment, plumbing, ventilation, refuse storage facilities, sewage disposal facilities and similar information on a form acceptable to the Department. Submission and review of plans shall not relieve the operator of such establishment or his or her successor from meeting all requirements of this section.

(c) Except as specified in this subsection, no person shall operate a food service establishment or non-retail food processing establishment without a permit

-14-

therefor issued by the Department. Not less than 21 days before starting operation of such establishment, an application for a permit shall be submitted to the Department. In the event the Department does not make an inspection of the establishment during this 21-day period, operations may commence without a permit on the 22nd day, and may be continued without such operations being in violation of this section until such time as the Department makes an inspection and issues a permit or issues an order to cease operation for cause pursuant to §81.39 or other applicable provision of this Code.

(d) A permit for a food service establishment or non-retail food processing establishment shall be issued subject to the establishment being constructed, maintained and operated in compliance with this Code, and not presenting a danger to the health or safety of the consumer or to the public. The condition of the establishment, including its equipment, utensils, personnel, mode of operation, surroundings, water supply, sewage disposal, waste handling, furnishings, food and appurtenances, and, if applicable, past history of compliance or non-compliance, shall be considered in determining whether its operation may be dangerous or detrimental to the public health. If the pre-permitting inspection indicates that such conditions are unsatisfactory, the operator shall be advised of the violations which prevent issuance of such permit.

(e) Religious, fraternal and charitable organizations which provide food services more often than once a week shall obtain a permit pursuant to this Article; provided, however, that an organization providing food service less frequently than once a week

-15-

shall notify the Department in writing of its intention to engage in such food service operations and shall obtain authorization from the Department. Such authorization may be issued for a term not to exceed two years. The payment of a fee for such authorization shall not be required. The provisions of this subsection shall not limit in any way the right of the Department to take any actions necessary to protect the public health.

(f) A permit shall not be issued if the applicant or a principal of an entity applying for such has been denied a permit on the basis of violations of this Code which could have resulted in the suspension or revocation of a permit. A permit may be renewed, provided that the permittee meets all requirements for renewal, the permit has not been revoked or suspended, and the permittee has not been determined to have committed a violation which could be a basis for permit revocation or suspension under this Article.

§81.07 Food: sanitary preparation, protection against contamination.

(a) Food shall be free of and protected against contamination and shall be manufactured, prepared, processed or packed with clean and sanitary utensils and equipment. Surfaces with which food comes in contact shall be impervious. Food which will not be washed or cooked shall be protected from cross-contamination from food which is required to be washed or cooked. Packaged food shall not be stored in direct contact with ice or water if packaging allows the entry of water. Unpackaged food may be stored in direct contact with drained ice, except that whole, raw fruits or

-16-

vegetables, cut, raw vegetables such as celery or carrot sticks or cut potatoes, and tofu, may be immersed in clean and sanitary undrained ice or water. Raw chicken and raw fish that are received in ice in shipping containers may remain in such condition while being stored or awaiting preparation, display, service or sale.

(b) Food removed from original containers or packages shall be protected from contamination by storing in clean, sanitized and covered containers and by maintaining proper temperature. Containers of food shall be stored at least 6 inches (14.24 centimeters) above the floor, or at a greater height if necessary to permit cleaning of the storage area.

(c) Food shall be displayed only in equipment that protects such food from contamination such as cleanable containers, cabinets, display cases or similar protective equipment. Self-service equipment shall have protective shields or guards to prevent unnecessary contamination or contact by patrons. The quantity of food displayed shall be minimized to that necessary to meet immediate needs.

(d) Condiments, seasoning, sugar and dressings shall be provided in individual packages, protected dispensers or containers, or in the original container or pour-type dispensers.

(e) Ice for consumption shall be dispensed with scoops, tongs or other utensils, or automatic self-service ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice.

(f) Food-dispensing utensils shall be provided for dispensing food by

-17-

foodworkers and for self-service.

(g) Food shall be obtained from sources approved by the appropriate regulatory authority having jurisdiction over such food source and shall comply with all federal, state and city laws, rules and regulations related to food, the use of food, and food labeling.

(h) Supplies and equipment shall not be kept or stored under or near any source of contamination, including but not limited to, exposed or unprotected sewer lines. Equipment, unless easily movable, shall be sealed to the floor or raised on concrete or smooth masonry platforms or elevated on legs to provide at least six inches of clearance between the floor and the equipment.

(i) All foodworkers shall maintain hygienic practices and personal cleanliness. Foodworkers shall wash hands and exposed areas of arms thoroughly with soap and warm water before starting work, and as often as necessary to remove soil and any substance that might lead to contamination. Thereafter, hands shall be washed thoroughly after using the toilet, smoking, sneezing, coughing, eating, drinking or otherwise soiling hands before returning to work. Foodworkers shall keep fingernails clean and trimmed.

(i) Food shall be prepared and served without bare hand contact unless the food will be heated to at least the minimum temperature required under §81.09. Convenient and suitable utensils, sanitary gloves, waxed paper or an equivalent barrier shall be provided and used to prepare or serve food to eliminate bare hand contact and prevent contamination.

§81.09 Food: temperature requirements

(a) Potentially hazardous food shall be refrigerated at a temperature of 45 degrees Fahrenheit (7.2 degrees Celsius) or below or kept heated to 140 degrees Fahrenheit (60 degrees Celsius) or above, except during necessary preparation. All parts of potentially hazardous foods requiring cooking are to be heated to 145 degrees Fahrenheit (62.7 degrees Celsius) or above for 15 seconds, except that:

(1) poultry, poultry stuffing, stuffed meats and stuffing containing meat shall be heated so all parts are at least 165 degrees Fahrenheit (73.9 degrees Celsius) for 15 seconds;

(2) pork and food containing pork shall be heated so all parts of the food are at least 155 degrees Fahrenheit (68.3 degrees Celsius) for 15 seconds;

(3) rare roast beef and/or rare beef steaks shall be held at the following minimum temperatures unless otherwise ordered by the consumer:

Temperature °C (°F)	Time	Temperature °C (°F)	Time	Temperature °C (°F)	Time
54 (130)	121 minutes	58 (136)	32 minutes	61 (142)	8 minutes
56 (132)	77 minutes	59 (138)	19 minutes	62 (144)	5 minutes
57 (134)	47 minutes	60 (140)	12 minutes	63 (145)	3 minutes

(4) ground beef and food containing ground beef shall be heated so that all parts of the food are at least 155 degrees Fahrenheit (68.3 degrees Celsius) for 15

-19-

seconds, unless otherwise ordered by the consumer:

(5) poultry, poultry stuffing, stuffed meats and stuffing containing meat; ground or comminuted poultry, beef, pork and other meat products, shall be heated with no interruption of the cooking process:

(6) shell eggs or foods containing shell eggs shall be heated to 145 degrees Fahrenheit (62.8 degrees Celsius) or greater for 15 seconds unless the consumer requests preparation of a shell egg or food containing shell eggs in a style such as raw, poached or fried which must be prepared at a temperature less than 145 degrees Fahrenheit in order to comply with the request:

(7) potentially hazardous food that is cooked, cooled and reheated for hot holding shall be reheated so that all parts of the food reach a temperature of at least 165 degrees Fahrenheit (73.9 degrees Celsius) for 15 seconds. The minimum temperature of 165 degrees Fahrenheit (73.9 degrees Celsius) shall be reached within 2 hours of commencing reheating. Reheated food shall be held at or above 140 degrees Fahrenheit (60 degrees Celsius) until served:

(8) cooked and refrigerated food that is prepared for immediate service in response to an individual consumer order may be served at any temperature:

(9) food reheated in a microwave oven shall be covered during heating; food shall be rotated or stirred during heating, or otherwise manipulated according to label instructions, and shall be reheated to a temperature of at least 190 degrees Fahrenheit (88 degrees Celsius) and allowed to stand covered for 2 minutes after reheating:

-20-

(10) commercially processed pre-cooked potentially hazardous food in hermetically sealed containers and precooked potentially hazardous food in intact packages from non-retail food processing establishments shall be heated to 140 degrees Fahrenheit (60 degrees Celsius) within 2 hours of removal from container or package and held at such temperature until served.

(b) Intact shell eggs shall be stored at an ambient temperature of 45 degrees Fahrenheit (7.2 degrees Celsius) or below.

(c) All processed fish products shall be prepared, distributed and sold at a temperature that does not exceed 38 degrees Fahrenheit (3.3 degrees Celsius) without interruption until served to the ultimate consumer, except that:

(1) processed fish which contains a water phase salt level of at least 17 percent shall not require refrigerated storage and:

(2) processed fish which contains a water phase level of at least 10 percent, salt water activity of less than .85 Aw, or a pH of 4.6 or lower may be distributed or sold at refrigerated temperatures that do not exceed 45 degrees Fahrenheit (7.2 degrees Celsius).

(d) When meat, fish or molluscan shellfish is served raw or after heat treatment at a temperature or a time less than that prescribed in this Code, the consumer shall be notified unless the consumer has previously indicated that he or she desires food to be prepared in such manner.

(e) Potentially hazardous food requiring refrigeration shall be cooled so that every part of the product is reduced from 140 degrees Fahrenheit (60 degrees

-21-

Celsius) to 70 degrees Fahrenheit (21.1 degrees Celsius) within 2 hours and to 45 degrees Fahrenheit (7.2 degrees Celsius) or below within 4 additional hours.

(f) Potentially hazardous foods shall be cooled to 45 degrees Fahrenheit (7.2 degrees Celsius) or below within 4 hours of preparation when prepared from ingredients at ambient temperature, such as reconstituted foods and canned tuna.

(g) Potentially hazardous food shall be thawed:

(1) in refrigerated facilities at a temperature not to exceed 45 degrees Fahrenheit (7.2 degrees Celsius); or

(2) completely submerged under potable running water at a temperature of 70 degrees Fahrenheit (21.1 degrees Celsius) or below, with sufficient water velocity to agitate and float off loose particles into the overflow; or

(3) in a microwave oven when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process, or when the entire uninterrupted cooking process takes place in a microwave oven; or

(4) as part of the conventional cooking process, without interruption.

(5) Whole frozen poultry shall be completely thawed prior to conventional cooking. A single portion may be thawed during the cooking process.

(h) Ready-to-eat potentially hazardous food shall be thawed for a period of time that does not allow thawed portions to rise above 45 degrees Fahrenheit (7.2 degrees Celsius).

(i) Whenever necessary to prevent public health hazards the Department may, in specific instances, impose additional requirements on an establishment. The

-22-

Department shall describe in writing the conditions of operation that have been imposed, the reasons therefor, shall provide such document to the permit holder, and shall maintain such document with the records of the Department.

§81.11 Food: disposition if unfit for human consumption: re-service of food prohibited.

(a) Food which has become unfit for human consumption shall be promptly denatured, its label defaced and the product marked condemned, and shall be kept separate and apart from foodstuffs which are held or offered for sale. As used in this subsection, to denature means to treat the food with a disinfectant or other substance satisfactory to the Department which alters the appearance or odor of the food such that the denatured food is clearly identified as being inedible.

(b) Food which has been served to the public without protection from contamination shall not be re-served.

§81.13 Foodworkers: health: clothing.

(a) No person shall work or shall be knowingly or negligently permitted to work in a food establishment while afflicted with a boil or infected wound and unless he or she is free from acute, infectious diarrhea, amebiasis, cholera, cryptosporidiosis, diphtheria, E. coli 0157:H7, giardiasis, hepatitis A, poliomyelitis, salmonellosis, shigellosis, streptococcal sore throat (including scarlet fever), superficial staphylococcal infection, tuberculosis, typhoid, or versiniosis and is not a carrier of

-23-

organisms causing the above conditions or other disease listed in §11.03 in a communicable form and unless the period of isolation or exclusion prescribed by Article 11 of this Code has ended.

(b) All foodworkers shall wear clean, washable outer garments, and whenever working in an area where food is prepared, shall wear caps, hats or hair nets to minimize contact between hair and hands, food, and food-contact surfaces.

§81.15 Supervisors of food service establishments and non-retail food processing establishments to complete courses in food protection.

(a) No person who is charged with supervision of the operations of a food service establishment or non-retail food processing establishment shall engage or be employed in such capacity unless he or she obtains a certificate issued by the Department subsequent to successful completion of a course in food protection, and passage of an examination administered by the Department. A person holding such certificate shall be on the premises and shall supervise all food preparation activities during all hours of operation.

(b) Such certificate shall be available for inspection at all times by the Department.

(c) The Department may conduct such food protection courses, or any part thereof, or approve courses conducted by others. Persons electing to enroll in such courses conducted by the Department may be charged a reasonable fee to defray all or part of the costs incurred by the Department for course registration, materials, training,

testing and certificate issuance.

(d) The Department may require the holder of such certificate to complete a refresher course when the Department finds continuing violations of the Code or when a food borne outbreak implicates food processed in the establishment supervised by such person, or when the Department determines that such a course is necessary to acquaint a supervisor with current developments in food protection principles.

(e) Two (2) full-face photographs shall be taken by the Department or by others approved by the Department when an applicant registers for such course or applies for such certificate. One photograph shall be affixed to the certificate of completion and the other maintained in the records of the Department.

§81.17 Food service establishments and non-retail food processing establishments: premises: location: general requirements.

(a) Food shall not be processed, prepared, packed or stored in, and food service establishments and non-retail food processing establishments shall not be located in, rooms used for dwelling purposes or in any room used for sleeping purposes. The premises shall be of a size sufficient to prevent overcrowding and adequate space shall be provided for the conduct of operations and for effective cleaning and inspection.

(b) Food service establishments and non-retail food processing establishments shall have unobstructed aisles and working spaces of sufficient width to permit employees to perform their duties readily and without contaminating food or food-

contact surfaces.

§81.19 Food service establishments and non-retail food processing establishments:
premises: lighting and ventilation.

(a) Food service establishments and non-retail food processing establishments shall be permanently lighted to provide at least 30 footcandles of light on all food preparation surfaces and at equipment or utensil washing work levels, and at least 20 footcandles of light at a distance of 30 inches from the floor in utensil and equipment storage areas, lavatory and toilet areas, walk-in refrigerating units, dry food storage areas, and in dining areas during cleaning operations.

(b) Electric light bulbs and other glass parts of lighting fixtures which are directly above food processing equipment or open containers of food, which may shatter due to extreme heat, temperature changes or accidental contact and are likely to contaminate food shall be provided with suitable guards.

(c) Food service establishments and non-retail food processing establishments shall be adequately ventilated to prevent excessive heat, steam, condensation, vapors, odors, smoke and fumes. Ventilation to the outside air shall comply with applicable law and regulation and shall not create a nuisance or unlawful emission. Intake and exhaust ducts shall be constructed and maintained to prevent dust, dirt or other contaminants from entering the establishment. Mechanical ventilation shall be installed in rooms where odors, vapors or fumes originate. Ventilation hoods and devices shall be constructed and installed to prevent grease or condensation from collecting on walls

-26-

or ceilings and from dripping into food or onto food-contact surfaces.

§81.21 Food service establishments and non-retail food processing establishments:
premises, plumbing, water supply, floors, walls and ceilings, vehicles.

(a) Food service establishments and non-retail food processing establishments shall have plumbing and plumbing fixtures to carry potable hot and cold water adequate to supply all parts of the establishment. Plumbing and fixtures shall be properly connected, vented and drained to prevent contamination of the City water supply or any other potable water supply. Water supply outlets and connections to water supply fixtures or appliances shall be designed and constructed to prevent back-flow into the water supply.

(b) Sewage and liquid wastes shall be carried to the sewer or sewage disposal system so as to prevent contamination of the premises and its contents. There shall be no direct connection between the sewage system and any drains from fixtures and equipment used for storage, preparation, or processing of food. Waste lines from equipment required to have indirect drains shall be installed to prevent back-flow from sewers and other drains and waste lines.

(c) All lines conducting carbon dioxide gas or carbonated beverages shall be stainless steel, food-grade plastic or other material that will not produce toxic substances when exposed to carbon dioxide or carbonated water.

(d) Drain pipes from a refrigerator shall not be directly connected with the soil or waste pipes, but shall discharge into a properly trapped, sewer-connected clean, open

-27-

sink or by another acceptable method of drainage. Refrigerator pipes shall be located and protected to prevent condensation or dropping of any liquid on foodstuffs or food equipment.

(e) Floors and floor coverings of food storage, food preparation, and utensil washing areas, and floors of walk-in refrigerating units, dressing rooms, locker rooms, lavatories and rest rooms shall be constructed of a hard, smooth, durable, non-absorbent and easily cleanable material and shall be kept clean and in good repair. Carpeting is prohibited in food preparation areas.

(f) Walls and ceilings of food storage, food preparation and utensil-washing areas shall be smooth and non-absorbent, constructed of a hard, light colored material, and, along with doors and windows, shall be easily cleanable, and kept clean and in good repair. Light fixtures, vent covers, fans, ducts, decorative materials and other materials affixed to walls and ceilings shall be easily cleanable and shall be kept clean and in good repair, and installed and sealed to prevent insect harborage.

(g) Vehicles used for the transportation of food shall be kept clean and sanitary at all times.

§81.23 Food service establishments and non-retail food processing establishments: premises: conditions conducive to rodent or insect and pest life prohibited: rodent proofing.

(a) Food service and non-retail food processing establishments shall be kept free of rodents, insects and other pests, and of any condition conducive to rodent or

-28-

insect and other pest life. Premises, equipment and fixtures shall be of construction, design and material so as to be rodent proof.

(b) All openings into the outer air shall be effectively screened and doors shall be self-closing, unless other effective means such as effective fly fans or effective air curtains are provided to prevent the access by insects and other pests.

(c) Operators of food service establishments and non-retail food processing establishments shall take extermination and preventive measures necessary to maintain the establishment free of rodents, insects and other pests. Pesticides shall be properly labeled, authorized for use, and used in accordance with the New York State Environmental Conservation Law and Title 6 of the New York Codes, Rules and Regulations (N.Y.C.R.R.) Part 325, or any successor regulation.

§81.25 Food service establishments and non-retail food processing establishments: animals prohibited. No live animal shall be kept, housed or permitted to enter into or remain in any food service establishment or non-retail food processing establishment. This section shall not apply to edible fish, crustacea, shellfish, fish in aquariums, seeing-eye dogs accompanying sightless persons, hearing or service dogs accompanying and assisting disabled persons, or patrol dogs accompanying police officers.

§81.27 Food service establishments and non-retail food processing establishments: foodworker use of tobacco and consumption of food on premises: spitting prohibited.

-29-

Smoking or use of tobacco in any form in any room where food is prepared, processed or packaged is prohibited. Foodworkers shall eat only in designated areas and in a manner that protects food, equipment and utensils from contamination. Spitting anywhere in an establishment is prohibited.

§81.29 Food service establishments and non-retail food processing establishments: premises; employee toilets, wash basins, lockers and patron toilets to be provided.

(a) Food service establishments and non-retail food processing establishments shall have a sufficient number of toilets for the employees which shall be clean, sanitary and in good repair so as to comply with the New York City Administrative Code, Title 27, Building Code Reference Standards, RS 16, §P104.0 (Plumbing Fixtures), et seq., or successor provision.

(b) A supply of toilet tissue shall be provided at all times at each toilet. Easily cleanable receptacles for waste paper and other refuse shall be provided. At least one receptacle shall be covered in any toilet room used by women.

(c) Food service establishments and non-retail food processing establishments shall have a sufficient number of wash basins with hot and cold running water in or near the lavatory and in or near food preparation areas to assure cleanliness of employees. Soap and single use towels or mechanical drying devices shall be provided. There shall be conspicuously posted near or above the wash basins signs directing employees to wash hands after use of the toilet. The use of common drinking cups is prohibited.

-30-

(d) Dressing and locker areas shall not be located as to present a contamination hazard.

(e) Food service establishments with a seating capacity of 20 or more, except those in operation on or before December 5, 1977 shall provide toilet facilities for patrons. The requirements outlined in subsection (a) above shall also apply to patron toilets.

§81.31 Food service establishments and non-retail food processing establishments: equipment and utensils to be made of nontoxic materials.

(a) No food service establishment or non-retail food processing establishment shall have or use any equipment or utensil in the manufacture, processing, preparation or service of food, containing lead, cadmium or any other substance which is toxic or may react with food, cleaning or sanitizing materials, to form harmful compounds, or render food unwholesome or detrimental to health. Food contact surfaces of utensils and equipment shall not be painted, and shall not impart odor, color or taste to food. Materials used to construct or repair equipment shall be of sufficient strength and thickness to withstand ordinary usage and to permit cleaning and sanitizing. The use or keeping of utensils and containers which are chipped, cracked, rusted, corroded, badly worn, or in such condition that they cannot be easily rendered clean and sanitary is prohibited.

(b) Cutting blocks and boards shall be smooth and clean, and constructed of hard maple or equivalent nonabsorbent material.

-31-

(c) Tubing used for beverages or beverage ingredients shall be fabricated from food-grade materials.

§81.33 Food service establishments and non-retail food processing establishments: equipment and utensils: design construction and placement.

Equipment shall be constructed to be easily cleanable, shall be clean and in good repair, shall have nontoxic food-contact surfaces, and shall not contaminate food. Equipment using lubricants shall use food-grade lubricants which shall not leak or contact food or food-contact surfaces. Where disassembly is required for cleaning, such disassembly shall not require more than the use of simple tools such as mallet, screwdriver and open-end wrench, which tools shall be readily available near the equipment. Equipment designed for in-place cleaning shall be constructed so that cleaning and sanitizing solutions circulate through an effective fixed system that allows such solutions to contact all interior food-contact surfaces, and so that the system is self-draining or can be completely evacuated.

§81.35 Food service establishments and non-retail food processing establishments: refrigerators and hot storage facilities.

A food service establishment or non-retail food processing establishment shall have a sufficient number of refrigerators, hot food storage facilities, and accurate thermometers or other temperature recording instruments, to ensure food is kept at temperatures required by this Code. Temperature measuring devices shall be accurate

-32-

to plus or minus two degrees Fahrenheit (1.1 degrees Celsius) and shall be located to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility. Refrigerators and hot storage facilities shall be kept clean, sanitary and in good repair, and shall be indirectly drained. Floors of walk-in refrigerators shall be constructed of smooth concrete or other non-absorbent material. There shall be no direct connection between the sewage system and any drain originating from the refrigerator or hot storage facility.

§81.37 Food service establishments and non-retail food processing establishments: cleaning of premises, equipment and utensils; cleaning methods.

(a) The premises of a food service establishment or non-retail food processing establishment, its equipment and utensils shall be cleaned at least once a day and more frequently when necessary. Cloths used for wiping food spills from tables and tableware shall be kept clean and dry and used only for this purpose. Moist cloths used for wiping food spills from kitchenware and food-contact surfaces shall be used only for this purpose and shall be stored in a sanitizing solution between uses. Moist cloths used for wiping non-food-contact surfaces shall be used only for this purpose and shall be stored in a sanitizing solution between uses.

(b) Equipment and utensils shall be effectively cleaned and sanitized. Unless it is specifically constructed to permit in-place cleaning and inspection, equipment shall be disassembled prior to each cleaning.

(c) Hot water used for sanitizing in a manual operation shall be 170 degrees

-33-

Fahrenheit (76.6 degrees Celsius). A numerically scaled, indicating thermometer accurate to plus or minus 2 degrees Fahrenheit (1.1 degrees Celsius) shall be readily available at the sink for frequent checks of water temperature. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water shall be provided.

(d) Chemicals used for sanitizing shall not be used in concentrations which will leave toxic residues on surfaces treated. A test kit or other device shall be used that accurately measures the parts per million concentration of the solution used, and the pH when it affects the performance of the chemical sanitizer.

(e) Cleaning and sanitizing machines or other mechanical equipment and devices used for the cleaning and sanitizing of utensils, equipment and food contact surfaces shall be installed and maintained in good repair and operated in accordance with manufacturer's instructions.

(f) Utensils used in the preparation, service or transportation of food shall be cleansed after each use, effectively cleaned and sanitized and shall be air dried after sanitizing. Between uses, food dispensing utensils shall be stored in the food with the handle extended out of the food, or clean and dry, or in a dipper well with running water at an adequate velocity and volume to cleanse them during intervals between intermittent use.

(g) All new bottles, receptacles and other containers, other than paper or plastic single service containers, shall be thoroughly rinsed or subjected to a cleansing process for the purpose of removal of lint, glass splinters and other foreign materials.

-34-

prior to their being used in the preparation, service or transportation of food.

(h) No substance containing any cyanide preparation shall be used for the cleaning or polishing of copper, nickel, silver, silverplated ware or any other utensils or appliances used in preparation or service of food.

(i) Food service establishments and non-retail food processing establishments, where food is processed for distribution in containers designed to be used more than once, shall have separate areas with suitable troughs and sinks for the cleansing of such containers.

(j) Garbage and waste materials shall not be permitted to accumulate or to become a nuisance, but shall be stored, handled and disposed of in a sanitary manner that protects food and food-contact surfaces from contamination. Such materials shall be kept in easily cleanable, tightly covered, watertight, rodent-proof, insect-proof containers, which shall be lined with plastic or wet-strength paper bags or shall be disposed of promptly, without intervening storage. The garbage receptacles and their covers shall be properly cleansed immediately upon emptying.

(k) Laundry facilities shall be used only for the washing and drying of linens, clothes, uniforms and aprons. Laundry facilities shall be in a separate room for such purpose except that such room may also be used for storage of packaged foods, packaged single-service articles and employee clothing. Clean laundry shall be protected from contamination. Dirty laundry shall be stored in non-absorbent laundry containers or bags until removed for laundering.

-35-

§81.39 Food service establishments and non-retail food processing establishments: sealing of unclean equipment, utensils and vehicles; denial, suspension and revocation of permits; enforcement.

(a) When, in the opinion of an inspector or authorized employee of the Department, any equipment, utensil or vehicle in a food service establishment or non-retail food processing establishment presents an imminent health hazard, is in an unclean condition, or in disrepair or damaged to such an extent so as to render it unsafe, such equipment, utensil, vehicle or any part thereof may be ordered sealed and its use immediately discontinued upon the approval of the director of the bureau of the Department enforcing this Article. Upon such sealing, the representative of the Department shall affix thereto labels or conspicuous signs bearing the word "unclean" or any other wording necessary to describe the sanitary condition or safety of the sealed equipment, utensil or vehicle, and he or she shall also prepare or cause to be prepared an order of the Commissioner or Department. The order and notice shall direct the discontinuance of the use or operation of the unclean article until it shall have been cleaned and made sanitary and safe, and the seals, labels or signs removed by a representative or with the authorization of the Department.

(b) When a food service establishment or non-retail food processing establishment is found upon inspection to be operating without a valid permit in violation of §81.05 of this Code, the Department may order such establishment to close and cease all food operations immediately, and to remain closed until the establishment or operation has obtained and displays a valid permit.

-36-

(c) In addition to the forfeitures and penalties set forth in Articles 3 and 5 of this Code, the Department may deny, suspend or revoke any permit or authorization issued pursuant to this Article when serious, repeated or persistent violations of any of the provisions of this Code have been found, or where interference with personnel of the Department in the performance of their duties or a violation of §5.17 occurs. Any person ordered to cease operation and service pursuant to this Article shall comply with such order immediately, and shall thereafter be provided with an opportunity to be heard pursuant to rule of the Department.

(d) The Department may deny or suspend a permit or authorization and order immediate cessation of operations and/or service of food at a food service establishment or non-retail food processing establishment if continued operation is an imminent hazard to public health. Any person ordered to cease operations and/or service of food pursuant to this subsection shall comply with such order immediately, and shall thereafter be provided with an opportunity to be heard pursuant to rule of the Department.

(e) Any order or notice issued pursuant to this section shall be served by personal delivery to the owner or person in charge of the food establishment, or by any method authorized by §§17-141 or 17-148 of the New York City Administrative Code, and an original thereof shall be filed with the Department.

(f) Seals, labels, signs, notices and orders affixed by the Department shall not be removed except by order of the Commissioner or his or her designated representative and not until the objectionable condition is removed or corrected.

§81.41 Dispensing devices used to dispense food: construction, cleanliness, refrigeration, safety.

(a) No person shall employ a food vending machine for the sale of packaged food or beverages in closed bottles or containers unless:

(1) the machine is designed and constructed to allow effective cleaning and maintenance and to remain free from insect and rodent harborages and other nuisances;

(2) the machine is designed and constructed so as not to become a hazard to children or others while in use or under foreseeable conditions of abuse;

(3) potentially hazardous foods shall be kept at or below 45 degrees Fahrenheit (7.2 degrees Celsius) or at or above 140 degrees Fahrenheit (60 degrees Celsius);

(4) the machine and the surrounding area are kept clean and sanitary.

(b) No person shall employ a food vending machine for the sale of unpackaged food or for the sale of beverages other than in closed bottles or containers unless the requirements of subsection (a) of this section are met and, in addition, the device is free from lead, cadmium or any other substance which may be so affected by the food or beverage as to form dangerous or deleterious compounds, or as to render food or beverage which comes into contact with such substance unwholesome or detrimental to health, or to impart odor, color or taste to the food. When the food vending machine is connected to a water supply system, it shall be designed and constructed to prevent contamination of the water supply system. Devices which dispense carbonated

-38-

beverages shall be equipped with an air gap at the water inlet, or a protective device to vent any leaking carbon dioxide to the atmosphere, or any other protective device approved by the Department which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system. The water supply contact surfaces in devices which dispense carbonated beverages, from the protective device downstream including the protective device itself, shall not have any copper or copper-lined components in contact with the water supply or the beverage and its other components including any ice making and dispensing apparatus.

(c) There shall be provided in the immediate vicinity of all coin-operated or other mechanical dispensing devices, receptacles for the disposal of food or beverage containers.

(d) Potentially hazardous food shall be dispensed in individual, original containers or wrappers in which it was packaged at the food vending machine commissary or non-retail food processing establishment. Potentially hazardous food shall not be dispensed from bulk supplies.

(e) All food, other than fresh fruit, shall be stored or packaged in clean protective containers, or dispensed into clean single-use containers, and all food shall be prepared and vended in a sanitary manner and shall in all respects comply with the provisions of this Article.

§81.43 Reporting complaints of patrons' illness, emergency occurrences.

(a) When a food service establishment or non-retail food processing establishment learns, has reason to suspect that a person has a food related illness, or

-39-

is notified of any illness of a person diagnosed by a physician which allegedly resulted from food served at, or originating from, such establishment, the owner or person in charge shall immediately notify the Department. The Department may require the owner or the person in charge to submit, within 24 hours of the telephone report, a written report giving such additional information concerning the complaint as the Department may require. Under applicable provisions of the New York State Public Officers Law, reports may be subject to inspection by persons other than the Commissioner and authorized personnel of the Department but personal information about the patrons shall be redacted. Such reports shall not be used as a basis for prosecution by the Department.

(b) When a food service establishment or non-retail food processing establishment is subject to an occurrence which might result in contamination of food or food being held out of temperature limits, including but not limited to fire, power outage, or flood, the owner or person in charge shall immediately notify the Department.

§81.45 Drinking straws and single service utensils.

(a) Drinking straws shall not be offered to the consumer unless they are completely enclosed in a wrapper or dispensed from a sanitary device. Drinking straws shall be discarded immediately after use.

(b) Single service articles shall be manufactured from clean, non-toxic materials and fulfill the requirements of the Food, Drug and Cosmetic Act, as amended. Such articles shall not be reused and shall be discarded immediately after use.

-40-

(c) When, in the opinion of an inspector or authorized employee of the Department, a food service establishment or non-retail food processing establishment lacks adequate facilities for cleaning and sanitizing utensils, the director of the bureau having the responsibility to enforce this Article may require the use of single service utensils.

§81.47 Water potability certificates.

(a) No person shall conduct or operate a wholesale food establishment without a Certificate of Water Potability issued by the Commissioner when such certificate is required to be obtained by an agency of the United States government or other agency having jurisdiction. Such certificate shall not be issued unless said person shall have first registered with the Department and an inspection for cross-connections is completed and a satisfactory water quality analysis is obtained. The fee for such registration shall be paid pursuant to Subsection (i) of §5.09 of this Code.

(b) Registration shall be made on forms furnished by the Department and shall contain the information required thereon.

(c) When any change or alteration is made in such registrant's establishment so that the information registered with the Department is no longer accurate, the registrant shall notify the Department of such change or alteration within 72 hours after it is effected. A change of ownership or address of the facility shall automatically terminate the registration.

-41-

§81.49 Modification by Commissioner. When the strict application of any provision of this Article presents practical difficulties or unusual hardships, the Commissioner, in a specific instance, may modify the application of such provision consistent with the general purpose of this Article and upon such conditions as in his or her opinion are necessary to provide for clean and sanitary food manufactured, processed or served in clean and sanitary establishments. The denial of a request for modification by the Commissioner shall be deemed a final agency determination.

RESOLVED FURTHER, that Articles 83, 85, 86 and 87 of said Code as last be and the same hereby are REPEALED.

RESOLVED FURTHER, that the Schedule of Article Headings for Part A of Title IV are amended, to be printed together with Introductory Notes to read as follows:

Part A Food, Drugs, Devices and Cosmetics

Article

71 Food, Drugs, Devices and Cosmetics; General Properties.

73 Food; General Provisions.

75 Drugs and Devices.

77 Cosmetics.

81 Food Preparation and Food Establishments.

[83 Wholesale Food Establishments, Commissaries and Food Service
Commissaries.]

-42-

- [85 Retail Food Processing Establishments.]**
- [86 Retail Non-Processing Food Establishments.]**
- [87 Restaurants and Other Eating Places.]**
- 88 Temporary Food Establishments.**
- 89 Mobile Food Vending.**
- 91 Meat and Meat Products; Slaughtering of Animals.**
- 93 Poultry; Slaughtering, Eviscerating and Processing.**
- 95 Sausage Manufacturing and Smoking, Preparing or Preserving of Meat.**
- 97 Horsemeat; Slaughtering of Horses.**
- 101 Shellfish and Fish.**
- 103 Establishments Engaged in Preparing, Preserving or Smoking Fish.**
- 111 Milk and Milk Products.**
- 113 Frozen Desserts.**
- 115 Formula Milk for Infants.**
- 116 Infant Formula in Hermetically Sealed Containers.**
- 117 Dairy Food Products.**
- 121 Other Food Establishments; Dry Warehouses; Edible Egg Breaking; Bakeries,
Mineral, Spring and Other Waters; Carbonated and Other Beverages.**

Introductory Notes:

Part A of Title IV was amended on June 10, 1996 to reflect the repeal and reenactment of Article 81, and the repeal of Articles 83, 85, 86, and 87.

-43-

RESOLVED FURTHER, that Section 113.19 of said Code as enacted by resolution adopted on the twentieth day of April, nineteen hundred and seventy-eight be and the same hereby is REPEALED.

RESOLVED FURTHER, that the Section Heading for Section 113.19 Standards; labeling; approval of labels and signs, appearing in the Schedule of Section Headings of Article 113 be and the same hereby is REPEALED to be printed together with Introductory Notes to read as follows:

[Section 113.19 Standards; labeling; approval of labels and signs]

Introductory Notes:

Section 113.19 was repealed on June 10, 1996 to eliminate the requirement to label the contents of frozen desserts as such labeling is now preempted by federal law.

RESOLVED, that the listings for "EATING PLACE: CLASS A"; "EATING PLACE: CLASS B"; "EATING PLACE: CLASS C" AND "EATING PLACE: CLASS D" contained in subsection (a) of Section 5.07 of the New York City Health Code as last amended by resolution of the Board of Health be and the same hereby are REPEALED.

RESOLVED FURTHER, that the listing for "FISH: Permit to keep, sell or offer for sale fresh fish" contained in subsection (a) of Section 5.07 of the New York City Health Code as last amended by resolution of the Board of Health be and the same hereby is REPEALED.

-44-

RESOLVED FURTHER, that the listings for "FOOD ESTABLISHMENT: Permit to conduct a wholesale food establishment or commissary"; "FOOD ESTABLISHMENT: Permit to maintain or operate a retail food processing establishment"; and "FOOD ESTABLISHMENT: Permit to maintain or operate a retail non-processing food establishment" contained in subsection (a) of Section 5.07 of the New York City Health Code as last amended by resolution of the Board of Health be and the same hereby are **REPEALED**.

RESOLVED FURTHER, that the listings for "RESTAURANT: CLASS A"; "RESTAURANT: CLASS B"; "RESTAURANT: CLASS C" and "RESTAURANT: CLASS D" contained in subsection (a) of Section 5.07 of the New York City Health Code as last amended by resolution of the Board of Health be and the same hereby are **REPEALED**.

RESOLVED FURTHER, that the listing for "SHELLFISH: Permit to keep, sell or offer for sale fresh shellfish " contained in subsection (a) of Section 5.07 of the New York City Health Code as last amended by resolution of the Board of Health be and the same hereby is **REPEALED**.

RESOLVED FURTHER, that the listing "FOOD SERVICE ESTABLISHMENT: Permit to maintain or operate a food service establishment" be and the same hereby is added to be inserted between the listings for "FAMILY DAY CARE" and "TEMPORARY

-45-

FOOD ESTABLISHMENTS, to be printed together with explanatory notes, to read as follows:

<u>FOOD SERVICE ESTABLISHMENT:</u>	<u>81.05(c)</u>	<u>\$280.00</u>	<u>One year from</u>
<u>Permit to maintain or operate a</u>	<u>(113.03(c) for</u>	<u>(additional</u>	<u>date of permit</u>
<u>food service establishment.</u>	<u>frozen dessert</u>	<u>\$25.00 for</u>	<u>issuance or, in</u>
<u>(May or may not also include</u>	<u>permit)</u>	<u>frozen dessert</u>	<u>the case of a</u>
<u>a permit to manufacture frozen</u>		<u>permit)</u>	<u>renewal, one</u>
<u>desserts at retail)</u>			<u>year from date</u>
			<u>of last permit</u>
			<u>expiration</u>

RESOLVED FURTHER, that the listing "NON-RETAIL FOOD PROCESSING ESTABLISHMENT: Permit to maintain or operate a non-retail food processing establishment" is hereby added to be inserted between the proposed listing for "FOOD SERVICE ESTABLISHMENT" and "TEMPORARY FOOD ESTABLISHMENTS" in subsection (a) of Section 5.07 of said Code to read as follows:

<u>NON-RETAIL FOOD PROCESSING</u>	<u>81.05(c)</u>	<u>\$200.00</u>	<u>One year from</u>
<u>ESTABLISHMENT:</u>	<u>101.13 and 101.71</u>		<u>date of</u>
<u>Permit to maintain or operate a</u>	<u>(Permits for dealer</u>		<u>permit issuance</u>
<u>non-retail food processing</u>	<u>in shellfish and fish,</u>		
<u>establishment.</u>	<u>respectively)</u>		

NOTES: The permit listings for Eating Places, Food Establishments, and Restaurants, and Fish and Shellfish were repealed on June 10, 1996 and replaced with Food Service Establishment, and Non-Retail Food Processing Establishment, respectively.

RESOLVED FURTHER, that the listing "FROZEN DESSERTS: Permit to manufacture

-46-

frozen desserts at retail" be and the same hereby is amended to be printed together with explanatory notes, to read as follows:

FROZEN DESSERTS: Permit to manufacture frozen desserts at retail	113.03(c) <u>(81.05(c) if issued with food service establishment permit)</u>	\$25.00 <u>per annum</u>	[April 30] <u>At time of expiration of associated food service establishment permit.</u>
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NOTES: The permit listing for Frozen Desserts was amended on June 10, 1996 to reflect issuance and expiration contemporaneously with any associated food service establishment permit as required by the State Sanitary Code.

RESOLVED FURTHER, that subdivisions (1), (2) and (3) of subsection (i) of Section 5.07 of the New York City Health Code as added by resolution of the Board of Health be and the same hereby is REPEALED and reenacted to be printed together with explanatory notes, to read as follows:

(i) The fee for a food service establishment permit specified in §5.07(a) shall be all inclusive and no separate fee shall be charged for pre-permitting inspections or annual or renewal cycle inspections. Such fee shall not be refundable.

NOTES: Subsection (i) was repealed and reenacted on June 10, 1996 to eliminate a separate fee for plans review and pre-permitting inspection.

RESOLVED FURTHER, that subsection (i) of Section 5.09 of said Code as last amended by resolution adopted by the Board of Health be and the same hereby is amended to be printed together with explanatory notes, to read as follows:

-47-

(i) A person registering for a Certificate of Water Potability pursuant to [§ 83.05] § 81.47 of this Code shall pay an annual registration fee of two hundred seventy dollars for each location of a wholesale food processing establishment conducted by such person. Such registration shall expire on May 31 of each year.

NOTES: Subsection (i) was amended on June 10, 1996 to change the section number to conform to other amendments.

Resolved further, this Resolution will take effect on September 1, 1996.

A TRUE COPY.
PATRICIA J. CARUSO
SECRETARY

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