



Department of Health and Mental Hygiene

Board of Health

**Notice of Public Hearing and Opportunity to Comment
on Proposed Amendments to Article 81 of the New York City Health Code**

What are we proposing? The Department of Health and Mental Hygiene is proposing that the Board of Health amend Article 81 of the Health Code, deleting, amending and clarifying certain requirements for operation of restaurants and other food service establishments.

When and where is the hearing? The Department will hold a public hearing on the proposed Health Code amendments from 2PM to 4PM on January 29, 2015 in
Room 3-32
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, 3rd Floor
Long Island City, NY 11101-4132

How do I comment on the proposed amendments to the Health Code? Anyone can comment on the proposed amendments by:

- **Website.** You can submit comments to the Department through the NYC rules Web site at <http://rules.cityofnewyork.us>
- **Email.** You can email written comments to resolutioncomments@health.nyc.gov
- **Mail.** You can mail written comments to
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, CN 31
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at 347-396-6087
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078. You can also sign up in the hearing room before or during the hearing on January 29, 2015. You can speak for up to five minutes.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 p.m. on January 29, 2015.

Do you need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. You must tell us by January 15, 2015.

Can I review the comments made on the proposed amendments? You may review the comments made online at <http://rules.cityofnewyork.us/> on the proposed amendments by going to the website at <http://rules.cityofnewyork.us/>. All written comments and a summary of the oral comments received by

the Department will be made available to the public within a reasonable period of time by the Department's Office of the General Counsel.

What authorizes the Board of Health to make these amendments? Section 558 of the New York City Charter authorizes the Board of Health to adopt and amend the Health Code and to include in the Health Code all matters to which the authority of the Department extends. Section 556 of the Charter authorizes the Department to supervise and regulate the City's food supply. This proposed amendment was not included in the Department's regulatory agenda for this Fiscal Year because it was not contemplated when the Department published the agenda.

Where can I find the Health Code and the Department's rules? The Health Code and the rules of the Department of Health and Mental Hygiene are in Title 24 of the Rules of the City of New York.

What rules govern the rulemaking process? The Board of Health must meet the requirements of §1043 of the City Charter when creating or changing the Health Code. This notice is made according to the requirements of City Charter §1043.

Statement of Basis and Purpose

Statutory Authority

These amendments to the New York City Health Code (the Health Code) are promulgated pursuant to §§558 and 1043 of the New York City Charter (the Charter). Sections 558(b) and (c) of the Charter empower the Board of Health (the Board) to amend the Health Code and to include in the Health Code all matters to which the authority of the New York City Department of Health and Mental Hygiene (the Department) extends. Section 556 of the Charter authorizes the Department to supervise and regulate the City's food supply. Section 1043 grants the Department rule-making authority.

Background

The Commissioner of the Department of Health and Mental Hygiene is the "permit issuing official" designated in the State Sanitary Code (10 NYCRR Chapter 1) Subpart 14-1 to enforce provisions of the Sanitary Code applicable to the operation of food service establishments in the City of New York (the City). In the City, food service establishments are also subject to provisions of the New York City Health Code and Chapter 23 of Title 24 of the Rules of the City of New York, and mobile food vendors are also subject to subchapter 2 of chapter 3 of title 17 of the New York City Administrative Code. The Department's Division of Environmental Health enforces the provisions of the Administrative, Sanitary and Health Codes and the Department's rules applicable to such establishments.

The Department is proposing that the Board of Health amend Article 81 of the Health Code to update certain requirements to reflect changes in food science recommendations found in the 2013 US FDA Model Food Code ("2013 Food Code") and to clarify various provisions to help establishment operators comply with the requirements.

Proposed Changes

The following changes are proposed:

§81.03 Definitions.

Amends the definition of sanitization in subdivision (ii) to add submersion in a quaternary ammonium solution as an approved method of chemically sanitizing tableware, utensils and equipment. The method is included in the 2013 Food Code and will give operators another option for sanitization.

§81.04 Approved sources of food.

Amends subdivision (c) to add scallops sold with their roe (eggs) to the list of shellfish for which identification tags must be retained.

Subdivision (d) is being added to require that exotic game meats served in food service establishments be inspected and acquired from commercially regulated sources, such as those described in regulations of the State Department of Agriculture and Markets found at 1 NYCRR §271-2.2, and will be made consistent with the 2013 Food Code.

Subdivision (e) is being added to address the fact that many food service establishments are producing their own packaged juice products, and will require that juice produced in retail establishments (including food service establishments) bear warnings stating that the juice has not been produced in a manner that prevents, reduces or eliminates the presence of pathogens.

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

The Department is proposing that the name of this section be amended to indicate that a permit is required to operate a food service establishment. The first sentence of current subdivision (c), which states that a permit is needed to operate a food service or non-retail food processing establishment, has been re-lettered as subdivision (a) and the entire section has been re-lettered accordingly. Certain language in current subdivision (c), re-lettered here as subdivision (d), is being added to conform this provision with State Sanitary Code §14-1.190, and make clear that an establishment may not begin operating for 21-days after it applies for an initial permit, unless the Department has inspected it.

§ 81.06 Prevention of imminent or public health hazards.

Subdivision (c) is being amended to clarify that the Department's approval of a food service establishment's Hazard Analysis and Critical Control Point (HACCP) plan is not required when food is controlled according to the time and temperature requirements of §81.09.

§81.07 Food; sanitary preparation, protection against contamination.

Paragraph (2) of subdivision (a) is being deleted because it is duplicative of §81.17(d).

Subdivision (c) is being amended to prohibit establishments from keeping, as well as using, non-pasteurized liquid, frozen or dry eggs.

Subdivision (d) is being amended to delete the sentence that begins with the phrase "Food removed from original containers or packages..." which is unnecessary because subdivision (a) of this section already mandates that all food, regardless of packaging, be protected from contamination.

Subdivision (h) is being amended to add an additional method of storing utensils that is recommended in the 2013 Food Code §4-602.11. Establishments would be able to place them in water maintained at or above 135 degrees Fahrenheit. This subdivision is also being amended to clarify that utensils used for dispensing ready to eat foods must have handles to prevent food contamination.

Subdivision (o), currently entitled "Drinking straws," is being retitled "Single service articles" and amended to require that these items, which include paper coffee cups and plastic cutlery, also be dispensed in ways that prevent possible contamination. This rule change is being proposed in response to a petition to the Board to commence rulemaking about preventing contamination of single service articles.

Several other amendments are being made to this section to clarify its provisions.

§81.09 Potentially hazardous foods; temperature control for safety.

This section is being repealed and replaced with one that is better organized and specifies the temperatures required for various processes.

Temperatures for cooking meats have been updated in accordance with the 2013 Food Code recommendations.

Subdivision (b) will require freezing of fish to destroy parasites before serving such fish raw, raw-marinated (e.g. ceviche) or undercooked. Parasites (in the larval stage) consumed in uncooked or undercooked fish present a risk of food borne illness. Among parasites, nematodes or roundworms (*Anisakis* spp.), cestodes or tapeworms (*Diphyllobothrium* spp.) and trematodes or flukes are of most concern. The FDA Food Code recommends that fish that is not going to be adequately cooked be frozen to destroy parasites before service because visual inspection techniques cannot adequately detect the presence of parasites. The effectiveness of freezing fish to kill parasites depends on several factors, including the temperature at which and length of time the fish is frozen, as well as the type of parasite. Establishments will be required to maintain and follow standard operating procedures for freezing all fish; if they buy fish frozen, the establishment must obtain statements from the supplier that the fish was frozen.

§81.10 Time as a public health control.

The Department is proposing amendments to clarify several provisions of the section, but it will otherwise remain substantively unchanged.

The section title is being amended to indicate that time can be used as a control as an alternative to maintaining the time and temperature requirements of §81.09.

Subdivision (b) is being amended to add the date as an element that must be noted on labels when food is being held out of temperature. Additional amendments are being made to subdivisions (b) and (c) to clarify their provisions.

Paragraph (2) of subdivision (d) has been amended to clarify that, if food previously held under §81.10 is returned to temperature control, it is considered contaminated and in violation of §81.07.

Table 1 is being amended to reflect the changes made to this section.

§81.11 Consumer advisory.

This section is new. Section 81.09 currently requires that an establishment tell consumers about the dangers of food borne illness when potentially hazardous/time and temperature control for safety foods are being served raw or undercooked. The 2013 Food Code recommends a written advisory, which has been adopted and included in this new section, effective January 1, 2016. Until that time, establishments may continue to verbally warn consumers of the risk posed by eating raw or undercooked foods.

§81.12 Reduced oxygen packaging; cook chill and *sous vide* processing.

The heading of subdivision (c) is being retitled to more accurately reflect its content.

§81.13 Food workers; health; hygienic practices.

This section is being amended to clarify the activities during which workers must wear hair coverings. Also, consistent with recent amendments to the Smoke-Free Air Act made by Local Law 152 of 2013, the use of electronic cigarettes will also be prohibited. Provisions on the use of gloves have been moved from subdivision (d) of this section to §81.07(j).

§81.17 General requirements: design, construction, materials and maintenance.

Minor changes are proposed to clarify some provisions and reorganize this section. In addition, a new subdivision (g) is being added to include the provisions on handling toxic and hazardous substances that are currently in §81.23. Provisions governing single service articles are being deleted to reflect their inclusion in the new §81.07(o).

§81.18 Cold and hot storage and holding facilities.

The proposed amendment would correct an error to require that thermometers and other temperature measuring devices be calibrated to be accurate to (+) or (-) 2 degrees, rather than the current (+) or (-) 3 degrees.

§81.20 Plumbing and water supply

Subdivision (a) is being amended to add a requirement that an establishment have adequate supplies of potable water at all times.

Subdivisions (b) and (c) are being combined and provisions related to condensation, clarified, and the remainder of the section re-lettered appropriately.

§81.21 Hand wash sinks.

Subdivision (a) is being amended to require that hand sinks be supplied with potable running water.

Subdivision (b) is being amended to delete the requirement that waste receptacles be foot operated and covered.

§81.22 Employee and patron toilets.

This section is being amended to clarify its provisions but remains substantively unchanged.

§81.23 Integrated pest management.

Subdivision (d) is being amended to clarify the provisions of paragraph (3) and add a new paragraph (4) prohibiting use of unprotected bait stations, consistent with State Sanitary Code §14-1.60(e).

Subdivision (e), relating to toxic materials, is being moved to §81.17.

§81.24 Garbage and waste disposal.

The proposal deletes the current requirement that garbage and wastes be either removed from the food establishment daily or placed in a separate pest-proof room. Garbage and waste stored for removal would need to be kept in pest-proof containers but need not be in a pest proof room. The provisions of this section are also being reorganized.

§81.27 Cleaning of premises, equipment and utensils.

This section is being amended to clarify its requirements. The cleaning of food contact surfaces is vital in preventing bacterial growth and contamination. The proposed amendments clarify that cleaning requirements apply to all food contact surfaces.

§81.29 Dishwashing and ware washing.

This section is being repealed and restated to clarify its provisions. It deletes provisions referring to sanitizing in accordance with manufacturers' instructions for use of various chemical solutions and equipment, and requires that when items are chemically sanitized, chemicals registered as anti-microbial pesticides with the US Environmental Protection Agency for food service be used..

§81.31 Outdoor cooking, food and beverage preparation facilities.

No substantive changes have been made to this section, but its provisions are being clarified to facilitate compliance.

§81.46 Refillable, returnable containers.

This section is new. It sets out procedures for establishments that allow consumers to re-use their own beverage containers or that provide food/beverage containers to consumers that may be refilled at the establishment, as an environmental conservation measure. Re-using food containers exposes food workers and consumers to increased public health risks and food to potential contamination and this section establishes procedures to reduce those risks. These provisions are consistent with 2013 Food Code §3-304.17.

§81.53 Maximum Beverage Size.

This section is being repealed.

The resolution is as follows.

“Shall” and “must” denote mandatory requirements and may be used interchangeably.

New text is underlined; deleted material is in [brackets].

RESOLVED, that subdivision (ii) of section 81.03 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

(ii) Sanitization means effective bactericidal treatment by heat or chemical means that 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] at least 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 for at least one minute in a solution of 200 parts per million quaternary ammonium at a temperature of at least 75 degrees Fahrenheit (23.9 degrees Celsius);

(5) 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 Celsius) for one minute;

[(5)] (6) 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)] (7) swabbing fixed equipment with a solution of at least twice the strength required for that sanitizing solution when used for immersion.

Notes: Subdivision (ii) of section 81.03 was amended by resolution of the Board of Health adopted XXX to add a quaternary ammonium solution as an acceptable sanitization method.

RESOLVED, that section 81.04 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended to amend subdivision (c) and add new subdivisions (d) and (e), to be printed together with explanatory notes to read as follows:

* * *

(c) *Shellfish tags.* Fresh and frozen shellfish, shelled or shucked shellfish (oysters, clams, scallops with roe attached or mussels) shall be identified with the name and address of the original shell stock processor, shucker-packer or repacker, and the foreign intrastate and interstate identification number issued pursuant to applicable law. Identification tags shall be retained on the premises for 90 days from the date the shellfish was used, in accordance with State Sanitary Code § 14-1.33 (b) or any successor provision.

(d) *Exotic and game animals.* Exotic animals not native to New York State and any game animals served in food service establishments must be obtained from commercially regulated sources, such as those described in regulations of the State Department of Agriculture and Markets found at 1 NYCRR §271-2.2, or successor regulations.

(e) *Labeling unpasteurized packaged juices.*

(1) Definition. For the purpose of this subdivision, juice means the aqueous (water-based) liquid expressed or extracted from one or more fruits or vegetables, purees of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or purees.

(2) Labeling. Unpasteurized juices prepared and packaged by a food service establishment for direct sale to the establishment's patrons must be labeled with the following information:

(A) Food ingredients, using common names;

(B) Food additives, if any;

(C) Name and address of the entity that packaged the juice;

(D) "Use by" date;

(E) The statements: "WARNING: This product has not been pasteurized. It may contain harmful bacteria that can cause serious illness, especially in children, elderly persons and persons with weakened immune systems." and "Must keep refrigerated."

(3) Juice produced for wider distribution. Juice produced and/or packaged by any establishment that is distributed at wholesale or to any persons other than the establishment's patrons must be produced and packaged in accordance with 21 CFR Part 120, or any successor regulations.

Notes: Section 81.04 was amended by resolution of the Board of Health adopted on XXX to add a new subdivision (d) specifying sources of exotic and game animals and a new subdivision (e) requiring certain information on labels of juices packaged by food service establishments for sale to their patrons. Subdivision (c) was amended to indicate that the source of scallops with their roe attached must be identified and tags maintained.

RESOLVED, that section 81.05 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.05 [Technical] Permit requirements; technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments.

(a) Permit required. Except as specified in this section, no person shall operate a food service establishment or non-retail food processing establishment without a permit therefor issued by the Commissioner.

(b) 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)] (c) 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 section, no person shall operate a food service establishment or non-retail food processing establishment without a permit therefor issued by the Commissioner.]

(d) A food service or non-retail food processing establishment may not operate without a permit for 21 days after submitting an application for a permit unless the Department has conducted an inspection and approved issuance of a permit. If the Department does not make an inspection of the establishment during this 21 day period, operations may commence without a permit on the twenty-second day after submission of an application for a permit, and the establishment may continue operating without being in violation of this section until such time as the Department inspects the establishment and either approves issuance of a permit or issues an order to cease operation for cause [pursuant to §81.39 of this Article or other applicable provision of] in accordance with this Code.

[(d)] (e) 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)] (f) 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 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)] (g) Every person using or contracting for use of shared kitchen space and equipment shall obtain a permit to operate a food service establishment unless such person is licensed or regulated by the Commissioner of Agriculture and Markets pursuant to Article 20-C, or any successor provision, of the Agriculture and Markets Law. However, a person holding a non-retail processing establishment permit to operate a shared kitchen shall be responsible for maintaining the condition of the establishment, its equipment, surroundings, water supply, waste handling, furnishings and other appurtenances in accordance with this Code.

[(g)] (h) No person operating a shared kitchen shall rent space or equipment in the shared kitchen to an individual who intends to use the facility to prepare food for sale or service to the public and does not have a currently valid food service establishment permit issued by the Commissioner, unless such user is currently licensed or regulated by the Commissioner of Agriculture and Markets.

[(h)] (i) Upon the request of the Department, the operator of a shared kitchen shall provide a copy of any agreement between the operator and the user. Such agreement shall indicate the purpose of using the shared kitchen, the type of food to be prepared, and the place where the food will be sold.

[(i)] (j) 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 that could be a basis for permit revocation or suspension under this Article.

Notes: Section 81.05 was amended by resolution adopted by the Board of Health at its XXX meeting, to amend subdivision (a) and the section title to require a permit prior to operation; and reletter the remaining subdivisions accordingly. Former subdivision (c), relettered as subdivision (d), includes a requirement inadvertently omitted during a prior amendment of the section.

RESOLVED, that subdivision (c) of section 81.06 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

(c) *Prior approval required for certain foods and processing.* [Prior approval] Approval by the Department of a food service establishment's HACCP plan shall be obtained prior to processing any potentially hazardous food on the food service establishment's premises by means of reduced oxygen packaging methods, drying, fermentation, curing, or smoking food products [on the premises of the food service establishment except that no]. No HACCP plan is required for processes that are conducted in accordance with the time and temperature requirements of §81.09 of this Article.

Notes: Subdivision (c) of §81.06 was amended by resolution of the Board of Health adopted XXX to clarify provisions relating to Department approval of food service establishments' HACCP plans.

RESOLVED, that subdivisions (a), (c),(d), (e), (g), (h), (j), (m) and (o) of section 81.07 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.07 Food; sanitary preparation, protection against contamination.

(a) *Food protection.* Food shall be free of and protected against contamination and shall be manufactured, prepared, processed or packed using clean and sanitary utensils and equipment.

(1) *Culinary sink.* A dedicated single compartment culinary sink shall be provided and used only for washing fruits, vegetables, meats, and aquatic animal foods prior to other preparation. However, where no culinary sink is provided, foods may be washed in (i) a food grade container or colander or (ii) one compartment of a multi-compartment sink. No sink used for washing foods shall be used as a slop, utility or hand washing sink. All sinks used for washing food shall be indirectly washed, cleaned and sanitized prior to washing food, and between washing raw meats and other foods.

(2) [*Food contact surfaces.* Surfaces with which food comes in contact shall be impervious.]

[(3)] *Prevention of cross-contamination.* Food that will not be washed or cooked shall be protected from cross-contamination from food which is required to be washed or cooked.

[(4)] (3) *Storage on ice or in water.* 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 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.

[(5)] (4) *Washing raw fruits and vegetables.* Raw fruits and vegetables shall be thoroughly washed with potable water before cutting or serving.

[(6)] (5) *Storage of raw chicken and fish.* Raw chicken and raw fish that are received in ice in shipping containers may remain in such condition, provided the required cold holding temperature is maintained while being stored or awaiting preparation, display, service or sale.

* * *

(c) *Eggs.* Only clean, whole eggs with shells intact [and] that are free from cracks or splits; or pasteurized[,] liquid, frozen or dry eggs; or pasteurized dry egg products shall be used. [All containers in which eggs are received in a food service establishment or non-retail food processing establishment must identify the source of the eggs.] No unpasteurized liquid, frozen or dry eggs shall be kept or used in the establishment.

(d) *Food storage.* [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 six inches (14.24 centimeters) above the floor, in a refrigerator or dry storage area, or at a greater height if necessary to permit cleaning of the storage area. Potentially hazardous raw foods that are not properly packaged or in sealed containers and that may leak or drip shall not be placed in storage above other foods.

(e) *Food display.*

(1) *Containers.* Food shall be displayed only in equipment such as cleanable containers, cabinets, display cases or similar protective equipment that protects such food from contamination.

(2) *Protective shields.* Self-service equipment shall have protective shields or guards to prevent [unnecessary] potential contamination [or contact by patrons] of food.

(3) *Quantities to be limited.* The quantity of food displayed shall be minimized to that necessary to meet immediate needs.

* * *

(g) *Ice [dispensing] for consumption.* Ice for consumption shall be dispensed with scoops, tongs or other utensils, or from 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.]

(h) [Dispensing utensils] *Utensils.* Food dispensing utensils [shall] equipped with handles must be provided for [dispensing food] use by food workers and for self-service in dispensing food and ice. Between uses, food dispensing utensils shall be stored in the food with the handles extended [out of the] so that the handles do not come into contact with food; [shall be] kept clean and dry on a clean surface; [or shall be] kept in a dipper well with running water at an adequate velocity and volume to remove food residue during intervals between intermittent use; or kept in a container of water maintained at a temperature at or above 135 degrees Fahrenheit and changed at least every four hours and free from accumulated food residue. When stored, all clean and sanitized utensils must be segregated from unclean utensils and equipment to prevent contamination.

* * *

(j) *Bare hand contact prohibited.* 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] disposable food grade 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. Gloves must be changed after handling raw foods, performing tasks that do not involve food preparation or processing, handling garbage, or any other work where the gloves may have become soiled or contaminated.

* * *

(m) *Animal slaughter prohibited.* [Except for] No live animals, except fresh or saltwater finfish, crustaceans, or mollusks, [no live animals] shall be slaughtered at any food service or non-retail processing establishment. Tanks used to hold live fish or crustaceans intended for human consumption must be regularly cleaned and kept free of dead fish and algae.

* * *

(o) *Drinking straws and other single service articles.* Single service articles must be manufactured from clean non-toxic materials. Such items shall not be reused and must be discarded after use. Single service articles must be handled, transported, stored and dispensed without contaminating the food-contact and mouth-contact surfaces of such articles. 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.]

* * *

Notes: Section 81.07 was amended by resolution of the Board of Health adopted on XXX to clarify various provisions: Paragraph (2) of subdivision (a) was deleted and the remaining paragraphs renumbered; subdivision (c) was amended to prohibit use of unpasteurized egg products other than whole shell eggs; subdivision (d) was amended to delete repackaging requirements; paragraph (2) of subdivision (e) was amended to substitute the term “potential” for “unnecessary” contamination; subdivision (g) was amended to specify that the requirements to prevent contamination of ice applied only to ice that is for consumption; subdivision (h) was amended to clarify management of dispensing utensils; subdivision (j) was amended to add provisions related to use of gloves by food workers deleted from section 81.13; subdivision (m) was amended to add a requirement that tanks for marine life be regularly cleaned and sanitized; and subdivision (o) was amended to apply to all single service articles, where previously it only addressed straws.

RESOLVED, that section 81.09 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, regarding temperature controls for food safety, is hereby REPEALED and a new section 81.09 is added, to be printed together with explanatory notes to read as follows:

§81.09 Potentially hazardous (time and temperature control for safety) foods.

(a) Holding and storage temperatures. Potentially hazardous food must be stored or held at or below 41 degrees Fahrenheit (5 degrees Celsius) or at or above 140 degrees Fahrenheit (60 degrees Celsius) except as follows:

(1) Immediate service. Food prepared for immediate service in response to an individual consumer order may be served at any temperature.

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

(3) Processed fish. All processed fish products must be prepared and stored at a temperature that does not exceed 38 degrees Fahrenheit (3.3 degrees Celsius) without interruption until served to the ultimate consumer, provided, however, that:

(A) Processed fish that contains a water phase salt level of at least 17 percent shall not require refrigerated storage; and

(B) Dry salted fish that contains a water phase level of at least 10 percent, salt water activity of less than 0.85 Aw, or a pH of 4.6 or lower, must be held at refrigerated temperatures that do not exceed 41 degrees Fahrenheit (5 degrees Celsius).

(4) Necessary preparation. Foods may be held out of temperature during active necessary preparation. Active necessary preparation of food does not include time food is being heated, cooled, cooked, reheated or stored and requires temperature control.

(5) Time as the sole public health control. When using time alone as a public health control in accordance with §81.10 of this Article.

(b) Freezing and storage of fish to be served raw, raw marinated or undercooked.

(1) Freezing required. To destroy parasites in fish or fish products that are to be consumed raw, undercooked or raw-marinated, such products must be frozen and stored prior to service as follows:

<u>Minimum Freezing Temperature</u>	<u>Minimum Storage Temperature</u>	<u>Minimum Freezer Storage Time</u>
<u>-4 degrees F (-20 degrees C)</u>	<u>-4 degrees F (-20 degrees C)</u>	<u>168 hours (7 days); or</u>
<u>-31 degrees F (-35 degrees C)</u>	<u>-31 degrees F (-35 degrees C)</u>	<u>15 hours; or</u>
<u>-31 degrees F (-35 degrees C)</u>	<u>-4 degrees F (-20 degrees C)</u>	<u>24 hours.</u>

(2) Exceptions to freezing requirement. Freezing is not required before serving raw or undercooked:

(A) Molluscan shellfish; or

(B) Tuna of the species *Thunnus alalunga*, *Thunnus albacares* (Yellowfin tuna), *Thunnus atlanticus*, *Thunnus maccoyii* (Bluefin tuna, Southern), *Thunnus obesus* (Bigeye tuna), *Thunnus thynnus* (Bluefin tuna, Northern); or

(C) Aquacultured or farm raised fish, such as salmon that are:

(i) Raised in open water in net-pens or in land-based operations such as ponds or tanks, and

(ii) Fed formulated feed, such as pellets, that contains no live parasites infective to the aquacultured fish; or

(D) Fish eggs that have been removed from the skin and rinsed.

(3) Records.

(A) If purchased frozen. If fish products intended for raw or undercooked consumption are routinely purchased frozen, the establishment must obtain and retain a statement from the supplier on its letterhead that its fish is frozen in accordance with the US FDA Fish and Fisheries Products Hazards and Control Guidance, or successor recommendations.

(B) If frozen by the establishment. If fish products are frozen by the establishment, the establishment must have a written standard operating procedure and make such procedure available to the Department for inspection.

(c) Cooking temperatures. All parts of potentially hazardous foods requiring cooking are to be heated to 140 degrees Fahrenheit (60 degrees Celsius) or above for 15 seconds, except as follows:

(1) Poultry. Whole or ground poultry, poultry parts, all food containing poultry, poultry stuffing and poultry stuffing containing meat must be heated so all parts of the food are at least 165 degrees Fahrenheit (73.9 degrees Celsius) for 15 seconds with no interruption of the cooking process.

(2) Pork. Pork and food containing pork, other than whole pork roasts, and ground and comminuted pork, must be heated so all parts of the food are at least 150 degrees Fahrenheit (65.6 degrees Celsius) for 15 seconds, unless otherwise ordered by the consumer.

(3) Whole meat roasts. Roast beef, beef steak, corned beef, lamb roasts, pork and cured pork roasts must be heated to and cooked at the following minimum temperatures for the corresponding time:

<u>Temperature</u> <u>°F (°C)</u>	<u>Cooking</u> <u>Time in</u> <u>Minutes</u>	<u>Temperature</u> <u>°F (°C)</u>	<u>Cooking</u> <u>Time in</u> <u>Minutes</u>
<u>130 (54.4)</u>	<u>112</u>	<u>138 (58.9)</u>	<u>18</u>
<u>131 (55.0)</u>	<u>89</u>	<u>140 (60.0)</u>	<u>12</u>
<u>133 (56.1)</u>	<u>56</u>	<u>142 (61.1)</u>	<u>8</u>
<u>135 (57.2)</u>	<u>36</u>	<u>144 (62.2)</u>	<u>5</u>
<u>136 (57.8)</u>	<u>28</u>	<u>145 (62.8)</u>	<u>4</u>

(4) Ground and comminuted meat. Ground meats and comminuted meat products, other than poultry, and food containing ground meat must be heated so that all parts of the food are at least 158 degrees Fahrenheit (69.4 degrees Celsius) with no interruption of the cooking process, unless otherwise ordered by the consumer.

(5) *Stuffings and mechanically tenderized and injected meats.* Stuffed meats, stuffed fish, stuffed ratites and stuffing containing ratites and fish, and meats whose exterior surface has been mechanically tenderized or injected by breaking, puncturing, or scoring must be heated to a temperature of at least 165 degrees Fahrenheit (73.9 degrees Celsius) with no interruption of the cooking process, unless otherwise ordered by the consumer.

(6) *Shell eggs and egg products.* Unpasteurized raw eggs or foods containing unpasteurized raw shell eggs, including but not limited to, drinks, condiments, dressings, desserts and sauces, must be heated to 145 degrees Fahrenheit (62.8 degrees Celsius) or greater for 15 seconds, unless the consumer requests preparation of shell eggs in a style such as raw, poached or fried which in order to comply with the request must be prepared at a temperature less than 145 degrees Fahrenheit.

(7) *Microwaving.* Raw animal foods cooked in a microwave oven must be covered during cooking; rotated or stirred during cooking to a temperature of at least 165 degrees Fahrenheit (73.9 degrees Celsius); and allowed to stand covered for 2 minutes after cooking.

(8) *Advisory for raw, undercooked foods.* When menu items containing raw or undercooked eggs, meat, fish or other potentially hazardous foods including but not limited to steak tartare, rare duck breasts, uncooked dessert mousse, Caesar salad dressing, or ceviche are served, the consumer advisory required by §81.11 of this Article must be provided.

(d) *Reheating previously cooked food.* Potentially hazardous food that is cooked, cooled and reheated for hot holding must 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) must be reached within 2 hours of commencing reheating. Reheated food must be held at or above 140 degrees Fahrenheit (60 degrees Celsius) until served.

(1) *Microwave reheating.* Food reheated in a microwave oven must be covered during heating; food must be rotated or stirred during heating, or otherwise manipulated according to label instructions, if provided, and must be reheated to a temperature of at least 165 degrees Fahrenheit (73.9 degrees Celsius) and allowed to stand covered for 2 minutes after reheating.

(2) *Heating commercially processed foods.* 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 must 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.

(e) *Cooling.*

(1) *After cooking or removal from hot holding.* Foods removed from cooking or hot holding that require refrigeration must be rapidly cooled from 140 degrees Fahrenheit (60 degrees Celsius) to 70

degrees Fahrenheit (21.1 degrees Celsius) within 2 hours and from 70 degrees Fahrenheit (21.1 degrees Celsius) to 41 degrees Fahrenheit (5 degrees Celsius) within 4 hours after cooking or removal from hot holding by placing containers of food in an ice bath, a rapid chill unit or adding ice to the food, and

(A) Placing the food in shallow pans or containers (less than 4 inches in height); and/or

(B) Dividing foods into smaller or thinner pieces or portions; and/or

(C) Using containers made of materials that facilitate heat transfer; and/or

(D) Stirring foods that are liquids or semi-liquid, and

(E) Arranging containers in cooling equipment to provide maximum heat transfer through container walls, not stacking or nesting; and

(F) Keeping containers loosely covered, or uncovered if protected from overhead contamination during the cooling period, to facilitate heat transfer from the surface of the food.

(2) Other cooling. Potentially hazardous foods removed from cold holding or prepared from or combined with ingredients at room temperatures must be cooled to 41 degrees Fahrenheit (5 degrees Celsius) or below within 4 hours of preparation using cooling methods described in paragraph (1) of this subdivision.

(f) Thawing frozen foods. Potentially hazardous food must be thawed as follows:

(1) In refrigerated facilities at a temperature not to exceed 41 degrees Fahrenheit (5 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 other conventional cooking equipment as part of a continuous cooking process, or when the entire uninterrupted cooking process takes place in the microwave oven; or

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

(5) Whole frozen poultry, other than a single portion intended for service to an individual consumer, must be completely thawed prior to conventional cooking; a single portion may be thawed during the cooking process.

(g) Thermometers and other temperature measuring devices. Establishments must provide devices such as thermometers and thermocouples to measure internal temperatures of potentially hazardous foods during cooking, cooling, reheating, hot holding and cold holding. Such devices must be properly calibrated to plus or minus 2 degrees Fahrenheit (1.1 degrees Celsius), made from food grade materials that will not expose food to contamination and be kept readily accessible in the establishment's food preparation and hot and cold holding areas.

Notes: Section 81.09 was repealed and restated by resolution adopted by the Board of Health at its XXX meeting, to reorganize the provisions for handling various kinds of potentially hazardous or time and temperature control food according to the process involved, and to add a new provision adopting 2013 US FDA Food Code recommendations for freezing fish, with some exceptions, that will be served raw or undercooked, in order to kill parasites in the fish that are associated with food borne illness.

RESOLVED, that the section title and subdivisions (b), (c) and (d) and Table 1 of section 81.10 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.10 Time as a public health control; exception to required holding temperatures of potentially hazardous (temperature control for safety) foods.

(b) *Labeling.* All foods removed from temperature control in accordance with this section shall be labeled or marked as follows:

(1) *Four hour labeling.* Food to be held for up to four hours shall be labeled or marked at the time it is removed from temperature control with the [initial] date and time of removal, temperature at time of removal, and the discard time, four hours after removal from temperature control, when such food shall be discarded if not served.

(2) *Six hour labeling.* Food to be held for up to six hours shall be labeled or marked at the time it is removed from cold temperature control with the [initial] date and time of removal, temperature at time of removal, the time [removed from cold temperature control, times and temperatures] and temperature, measured four hours after removal from temperature control, and the time, six hours after removal from temperature control, when such food shall be discarded if not served.

(3) *Labels to be kept.* Labels or marked containers shall be legibly marked and labels and markings must be kept on food containers until foods have been served or discarded.

(c) *Limits on use of time as a public health control.* Time shall not be used as the sole means of public health control, and §81.09 shall remain applicable as follows:

(1) Holding raw eggs prior to using such eggs in food prepared for (i) persons who may be at higher risk for food-borne illnesses, such as immunocompromised persons including residents or clients of senior centers, charitable feeding programs, adult day care programs, custodial care and health care facilities, and assisted living programs; (ii) infants and children [in day care] attending summer camps, child day care and pre-school programs; and (iii) pupils in primary and secondary schools.

(2) Preparation and holding of [ready-to-eat] potentially hazardous foods sold by or in (i) mobile food vending units; (ii) food vending machines; (iii) temporary food service establishments operating in accordance with Article 88 of this Code; or (iv) self-service salad bars or buffets.

(3) Preparation and holding of potentially hazardous foods consisting of smoked or vacuum-packed food products.

(d) *Violations.*

(1) *§81.09 violations.* An establishment shall be in violation of §81.09 of this Code if the Department finds that, while using time as a public health control, the establishment (i) has not discarded food after the times specified in this section; or (ii) has not labeled or marked food as specified in this section.

(2) *§81.07 violations.* Food shall be deemed contaminated and an establishment shall be in violation of §81.07 (a) of this Code if the Department finds that while using time as a public health control, (i) cold potentially hazardous foods labeled for six hour holding are measured at or above temperatures of 70 degrees Fahrenheit (21 degrees Celsius) after removal from cold temperature control or (ii) food is returned to temperature control instead of being discarded.

§81.10 Table 1. Summary of procedures for using time as a public health control.

Summary of Procedures for Using Time as a Public Health Control				
Removal From:	Maximum Time out of Holding Temperature	When to Measure Temperature	What to Note on Required Labels	When to Discard
Cold holding at or below 41°F (5°C)	6 hours	When removed from cold holding, and, at 4 hours after removal	<ul style="list-style-type: none"> The <u>date</u>, time and temperature when removed from cold holding, and, The time and temperature 4 hours after removal, and The time to discard, serve, or cook. 	If temperature is over 70°F (21° C) at 4 hours after removal <u>or</u> <u>If not served within 6 hours</u>
Hot holding at or above 140° F (60° C)	4 hours	When removed from hot holding	<ul style="list-style-type: none"> The <u>date</u>, time and temperature when removed from hot holding, and, The time 4 hours after removed from hot holding. This is the time when the food must be cooked, served, or discarded. 	If not served within 4 hours

Notes: Section 81.10 was amended by resolution adopted by the Board of Health at its XXX meeting to clarify labeling requirements and identifying violations.

RESOLVED, that Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended to add a new section 81.11 to be printed together with explanatory notes to read as follows:

§81.11 Consumer advisory: serving raw or undercooked foods.

(a) Written consumer advisory. Effective January 1, 2016, when meat, fish, molluscan shellfish, or unpasteurized raw shell eggs are offered alone or as an ingredient in other foods, and are either raw or heated to a temperature below that required by this Code, written notice must be provided to consumers of the increased risk of food borne illness from eating such raw or undercooked foods.

(1) The statement “Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness” must appear on menus, menu boards, brochures, signage, food labels, table tents, or placards, with either:

(A) A description or identification of the specific foods being served raw or undercooked, such as “oysters on the half shell (raw oysters),” or “raw-egg Caesar salad dressing,” as applicable; or

(B) Noted by an asterisk or other mark next to the listed food item on a menu or menu board with a footnote that references the statement in paragraph (1) of this subdivision.

(C) Prior to January 1, 2016, an establishment must warn of the increased risk for foodborne illness when serving raw or undercooked foods. Such warning may be given orally and need not be in writing.

(b) Limitations on service. Raw or undercooked meat, eggs, fish or molluscan shellfish, either alone, or as an ingredient in other menu items shall not be served in facilities that primarily serve persons who may be at a higher risk for food borne illnesses. Such facilities include those serving immunocompromised persons, senior centers, charitable feeding programs, custodial care facilities, hospitals and health care facilities, as defined in Article 28 of the Public Health Law or successor law; adult day care and assisted living programs; child care, children’s camps and pre-school programs; and elementary and secondary schools.

Notes: Section 81.11 was added by Board of Health resolution adopted XXX to establish a requirement for a written consumer advisory, replacing the oral advisory that had appeared in subdivision (d) of section 81.09, and adopting a recommendation in the 2009 and 2013 editions of the USFDA Model Food Code.

RESOLVED, that subdivision (c) of section 81.12 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

(c) [*Food safety*] On-site preparation, consumption, sale and distribution. Foods processed by ROP shall be prepared and consumed on the premises of the food service establishment, or off premises if the preparation site is properly permitted and wholly owned and operated by the same business entity as the food service establishment, and no ROP food products shall be sold or distributed to any other business entities or consumers.

* * *

Notes: The former title “Food safety” of subdivision (c) of §81.12 was amended by resolution of the Board of Health adopted at its XXX meeting to more accurately reflect the content of the provision.

RESOLVED, that subdivisions (b), (d), (e) and (g) of section 81.13 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

(b) *Hair restraints.* Food workers shall wear caps, hats, hair nets or other hair coverings to effectively keep hair from [having contact with exposed] contaminating food or food contact surfaces[, and clean equipment or utensils that have contact with food]. This requirement shall not apply to counter staff [who serve only beverages and/or pre-packaged foods], bartenders, baristas, hosts or wait staff when they are preparing or serving beverages or serving food.

* * *

(d) *Hand washing.* Food workers and other employees 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 or using electronic cigarettes, sneezing, coughing, eating, drinking or when otherwise soiling hands before returning to work. When gloves are used as a barrier to protect ready-to-eat food from bare hand contact, hands shall be washed before gloves are put on. [Gloves shall be changed after handling raw foods, performing tasks that do not involve food preparation or processing, handling garbage, or any other work where the gloves may have become soiled or contaminated.]

* * *

(g) *Smoking.* Food workers shall not smoke any substance, [or] use tobacco in any form [in an establishment] or use electronic cigarettes in any indoor or outdoor area of the premises used by a food service establishment.

* * *

Notes: Subdivisions (b), (d) and (g) of section 81.13 were amended by resolution of the Board of Health adopted at its XXX meeting. Subdivision (b) was amended to clarify which food workers are required to wear hair restraints; subdivision (d) was amended to delete provisions for use of gloves, which may now be found in §81.07 of the Article; and subdivision (g) was amended to add prohibitions on use of electronic cigarettes by food workers, consistent with the amended Smoke-Free Air Act in the City Administrative Code.

RESOLVED, that section 81.17 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended to amend subdivisions (d) and (e) and add new subdivisions (f) and (g), to be printed together with explanatory notes to read as follows:

§81.17 General requirements: design, construction, materials and maintenance.

(d) *Food contact surfaces.* Food contact surfaces of utensils and equipment shall be constructed of food grade and impermeable materials, shall not be painted, and shall not contain lead, cadmium or any other substance that is toxic or may react with food, cleaning or sanitizing materials to form harmful compounds, or render food unwholesome or detrimental to health, and shall not impart any odor, color or taste to food.

(1) *Surfaces to be easily cleanable, [and] sanitized and maintained.* An establishment shall not use equipment, utensils or containers that are chipped, cracked, rusted, corroded, worn or in a condition where food and debris cannot be removed and such items cannot be easily cleaned and sanitized. Surfaces that come into contact with food such as cutting blocks and boards that are subject to scratching and scoring must be replaced or resurfaced if they can no longer be effectively cleaned and sanitized. Food and other debris must be removed from such surfaces and surfaces must be washed and sanitized as needed to prevent contamination.

(2) *Food grade lubricants.* Establishments shall use food grade lubricants approved by the United States Food and Drug Administration to lubricate equipment. Such lubricants shall not leak or contact food or food contact surfaces. An establishment shall select and use equipment that requires only the use of simple tools for disassembly to encourage and facilitate cleaning and sanitizing of equipment. Such tools shall include, but not be limited to, mallets, screwdrivers, and open-end wrenches that are kept readily available near the equipment.

(3) *Cleaned in place equipment.* Equipment designed for in-place cleaning by the circulation or flowing by mechanical means through a piping system 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.

(4) *Cleaning and polishing food contact surfaces.* No substance containing any cyanide preparation shall be used for cleaning or polishing copper, nickel, silver, silver plated ware or any utensils or appliances used in preparation or service of food. Cleaning and polishing formulations shall be used in accordance with the manufacturer's instructions so that such substances do not contaminate food.

(5) *Approved sanitizers.* Only chemical sanitizers and antimicrobial agents approved by the U.S. Environmental Protection Agency shall be used to clean food and food contact surfaces.

[(6) *Single service articles.* 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.]

(e) *Non-food contact surfaces.*

(1) *Floors.* Floors, floor coverings, and materials used to repair floors of food storage, food preparation, utensil washing areas, 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, without cracks, holes or gaps or other unintended openings at floor and wall junctions or around plumbing pipes and fixtures. Carpeting is prohibited on floors in food preparation areas. Mats and duckboards shall be designed to be removable and easily cleanable.

(2) *Walls and ceilings.* Walls, ceilings, doors, panels, windows, and other interior components of rooms, and equipment such as walk-in refrigerators, and the materials used to repair such components shall be smooth and non-absorbent, constructed of hard, impermeable, light colored materials, and shall be easily cleanable, kept clean and without cracks, holes or gaps or other unintended openings at floor, wall and ceiling junctions or around plumbing pipes and fixtures. Exposed utility service lines and pipes shall be installed so they do not obstruct or prevent cleaning of the floors, walls, or ceilings.

(3) *Equipment and fixtures.* Equipment and fixtures, including but not limited to, light fixtures, vent covers and hoods, fans, ducts, and decorative materials[, and other materials affixed to walls and ceilings] shall be easily cleanable, and kept clean and in working order.

[(4) *Transportation.*]

(f) *Transporting food.* Vehicles and other conveyances used for the transportation of food by an establishment shall be kept clean, sanitary, and free of pests, and shall have sufficient equipment in operating condition to maintain temperatures required by this Code for holding potentially hazardous foods.

(g) Toxic materials and hazardous substances: restrictions, labeling and storage. Toxic materials and other hazardous substances, as defined in Article 173 of this Code, must be used only when required to maintain sanitary conditions and in accordance with label directions.

(1) Labels. Containers of such substances must be prominently labeled in accordance with applicable law and substances applied and removed without creating any risk to the health of any persons and without contaminating food, equipment, utensils and supplies.

(2) Storage. Toxic and hazardous materials are to be stored in designated storage areas in which food, equipment and utensils are not stored. Bactericides and cleaning compounds shall not be stored with insecticides, rodenticides or other toxic materials. Insecticides and rodenticides are to be kept in their original containers.

(3) Toxic residues. Bactericides, cleaning compounds or other compounds used on food contact surfaces must be rinsed and removed in accordance with label directions so as not to leave any toxic residues.

(3)Phenolic compounds. Phenolic compounds may not be used for sanitizing food contact surfaces.

(4) Medications. Medicinal first-aid supplies and medications must be kept in non-food storage areas in a manner that does not create a risk of food contamination.

Notes: Subdivisions (d) and (e) of §81.17 were amended and subdivision (f) and (g) were added by resolution adopted by the Board of Health at its XXX meeting. Paragraph (1) of subdivision (d) reflects recommendations in the 2013 USFDA Model Food Code for cleaning of food contact surfaces; paragraph (6) (“Single service articles”) was deleted and moved to §81.07. Clarifying changes were made to subdivision (e). Paragraph (4) of subdivision (e) was lettered as new subdivision (f). A new subdivision (g) “Toxic materials and hazardous substances” was deleted from §81.23 and added to this section with clarifications but no substantive changes.

RESOLVED, that paragraph 3 of subdivision (a) and paragraph 1 of subdivision (b) of section 81.18 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

(a) *Refrigeration.* Refrigerators shall be capable of maintaining and shall maintain potentially hazardous foods at or below 41 degrees Fahrenheit (5 degrees Celsius) at all times. Food preparation procedures should be conducted so that refrigerators are opened on only a limited basis.

* * *

(3) *Thermometers.* Refrigeration units shall have numerically scaled or digital indicating thermometers, calibrated to be accurate to (+) or (-) [3] 2 degrees Fahrenheit.

* * *

(b) *Hot holding.* Hot holding and storage equipment shall be capable of maintaining and shall maintain potentially hazardous foods at or above 140 degrees Fahrenheit (60 degrees Celsius) at all times.

(1) *Thermometers*. Hot holding units shall have numerically scaled or digital indicating thermometers, calibrated to be accurate to (+) or (-) [3] 2 degrees.

Notes: The degrees of calibration for thermometers required in hot and cold holding equipment was changed from (+) or (-) 3 degrees to (+) or (-) 2 degrees in paragraph (3) of subdivision (a) and paragraph (1) of subdivision (b) of §81.18 by resolution adopted by the Board of Health at its meeting on XXX.

RESOLVED, that section 81.20 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.20 Plumbing and water supply.

(a) *Potable water supply*. Establishments at all times must have adequate supplies of potable water, as defined in Part 5 of the State Sanitary Code (10 NYCRR Chapter 1). An establishment shall be equipped with plumbing and plumbing fixtures, in accordance with applicable law, that safely supply potable water[, as defined in Part 5 of the State Sanitary Code (10 NYCRR Chapter 1),] to all parts of the establishment. Plumbing and fixtures shall be properly connected, vented, and drained to prevent contamination of the potable water supply. Potable water supply fixtures or other equipment connected to the potable water supply shall be designed and constructed or equipped with a device that prevents back-flow or siphoning into, or cross connection with the water supply.

(b) *Disposal of sewage and liquid waste*. Sewage and liquid wastes [other than grease and oil waste] including but not limited to condensates discharged by equipment, such as refrigerators, ice machines, air conditioners, drain pans, evaporator trays, hoses and other plumbing or cooling lines and fixtures; fluids drained from culinary, slop or ware washing sinks; and fluids discarded after cooking shall be conveyed to the sewer or sewage disposal system so as to prevent contamination of the premises and its contents[. Grease] and so as not to create harborage conditions. Liquid wastes consisting of discarded grease and oil [wastes] shall be disposed of in accordance with applicable laws.

(1) *Indirect waste connection required*. There shall be no direct connection between the sewage system and any drains from plumbing fixtures and equipment used for hot and cold storage, or mechanical 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.

(2) *Direct [drainage] connections required*. Waste water [pipes] shall be discharged into [a] properly trapped, sewer-connected [clean, slop sink, or other acceptable method of drainage] plumbing lines.

(c) [*Condensation*. Plumbing pipes shall be installed and maintained in a manner that prevents waste water, including condensation, from contact with food or equipment.

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

Notes: Section 81.20 was amended by resolution of the Board of Health adopted XXX, amending subdivision (a) to require adequate supplies of potable water at all times, amending subdivision (b) to provide examples of and to clarify requirements for disposal of liquid wastes. Former subdivision (c) (“Condensation”) was deleted, and subdivision (d) was relettered as subdivision (c).

RESOLVED, that subdivisions (a) and (b) of section 81.21 of Article 81 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes as follows:

§ 81.21 **Hand wash sinks.**

(a) *Location.* Hand washing sinks equipped with hot and cold potable running water shall be installed in food preparation, food service, and ware washing areas, and in or adjacent to employee and patron toilet rooms, and may be located between such areas.

(1) Sufficient sinks shall be provided so that a hand washing sink is no more than 25 feet from any food preparation, service or ware washing area.

(2) Any area in which a hand wash sink is located shall be unobstructed by doors or equipment, and access shall be kept clear to enable its use as required by this Code. Hand washing sinks shall not be used for purposes other than hand washing.

(3) An automatic hand washing sink shall be used in accordance with the manufacturer's instructions. A self-closing, slow-closing or metering faucet shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet. A steam mixing valve shall not be used.

(b) *Soap, towels, trash receptacle.* Soap or detergent; single use disposable towels or mechanical drying devices; and a [foot operated covered] trash receptacle shall be provided. A supply of towels or a towel dispenser shall be located immediately adjacent to the hand wash sink, and available without requiring the user to open drawers, cabinets or other enclosures that could lead to recontamination of hands.

Notes: Section 81.21 was amended by resolution of the Board of Health adopted XXX. Subdivision (a) was amended to add that potable water be provided in all hand wash sinks. Subdivision (b) was amended to eliminate a requirement for foot-operated covered trash receptacles.

RESOLVED, that section 81.22 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.22 Employee and patron toilets.

(a) [Toilets] Toilet facilities required. Toilet facilities shall be provided for employees and shall be equipped with a minimum number of water closets, urinals, and other plumbing fixtures as required by Chapter 4 of the New York City Plumbing Code, Administrative Code §28-PC 403, or any successor law.

* * *

(c) Toilet rooms. All toilets shall be properly flushed and trapped[,]. Toilet rooms must be adequately lighted and mechanically or naturally ventilated, maintained in sanitary[,], operating condition, and furnished with supplies of toilet tissue and easily cleanable [covered] receptacles for waste paper and other refuse.

(d) Shared toilet facilities. [Except where patrons would have to pass through a kitchen or food storage or preparation facility, the same toilet facilities may be used by both patrons and employees.] Patrons and employees may use the same toilet facilities, except if patrons would be required to walk through a kitchen, food preparation or storage area, or utensil washing area to access the toilet.

Notes: Section 81.22 was amended by resolution adopted by the Board of Health on XXX to clarify its provisions, but is substantively unchanged.

RESOLVED, that subdivision (d) of section 81.23 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, and further that subdivision (e) of the same section, regarding the storage of toxic materials is hereby REPEALED, to be printed together with explanatory notes to read as follows:

(d) Pesticide applications. Pesticides shall be properly labeled, authorized for use, and used only by licensed pest professionals 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, and applied so that:

- (1) There is no hazard to employees or other persons.
- (2) There is no pesticide spraying in food preparation and service areas while food is being processed, prepared or served, or where unprotected food, clean utensils or containers are displayed or stored.
- (3) Food, equipment, utensils, linens, and single-service or single use articles are protected from contamination [or] and toxic residues that result from pesticide [drip, drain, fog, splash or spray on by removal,] application. Such items are to be protected by impermeable coverings or other measures[, and by cleaning and sanitizing] during pesticide application and must be cleaned and sanitized after pesticide application.
- (4) The use of unprotected or unlocked bait stations is prohibited in food service establishments.

Notes: Subdivision (d) of §81.23 was amended by resolution adopted by the Board of Health at its meeting on XXX to clarify provisions related to pesticide applications, and add a prohibition on use of unprotected bait stations in a new paragraph (4), consistent with Part 14 of the State Sanitary Code. Former subdivision (e) of this section, “Toxic materials,” was moved to §81.17.

RESOLVED, that section 81.24 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.24 **Garbage and waste disposal.** Garbage and wastes shall be stored, handled, and disposed of in a manner that protects food and food-contact surfaces from contamination, and does not create a condition conducive to pests or a nuisance.

(a) *Garbage [storage] and waste stored for removal.*

[(1) Garbage] Prior to street placement and pickup, garbage and wastes shall be [removed from the establishment daily for collection or stored in a pest-proof room in the establishment] placed in easily cleanable, watertight, rodent-resistant, and insect-resistant containers with tight fitting lids that must be securely fastened. Containers must be stored in a manner that does not attract pests or create pest harborage conditions.

[(2)] (b) *Garbage and waste removal.* Solid and putrescible wastes placed on sidewalks for collection shall be disposed of in accordance with applicable law, including but not limited to Title 16 of the Administrative Code and the rules of the Department of Sanitation and the Business Integrity Commission, or successor agencies.

[(b)] (c) *Containers to be cleaned after emptying.* Garbage receptacles and covers shall be cleaned after emptying and prior to reuse.

Notes: Paragraph (1) of subdivision (a) of §81.24 was amended to remove the paragraph designations and paragraph (2) of subdivision (a) was relettered as subdivision (b) by resolution of the Board of Health adopted XXX. As amended, subdivision (a) no longer requires garbage and wastes to be either removed from the establishment daily or stored in a pest proof room, but to be either stored in a pest proof room or other dedicated area until collected.

RESOLVED, that section 81.27 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.27 **Cleaning of premises, equipment and utensils.**

(a) *Non-food contact surface components.* Floors, walls, ceilings, and other non-food contact surfaces shall be kept free of accumulations of dust, dirt, food residue, grease, and other debris and shall be cleaned as necessary to prevent such accumulations.

(b) *Food contact surfaces.* [Equipment food] Food contact surfaces, including food contact surfaces on equipment, and utensils shall be clean to sight and touch and shall be kept free of dust, dirt, food residues, grease deposits, and other contaminants. [Equipment food contact surfaces and utensils shall be cleaned:] Equipment must be disassembled for the purpose of cleaning unless specifically constructed to enable cleaning in place. Food contact surfaces must be cleaned and sanitized:

(1) Before each use with a different type of raw animal food such as beef, fish, lamb, pork or poultry;

(2) Each time there is a change from working with raw to working with ready-to-eat foods; and

(3) At [any time when] other times as necessary to prevent accumulations of dirt, mold, encrusted food, grease or other substances or whenever contamination may have occurred.

(c) [*Equipment with food contact surfaces.* Ice bins, coffee grinders, frozen dessert machines, culinary sinks and similar types of equipment with food contact surfaces shall be cleaned and sanitized at the frequency specified by the manufacturer or at a frequency necessary to prevent the accumulation of encrusted food, mold, grease or other contaminants. Unless specifically constructed to enable cleaning in place, equipment shall be disassembled prior to cleaning.

(d) [*Cloths.* Cloths used for the cleaning and sanitizing of food contact and non-food contact surfaces shall be stored clean and dry, or in a sanitizing solution, between uses.

(1) 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.

(2) 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.

Notes: Section 81.27 was amended by Board of Health resolution adopted at its meeting on XXX to clarify various provisions, without making substantive changes. Some provisions of former subdivision (c) that were considered duplicative were deleted and its remaining provisions combined with subdivision (b). Subdivision (d) was relettered as subdivision (c).

RESOLVED, that section 81.29 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, relating to the washing and drying of tableware, utensils, and equipment, is hereby REPEALED and a new section 81.29 is added, to be printed together with explanatory notes to read as follows:

§81.29 Dishwashing and ware washing. Tableware, including dishes, utensils, and equipment must be cleaned and sanitized, as defined in §81.03 of this Article, manually or by machine using either heat or

chemical means, in accordance with this section, except that other adequate methods acceptable to the Department may be used.

(a) Manual washing and sanitizing. A three compartment sink must be used when washing and sanitizing equipment, dishes and utensils by hand, except where otherwise indicated in this subdivision. All compartments of the sink must be large and deep enough to permit complete immersion of the largest equipment and utensils to be washed. Items must be:

- (1) Washed in the first compartment in a detergent solution;
- (2) Rinsed free of such solution in clean hot water in the second compartment; and
- (3) Sanitized in the third compartment with hot water or a chemical solution.

(A) Hot water sanitizing. Hot water used for sanitizing must be heated to and maintained at or above 170 degrees Fahrenheit (76.6 degrees Celsius). A numerically scaled, indicating or digital thermometer calibrated to be accurate to plus or minus 2 degrees Fahrenheit (1.1 degrees Celsius) must be used to measure water temperature. Items must be wholly immersed for at least 30 seconds to destroy surface pathogens.

(B) Chemical sanitizing. Only anti-microbial pesticides registered with the US Environmental Protection Agency shall be used for manual chemical sanitizing and must be used in sufficient amounts to achieve the sanitization levels required by subdivision (ii) of §81.03 of this Article, without leaving toxic residues on surfaces treated. A test kit or other device must be used to accurately measure the parts per million concentration of the solution used, and the pH of the solution when the pH level would affect the performance of the chemical sanitizer.

(C) Glassware. Glasses only may be washed in a two-compartment sink using a combination detergent and sanitizer in the first compartment and rinsed in clean water in the second compartment, if the manufacturer of the combination product indicates it may be used in this manner.

(b) Mechanical washing and sanitizing

(1) Heat requirements for mechanical washing. High temperature machines used for the cleaning and sanitizing of utensils, equipment, and food contact surfaces must be installed, maintained, and kept in working order. Machines must be equipped with thermometers, and operated so that all food contact surfaces achieve a surface temperature of at least 160 degrees Fahrenheit (71 degrees Celsius) in order to destroy surface pathogens.

(2) Chemical requirements for mechanical washing. Low temperature machines that use chemicals must be installed, maintained, kept in working order and operated so as to attain effective sanitization. A test kit or other device must be used to accurately measure the parts per million concentration of the solution used and the pH of the solution when the pH level would affect the performance of the chemical

sanitizer and to ensure the chemical sanitizer is used in concentrations that will not leave toxic residues on surfaces treated.

(c) Drain boards; air drying. Drain boards of adequate size must be provided and used for the proper handling of soiled items prior to washing, and of clean items following sanitization. Drain boards must be self-draining, and located and constructed so that they do not interfere with the proper use of ware washing facilities. All tableware, utensils, and food contact equipment must be air dried after sanitizing.

Notes: Section 81.29 was repealed and restated by resolution of the Board of Health adopted at its meeting on XXX. The only substantive change is elimination of references to “manufacturers’ instructions” for use of machines and chemical sanitizing since such instructions either do not exist or are not being utilized, resulting in unreliable sanitizing results and unacceptable risks to public health.

RESOLVED, that subdivisions (a) and (b) of section 81.31 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

§81.31 Outdoor cooking, food and beverage preparation facilities.

(a) *Street and sidewalk cooking prohibited; exceptions.* There shall be no cooking, preparation, processing, or service of food, or storage of food, utensils or equipment on a street or sidewalk, except when an establishment is participating in an event as defined in Article 88 of this Code, or is a mobile food vending unit [is] being operated in accordance with Article 89 and other applicable law, or permission has been obtained from appropriate City agencies.

(b) *Conducted on the premises owned by a food service establishment.* When permission has been obtained from the Department of Buildings, Fire Department, and other agencies when required, a permitted food service establishment may cook outdoors at the establishment within the premises under the establishment’s ownership, management, operation, and control, including, but not limited to, in the establishment’s backyard, in accordance with this section, and other provisions of this Article

* * *

Notes: Section 81.31 was amended by resolution adopted by the Board of Health at its meeting on XXX to clarify its provisions, without making substantive changes.

RESOLVED, that Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, be amended to add a new section 81.46, to be printed together with explanatory notes to read as follows:

§81.46 Refillable, returnable containers

(a) Beverage containers. Employees or consumers may refill consumers' personal take-out beverage containers (such as thermally insulated bottles, non-spill coffee cups, and promotional beverage containers) with beverages that are not potentially hazardous foods, provided that beverages are dispensed in a manner that prevents contact with, or contamination of, the food-contact surfaces of the beverage dispensing equipment.

(b) Other containers. An establishment providing consumers with returnable containers must wash and sanitize all such containers before reuse in accordance with §81.29 of this Article.

(c) Container materials. Reusable containers that will be washed and sanitized must be made of food grade materials resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, and of sufficient weight and thickness to be washed and sanitized in accordance with §81.29 of this Article.

Notes: This section was added by resolution of the Board of Health adopted at its meeting on XXX to manage public health concerns associated with reuse of food containers, particularly that inadequately cleaned and sanitized containers could make other consumers and employees ill and contaminate an establishment's food supplies. It also prohibits refilling consumers' containers with beverages that contain primarily potentially hazardous foods such as smoothies or milk shakes. These provisions are consistent with 2013 US FDA Food Code §3-304.17.

RESOLVED, that section 81.53 of Article 81 of the New York City Health Code, set forth in title 24 of the Rules of the City of New York, regarding a maximum serving size for certain beverages, is hereby REPEALED, and explanatory notes are printed to read as follows:

Notes: §81.53 Maximum Beverage Size was repealed by resolution of the Board of Health adopted at its XXX meeting.

RESOLVED, that the schedule of section headings in Article 81 of the New York City Health Code, found in title 24 of the Rules of the City of New York, be amended, to be printed together with explanatory notes to read as follows:

ARTICLE 81

FOOD PREPARATION AND FOOD ESTABLISHMENTS

§81.01 Scope.

§81.03 Definitions.

§81.04 Approved sources of food.

§81.05 [Technical] Permit requirements; technical review and pre-permitting inspections for food service establishments and non-retail food processing establishments.

§81.06 Prevention of imminent or public health hazards.

§81.07 Food: sanitary preparation, protection against contamination.

§81.08 Foods containing artificial trans fat.

§81.09 Potentially hazardous [foods;] (time and temperature control for safety) foods.

§81.10 Time as a public health control; exception to required holding temperatures of potentially hazardous (temperature control for safety) foods.

§81.11 [repealed]Consumer advisory: serving raw or undercooked foods.

§81.12 Reduced oxygen packaging; cook chill and *sous vide* processing.

§81.13 Food workers: health; hygienic practices.

§81.15 Food protection course.

§81.17 General requirements: design, construction, materials and maintenance.

§81.18 Cold and hot storage and holding facilities.

§81.19 Lighting and ventilation.

§81.20 Plumbing and water supply.

§81.21 Hand wash sinks.

§81.22 Employee and patron toilets.

§81.23 Integrated pest management.

§81.24 Garbage and waste disposal.

§81.25 Live animals.

§81.27 Cleaning of premises, equipment and utensils.

§81.29 Dishwashing and ware washing.

§81.31 Outdoor cooking, food and beverage preparation facilities.

[§81.33 repealed.]

[§81.35 repealed.]

[§81.37 repealed.]

§81.39 Sealing unclean equipment, utensils and vehicles; denial, suspension and revocation of permits; enforcement; padlocking.

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

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

[§81.45 repealed.]

§81.46 Refillable, returnable containers.

[§81.47 repealed.]

[§81.49 repealed.]

§81.50 Posting of calorie information.

§81.51 Grading of inspection results and posting of grades by certain food service establishments.

[§81.53 Maximum Beverage Size.]

§81.55 Modification by Commissioner.

Notes: The table of section headings was amended by resolution adopted by the Board of Health at its XXX meeting.

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

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

RULE TITLE: Amendment of Health Code Provisions Governing Food Service Establishments

REFERENCE NUMBER: DOHMH-46

RULEMAKING AGENCY: DOHMH

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

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

December 2, 2014
Date

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

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

RULE TITLE: Amendment of Health Code Provisions Governing Food Service Establishments (Article 81)

REFERENCE NUMBER: 2014 RG 086

RULEMAKING AGENCY: Department of Health and Mental Hygiene

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

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

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: December 2, 2014