



Office of The Ulster County Comptroller *Food Violation Snap Shot*

May 2016

In 2013, Governor Andrew Cuomo issued an Executive Order that spearheaded an initiative called “Open NY,” which directed state agencies to review, catalogue, and make publicly available data they collect. Over thirty state agencies and authorities have participated in this order.

Accordingly, the New York State Department of Health (NYSDOH) has published information pertaining to health code violations within the State. As the “watchdog” for Ulster County’s residents, the Office of the Comptroller believes in significant transparency surrounding governmental and business practices. Under that premise, the Office reviewed the violations for all eateries within the county in 2015 as a way to educate the people of the County on what actually happens in the kitchen.

NYSDOH protects the public health through design and management. The Food Protection Program develops regulations designed to prevent foodborne outbreaks and then “provides guidance and assistance to county and city health departments and State District Offices which in turn permit and inspect food establishment.”

New York State Public Health Law, § 225 Section 14-5.180 gives Ulster County the authority to issue permits and violations to lawful food establishments. All food service establishments are required to apply for a permit at least twenty-one days before opening in order to be in lawful operation. The permit should be prominently displayed at each food service institution so that it can be easily seen by a customer.

Section 14-1.190(d) of the New York State Sanitary Code states the following:

A permit will be issued subject to the food service establishment being constructed; maintained and operated in compliance with this Subpart and not presenting a danger to the health of the consumer or to the public. [. . .] The condition of the establishment, its equipment, utensils, personnel, mode of operation, surroundings, water supply, sewage disposal, waste handling, furnishings, food and appurtenances are all factors in determining whether its continued operation may affect public health. After making the preliminary inspection, a permit may be issued or the operator advised of violations prohibiting issuance of such permit by the permit-issuing official.

Section 14-1.197 of the code details how a permit may be suspended should an eatery fall out of compliance:

Permits may be suspended temporarily by the permit-issuing official, after notice and an opportunity to be heard, for failure of the permit holder to comply with the[se] requirements [. . .] or with any lawful notice or order issued by the permit-issuing official or his designated representative.

In 2015, NYSDOH issued roughly 4,000 violations to Ulster County facilities – classified as either *critical* or *non-critical*. The three most common *non-critical* violations were: (1) “floors, walls, [and] ceilings [as not being] smooth, properly constructed, [or] in disrepair, [as well as] dirty surfaces (15A)”;

(2) “non-food contact surfaces and equipment [as being] improperly designed, constructed, installed, [or] maintained ([in addition to] equipment not [being] readily accessible for cleaning [and] surface[s] not [having a] smooth finish) (10B)”;

and

(3) “lighting and ventilation [as being] inadequate, fixtures not [being] shielded, [and] dirty ventilation hoods, ductwork, filters, [and] exhaust fans (15B).”

The three most common *critical* violations were: (1) “toxic chemicals [as being] improperly labeled, stored or used so that contamination of food [could] occur (4A)”;

(2) “cooked or prepared foods [as being] subject to cross-contamination from raw foods (2C)”;

and (3) “[the presence of] food from unapproved source[s], [that was] spoiled, [or otherwise] adulterated on premises (1H).”

Ulster County Sanitation Code, “any person who violates, disobeys or disregards the terms of any lawful notice, order or regulation [. . .] shall be subject to the imposition of a civil penalty by the Commissioner/Director, not exceeding one thousand and 00/100 (\$1,000) dollars for each single violation or failure or omission to act.”

Fines are influenced by the amount of seating found in the food establishment. Places with the capacity to seat over 100 people can see fines double that of institutions under 100. For example, an establishment with the ability to seat over 100 people that is cited for having food present from an unapproved source which may be adulterated, contaminated or otherwise unsuitable for human consumption can be fined \$1,000. An establishment seating under 100 people that is cited for toxic items being improperly labeled, stored or used can see a fine of \$250.

Appendix A summarizes the violations their descriptions and the number of occurrences within Ulster County. The data contained herein has been provided by the NYS Department of Health.

APPENDIX A

ULSTER COUNTY HEALTH CODE VIOLATIONS			
VIOLATION	DESCRIPTION	COUNT	
CRITICAL VIOLATIONS	1B	Water/ice: unsafe, unapproved sources, cross connections	10
	1C	Home canned goods, or canned goods from unapproved processor found on premises	1
	1D	Canned foods found in poor conditions (leakers, severe dents, rusty, swollen cans)	12
	1H	Food from unapproved source, spoiled, adulterated on premises	17
	2B	Food workers prepare raw and cooked or ready to eat food products without thorough handwashing and sanitary glove changing in between	1
	2C	Cooked or prepared foods are subject to cross-contamination from raw foods	34
	2D	Unwrapped/potentially hazardous foods are reserved	2
	2E	Accurate thermometers not available or used to evaluate potentially hazardous food temperatures during cooking, cooling, reheating and holding	10
	3C	Food workers do not use proper utensils to eliminate bare hand contact with cooked or prepared foods	15
	4A	Toxic chemicals are improperly labeled, stored or used so that contamination of food can occur	56
	5A	Potentially hazardous foods are not kept at or below 45°F during cold holding, except smoked fish not kept at or below 38°F during cold holding	14
	5B	Potentially hazardous foods are not cooled by an approved method where the food temperature can be reduced from 120°F to 70°F or less within two hours and 70°F to 45°F within four hours	12
	5C	Potentially hazardous foods are not stored under refrigeration except during necessary preparation or approved precooling procedures (room temperature storage)	15
	5E	Enough refrigerated storage equipment is not present, properly designed, maintained or operated so that all potentially hazardous foods are cooled properly and stored below 45°F as required	10
	6A	Potentially hazardous foods are not kept at or above 140°F during hot holding	7
	6B	Enough hot holding equipment is not present, properly designed, maintained and operated to keep hot foods above 140°F	1
	7E	Other potentially hazardous foods requiring cooking are not heated to 140°F or above	1
NON-CRITICAL VIOLATIONS	8A	Food not protected during storage, preparation, display, transportation and service, from potential sources of contamination (e.g., food uncovered, mislabeled, stored on floor, missing or inadequate sneeze guards, food containers double stacked)	304
	8B	In use food dispensing utensils improperly stored	52
	8C	Improper use and storage of clean, sanitized equipment and utensils	86
	8D	Single service items reused, improperly stored, dispensed, not used when required	18
	8E	Accurate thermometers not available or used to evaluate refrigerated or heated storage temperatures	81
	8F	Improper thawing procedures used	31
	9A	Inadequate personal cleanliness	2
	9B	Tobacco is used; eating, drinking in food preparation, dishwashing food storage areas	42
	9D	Dressing rooms dirty, not provided, improperly located	3
	10A	Food (ice) contact surfaces are improperly designed, constructed, installed, located (cracks, open seams, pitted surfaces, tin cans reused, uncleanable or corroded food contact surfaces)	201
	10B	Non-food contact surfaces and equipment are improperly designed, constructed, installed, maintained (equipment not readily accessible for cleaning, surface not smooth finish)	407
	11A	Manual facilities inadequate, technique incorrect; mechanical facilities not operated in accordance with manufacturer's instructions	59
	11B	Wiping cloths dirty, not stored properly in sanitizing solutions	28
	11C	Food contact surfaces not washed, rinsed and sanitized after each use and following any time of operations when contamination may have occurred	222
	11D	Non food contact surfaces of equipment not clean	368
	12A	Hot, cold running water not provided, pressure inadequate	27
	12C	Plumbing and sinks not properly sized, installed, maintained; equipment and floors not properly drained	218
	12D	Toilet facilities inadequate, inconvenient, dirty, in disrepair, toilet paper missing, not self-closing doors, missing hand wash signs	55
	12E	Handwashing facilities inaccessible, improperly located, dirty, in disrepair, improper fixtures, soap, and single service towels or hand drying devices missing	132
	13A	Adequate, leakproof, non- absorbent, vermin - proof, covered containers not provided where needed	1
	13B	Garbage storage areas not properly constructed or maintained, creating a nuisance	6
	14A	Insects, rodents present	63
	14B	Effective measures not used to control entrance (rodent-proof construction). Harborage areas available for rodents, insects and other vermin	84
14C	Pesticide application not supervised by a certified applicator	27	
15A	Floors, walls, ceilings, not smooth, properly constructed, in disrepair, dirty surfaces	635	
15B	Lighting and ventilation inadequate, fixtures not shielded, dirty ventilation hoods, ductwork, filters, exhaust fans	381	
15C	Premises littered, unnecessary equipment and article present, living quarters not completely separated for food service operations, live animals, birds and pets not excluded	53	
15D	Improper storage of cleaning equipment, linens, laundry unacceptable	3	
16	Miscellaneous, Economic Violation, Choking Poster, Training	30	