

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2013**

No. 90

Introduced by Council Members Gentile, Arroyo, Barron, Chin, Fidler, Greenfield, James, Koo, Palma, Rose, Vallone, Rodriguez, Eugene, Van Bramer, Brewer, Lappin, Vann, Jackson, Gennaro, Lander, Levin, Williams and Halloran.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to requiring the department of health and mental hygiene to develop and disseminate a food service establishment inspection code of conduct.

Be it enacted by the Council as follows:

Section 1. Title 17 of the administrative code of the city of New York is amended by adding a new chapter 15 to read as follows:

CHAPTER 15

FOOD SERVICE ESTABLISHMENTS

§ 17-1501 Definitions. As used in this Chapter the following terms shall have the following meanings:

a. “Consultative inspection” means an educational sanitary inspection of a food service establishment that shall not result in fines or a grade.

b. “Covered languages” means Chinese, English, Haitian Creole, Korean, Bengali, Russian and Spanish, and any other language determined by the department.

c. “Critical violations” shall have the meaning it is given in section 23-01 of title 24 of the rules of the city of New York.

d. *“Food service establishment” means any establishment inspected pursuant to the restaurant grading program established pursuant to subdivision a of section 81.51 of the health code of the city of New York.*

e. *“Food service establishment inspector” means any individual employed by the department who as part of his or her duties conducts inspections of food service establishments pursuant to subdivision a of section 81.51 of the health code of the city of New York.*

f. *“General violations” shall have the meaning it is given in section 23-01 of title 24 of the rules of the city of New York.*

g. *“Imminent health hazard or public health hazard” shall have the meaning it is given in section 81.03 of the health code of the city of New York.*

h. *“Initial inspection” means the first sanitary inspection within an inspection cycle.*

i. *“Inspection cycle” means a series of related inspections of food service establishments consisting of at least an initial inspection and including, if triggered by the initial or any subsequent inspections within that cycle, a reinspection and any compliance inspections conducted by the department because of a previous inspection score in that cycle.*

j. *“Notice of violation” means a written notice issued by a food service establishment inspector alleging that there was a violation of law or regulation at the food service establishment on the day of the food service establishment inspection.*

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

§ 17-1502 *Food Service Establishment Inspection Code of Conduct. a. The commissioner*

shall develop a code of conduct pertaining to sanitary inspections. The inspection code of conduct shall inform owners and operators of food service establishments of their rights as they relate to sanitary inspections.

b. The inspection code of conduct shall be in the form of a written document, drafted in plain language. The department shall distribute the inspection code of conduct to all food service establishment inspectors and food service establishments. Food service establishment inspectors shall also distribute the inspection code of conduct to food service establishment owners or operators prior to the beginning of an initial inspection. The department shall make the inspection code of conduct available on the department's website in the covered languages.

c. The code of conduct shall include, but not be limited to, the following requirements:

(1) the food service establishment inspector shall behave in a professional and courteous manner;

(2) upon arriving at the food service establishment to perform a sanitary inspection, the food service establishment inspector shall immediately identify himself or herself to the staff of the food service establishment, and note the type of inspection, in a manner that does not unreasonably interfere with the dining experience of patrons;

(3) the food service establishment inspector shall be as unobtrusive as possible during the inspection while conducting the inspection;

(4) the food service establishment inspector shall return any equipment he or she moved back to its original location, and reassemble any equipment he or she disassembled, during the course of the inspection;

(5) the food service establishment inspector shall have a sound knowledge of all relevant health code provisions and any other applicable laws and regulations.

(6) the food service establishment inspector shall meaningfully communicate with the food service establishment owner or operator, and if necessary, utilize language assistance services to facilitate meaningful communication;

(7) the food service establishment inspector shall answer reasonable questions relating to the inspection;

(8) the food service establishment inspector shall enforce agency rules in a fair and impartial manner;

(9) the food service establishment inspector shall, upon finding a violation, explain to the food service establishment owner or operator how to remedy such violation.

(10) the food service establishment inspector must provide information informing the food service establishment owner or operator how such owner or operator may contest a notice of violation before the relevant local tribunal; and

(11) the food service establishment inspector shall provide information on how the food service establishment owner or operator may file a comment, compliment, or complaint about an inspector.

d. The commissioner shall regularly, but no less frequently than every two years, review and update the inspection code of conduct, as necessary.

e. Nothing in this section or in the inspection code of conduct shall be construed to create a cause of action or constitute a defense in any legal, administrative, or other proceeding.

§2. This local law shall take effect ninety days following enactment.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on October 9, 2013 and returned unsigned by the Mayor on November 8, 2013.

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 90 of 2013, Council Int No. 1132-A of 2013) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.