



BUILDING INSPECTION SAFETY PROGRAM MANUAL
CHAPTER 4, ADDENDUM 1
December 19, 2016

FDNY SUMMONS GUIDE
FORMALLY
NOTICE OF VIOLATION (NOV) GUIDE

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1. PURPOSE

Prior to 1985, members of the Fire Department enforced provisions of the Fire Code through the issuance of a Violation Order (“VO”) and, subsequently, a criminal summons (for non-compliance with the VO). Criminal Court Summonses for Fire Code violations were, and still are, adjudicated in the Criminal Court.

The processes of issuing violations, conducting re-inspections, issuing criminal summonses, and Criminal Court hearings can be slow and complicated. In response to this situation, FDNY established an additional method of reporting and processing violations that is less time consuming and provides for substantial penalties.

Local Law 80 of 1985 gave the Department authority to use the Environmental Control Board (“ECB”) to adjudicate violations. The Notice of Violation (“NOV”) was an additional tool available to the Department to enforce the Fire Code, Fire Department Rules, certain provisions of the New York City Building Code and other laws and rules that the Department is authorized to enforce.

In an effort to standardize this Notice of Violation amongst all city agencies the name of the Notice of Violation and the court in which these violations will be enforced has been changed. A Notice of Violation will now be identified as an FDNY Summons and the agency responsible for enforcing these violations will be identified as the Office of Administrative Trials and Hearings (“OATH”).

The FDNY Summons is not intended to substitute a VO or a Criminal Summons (“C Summons”).

Members can refer to the Standard Form of Order (“SFO”) Guide to determine the type of written order (VO, C Summons, or FDNY Summons) to be issued.

2. RESTRICTIONS ON THE USE OF AN FDNY SUMMONS

Do not issue an FDNY Summons in the following instances:

- **FORTHWITH VOs** - If the inspecting member deems the violation to be an immediate hazard.

Note: If there is no authorized person at the premise to accept service of the VO, the officer should prepare and serve a FDNY Summons. The FDNY Summons is the only enforcement document that can be legally served by posting it at the premise. Additionally a letter will be sent to the respondent that a violation has been served upon the building. Although the respondent has 35 days to prove compliance, the respondent is required to correct the condition that created the violation immediately.

- **IMMEDIATE CRIMINAL SUMMONS** - Violations requiring an immediate summons (e.g., locked exit, smoking on a construction site, illegal storage of LPG, illegal use of kerosene space heaters).

- **GOVERNMENT AGENCIES (except NYC mayoral agencies)** - Federal, State, or other non-City government agencies (MTA, Port Authority, Tri-Borough Bridge and Tunnel Authority, etc.). Reporting violations of law in these premises are generally the subject of special reports, an A-8 Fire Prevention Referral Reports, or other means as indicated in the BISP Manual. **(FDNY Summons issued to a New York City agency shall be processed as per BISP Manual, Chapter 4 section 4.2.4 (b)).**

Note: Do not use the FDNY Summons to enforce New York State Laws. (Examples: NYS Labor Law, NYS Multiple Dwelling Law)

Note: Violations against City University of New York (CUNY) shall be handled like NYS agencies.

3. The FDNY Summons Process

- 3.1 A member performing an inspection of a premises who observes a violation (of the Fire Code, Fire Department Rules, certain provisions of the New York City Building Code and other laws and rules that the Department is authorized to enforce) shall cite such violation(s) on the face of the FDNY Summons. Violations of the Fire Code and/or Administrative Code are categorized into Violation Categories (VCs), which are set forth in 3 RCNY 109-02 and are numbered 1 to 30.

Not more than 7 VCs are to be cited on each FDNY Summons. If a member observes violations that fall into more than 7 VCs, issue an additional FDNY Summons.

- 3.2 FDNY Summons are processed and managed by the Enforcement Unit of the Bureau of Legal Affairs. After issuing an FDNY Summons, units shall forward the white (OATH) copy and the blue (FDNY Records Unit) copy to the BISP Unit, located at Ft. Totten Bldg. 401, via the administrative division. Once these documents reach the division level they shall immediately be placed in the blue BISP box for delivery to Ft. Totten. These documents are time sensitive; there shall be no delay in delivery at all levels of command. The BISP Unit will review these documents for correctness and proper service then forward them to the Bureau of Legal Affairs Administrative Enforcement Unit for processing. If the FDNY Summons has been prepared or served incorrectly, the BISP Unit will send a notice to the respondent notifying them to disregard the order. Additionally BISP will notify the unit that the FDNY Summons was issued incorrectly and request the unit to conduct a re-inspect for compliance. If the violation was corrected no further action is required. If the violation was not corrected the unit shall re-issue a new FDNY Summons for the violation following proper procedures. In both instances the unit shall notify the BISP Unit with the results of the re-inspection.

- 3.3 Respondents must file a Certificate of Correction to the Bureau of Legal Affairs Administrative Enforcement Unit. When the Certificate of Correction is returned to the Administrative Enforcement Unit indicating that the violations have been corrected, and is accompanied by appropriate supporting documentation, the FDNY Summons will be reviewed by the Administrative Enforcement Unit of the Bureau of Legal Affairs. If the FDNY Summons is deemed “Cured” no further action is required by the respondent. Failing this, the respondent must appear at the Office of Administrative Trials and Hearings (OATH) for a hearing.

3.4 If a respondent wishes to challenge an FDNY Summons, the respondent or their representative must appear for a hearing at the OATH location on the date and time indicated on the FDNY Summons.

3.5 An OATH hearing is conducted by an Hearing Officer and the FDNY is represented by an FDNY Representative from the Legal Enforcement Unit of the Bureau of Legal Affairs.

If the respondent does not cure the violation or attend the hearing, the OATH will enter a default judgment. The default penalty is \$1,000 for each VC.

If a respondent is cited for the same violation, at the same premises, more than once in eighteen (18) months, the respondent will be offered the opportunity to certify correction of the violation but the multiple offense penalties may be imposed, if the Hearing Officer upholds the violation, after an OATH hearing. The default penalty for multiple offenses is \$5,000 for each VC.

3.6 If re-inspection of a premise is required after a default, guilty verdict, or stipulation, the unit shall re-inspect the premises and, if warranted, issue a new FDNY Summons. Units will be notified which premises require re-inspection by a Reinspection Order Form (see Addendum 1 Appendix D).

4. Extensions OF TIME TO COMPLY

Certain violations requiring documentation to be submitted by the respondent may be eligible for a stipulation to extend the time to correct. A request for a stipulation extending compliance time must be made by the Respondent at an OATH hearing and is subject to approval by FDNY and OATH. If an extension is approved, a Stipulation specifying a new date for compliance will be provided to the respondent.

5. RESTRICTIONS OR MODIFICATIONS TO SOME VCs

Units shall not issue an FDNY Summons for a violation of VC 20 for a five (5) year test or inspection of a sprinkler or standpipe system. If such test or inspection is required, forward an A-8 Fire Prevention Referral Report to Bureau of Fire Prevention, Fire Suppression Unit. The inspecting member should make an entry in the RBIS system under the referral tab noting the reason for the referral. The Bureau of Fire Prevention can quickly determine what action must be taken regarding the test or inspection.

6. DESCRIPTION OF THE FDNY SUMMONS

6.1 The FDNY Summons is a five (5) part form.

6.2 Each set of pages is labeled and color-coded as follows:

- **White** OATH (1st) Copy, Top – (Forward to Enforcement Unit)
- **Gold** Certificate of Correction (2nd) Copy – (Serve to Respondent)
- **Blue** FDNY Records Unit (3rd) Copy – (Forward to Enforcement Unit)
- **Pink** Fire Department Issuing Unit (4th) Copy – (File in Building Folder)
- **Green** Respondent's (5th) Copy – (Serve to Respondent)

6.3 The front of each page is identical on all forms; however, the reverse side of each page varies:

- **White Copy** contains the Affidavit (Certificate) of Service on the reverse side.
- **Gold Copy** contains the Affidavit (Certificate) of Correction on the reverse side and shall be served upon the respondent.
- **Blue Copy** is identical to the White Copy.
- **Pink Copy** is identical to the White Copy.
- **Green Copy** contains information relating to location of OATH Hearing Center and Correction Requirements, shall be served upon the respondent.

The Affidavit of Service (Certificate) is located on the rear of the White, Blue and Pink Copies must be completed separately to avoid print from appearing on the front of these copies.⁷ **Instructions for Preparing an FDNY Summons**

(THE NUMBERS CORRESPOND TO THE SPECIFIC INSTRUCTIONS)

- 1** **Division: FP Unit** _____
Field (Company) Units - leave blank,
District Office Inspectors only – enter Unit in these spaces.

Admin CO _____

- 2** Enter the Company of the administrative district where the address is located.

Unit Code #	Unit Type
5	Engine
6	Marine
7	Ladder
8	Squad

For example, Engine Company 274 is written as:

5274

Leading zeros shall be entered when the Company number has less than three (3) digits.
For example, Ladder Company 7 is written as:

7007

- 3** **Respondent, Mailing Address, Cell Phone:**

Respondent: Enter the name of the person or entity responsible for correcting the violation.

Owner – If the violation is against the building, name the building owner as the respondent. If the building owner is a corporation, name the corporation as the respondent.

Note: A corporation is a company whose name is followed by the words “Corporation” or the abbreviation “Corp., LLC” or “Inc.” **Do not use** “OWNER OF” if the building owner is a corporation - name the corporation.

Note: When issuing an FDNY Summons to a condominium, in the respondent section write “Board of Managers of (insert the building address).”

Managing Agent – If a Managing Agent operates the building, name the agent as the respondent.

Tenant – Only write an FDNY Summons to a tenant if the violation is of something that the tenant has complete control over (i.e., range hood unit in a restaurant or fire extinguishers in a store or office). Do not write an FDNY Summons to a tenant of a multiple dwelling. If the FDNY Summons is for the tenant, issue the FDNY Summons in the name of the business/entity responsible for the occupancy.

For example: the entry for a violation against John’s Pizza in which the pizzeria is a tenant in the building is as follows:

Respondent: John’s Pizza

Do not issue an FDNY Summons to a tenant of a multiple dwelling. This would constitute improper service resulting in dismissal of FDNY Summons

City Agency – name the agency. For a New York City Department of Homeless Services (“DHS”) building enter DHS. All FDNY Summons issued for premises owned by city agencies should be forwarded to the Bureau of Legal Affairs Enforcement Unit to be served. Do not leave copies of the violation at the premises. Forward all parts, except pink (Fire Department issuing Unit Copy), to the Bureau of Legal Affairs Administrative Enforcement Unit.

Respondent: DHS

Daycare center - If the premise is a daycare center, enter the name of the daycare center as the respondent. For example:

Respondent: ABC DAY CARE

If unsuccessful in identifying the name and address of the owner or managing agent of record, conduct a Finance Property search or contact the BISP Hotline at 718-281-3877.

As a last resort, if unable to determine the owner’s name, the respondent shall be identified with the entry “OWNER OF” followed by the building address. For example: for a violation against a building located at 34 Jones Street the entry will appear as follows:

Respondent: OWNER OF 34 JONES ST.

Mailing Address: Always use the premises address where the violation took place.

Cell Phone: When possible, enter the cell phone of the person named as the respondent.

4 DBA: Doing business as

Account Number:

Field (Company) Units - leave blank, **Fire Prevention Inspectors only.**

6 Unit Phone Number:

Phone number of the Unit issuing the FDNY Summons.

7 Date and Place of Occurrence:

Date: Enter the date in which the violation was initially observed.

Place: The address of the premises where the violation occurred.

8 Time of Inspection, Borough:

Time of Inspection: Enter the time the violation was initially witnessed.

Borough: The borough in which the violation took place.
(Ex; Manhattan, Staten Island, Brooklyn, Queens, Bronx)

9 and 11 Hearing Date and Compliance Date, Time:

Hearing and Compliance Dates: Always enter compliance and hearing dates on the FDNY Summons, except if issuing to city agency. The Enforcement unit will enter this information upon issuance to the city agency.

To determine the compliance date, the inspecting member shall refer to the OATH Compliance and Hearing Calendar. Each borough has an OATH Compliance and Hearing Calendar indicating the compliance and hearing dates for the current year. To find the compliance date, the inspector will locate the day (vertical column, extreme left side of the Calendar) and month (top of Calendar) that the violation is being issued. The intersecting points of these two (2) lines will show the Compliance Date. The Hearing Date is directly adjacent to it, to the right. The Compliance Date is the date by which the Bureau of Legal Affairs Administrative Enforcement Unit must receive the Certificate of Correction indicating that the FDNY Summons has been corrected by the respondent if respondent wants to cure the violation. The Compliance Date is approximately 35 days from the date the FDNY Summons was issued.

Time: When preparing the FDNY Summons, **always use 8:30 am as the hearing time.**

10 Hearing Location:

Enter the borough in which the hearing will be conducted. Hearings are scheduled in the borough where the premise is located. The locations of the OATH Hearing Centers are found on the back of the Green (Respondent's) Copy.

12

Violations of the Administrative Code, Fire Department Rules and other Provisions of Law that the Department is Authorized to Enforce. (Stated as VCs #1-30)

Upon observation of a violation, the inspecting member should refer to the Standard Form of Order (“SFO”) Book, BISP Manual Chapter 4 Addendum 5. The SFO Book includes references to the FDNY Summons VCs. If there is a number next to the Violation Category (VC), the inspector can issue an FDNY Summons.

1. Enter a check mark in the box citing the VC violated on the FDNY Summons.
2. Fill in the applicable blanks and/or circle the appropriate word or words.
3. Use the Description of Violation section (located below the Violation Categories) to describe the nature of the violation in more detail. Note that the VCs are categories of violations and many are vague regarding the specific violation. Additionally , unlike we did in the past where we repeated the wording from the SFO’s, the members issuing the Summons should describe the condition which created the violation. For example; 1- (VC 9) Refrigerator left in hallway on the 1st floor blocking the primary means of egress. 2- (VC 8) Cardboard boxes containing clothing stored in the boiler room. 3- (VC 15) Multiple holes found in the fire-rated construction (sheetrock) of the basement ceiling, creating a hazardous condition which may result in the rapid extension of fire.

Note: Exceptions to above warranting a Criminal Court summons:

A Criminal Summons, not an FDNY Summons, shall be served immediately upon finding the following conditions:

- Smoking on a construction site.
- Smoking in a factory (Board of Standard and Appeals rules).
- Locked, fastened or bolted doors leading into or out of any factory or in any floor thereof, during working hours (LL., Section 272 Subd.3).
- Propane - illegal storage (See Fire Code Guide).
- Kerosene heater - illegal use (confiscate).
- As otherwise directed by Fire Department procedures.

5. **Not more than 7 Violation categories (VC) may be cited on each FDNY Summons. If a member observes violations that fall into more than 7 VCs, issue additional FDNY Summons.**

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Repeat Violation (§ 15-229):

A Repeat Violation shall be issued to an owner of a premise when the same respondent is found to violate the same law, rule or regulation at the premises within 18 months of a first violation. **An inspecting member shall return to evaluate an FDNY Summons as directed by the Bureau of Legal Affairs Administrative Enforcement Unit for an audit or re-inspection.**

When it is determined that an original, violating condition exists and the same respondent is in control of the premises at an audit or re-inspection, the inspector shall:

1. Issue a new FDNY Summons to the respondent.
2. Insert the uncorrected VC number(s) and the number of the original FDNY Summons in the blank.
3. Enter both a hearing and compliance date.
4. Check the REPEAT VIOLATION box. Do not use the Repeat Violation section on the same FDNY Summons as a new violation found during the inspection. Write out a separate FDNY Summons for any new violations observed.
5. Write or print the word REPEAT above each VC number that was cited on the original FDNY Summons which is in violation.
6. Serve the Green (Respondent's) Copy and the Gold (Certificate of Correction) Copy to the respondent.

Note: The Gold (Certificate of Correction) Copy must be served because the respondent still has the opportunity to correct the violation and submit the certificate of correction. The respondent must still appear in OATH center to address the REPEATED offense.

14

False Certification (§15-220.1):

This section of the FDNY Summons is to be completed when it is obvious at an audit or re-inspection that the original condition for which a FDNY Summons was issued was never corrected and was falsely certified as being corrected.

Inspector shall:

1. Check the FALSE CERTIFICATION box; and
2. Insert the FDNY Summons number that was falsely certified in the applicable space.
3. Provide a hearing date only; this is the only time a compliance date will not be provided.

The Department considers Repeat Violations and False Certifications as serious violations and accordingly assesses higher penalties if the respondent defaults or is found guilty at an OATH hearing. In order to accurately issue a Repeat Violation or False Certification violation, the unit shall bring the previously-issued FDNY Summons to the premises when conducting the re-inspection so that the previous FDNY Summons number can be accurately recorded on the new FDNY Summons. An FDNY Summons issued for False Certification may be difficult to prove. In instances where uncertainty exists regarding the issuance of False Certification, it is advisable to issue a Repeat Violation instead of a False Certification.

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Failed to Comply with Commissioner's Order to Correct and Certify, Other Fire Code/Rule Violations:

Failed to Comply with Commissioner's Order to Correct and Certify:

Field Units should not use this category at this time; this is for use by the Bureau of Fire Prevention only.

Other Fire Code/Rule Violations:

This section may be used for enforcement of specifically-designated sections of the Fire Code, or other laws, rules or regulations enforced by the Fire Department.

Currently this category is only used for smoking at a construction site, see Fire Code Guide.

16

Description of Violation:

This area of the FDNY Summons shall be used to briefly describe the nature of the violation. It is permissible to cite more than one offense for the same VC. An FDNY Summons supplement sheet can also be utilized if more space is needed to spell out violations.

For example:

When several violations are found that fall into different VCs, such as movable combustible material within five (5) feet of an oil burner, obstructions blocking a means of egress, cite the appropriate VCs and describe each VC as appropriate.



VC 8 Storage, Accumulation and removal of Combustible Materials and Waste:

Failed to remove combustible waste and/or allow the storage/accumulation of combustible material, waste and/or vegetation at boiler room.



VC 9 Rooftop Access and Means of Egress

Failed to provide access/egress free from obstructions or impediments, and/or failed to maintain required egress at 1st floor hallway.

Add specific information in the DESCRIPTION OF VIOLATION section. For example:

Description of Violation: (VC 8) Cardboard boxes containing clothing stored in the boiler room within 5 feet of heating equipment. (VC 9) Refrigerator left in vestibule on the 1st floor blocking the primary means of egress.

17

Supplement Attached:

Check this box anytime a supplemental form is prepared.

18

Signature, Print Name/ID, Title:

Signature: Inspecting member **must sign and print** name. If the signature and/or printed name is missing, the FDNY Summons is invalid and not enforceable.

Note: The FDNY Summons is a legal document and as such must be properly prepared and served. The member who signs the FDNY Summons must be the same member who witnessed the violation. Members may be called upon to provide witness testimony, and verify the actual violation and their signature in court. Failure to properly execute this document can be grounds for the FDNY Summons being dismissed.

ID: The members ID number is always his reference number.

Title: Whenever a field unit issues a FDNY Summons the inspecting member will always be a firefighter. The officer only signs the affidavit of service (back side of the FDNY Summons) where is note the signature of the certifying officer.

Note: However when a unit issues a 10-35 FDNY Summons the only name on the document will be the officers, therefore the title will be either Lt./Capt.

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AFFIDAVIT (CERTIFICATE) OF SERVICE

Located on rear of White (OATH) Copy, the Pink (Fire Department Issuing Unit) Copy, and the Blue (FDNY Records Unit) Copy.

The inspecting member must enter the required information on the White (OATH) copy and the Blue (FDNY Records Unit) Copy separately.

- This is a statement by a member that he/she has served the FDNY Summons to a person.
- It is also a statement by the inspector that the FDNY Summons was served in accordance with the law.

20

STATE OF NEW YORK, COUNTY OF _____ } ss:

Enter the County in which the FDNY Summons was served. (New York, Bronx, Kings, Queens, or Richmond).

21

that on _____, 20____, at _____ p.m./a.m.
DATE TIME

Fill in blanks, month/day/year. Do not use military time.

22

at [address:] _____

Enter address of the premises where the FDNY Summons was served.

23 to

26

Type of Service:

All units must comply with the procedures set forth below when issuing an FDNY Summons.

A FDNY Summons can only be served:

- Directly upon the respondent (if respondent is a person/individual) or the respondent's designated agent (if the respondent is a company/ corporation) authorized to accept service of the violation or if such person is unavailable,
- By conspicuously affixing the FDNY Summons upon the premises where the violation has occurred.

Check only one (1) of the four (4) types of service.

Department personnel issuing the FDNY Summons must first attempt to identify and locate a person at the premises authorized to accept service of the violation. For example, if the violation pertains to an entire building, Department personnel shall attempt to locate the building owner or someone authorized to accept service on behalf of the owner within the building itself. If the violation pertains to a portion of a building, such as a restaurant, Department personnel shall attempt to identify and locate the owner or someone authorized to accept service on behalf of the establishment within the establishment itself. In either case, if the owner or authorized person can be located, the FDNY Summons shall be served directly upon the owner or authorized person. If the owner or authorized person cannot be located within the establishment, Department personnel shall follow the procedures set forth in Section 4, below.

23

1. Individual Respondent:

Personal Service of the FDNY Summons directly upon the Owner.

If the respondent is an individual and such individual can be located within the building itself, he or she shall be the party served with the FDNY Summons. If the respondent cannot be located within the premises, Department personnel shall follow the instructions set forth in Section 4.

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2. Partnership Respondent:

Personal Service when the premise is owned by a Partnership.

If the respondent is a partnership, the FDNY Summons may be served upon one of the following persons authorized to accept service of process at the premises: (1) any partner; or (2) any managing or general agent of the partnership. If an authorized person cannot be located within the premises, Department personnel shall follow the instructions set forth in Section 4.

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3. Corporate Respondent:

Personal Service when the premise is owned by a Corporation.

If the respondent on the violation is a corporation, the FDNY Summons may be served upon one of the following persons authorized to accept service of process at the premises: (1) a corporate officer (for example, president or vice president); or (2) any corporate director; or (3) any managing or general agent of the corporation; or (4) any person authorized by appointment to receive service of process. Before serving the FDNY Summons upon such person, Department

personnel shall confirm that the individual has authorization to accept service. This can be accomplished by asking the following;

- **Are you an officer of the corporation?**
- Are you the managing agent for the corporation?
- Are you an agent authorized by the corporation to accept service?

If the answer to any of these questions is Yes, serve the FDNY Summons upon that individual. If the answer is No, follow the instructions set forth in Section 4, below.

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4. Affixing of Summons and Hearing:

When Department personnel are unable to identify or locate an owner within the premises, or, in the case of a partnership or corporate-owned premises, Department personnel have been unable to identify or locate any of the persons authorized to accept the FDNY Summons within the premises, Department members shall affix the Green Copy and Gold Copy of the FDNY Summons to the premises itself by taping it to a conspicuous place, preferably with the use of masking tape.

Anytime members communicate with anyone at the location who informs them that the respondent or representative of a partnership or corporation is not present, that individuals name must be entered in section 4.A on lines 1, 2 or 4 respectively. If members DO NOT make contact with anyone at the location check the box on line 3. Then check section 4.B and enter the location you posted the FDNY Summons.

In commercial premises, the following locations are recommended for taping the FDNY Summons:

- The door to the office of the building's manager.
- Any wall in the building's main lobby, if one exists, preferably near the building's security desk.

In multiple dwellings, the following locations are recommended for taping the FDNY Summons:

- The door to the superintendent's residence or office.
- The wall near the building's mailboxes or notice board.
- Any walls in the building's main lobby preferably near the building main entrance.

If none of the foregoing locations are suitable, the FDNY Summons shall be conspicuously placed on any hallway wall to which building users have regular access. Department personnel may post the FDNY Summons outside the main entrance door.

Department personnel shall make a reasonable effort to affix the FDNY Summons to a durable surface that will not be damaged by the tape, such as glass, tile, wood, or metal, provided that it is in a conspicuous location, as set forth above.

When a member is serving a 10-35 FDNY Summons upon the owner of a **private dwelling** and the owner is not home to accept service, the member may post the FDNY Summons outside the home either between the main entrance door and a storm door, on the outside of the main door or within the vicinity of the mailbox. Never place the FDNY Summons inside a mailbox.

Note: Affixing an FDNY Summons to a counter top or desk top is not permitted, as it may raise questions regarding service.

SERVICE RESTRICTIONS ON EMPLOYEES

Under no circumstance shall Department personnel give a FDNY Summons to an employee at the premises that is the subject of the violation, unless that employee is authorized to accept service on behalf of the respondent. After the FDNY Summons has been affixed to the premises, the employee is free to remove it, and Department personnel should not interfere with the employee doing so.

If anyone complains about the fact that an FDNY Summons is being affixed to the wall of a premises, Department personnel shall continue to affix the FDNY Summons and to inform such person that the Department has the legal right to affix the FDNY Summons. However, if anyone attempts to physically stop Department personnel from affixing the FDNY Summons or engages in confrontational behavior including threatening Department personnel, the Department personnel shall contact the Police Department for assistance.

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Description of Individual:

Check all boxes that best describe the individual to whom the FDNY Summons was served.

This area must be completed for all methods of service with the exception of affixing the summons when members are unable to locate anyone within the premises.

28

Other identifying characteristics:

Enter any special characteristics that will help to further identify the person to whom the FDNY Summons was served.

The following areas of the FDNY Summons must be completed.

29

Signature:

The inspecting member who served the FDNY Summons must sign in this space on the Affidavit; otherwise the FDNY Summons is unenforceable.

30

Printed Name:

The inspector who served the FDNY Summons must print his/her name in this space.

31


Inspector's Identification Number:

Enter the inspector's reference number..

32

Sworn to before me on _____

The Company Officer (on duty) must date and sign their name to certify that the Affidavit (Certificate) of Service was prepared and served properly.

FDNY SUMMONS • FOR CIVIL PENALTIES ONLY	
	
SUMMONS NUMBER: 11557501N	
ENFORCEMENT AGENCY NAME: NEW YORK CITY FIRE DEPARTMENT DIVISION: FP Unit: Admin CO	
AGENCY ADDRESS AND PHONE NUMBER: 9 MetroTech Center, 1 st Flr, Bklyn, NY 11201-3657, (718) 999-2392	
RESPONDENT:	DBA:
MAILING ADDRESS:	ACCOUNT NUMBER:
	UNIT PHONE NUMBER:
CELL PHONE:	
DATE OF OCCURRENCE: ____/____/____	TIME OF INSPECTION: ____ AM PM
PLACE OF OCCURRENCE:	BOROUGH:
<p>You must respond to this Summons. You can appear at the hearing date and location below or choose another option. For other options on how to respond, see the back of this page.</p>	
HEARING DATE: ____/____/____ AT: ____ AM PM	
HEARING LOCATION: OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS	
[Borough] (See reverse side for address) Phone: (844) 628-4692	
REFER TO THE SUMMONS NUMBER ABOVE ON ALL CORRESPONDENCE.	
<p>WARNING: If you do not respond to this summons, the City will decide the Summons against you and penalties will be imposed. Failure to pay a civil penalty could lead to the denial of an application for, or the suspension, termination or revocation of a City license, permit or registration. In addition, the City may enter a judgment against you in court.</p>	
<p>ORDER TO CORRECT AND CERTIFY CORRECTION: PLEASE TAKE NOTICE that the premises cited above is in violation of the requirements of law. It is further ORDERED by the FIRE COMMISSIONER that these violations be corrected and certified to be in compliance with the requirements of law within 35 days of the date of issuance. See back of summons for further instructions.</p>	
Details of Violation(s)	
COMPLIANCE DATE: ____/____/____	
<p>Upon investigation, the New York City Fire Department has determined that the respondent is in violation of the following requirements of the New York City Administrative Code and/or the rules of the City of New York. These requirements have been grouped into violation categories (VC) for enforcement purposes. This grouping is allowed by Fire Department rule 3 RCNY §109-02.</p>	
<input type="checkbox"/> VC1 Portable Fire extinguishers and Fire Hoses: Failed to provide and/or maintain required (portable fire extinguishers/fire hoses/other) at _____	<input type="checkbox"/> VC18 Certificates of Approval, Certificates of License and Company Certificates: Failed to obtain and/or produce required Certificate of Approval for _____ Certificate of License, or Company Certificate for _____
<input type="checkbox"/> VC2 Combustible Waste Containers: Failed to provide required container(s) for combustible waste and/or store combustible waste in a container at _____	<input type="checkbox"/> VC19 Affidavits, Design and Installation Documents and Other Documentation: Failed to (prepare/produce/submit) required documentation: _____
<input type="checkbox"/> VC3 Permits: Failed to (obtain/new/possess) a permit for _____	<input type="checkbox"/> VC20 Inspection and Testing: Failed to conduct required (initial/periodic) inspection or test of _____ at _____
<input type="checkbox"/> VC4 Unlawful Quantity or Location of Regulated Material: (Manufacture/Storage/Handle/Use) _____ of _____ in violation of permit/quantity/location restrictions.	<input type="checkbox"/> VC21 Portable Containers: Failed to (provide/use) required container for _____ at _____
<input type="checkbox"/> VC5 Recordkeeping: Failed to (maintain/produce) records for _____ at _____	<input type="checkbox"/> VC22 Stationary Tanks: Failed to provide required stationary tank storage system for _____ at _____
<input type="checkbox"/> VC6 Signs, Posting, Notices and Instructions: Failed to provide and/or maintain required (signs) (postings) (notices) (instructions) for _____ at _____	<input type="checkbox"/> VC23 Storage Facilities: Failed to provide required storage (cabinets/enclosures/rooms/vaults) at _____
<input type="checkbox"/> VC7 Labels and Markings: Failed to provide and/or maintain required label, or the other marking for _____ at _____	<input type="checkbox"/> VC24 Storage of Hazardous Materials/Commodities: Failed to provide required racks and/or shelf storage, and/or failed to store _____ at _____
<input type="checkbox"/> VC8 Storage, Accumulation and Removal of Combustible Material and Waste: Failed to remove combustible waste and/or allowed the storage/accumulation of combustible material, waste and/or vegetation at _____	<input type="checkbox"/> VC25 Electrical Hazards: Failed to provide and/or maintain required electrical devices/equipment and/or allowed electrical hazards to exist at _____
<input type="checkbox"/> VC9 Rooftop Access and Means of Egress: Failed to provide access/egress free from obstructions or impediments, and/or failed to maintain required egress at _____	<input type="checkbox"/> VC26 Heating and Refrigeration Equipment and Systems: Failed to provide and/or maintain required (heating/refrigerating) system for _____ at _____
<input type="checkbox"/> VC10 Overcrowding: Failed to limit number of persons in _____ to _____	<input type="checkbox"/> VC27 Electrical Lighting Hazards: Failed to provide, protect, and/or maintain required lighting devices or equipment at _____
<input type="checkbox"/> VC11 General Maintenance: Failed to maintain _____ in (good working order/clean condition) or in compliance with (general maintenance/housekeeping) requirements.	<input type="checkbox"/> VC28 Open Fires, Open Flames and Sparks: Unlawfully (lit/maintained/operated/used/failed to protect) (open fire open flame/sparking device) at _____
<input type="checkbox"/> VC12 Fire Protection Systems: Failed to provide and/or maintain required _____ at _____, and/or prevent unnecessary/unwarranted alarms.	<input type="checkbox"/> VC29 Designated Handling and Use Rooms Areas: Failed to provide required (room/area) for (handling/use) of _____
<input type="checkbox"/> VC13 Flame-Resistant Materials: Failed to provide and/or maintain flame-resistant materials _____ at _____	<input type="checkbox"/> VC30 Emergency Planning and Preparedness: Failed to comply with emergency planning and preparedness requirements _____
<input type="checkbox"/> VC14 Fire-Rated Doors and Windows: Failed to (provide/protect/maintain) required (fire-rated/self-closing/access) door/window at _____	<input type="checkbox"/> Repeat Violation (§15-229) Repeat violation of VC(s) _____ as previously cited on Summons# _____ (Respondent must appear at hearing)
<input type="checkbox"/> VC15 Fire-Rated Construction: Failed to provide and/or maintain required fire-rated construction of _____ at _____	<input type="checkbox"/> False Certification (§15-220.1) Willfully falsified Certificate of Correction for Summons# _____ (Respondent must appear at hearing.)
<input type="checkbox"/> VC16 Ventilation: Failed to provide and/or maintain required ventilation _____ at _____ for _____	<input type="checkbox"/> Failed to Comply with Commissioner's Order to Correct and Certify (§15-231) On previously cited Summons# _____ (Respondent must appear at hearing)
<input type="checkbox"/> VC17 Certificates of Fitness and Certificates of Qualification: Failed to obtain and/or produce required (Certificate of Fitness/Certificate of Qualification) for _____	<input type="checkbox"/> Other Fire Code/Rule Violations: _____
Description of Violation: _____	
<input type="checkbox"/> Supplement Attached Maximum penalty for each First Offense: \$1,000. Maximum penalty for each Repeat Violation: \$5,000.	
NYC Charter Sections 1048 and 1049-a and the Rules of the City of New York authorize the NYC Office of Administrative Trials and Hearings (OATH) to hold hearings	
I, an employee of the agency named above, affirm under penalty of perjury that I personally observed the commission of the violation(s) charged above and/or verified their existence through a review of departmental records. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law.	
Signature: _____	Print Name/ID: _____ Title: _____



19

AFFIDAVIT (CERTIFICATE*) OF SERVICE

20 STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

The undersigned being duly sworn*, deposes and says, that s/he is not a party to the action and is over eighteen (18) years of age, that on _____, 20____, at _____ p.m./a.m. 21
at [address:] _____

22 _____, s/he
served the attached Summons on the Respondent named herein, as follows:

1. Individual Respondent 23

☐ by delivering a true copy to [insert name:] _____
_____, who is the respondent.

2. Partnership Respondent 24

☐ by delivering a true copy to [insert name:] _____,
who is the [insert position:] _____ of said respondent.

3. Corporate Respondent 25

☐ by delivering a true copy to [insert name:] _____,
who is the [insert position:] _____ of said respondent.

4. Affixing of Summons and Hearing

26 A. I attempted to personally serve the attached Summons on the
respondent named herein but was unable to do so because, having entered the premise and having
identified myself, I was:

1. ☐ advised by [insert name:] _____
that the respondent was not present;
2. ☐ advised by [insert name / relationship to building:] _____
that an appropriate representative of the partnership respondent or corporate
respondent was not present;
3. ☐ unable to locate anyone within the premises to inform me whether an appropriate
representative of the respondent was present. No one responded to any bells, knocks
or calls and there were no signs visibly posted reflecting any contact information;
4. ☐ advised by [insert name / relationship to building:] _____
that no officer, director, managing agent, agent, or partner of respondent partnership/corporation was present.

B. ☐ Thereupon, I affixed the Summons at the foregoing location in
the following place: _____

[The following is to be completed if a person was served with the Summons.]

Description of Individual. Deponent describes the individual served as follows:

27 ☐ Male ☐ Fair Complexion ☐ Black Hair ☐ 14-20 yrs ☐ Under 5' ☐ Under 100 lbs.
☐ Female ☐ Medium Complexion ☐ Brown Hair ☐ 21-35 yrs ☐ 5'0" - 5'3" ☐ 100-130 lbs.
☐ Dark Complexion ☐ Blond Hair ☐ 36-50 yrs ☐ 5'4" - 5'8" ☐ 131-160 lbs.
☐ Gray Hair ☐ 51-65 yrs ☐ 5'9" - 6'0" ☐ 161-200 lbs.
☐ White Hair ☐ Over 65 yrs ☐ Over 6' ☐ Over 200 lbs.
☐ Red Hair
☐ Bald

28 Other identifying characteristics: _____

29 Signature: _____ Date: _____

30 Printed Name: _____

Inspector's Identification Number: _____ 31

*If not sworn, this statement shall constitute a certificate of service.

32 Sworn to before me on _____ 20_____

Signature of Certifying Officer

8. VOIDING AN FDNY SUMMONS

If an error is made on an FDNY Summons, the entire FDNY Summons must be voided.

- Write the word VOID across the face of the FDNY Summons.
- Return all copies to the Bureau of Legal Affairs Administrative Enforcement Unit except the Pink (Fire Department Issuing Unit) Copy. This copy is kept for Company (Unit) records.

9. FORWARDING FDNY SUMMONS TO HEADQUARTERS

After serving the FDNY Summons upon the respondent or affixing it to the premises, Department personnel shall forward the White (OATH) Copy and the Blue (FDNY Records Unit) Copy to the BISP Unit via the Chain of Command. The issuing unit shall retain the Pink (Fire Department Issuing Unit) Copy. The BISP Unit, after reviewing these documents will forward them to the Bureau of Legal Affairs Administrative Enforcement Unit.

10. RECORDKEEPING PROCEDURES - FILE SYSTEM

In order to standardize and facilitate the gathering of information and the tracking of FDNY Summons the following recordkeeping procedures shall be followed:

1. Outstanding FDNY Summons - Pink Fire Department Issuing Unit Copy
 - Keep in a designated area of a file drawer (similar to the system used for outstanding VOs).
 - Keep in numerical order. (This makes it easier to track an FDNY Summons.)
2. When an FDNY Summons is “cured” a copy is returned to the issuing unit.
 - Attach all related FDNY Summons documents.
 - File in building record folder for premise address.

11. RESCINDING AN FDNY SUMMONS ISSUED IN ERROR

To rescind an FDNY Summons that was issued in error, the following procedures must be adhered to:

Prior to the scheduled hearing date, the issuing unit must submit a written report to the Director of the Legal Enforcement Unit of the Bureau of Legal Affairs.

The report must be on FDNY letterhead and contain the following information:

- FDNY Summons number.
- Cause or basis for the error.
- All supporting evidence/documentation, including a copy of the FDNY Summons issued in error.
- Clearly printed (typed) Supervisor's/Officer's name.
- Supervisor's/Officer's telephone number.
- Signature of Supervisor/Officer.

Once the report and supporting documentation are received, the Legal Enforcement Unit will forward them and the necessary completed application to the OATH for a Special Adjudication.

There is no method for an issuing agency to unilaterally rescind, void, or otherwise dispose of an FDNY Summons which has already been processed. In addition, issuing units **must not** send/give any correspondence to the respondent. All matters, regarding such incidents must be handled by the Legal Enforcement Unit.

Questions regarding rescinding FDNY Summons may be directed to the Director of the Legal Enforcement Unit at (718) 999-1378.

12. OATH HEARING ADJOURNMENTS

Office of Administrative Trials and Hearings (OATH) rules provide that the failure of a member to timely appear on the scheduled adjourned date is grounds for dismissal of a FDNY Summons, absent extraordinary circumstances. When a member is required to appear at the OATH (whether requested by the Department, the Respondent, or the Administrative Law Judge), the Fire Department Representative at the hearing will, if possible, promptly attempt to contact the member or their supervisor to obtain an adjournment upon which the member is available to appear at OATH.

To avoid dismissal of violations, cooperation of all members and officers is requested by:

- (a) accepting calls from the FDNY Representatives and promptly responding to the Legal Enforcement Unit's requests to confirm an adjourned date; and
- (b) ensure that members attend OATH hearings once they have been scheduled to appear (including reminding them of the appearance a day or two in advance). If the supervisor is aware of any reason that a member cannot attend a hearing, please promptly contact the Legal Enforcement Unit by phone 718-999-1378, fax 718-999-2235.

13. GLOSSARY

Affidavit (Certificate*) of Service	(On back of White, Pink and Blue Copies.) Statement by the inspector or a process server that he/she has served a FDNY Summons on the person named or described thereon. If sworn to before a Notary it is an Affidavit of Service. If signed by Company Officer it is a Certificate of Service.
Audit	The Bureau of Legal Affairs Administrative Enforcement Unit will specify which FDNY Summons shall be audited.
Certificate of Correction	(Gold Copy) This contains a Certificate of Correction which the respondent must sign before a notary, after the violations have been corrected. If the Bureau of Legal Affairs Administrative Enforcement Unit receives this Certificate of Correction and any appropriate documentation, and determines that such documents show compliance before the compliance date, the FDNY Summons will be “cured” and the respondent will not need to appear for an OATH hearing or be assessed a penalty.
Corrected at Hearing	Respondents who do not comply with a FDNY Summons by the compliance date must attend a hearing. If the respondent or respondent’s representative shows proof of compliance at an OATH hearing the violation would be considered “corrected.”
Cured	The Bureau of Legal Affairs Administrative Enforcement Unit will “cure” a FDNY Summons if the violation has been corrected and the Bureau of Legal Affairs Enforcement Unit receives the Certificate of Correction and appropriate supporting documentation by the compliance date.
Default	When a Certificate of Correction has not been received by the Bureau of Legal Affairs Administrative Enforcement Unit by the compliance date and the respondent does not appear the scheduled OATH hearing.
Guilty/In Violation	If the respondent attends a hearing at the OATH with no proof of compliance, the Hearing officer may determine that the respondent violated the laws, rules or regulations cited on the FDNY Summons.
Personally Abated	When the violations cited on an FDNY Summons are corrected before the inspecting member leaves the premises.
Reinspection (of an FDNY Summons)	Defaults, stipulation defaults, and guilty pleas are to be re-inspected. The Bureau of Legal Affairs Administrative Enforcement Unit will notify units of which premises are to be re-inspected by forwarding a Reinspection Order Form.

Reinspection Order Form	A two (2) part form sent by the Bureau of Legal Affairs Administrative Enforcement Unit to field units, indicating premises to be re-inspected.
Respondent	A person or entity to which an FDNY Summons is issued.
Stipulation	When a respondent is granted an extension of time, beyond compliance date, to comply with a FDNY Summons. The OATH must approve a stipulation for it to be valid.
Stipulation Default	When a respondent does not comply with an FDNY Summons after the stipulated extension of time allowed for compliance.

BY ORDER OF THE FIRE COMMISSIONER AND CHIEF OF DEPARTMENT