

ONEIDA COUNTY HEALTH DEPARTMENT

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CLEAN INDOOR AIR ACT ENFORCEMENT POLICY

Pursuant to New York State Public Health Law Article 13-E, the Oneida County Health Department, through its Environmental Health Division, will enforce the Clean Indoor Air Act (CIAA) by means of a complaint-driven progressive enforcement process and a graduated fine scale as described herein.

Progressive Enforcement

The Environmental Division will receive complaints alleging violations of the Clean Indoor Air Act via telephone.

- First Complaint – upon the Health Department’s receipt of a first complaint about an establishment, the establishment will be issued an advisory notice, via telephone or letter, from the Environmental Health Division. The nature of this advisory notice will be to educate the owner or manager of the establishment on the requirements and restrictions imposed by the Act. No fine will be levied at this stage. Anonymous complaints will not be accepted but complainant names shall remain confidential.
- Second Complaint – the Environmental Health Division will perform an on-site inspection of the establishment. This inspection may occur at any time during the establishment’s normal operating hours. The establishment will not be given prior notice of the inspection. A complaint will not be considered a second complaint until ten (10) days after the transmission of the advisory notice to the establishment.
- Third and All Subsequent Complaints – such complaints will be treated in the same manner as second complaints, but the fine assessed will increase with each subsequent violation found.
- A complaint will not be considered to be the next complaint (third or subsequent) until the establishment has been duly notified in writing of the results of the inspection following the previous complaint (i.e., an establishment cannot be complained of for the fourth time until it knows of the results of the inspection for the third complaint).
- Health Department Permitted Establishment – an Environmental Health inspector may cite violations of the Act that are observed during a routine inspection of a Health Department Permitted Establishment pursuant to the New York State Sanitary Code. That violation will be cited in the same manner as a violation observed during an inspection following a second complaint. Violations of the CIAA will be cited even if there has never been a prior complaint against the establishment. The fine assessed for this violation will be based on the number of prior violations committed by that establishment.
- Following an on-site inspection of an establishment, the Environmental Health inspector shall identify himself to the establishment owner/operator or other person in charge, state the purpose of the investigation and any violations found. Where safety concerns exist, the inspector may notify the establishment owner/ operator of his/her findings on the next business day.
- If a violation of the Act is found during an on-site inspection of the establishment, the Health Department will fine the establishment pursuant to the graduated fine scale below. The establishment will have the opportunity to dispute the finding of violation at a hearing according to the Health Department’s regular administrative hearing process. If it wishes to avoid a hearing, the establishment may pay its fine in advance of the hearing date.
- Re-Inspection After Violation – At those establishments determined to be in violation of the CIAA, whether after an administrative hearing or the signing of a stipulated settlement agreement, the Environmental Health Division shall conduct an unannounced on-site inspection of the establishment within six months.
- Unannounced and random compliance inspections will not occur. Inspections will only occur (1) after an establishment is complained about two times; (2) during a routine food service establishment inspection; or (3) following a determination that an establishment was in violation of the CIAA.

Graduated Fine Scale

Fines for violation of the Clean Indoor Air Act will be levied as follows:

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|---------------------------------------|------------|
| ▪ First violation | \$50.00 |
| ▪ Second violation | \$250.00 |
| ▪ Third violation | \$500.00 |
| ▪ Fourth violation | \$750.00 |
| ▪ Fifth and all subsequent violations | \$1,000.00 |

Punishment for Establishments Operating Under a Waiver

If an establishment has received a waiver pursuant to Public Health Law § 1399-u, then the Environmental Health Division will still respond to complaints that the establishment is operating in violation of its waiver.

- Such complaints will be responded to in the same manner as complaints of violation of the Act itself.
- If, after an inspection, the Environmental Health Division finds that the establishment is in violation of its waiver, the establishment will be fined according to the Graduated Fine Scale and will have its waiver revoked.

Once an establishment’s waiver is revoked, that establishment will not be eligible for a waiver again