

County of Santa Clara

Department of Environmental Health

Consumer Protection Division

1555 Berger Drive, Suite 300, San Jose, CA 95112-2716

Phone (408) 918-3400 www.ehinfo.org



OFFICIAL INSPECTION REPORT

Facility FA0302801 - BANH MI OVEN		Site Address 1143 STORY RD 196, SAN JOSE, CA 95122		Inspection Date 02/11/2025		Placard Color & Score YELLOW 43		
Program PR0452650 - FOOD PREP / FOOD SVC OP 0-5 EMPLOYEES RC 2 - FP10			Owner Name BANH MI OVEN INC		Inspection Time 14:55 - 17:00			
Inspected By HENRY LUU		Inspection Type ROUTINE INSPECTION		Consent By VU				FSC Thien Vu Tran Dinh 06/28/2027

RISK FACTORS AND INTERVENTIONS		IN	OUT		COS/SA	N/O	N/A	PBI
			Major	Minor				
K01	Demonstration of knowledge; food safety certification	X						N
K02	Communicable disease; reporting/restriction/exclusion	X						
K03	No discharge from eyes, nose, mouth	X						
K04	Proper eating, tasting, drinking, tobacco use	X						N
K05	Hands clean, properly washed; gloves used properly		X		X			N
K06	Adequate handwash facilities supplied, accessible			X				N
K07	Proper hot and cold holding temperatures		X		X			N
K08	Time as a public health control; procedures & records						X	
K09	Proper cooling methods					X		
K10	Proper cooking time & temperatures					X		
K11	Proper reheating procedures for hot holding						X	
K12	Returned and reservice of food	X						
K13	Food in good condition, safe, unadulterated		X		X			N
K14	Food contact surfaces clean, sanitized					X		
K15	Food obtained from approved source		X		X			
K16	Compliance with shell stock tags, condition, display						X	
K17	Compliance with Gulf Oyster Regulations						X	
K18	Compliance with variance/ROP/HACCP Plan						X	
K19	Consumer advisory for raw or undercooked foods	X						
K20	Licensed health care facilities/schools: prohibited foods not being offered						X	
K21	Hot and cold water available	X						
K22	Sewage and wastewater properly disposed	X						
K23	No rodents, insects, birds, or animals	X						

GOOD RETAIL PRACTICES		OUT	COS
K24	Person in charge present and performing duties	X	
K25	Proper personal cleanliness and hair restraints		
K26	Approved thawing methods used; frozen food		
K27	Food separated and protected		
K28	Fruits and vegetables washed		
K29	Toxic substances properly identified, stored, used		
K30	Food storage: food storage containers identified		
K31	Consumer self service does prevent contamination		
K32	Food properly labeled and honestly presented	X	
K33	Nonfood contact surfaces clean		
K34	Warewash facilities: installed/maintained; test strips	X	
K35	Equipment, utensils: Approved, in good repair, adequate capacity	X	
K36	Equipment, utensils, linens: Proper storage and use	X	
K37	Vending machines		
K38	Adequate ventilation/lighting; designated areas, use	X	
K39	Thermometers provided, accurate		
K40	Wiping cloths: properly used, stored		
K41	Plumbing approved, installed, in good repair; proper backflow devices		
K42	Garbage & refuse properly disposed; facilities maintained		
K43	Toilet facilities: properly constructed, supplied, cleaned		X
K44	Premises clean, in good repair; Personal/chemical storage; Adequate vermin-proofing		X
K45	Floor, walls, ceilings: built, maintained, clean		X
K46	No unapproved private home/living/sleeping quarters		
K47	Signs posted; last inspection report available	X	

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K48	Plan review		X
K49	Permits available		
K58	Placard properly displayed/posted		

Comments and Observations

Major Violations

K05 - 8 Points - Hands not clean/improperly washed/gloves not used properly; 113952, 113953.3, 113953.4, 113961, 113968, 113973 (b-f)

Inspector Observations: Observed employee, who stated that they are no longer employed at facility, handle phone, touched hair, and donned on used gloves and attempted to begin food preparation.

Follow-up By 02/17/2025

Observed kitchen employee stepping outside of facility and returning into the kitchen and began food preparation. Same employee was also observed touching hair and face with gloves, touching side of garbage can, and mopping floors, all with the same gloves used to conduct food preparation.

[CA] Ensure employees are properly washing hands as required. Employees shall wash their hands in all of the following instances:

- (1) Immediately before engaging in food preparation, including working with non-prepackaged food, clean equipment and utensils, and unwrapped single-use food containers and utensils.
- (2) After touching bare human body parts other than clean hands and clean, exposed portions of arms.
- (3) Immediately after using the toilet room and again when returning into the kitchen.
- (4) After caring for or handling any animal allowed in a food facility in pursuant to this part.
- (5) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking.
- (6) After handling soiled equipment or utensils.
- (7) During food preparation as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks.
- (8) When switching between working with raw food and working with ready-to-eat foods.
- (9) Before initially donning gloves for working with food.
- (10) Before dispensing or serving food or handling clean tableware and serving utensils in the food service area.
- (11) After engaging in other activities that contaminate the hands.

Properly wash hands with soap, warm water and dry using single use paper towels as required. Single-use gloves shall be removed prior to washing hands.

[COS] Instructed employee to stop food preparation and to properly wash hands.

Observed used gloves stored on rolling carts where the ovens are placed.

[CA] Gloves once removed from hands shall not be reused.

K07 - 8 Points - Improper hot and cold holding temperatures; 11387.1, 113996, 113998, 114037, 114343(a)

Inspector Observations: Observed prepackaged spring rolls maintained out in ambient temperature measuring at 63F. No temperature control or time control observed for item.

Follow-up By 02/17/2025

Fried eggs maintained above the load limit of the food preparation refrigerator measured between 43F to 45F.

[CA] PHFs shall be held at 41°F or below or at 135°F or above. Discontinue storing food items above load limit of the food preparation refrigerator.

[COS] Instructed employee to immediately refrigerate spring rolls or utilize time as a public health control (TPHC) and to discard after 4 hours.

K13 - 8 Points - Food not in good condition/unsafe/adulterated; 113967, 113976, 113980, 113988, 113990, 114035, 114041, 114254(c), 114254.3

Inspector Observations: Observed employees with soiled and/or contaminated gloves conducting food preparation.

**** See K05 violation above.**

[CA] No employee shall commit any act that may cause the contamination or adulteration of food, food-contact surfaces, or utensils.

[COS] Instructed employees to VC&D food items.

Follow-up By 02/17/2025

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K15 - 8 Points - Food not obtained from approved source; 113980, 113982, 114021-114031, 114041

Inspector Observations: Facility does not have the approval to conduct food preparation in unit 196/198. Unit 196/198 shall only be the point of sale for prepackaged food items only.

**Follow-up By
02/17/2025**

[CA] Food must be from an approved source or properly documented.

[COS] Facility is to immediately cease and desist food preparation inside unit 196/198.

*** Note: facility is still pending plan check.**

Minor Violations

K06 - 3 Points - Inadequate handwash facilities: supplied or accessible; 113953, 113953.1, 113953.2, 114067(f)

Inspector Observations: Hand wash sink in the front service area (unit 196 and 198) partially obstructed with rolling cart.

Hand wash station inside unit 192 obstructed with equipment.

[CA] Handwashing facility shall be clean, unobstructed, and accessible at all times.

K24 - 2 Points - Person in charge not present and not performing duties; 113945-113945.1, 113984.1, 114075

Inspector Observations: At beginning of this Division's arrival, employee behind the counter stated that they were no longer an employee and was only there to pick up paycheck. Employee was observed conducting food preparation and handing food to customers.

Manager and/or person-in-charge was not present at the beginning of the inspection and refused service.

[CA] A "person in charge" who is responsible for operation of facility shall be present at the food facility during all hours of operation.

The "person in charge" shall ensure that persons unnecessary to the food facility operation shall not be allowed in the food preparation, food storage, or warewashing areas.

[COS] Owner arrived on site after approximately 40 minutes and provided consent for inspection.

K32 - 2 Points - Food improperly labeled & not honestly presented: 114087, 114089, 114089.1(a, b), 114090, 114093.1

Inspector Observations: Numerous prepackaged food items maintained inside the merchandiser refrigerators for customer self-service lacked labels.

[CA] Food prepackaged in a food facility shall bear a label with the following: 1) common name of the food, 2) list of ingredients in descending order of predominance by weight, 3) quantity of contents, 4) name and place of business of the manufacturer, packer, or distributor.

K34 - 2 Points - Warewashing facilities: not installed or maintained; no test strips; 114067(f,g), 114099, 114099.3, 114099.5, 114101(a), 114101.1, 114101.2, 114103, 114107, 114125

Inspector Observations: Bar style three-compartment sink is provided in unit 196. Observed numerous equipment air drying on drain boards that do not readily fit inside the compartment of the sink.

Large three-compartment sink is provided inside 192 which owner stated is used to wash larger utensils, however, three-compartment sink observed heavily soiled and appeared to have not been used for quite some time.

[CA] Sink compartments shall be large enough to accommodate immersion of the largest equipment and utensils.

K35 - 2 Points - Equipment, utensils - Unapproved, unclean, not in good repair, inadequate capacity; 114130, 114130.1, 114130.2, 114130.3, 114130.4, 114130.5, 114132, 114133, 114137, 114139, 114153, 114155, 114163, 114165, 114167, 114169, 114175, 114177, 114180, 114182

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Inspector Observations: Numerous domestic toaster ovens in use. Observed butane burners and cooking equipment maintained inside the kitchen.

[CA] All utensils and equipment shall be certified or classified for sanitation by an American National Standards Institute (ANSI) accredited certification program (e.g. NSF, UL EPH, UL Sanitation, CSA Sanitation, or ETL Sanitation). Provide commercial equipment and remove unapproved equipment.

K36 - 2 Points - Equipment, utensils, linens: Improper storage and use; 114074, 114081, 114119, 114121, 114161, 114178, 114179, 114083, 114185, 114185.2, 114185.3, 114185.4, 114185.5

Inspector Observations: Ice scoop maintained inside ice machine with handle in direct contact with consumable ice.

[CA] Handle to ice scoop shall be stored so that it is not in direct contact with ice.

Observed yellow microfiber towels used to cover vegetables inside the food preparation refrigerator.

[CA] Discontinue the use of cloth towels in direct with food, used approved, single use materials.

K38 - 2 Points - Inadequate ventilation and lighting in designated area; 114149, 114149.1, 114149.2, 114149.3, 114252, 114252.1

Inspector Observations: Observed unapproved cooking equipment inside the facility - butane burners. Facility lacks any type of ventilation hood system.

[CA] Provide approved exhaust hood ventilation over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors.

K43 - 2 Points - Toilet facilities: improperly constructed, supplied, cleaned; 114250, 114250.1, 114276

Inspector Observations: Employee stated that restrooms are provided upstairs. Per permit condition, restroom facilities shall be provided from adjacent facility Tasty Pot. This Division was unable to access restrooms in adjacent facility.

Follow-up By
02/17/2025

*** Provide contact agreement for restroom use in the adjacent facility.**

[CA] Restrooms shall be provided and conveniently located and accessible for use by employees during all hours of operation.

K44 - 2 Points - Premises not clean, not in good repair; No personal/chemical storage; inadequate vermin-proofing; 114067(j), 114123, 114143 (a,b), 114256, 114256.1, 114256.2, 114256.4, 114257, 114257.1, 114259, 114259.2, 114259.3, 114279, 114281, 114282

Inspector Observations: Employees' personal belongings observed stored in areas of food storage and food preparation. Lockers were not provided for employees.

[CA] No person shall store clothing or personal effects in any area used for the storage and preparation of food or food contact surfaces. Lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other possessions.

Observed unit 192 heavily cluttered with equipment stored. Unit appears not in use. Owner stated the janitorial sink and sometimes the three-compartment sink is used.

[CA] The premises of a food facility shall be free of litter and items that are unnecessary to the operation or maintenance of the facility, such as equipment that is nonfunctional or no longer used.

K45 - 2 Points - Floor, walls, ceilings: not built, not maintained, not clean; 114143(d), 114266, 114268, 114268.1, 114271, 114272

Inspector Observations: Heavy accumulation of food debris observed on floors in the front service area.

[CA] Regularly clean under equipment to prevent accumulation of debris.

K47 - 2 Points - Signs not posted; last inspection report not available; 113725.1, 113953.5, 113978, 114381(e)

Inspector Observations: Health permit not posted in visible location.

[CA] The health permit issued by this department shall be posted in a conspicuous place in the food facility.

K48 - 2 Points - Plan review unapproved; 114380

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Inspector Observations: *As stated on the facility evaluation report conducted on 5/16/2024, unit 196 and 198 shall only be a point of sale for prepackaged food items only. At time of inspection, facility was conducting food preparation in unit 196 and 198.*

Follow-up By
02/20/2025

Facility has submitted plans which were approved, however, a final inspection has not been scheduled.

[CA] Facility is to immediately cease and desist all food preparation inside unit 196 and 198 until plan check final inspection has been conducted.

Performance-Based Inspection Questions

Needs Improvement - Proper hot and cold holding temperatures.
Needs Improvement - Demonstration of knowledge; food manager certification.
Needs Improvement - Proper eating, tasting, drinking, tobacco use.
Needs Improvement - Adequate handwash facilities: supplied or accessible.
Needs Improvement - Food in good condition, safe, unadulterated.
Needs Improvement - Hands clean/properly washed/gloves used properly.

Measured Observations

Item	Location	Measurement	Comments
Warm water	Hand wash sink - unit 196/198	101.00 Fahrenheit	
Cooked chicken	Merchandise refrigerator	41.00 Fahrenheit	
Sliced head cheese	Food preparation refrigerator	40.00 Fahrenheit	
Hot water	Three-compartment sink - unit 196/198	121.00 Fahrenheit	

Overall Comments:

- Two or more major violations were observed during the routine inspection.
- A follow-up inspection will be conducted to verify compliance of all major violations.
- Subsequent follow-up inspection after first follow-up shall be billed \$298/hour, minimum one hour, during normal business hours (Monday - Friday, 7:30 AM to 4:30 PM), and \$645/hour, minimum two hours, during non-business hours, and upon inspector availability.
- The posted placard is property of the Santa Clara County Department of Environmental Health and shall not be removed, covered-up, relocated, tampered, or copied. Failure to comply may result in enforcement actions per County Ordinance Code Section B11-55.
- On-site to conduct routine inspection and complaint investigation.
- At beginning of visit, employee present stated that they were no longer an employee and is not a representative of the facility and cannot provide consent to conduct inspection.
 - Employee stated that owner/manager will be on the way, however, after 30 minutes, owner nor manager did not show up.
- Manager refused entry to conduct inspection.
- Note: It is a violation of California Retail Food Code 114390.(d) to refuse to entry or inspection of an enforcement officer.
 - Repeated violations will result in office hearing.

When required to determine compliance, a single reinspection will be conducted without additional charge. If subsequent reinspections are required, an hourly fee (minimum one hour) at the current rate approved by the Board of Supervisors will be assessed for each and every reinspection until the necessary changes or corrections are made. Unless otherwise noted by the inspector, all violations are to be corrected no later than 2/25/2025. Any major change in menu or any change in ownership must have prior approval by this Department. This may require structural and/or equipment changes or remodeling to accommodate new operations.

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Legend:

[CA]	Corrective Action
[COS]	Corrected on Site
[N]	Needs Improvement
[NA]	Not Applicable
[NO]	Not Observed
[PBI]	Performance-based Inspection
[PHF]	Potentially Hazardous Food
[PIC]	Person in Charge
[PPM]	Part per Million
[S]	Satisfactory
[SA]	Suitable Alternative
[TPHC]	Time as a Public Health Control



Received By: Vu D.
Owner

Signed On: February 11, 2025