

# 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

<b>Facility</b> FA0283249 - SMOKE EATERS		<b>Site Address</b> 5018 ALMADEN EX 30, SAN JOSE, CA 95118		<b>Inspection Date</b> 09/27/2023		<b>Placard Color &amp; Score</b> <div style="background-color: green; color: white; padding: 10px; text-align: center;"> <b>GREEN</b>  <b>73</b> </div>		
<b>Program</b> PR0424892 - FOOD PREP / FOOD SVC OP 6-25 EMPLOYEES RC 2 - FP13			<b>Owner Name</b> SMOKE EATERS, LP		<b>Inspection Time</b> 14:25 - 15:45			
<b>Inspected By</b> HENRY LUU		<b>Inspection Type</b> ROUTINE INSPECTION		<b>Consent By</b> PATRICK B.				<b>FSC</b> Not Available

  

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						S
K06	Adequate handwash facilities supplied, accessible	X						
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						
K14	Food contact surfaces clean, sanitized	X						
K15	Food obtained from approved source	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		
K25	Proper personal cleanliness and hair restraints		
K26	Approved thawing methods used; frozen food	X	
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		
K33	Nonfood contact surfaces clean		
K34	Warewash facilities: installed/maintained; test strips		
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		
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		
K44	Premises clean, in good repair; Personal/chemical storage; Adequate vermin-proofing		
K45	Floor, walls, ceilings: built, maintained, clean		
K46	No unapproved private home/living/sleeping quarters		
K47	Signs posted; last inspection report available	X	

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

## Comments and Observations

### Major Violations

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

**Inspector Observations: Numerous PHF items maintained inside the walk-in refrigerator measured as follows:**

- Two containers of chunky tomato sauce - 48F.
- 8 small to-go containers of queso cheese - 47F.
- Two-containers of sliced tomatoes prepared 9/25 - 47F.
- Container of prepackaged beef labeled french dip 9/24 - 48F.
- Container of tomato chili sauce - 46F.
- Container of raw shelled eggs - 48F.
- Numerous prepackaged slabs of raw beef measured at 49F.
- Two container of raw marinated chicken breast measured at 49F.

**Ambient temperature of the walk-in refrigerator measured at 50F to 55F via IR.**

**[CA] PHFs shall be held at 41°F or below or at 135°F or above.**

**[COS] PHF items inside the walk-in refrigerator were VC&D due to improper holding.**

**Container of cooked chicken wings maintained inside the two-door upright refrigerator at the cook line measured at 70F. Manager stated that the chicken wings were kept outside during the lunch rush for approximately one hour and then relocated into the refrigerator to immediately cool. [CA] Use only small portions of food during preparation so that it does not exceed the maximum amount of time allowed for diligent prep.**

**\*\* Note: consider using time as a public health control (TPHC) for PHF items during lunch rush. When time only, rather than time and temperature is used as a public health control, PHFs shall be time marked to indicate when item is removed from temperature control, discarded if not consumed or served within 4 hours, and written procedures shall be readily available for review.**

### Minor Violations

K01 - 3 Points - Inadequate demonstration of knowledge; food manager certification

**Inspector Observations: Five-year Food Safety Certified (FSC) manager certificate is expired.**

**[CA] Food facilities that prepare, handle, or serve non-prepackaged potentially hazard foods shall have a valid Food Safety Certificate available for review at all times. Provide within 60 days.**

K04 - 3 Points - Improper eating, tasting, drinking or tobacco use in food preparation area; 113977

**Inspector Observations: Observed numerous opened beverages and half-eaten and opened prepackaged snacks and cookies throughout the kitchen counters next to areas and food in preparation.**

**[CA] No employee shall eat or drink in the food prep, food contact storage, or food storage areas, use designated area. Utilize cups with lids and straws. Provided designated location for employees to store personal food and beverages.**

K09 - 3 Points - Improper cooling methods; 114002, 114002.1

**Inspector Observations: Numerous trays of fried chicken wings actively cooling inside the walk-in refrigerator kept stacked on top of each other. Outer edges of the tray measured at 50F while the center measured between 55F to 60F.**

**[CA] Properly cool PHF's using shallow containers, using no more than 2 inches for solid foods and no more than 4 inches for liquids. Separate chicken wings to allow for rapid cooling.**

K26 - 2 Points - Unapproved thawing methods used; frozen food; 114018, 114020, 114020.1

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**Inspector Observations:** Three large slabs of prepackaged raw beef thawing in ambient temperature at the three-compartment sink.

**[CA]** Frozen potentially hazardous food shall only be thawed in one of the following ways: 1) under refrigeration that maintains the food temperature at 41°F or below, 2) completely submerged under potable running water for a period not to exceed two hours at a water temperature of 70°F or below, and with sufficient water velocity to agitate and flush off loose particles into the sink drain, 3) in a microwave oven if immediately followed by immediate preparation, 4) as part of a cooking process.

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

**Inspector Observations:** Ambient temperature of the walk-in refrigerator measured at 50F to 55F via IR.

**[CA]** Refrigeration must be capable of maintaining PHFs at 41°F or below.

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:** Numerous pressurized cylinder cans stored along wall by the hand wash station across from the two-compartment food preparation sink.**[CA]** All pressurized cylinders shall be securely fastened to a rigid structure.

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

**Inspector Observations:** Previous expired health permit is posted.

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

K49 - 2 Points - Permits not available; 114067(b,c), 114381(a), 114387

**Inspector Observations:** Facility is currently operating without a valid health permit.

**[CA]** A food facility shall not be open for business without a valid health permit.

## Performance-Based Inspection Questions

Needs Improvement - Proper eating, tasting, drinking, tobacco use.

Needs Improvement - Proper hot and cold holding temperatures.

Needs Improvement - Demonstration of knowledge; food manager certification.

## Measured Observations

Item	Location	Measurement	Comments
Sliced tomatoes	Food preparation refrigerator	41.00 Fahrenheit	Top insert
Cooked chicken	Drawer refrigerator under griddle	37.00 Fahrenheit	
Fried chicken wings	Two-door upright refrigerator	41.00 Fahrenheit	
Cooked beef	Drawer refrigerator under griddle	39.00 Fahrenheit	
Raw chicken	Drawer refrigerator under griddle	39.00 Fahrenheit	
Shredded cheese	Food preparation refrigerator	40.00 Fahrenheit	Top insert
Sliced cheese	Drawer refrigerator under griddle	40.00 Fahrenheit	
Quaternary ammonia	Three-compartment sink - bar	400.00 PPM	
Hot water	Three-compartment sink	135.00 Fahrenheit	
Chlorine sanitizer	Mechanical dish machine	50.00 PPM	
Diced raw beef	Walk-in refrigerator	36.00 Fahrenheit	
Quaternary ammonia	Three-compartment sink	200.00 PPM	From dispenser
Raw beef patty	Drawer refrigerator under griddle	38.00 Fahrenheit	

## Overall Comments:

- Invoice provided to operator at time of inspection.

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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 **10/11/2023**. 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.

## 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:** Patrick Brioso  
Manager  
**Signed On:** September 27, 2023