

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 FA0262969 - BANH XEO NGON		Site Address 3005 SILVER CREEK RD #176, SAN JOSE, CA 9512		Inspection Date 12/20/2022	
Program PR0387284 - FOOD PREP / FOOD SVC OP 0-5 EMPLOYEES RC 2 - FP10			Owner Name NGUYEN, DUYN		Inspection Time 10:00 - 11:50
Inspected By HENRY LUU	Inspection Type ROUTINE INSPECTION		Consent By THUY	FSC Not Available	

Placard Color & Score
RED
68

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						S
K03 No discharge from eyes, nose, mouth	X						
K04 Proper eating, tasting, drinking, tobacco use	X						
K05 Hands clean, properly washed; gloves used properly		X		X			N
K06 Adequate handwash facilities supplied, accessible	X						
K07 Proper hot and cold holding temperatures			X	X			
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	X	
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		
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		
K44 Premises clean, in good repair; Personal/chemical storage; Adequate vermin-proofing		
K45 Floor, walls, ceilings: built, maintained, clean	X	
K46 No unapproved private home/living/sleeping quarters		
K47 Signs posted; last inspection report available		

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K48	Plan review	
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: Employee observed cleaning utensils, strainer basket below three-compartment sink, non-food contact surfaces, and then attempted to conduct food preparation without washing hands. When instructed to wash hands, employee removed gloves and then rinsed hands. [CA] Ensure employees are properly washing hands as required. Properly wash hands with soap, warm water and dry using single use paper towels as required. [COS] Instructed employee to properly wash hands.

Follow-up By
12/22/2022

K23 - 8 Points - Observed rodents, insects, birds, or animals; 114259.1, 114259.4, 114259.5

Inspector Observations: Cockroach activity observed in the following areas:

- Live adult and nymph observed inside crevice on the left top corner of the food preparation refrigerator.
- One dead and crushed cockroach observed behind rubber gasket of the side door of the food preparation refrigerator.
- Live adult cockroach on top of the right side door by the top door hinge of the two-door reach-in refrigerator on the right side of the food preparation refrigerator.
- Two nymphs observed crawling on stainless steel wall above the three-compartment sink.
- Cockroaches of varying generations observed inside the vertical pole inserts on the wall mounted shelves above the food preparation and warewashing sinks.
- Numerous nymphs observed between metal plate and wall securing the wall mounted shelves above the three-compartment sinks.
- One live adult observed crawling on wall in front of the janitorial sinks.
- One live adult observed crawling on metal pole on the left side of the water heater.

Follow-up By
12/22/2022

Per manager, facility is serviced by pest control company once per month. Latest inspection report was unavailable for review.

[CA] The premises of each food facility shall be kept free of vermin. A food facility shall not operate when there is a vermin infestation that has resulted in the contamination of food contact surfaces, food packaging, utensils, food equipment, or adulteration of food(s). The food facility shall cease operation of the food facility immediately. The food facility shall remain closed until: there is no longer evidence of a vermin infestation; all contaminated surfaces have been cleaned and sanitized; and contributing factors such as cleaning, repairs, and the elimination of harborages have been resolved.

Minor Violations

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

Inspector Observations: Five-year Food Safety Certified (FSC) manager certificate unavailable for review. [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.

***** Repeat Violation *****

K07 - 3 Points - Improper hot and cold holding temperatures; 11387.1, 113996, 113998, 114037, 114343(a)

Inspector Observations: Cooked rice maintained out in ambient temperature measured at 65F. Per employee, rice was from the night before and is to be discarded.

Bean sprouts in ambient temperature in an inadequate ice bath. Sprouts measured at 52F.

[CA] PHFs shall be held at 41°F or below or at 135°F or above. [COS] Rice was VC&D. Employees added ice to bean sprouts.

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

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Inspector Observations: *Three zip-lock bags of frozen proteins thawing inside bus tub out in ambient temperature. [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.*

K29 - 2 Points - Toxic substances improperly identified, stored, used; 114254, 114254.1, 114254.2

Inspector Observations: *Bottle of domestic insecticide powder stored on the floor below the food preparation refrigerator [CA] Only those insecticides, rodenticides, and other pesticides that are necessary and specifically approved for use in a food facility may be used. Store chemicals separate and away from the storage and preparation of food or food contact surfaces and linens.*

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: *Domestic rice cooker in use. [CA] New and/or replacement food 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). When unit fails, make plans to replace with approved commercial equipment.*

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

Inspector Observations: *Heavy accumulation of dust and grease observed on ventilation hood and ventilation hood filters. Heavy staining observed on walls and ceiling panels throughout kitchen. [CA] Mechanical exhaust ventilation shall be on while cooking is taking place. Clean mechanical exhaust hood and/or filters of grease accumulation. Ventilation hood filters shall be maintained clean and good repair. Ensure ventilation hood is adequately working to effectively remove cooking odors, smoke, steam, grease, heat, and vapors.*

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

Inspector Observations: *Heavy brown staining observed on ceiling panels and walls throughout kitchen. Areas closes to the cookline observed with the heaviest staining. [CA] Ceilings, walls and/or floors in food preparation area shall be kept clean.*

Performance-Based Inspection Questions

Needs Improvement - Demonstration of knowledge; food manager certification.
Needs Improvement - Hands clean/properly washed/gloves used properly.

Measured Observations

Item	Location	Measurement	Comments
Pork cake	Food preparation refrigerator	40.00 Fahrenheit	Top insert
Raw shrimp	Ice bath	36.00 Fahrenheit	
Cooked chicken	Three-door upright refrigerator	70.00 Fahrenheit	Just prepared less than two hours prior
Cooked rice	Rice cooker	140.00 Fahrenheit	
Cooked tomatos	Food preparation refrigerator	40.00 Fahrenheit	Top insert
Crab tomato soup	Food preparation refrigerator	39.00 Fahrenheit	
Cooked pork blood	Food preparation refrigerator	39.00 Fahrenheit	Top insert
Raw squid	Ice bath	40.00 Fahrenheit	
Fried tofu	Food preparation refrigerator	41.00 Fahrenheit	Top insert
Cooked pork hock	Three-door upright refrigerator	39.00 Fahrenheit	
Hot water	Three-compartment sink	120.00 Fahrenheit	
Cooked escargot	Three-door upright refrigerator	41.00 Fahrenheit	

Overall Comments:

- Facility is hereby closed due to the presence of vermin.
- Facility is to remain closed until infestation has been completely abated.
- Provide pest control report upon follow-up inspection.

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- **Subsequent follow-up inspection shall be billed at \$219/hour during normal business hour, Monday - Friday 7:30 AM to 5:00 PM, or \$493/hour 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 red placard. Failure to comply may result in enforcement actions per County Ordinance Code Section B11-55.**

- **Contact district inspector for re-opening inspection once vermin infestation has been completely abated.**

CLOSURE / PERMIT SUSPENSION NOTICE

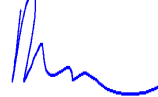
When required to determine compliance, a single reinspection will be conducted without additional charge. If subsequent reinspections are required, an hourly fee (minimum one hour) at the current rate approved by the Board of Supervisors will be assessed for each and every reinspection until the necessary changes or corrections are made. Unless otherwise noted by the inspector, all violations are to be corrected no later than **1/3/2023**. 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.

This notice is to inform you that as of this date the Environmental Health Permit for the above mentioned food facility is hereby suspended and all operations therewith are ordered to cease. This action is taken in accordance with Section 114409 of the California Health and Safety Code which states 'If any imminent health hazard is found, unless the hazard is immediately corrected, an enforcement officer may temporarily suspend the permit and order the food facility or cottage food operation immediately closed.'

You have the right to make a written request for a hearing within 15 days after receipt of this notice to show just cause why the permit suspension is not warranted. Failure to request such a hearing within the 15-day period shall be deemed a waiver of the right to a hearing. After these violations have been corrected, you must call the Department of Environmental Health for a reinspection to reinstate the permit to operate. Phone #: (408)918-3400.

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: Dan Nguyen
Manager
Signed On: December 20, 2022