

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 FA0202180 - THE BYWATER		Site Address 532 N SANTA CRUZ AV, LOS GATOS, CA 95030		Inspection Date 01/17/2025		Placard Color & Score YELLOW 81		
Program PR0305578 - FOOD PREP / FOOD SVC OP 6-25 EMPLOYEES RC 2 - FP13			Owner Name THE BYWATER LLC		Inspection Time 11:30 - 13:05			
Inspected By PRINCESS LAGANA		Inspection Type ROUTINE INSPECTION		Consent By MATT WILLIAMS				FSC

RISK FACTORS AND INTERVENTIONS		IN	OUT		COS/SA	N/O	N/A	PBI
			Major	Minor				
K01	Demonstration of knowledge; food safety certification	X						
K02	Communicable disease; reporting/restriction/exclusion	X						
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						
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	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		
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		
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		

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K48	Plan review	
K49	Permits available	
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: *REPEAT VIOLATION*

At the 2 door under counter cooler, multiple Potentially Hazardous Food (PHFs) measured between 50F - 53F.

[CA]: PHFs shall be cold held at 41F or below at all times.

[COS]: PHFs that have been out of approved temperatures for less than 4 hours were relocated to another cooler.

PHFs that have been out of approved temperatures for more than 4 hours were voluntarily discarded.

Follow-up By
01/20/2025

Minor Violations

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

Inspector Observations: In the walk in cooler, seafood gumbo base measured at 46F and red bean measured at 47F. Per Sous Chef, food items were cooked and cooled yesterday.

[CA]: Potentially Hazardous Foods shall be cooled from 135F to 70F within 2 hours and then from 70F to 41F within 4 hours (6 hours total). Use shallow metal pans (no more than 2 inches for solid foods and no more than 4 inches for liquids), smaller portions, ice paddles and ice baths to assist with rapid cooling. When placing food in the refrigerator to cool, containers should be loosely covered or uncovered if protected from overhead contamination, to facilitate heat transfer from the surface of the food.

Follow-up By
01/20/2025

K14 - 3 Points - Food contact surfaces unclean and unsanitized; 113984(e), 114097, 114099.1, 114099.4, 114099.6, 114101, 114105, 114109, 114111, 114113, 114115(a,b,d), 114117, 14125(b), 114141

Inspector Observations: Dish machine at the bar measured at 0 ppm of Chlorine sanitizer. No active ware-washing observed.

[CA]: Discontinue use of dish machine until it is able to dispense 50 ppm of Chlorine sanitizer.

[SA]: Facility has another dish machine that provides 50 ppm of Chlorine sanitizer and a 3 comp sink.

K16 - 3 Points - Not in compliance with shell stock tags, condition; 114039-114039.5

Inspector Observations: For the shellstock that is not present, tags/labels were not provided 90 calendar days from the dates of harvest of molluscan shellfish after they are sold.

[CA]: Shell stock tags must be maintained and available on site for 90 days. Ensure all shellstock tags are kept in chronological order for 90 days after the harvest date.

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: 2 door under counter's ambient temperature measured at 50F.

[CA]: All cooling units shall be able to cold hold PHFs at 41F or below at all times. Discontinue use of unit for PHFs until it is able to properly cold hold PHFs.

Performance-Based Inspection Questions

N/A

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Measured Observations

Item	Location	Measurement	Comments
water	3 comp sink at patio bar	120.00 Fahrenheit	
ambient temp	3 door bar cooler	40.00 Fahrenheit	
scallop	2 door under counter (beneath oysters)	39.00 Fahrenheit	
water	hand sink front near bar	100.00 Fahrenheit	
ambient temp	3 door bar cooler patio	37.00 Fahrenheit	
blue cheese, raw pork	walk in cooler	41.00 Fahrenheit	
whip cream	2 door under counter	50.00 Fahrenheit	
water	3 comp sink at bar	125.00 Fahrenheit	
Quat sanitizer	3 comp sink	200.00 PPM	
ranch	ice bath	40.00 Fahrenheit	
water	prep sink	123.00 Fahrenheit	
shrimp, macsalad	prep line cooler	41.00 Fahrenheit	
battered tomatoes, sausage	4 door under counter	41.00 Fahrenheit	
water	3 comp sink	120.00 Fahrenheit	
garlic aioli	2 door under counter	50.00 Fahrenheit	~30 minutes prior to measurement
pot de creme	2 door under counter	53.00 Fahrenheit	
hush puppy	final cooking temp	184.00 Fahrenheit	
Chlorine sanitizer	dish machine at ware-wash area	50.00 PPM	

Overall Comments:

Per Manager, food safety manager's last day was on 01/16/2025. Discussed that a food safety manager certificate shall be obtained within 60 days.

Facility has a vacuum packaging machine but is currently not used. The food facility shall obtain a HACCP plan approval prior to packaging PHFs using a reduced-oxygen packaging method. Due to the high risk of possible growth and toxin production of *Clostridium botulinum* when using Reduced Oxygen Packaging method, we want to ensure a stringent safety protocol is in place before the use of ROP.

***If you plan to reduce oxygen package for less than 48 hours you may submit a standard operating procedure (SOP) to our department for review and approval, so a directive can made based on your SOP.**

A food facility is not required to have a HACCP plan if the food facility uses a reduced-oxygen packaging method to package potentially hazardous food that always complies with the following standards with respect to packaging the food:

- (1) The food is labeled with the production time and date,**
- (2) the food is held at 41°F or lower during refrigerated storage, and**
- (3) the food is removed from its package in the food facility within 48 hours after packaging. [§ 1140573.1(d)]**

Discussed Time As A Public Health Control with Manager

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 **1/31/2025**. 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: Matt Williams
Manager

Signed On: January 17, 2025