

**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> FA0254843 - TOGO'S EATERY		<b>Site Address</b> 2990 E CAPITOL EX 20, SAN JOSE, CA 95148		<b>Inspection Date</b> 01/04/2024	
<b>Program</b> PR0371979 - FOOD PREP / FOOD SVC OP 6-25 EMPLOYEES RC 2 - FP13			<b>Owner Name</b> UPON THE ROCK		<b>Inspection Time</b> 15:05 - 17:15
<b>Inspected By</b> YUEN IP	<b>Inspection Type</b> ROUTINE INSPECTION	<b>Consent By</b> DAVID	<b>FSC</b> Federico Chavez 01/17/2025		

<b>Placard Color &amp; Score</b>
<b>RED</b>
<b>79</b>

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						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						S
K06	Adequate handwash facilities supplied, accessible			X				
K07	Proper hot and cold holding temperatures			X				S
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						S
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		
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		X
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	X
K58	Placard properly displayed/posted	

## Comments and Observations

### Major Violations

K22 - 8 Points - Sewage and wastewater improperly disposed; 114197

**Inspector Observations: Observed active sewage backed up from floor drain under steam table and front hand wash sink. Observed active backup from floor drain under beverage machine. Per PIC, customer restroom cannot flush. If flushed, the water will come out from toilet.**

**[CA] Food facility shall not operate if there is sewage overflowing or backing up in the food facility. The food facility shall remain closed until all plumbing problems have been corrected and all contaminated surfaces have been cleaned and sanitized. The food facility shall cease operation of the food facility immediately.**

### Minor Violations

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

**Inspector Observations: Missing paper towel at the hand wash sink in the front.**

**Other hand wash station is located in close proximity.**

**[CA] Single-use sanitary towels shall be provided in dispensers; heated-air hand drying device may be substituted for single-use towels.**

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

**Inspector Observations: Hummus measured at 45F on open top fridge. Other items in the prep unit measured at 41F.**

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

K23 - 3 Points - Observed rodents, insects, birds, or animals; 114259.1, 114259.4, 114259.5

**Inspector Observations: 1 dead cockroach in the trap on the floor in dry storage area.**

**[CA] Clean and sanitize area of dead cockroaches or old droppings.**

K41 - 2 Points - Plumbing unapproved, not installed, not in good repair; improper backflow devices; 114171, 114189.1, 114190, 114192, 114193, 114193.1, 114199, 114201, 114269

**Inspector Observations: Drain line for steam table extended to floor drain and drain line for soda machine extended to beverage floor drain.**

**[CA] Provide an air gap at least twice the diameter of the water supply inlet and may not be less than one inch from the flood level rim of the plumbing fixture.**

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

**Inspector Observations: Facility underwent change of ownership since March 2023.**

**[CA] Provide Food Facility Evaluation and/or Ownership Change packet to this department within 48 hours.**

**Applications could be found on: [ehinfo.org](http://ehinfo.org) (under food safety program--> Food Facility Evaluation and/or Ownership Change)**

### Performance-Based Inspection Questions

All responses to PBI questions were satisfactory.

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## Measured Observations

Item	Location	Measurement	Comments
Quaternary ammonia	3rd compartment sink	200.00 PPM	
Water	3 compartment sink	120.00 Fahrenheit	
Hummus	Open top fridge	45.00 Fahrenheit	Small portion and open top fridge at busy hour.
Quaternary ammonia	Sanitizer bucket	200.00 PPM	
Cut tomato	Open top fridge	41.00 Fahrenheit	
Meatball	Steam table	167.00 Fahrenheit	
Chicken soup	Walk-in fridge	39.00 Fahrenheit	
Water	1 compartment sink	120.00 Fahrenheit	
Water	Employee restroom	100.00 Fahrenheit	
Water	Hand wash sink in kitchen	110.00 Fahrenheit	Cold water available
Ham	Counter fridge	41.00 Fahrenheit	
Cooked chicken	Walk-in fridge	39.00 Fahrenheit	
Cut tomato	Open top fridge	41.00 Fahrenheit	
Water	Hand wash sink front	110.00 Fahrenheit	

## Overall Comments:

*Joint inspection with Gabriel Gonzalez*

**Facility is closed due to sewage backup. Contacted program manager, Jonathan Rubingh for this closure. Contact 408 568 2695 to schedule an inspection when violation is corrected. The first follow-up inspection is free of charge. Subsequent follow up inspections after first follow up shall be billed \$290/hr during business hours and \$629/hr during non business hours (after 4:30pm Monday through Friday, county holidays and weekends) upon availability. Failure to comply may result in enforcement action.**

## 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 **1/18/2024**. 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:** blanca rodriguez  
Shift Manager

**Signed On:** January 04, 2024