

# 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 FA0210255 - LA PENITA RESTAURANT		Site Address 601 S 1ST ST, SAN JOSE, CA 95113		Inspection Date 01/03/2023	
Program PR0304205 - FOOD PREP / FOOD SVC OP 0-5 EMPLOYEES RC 3 - FP11			Owner Name DURAN, ROSA		Inspection Time 13:30 - 14:30
Inspected By JENNIFER RIOS	Inspection Type ROUTINE INSPECTION		Consent By ARACELI	FSC Gustavo Silva 02/27/2024	

Placard Color & Score
<b>GREEN</b>
<b>81</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						
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						
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		
K27 Food separated and protected	X	
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		
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	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	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

No major violations were observed during this inspection.

### Minor Violations

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

**Inspector Observations: Two food handler cards were not available at time of inspection. [CA] Each food handler shall maintain a valid food handler card for the duration of his or her employment as food handler available for review. A valid food handler card shall be provided within 30 days of after the date of hire.**

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

**Inspector Observations: Paper towels supplied in restroom however, dispenser did not appear to be working. [CA] Ensure that paper towels in dispenser are working at all times during operation. PIC fixed dispenser.**

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: Observed employee dip food equipment into sanitizing compartment, immediately remove and then set out to dry. [CA] Manual sanitization shall be accomplished in the final sanitizing rinse by contacting a chlorine solution of 100 PPM concentration for at least 30 seconds.**

K27 - 2 Points - Food not separated and unprotected; 113984(a-d,f), 113986, 114060, 114067(a,d,e,j), 114069(a,b), 114077, 114089.1(c), 114143(c)

**Inspector Observations: Observed open containers of food in reach in fridge. [CA] After cooling, ensure that food is protected from contamination by covering open containers of food.**

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

**Inspector Observations: Chlorine in sanitizing bucket measured 200ppm. [CA] Wiping towels shall be stored in sanitizing solution of an approved concentration when not in use (100 ppm - chlorine, 200 ppm - quaternary ammonium).**

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: Observed the re use of single use food containers (folgers coffee containers). [CA] Single use food container (e.g. soy sauce container, milk carton, apple juice container, can food, wine bottle) shall not be reused to store food.**

**Observed ice scoop in ice machine with handle in contact with ice. [CA] Open boxes of To-Go containers shall be stored as to prevent contamination.**

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: Observed drain line from equipment ending inside floor sink. [CA] Drain lines shall discharge liquid waste by means of indirect waste pipes into a floor sink or other approved type of receptor equipped with a minimum 1" air gap.**

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

**Inspector Observations: Observed food debris on flooring upstairs. Facility lacks cove base throughout and flooring in upstairs storage is not approved for use in a food facility (linoleum). [CA] Clean and sanitize floors throughout. Obtain department approval for flooring materials including cove base by 3/18/2023. Flooring must be installed by 5/28/2023.**

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## Performance-Based Inspection Questions

N/A

## Measured Observations

Item	Location	Measurement	Comments
Bleach	Sanitizing bucket	200.00 PPM	>200ppm
Lettuce in water	Cold holding insert	40.00 Fahrenheit	
Hot water	Three comp sink	130.00 Fahrenheit	
Chlorine	Three compartment sink	100.00 PPM	
Beans	Hot holding	158.00 Fahrenheit	
Warm water	Restroom handwash	100.00 Fahrenheit	
Horchata	Reach in fridge	40.00 Fahrenheit	
Salsa	Reach in fridge	40.00 Fahrenheit	
Chicken	Hot holding	156.00 Fahrenheit	
Red sauce	Reach in fridge	40.00 Fahrenheit	
Chicken	Reach in fridge	40.00 Fahrenheit	

## Overall Comments:

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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 **1/17/2023**. 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




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**Received By:** Gustavo Silva  
Manager

**Signed On:** January 03, 2023