

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 FA0258421 - THE NEST ASIAN BISTRO | | Site Address 312 S 3RD ST, SAN JOSE, CA 95112 | | Inspection Date 10/10/2024 | |
| Program PR0378360 - FOOD PREP / FOOD SVC OP 0-5 EMPLOYEES RC 3 - FP11 | | | Owner Name THE NEST ASIAN BISTRO | | Inspection Time 12:50 - 14:45 |
| Inspected By ALEXANDER ALFARO | Inspection Type ROUTINE INSPECTION | Consent By HOA DO | FSC Not Available | | |

| |
|----------------------------------|
| Placard Color & Score |
| RED |
| 61 |

| 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 | | | | | | N |
| K06 Adequate handwash facilities supplied, accessible | X | | | | | | S |
| 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 | | |
| K27 Food separated and protected | | |
| K28 Fruits and vegetables washed | | |
| K29 Toxic substances properly identified, stored, used | | |
| K30 Food storage: food storage containers identified | X | |
| K31 Consumer self service does prevent contamination | | |
| K32 Food properly labeled and honestly presented | | |
| K33 Nonfood contact surfaces clean | X | |
| 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 | X | |
| 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 | X | |
| K45 Floor, walls, ceilings: built,maintained, clean | X | |
| 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 | |
| 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:

1. **Some potentially hazardous foods stored on the preparation table, including cooked chicken and cooked beef were measured above 50°F.**

2. **PHFs in the prep cooler were found above 50°F. Per permit holder they stock the prep cooler at the beginning of each day (11 am). Calvin stated staff informed him of the cooler having issues.**

[CA] All potentially hazardous foods like meat, seafood, poultry, dairy products, cooked vegetables, cooked cereals, greens, and diced tomatoes shall always be held at 41°F or below or at 135°F or above.

[COS] Staff moved the items to the three door cooler to rapidly cool.

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

Inspector Observations:

Live and dead bodies of all life stages were found throughout the facility both on sticky traps on off. Cockroaches were found behind the ice machine, behind the beer tap cooler, inside the beer tap cooler, and in the dry storage room near the mop sink.

[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. Contact District Specialist to schedule a follow up inspection.

Minor Violations

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

Inspector Observations:

1. **The Food Safety Certificate has expired and no valid FSC was available upon request.**

[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.

2. **Staff onsite did not have food handler cards.**

[CA] Each food handler shall maintain a valid food handler card for the duration of his or her employment as food handler. A valid food handler card shall be provided within 30 days of after the date of hire.

K08 - 3 Points - Improperly using time as a public health control procedures & records; 114000

Inspector Observations:

Facility is using Time as a Public Health Control for their fried chicken and french fries. They are using a white board to log the times. No written procedures were available.

[CA] Provide written procedures and time marking for PHFs utilizing time as a public health control (TPHC).

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

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Inspector Observations:

In the ice machine, on the interior side walls, there is growth of a black mold like substance.

[CA] Ensure to maintain the ice machine clean.

K30 - 2 Points - Food storage containers are not identified; 114047, 114049, 114051, 114053, 114055, 114067(h), 114069 (b)

Inspector Observations:

Facility is storing open foods and food related equipment (ex: packaging) in the basement.

[CA] Food or food related equipment shall be stored in an approved fully enclosed food facility. Store only prepackaged items in their original containers.

K33 - 2 Points - Nonfood contact surfaces not clean; 114115(c)

Inspector Observations:

1. REPEAT VIOLATION: Heavy food residue accumulation was observed on some of the equipment surfaces and handles including the fridge door.

2. Baffle filters at the exhaust hood have an accumulation of grease.

[CA] Conduct a thorough cleaning on surfaces and handles of working equipment.

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, 114166, 114167, 114169, 114175, 114177, 114180, 114182

Inspector Observations:

1. REPEAT VIOLATION: The black and white under counter freezers stored back in the kitchen area are not NSF/ANSI approved or ETL/UL Sanitation listed one.

[CA] All equipment used in the facility must be NSF/ANSI approved or ETL/UL Sanitation listed one.

2. The prep cooler is not maintaining PHFs at 41 or below. The prep cooler is also pooling water.

[CA] Refrigeration must be capable of maintaining PHFs at 41°F or below. Repair, replace, or adjust the equipment.

3. Facility is using plastic grocery bags in direct contact with foods to store in refrigeration units.

[CA] Use approved food grade equipment only.

K40 - 2 Points - Wiping cloths: improperly used and stored; 114135, 114185.1 114185.3(d,e)

Inspector Observations:

REPEAT VIOLATIONS: Wet wiping cloths were found on the counter of prep tables.

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

K44 - 2 Points - Premises not clean, not in good repair; No personal/chemical storage; inadequate vermin-proofing; 114067(j), 114123, 114143 (a,b), 114256, 114256.1, 114256.2, 114256.4, 114257, 114257.1, 114259, 114259.2, 114259.3, 114279, 114281, 114282

Inspector Observations:

The back area of the premises have an accumulation of unused/broken equipment.

[CA] The premises of a food facility shall be free of litter and items that are unnecessary to the operation or maintenance of the facility, such as equipment that is nonfunctional or no longer used.

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

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Inspector Observations:

The ceiling in the cookline area, walls throughout the facility, and floors have an accumulation of grease and grime.

The pillar at the entrance to the cookline area has an accumulation of cockroach droppings.

[CA] Ensure to maintain the floors, walls, and ceilings of the facility clean and in good repair.

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

Inspector Observations:

The Environmental Health Permit is not posted in public view.

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

Performance-Based Inspection Questions

Needs Improvement - Hands clean/properly washed/gloves used properly.

Measured Observations

| Item | Location | Measurement | Comments |
|---------------|------------------------|-------------------|----------|
| Water | Three Compartment Sink | 120.00 Fahrenheit | |
| Chicken | Chest Freezer | 10.00 Fahrenheit | |
| Shrimp | Chest Freezer | -11.00 Fahrenheit | |
| Water | Hand Wash Sink | 100.00 Fahrenheit | |
| Rice Noodles | Counter | 80.00 Fahrenheit | |
| Chicken | Table | 50.00 Fahrenheit | |
| Fries | Undercounter Freezer | -9.00 Fahrenheit | |
| Beef | Table | 101.00 Fahrenheit | |
| Ambient Air | Three Door Cooler | 41.00 Fahrenheit | |
| Ambient Air | Prep Cooler | 52.00 Fahrenheit | |
| Fried Chicken | Rack | 78.00 Fahrenheit | TPHC |

Overall Comments:

Please contact district specialist, Alexander Alfaro (alexander.alfaro@deh.sccgov.org), or DEH main line at (408)918-3400 once issue has been resolved for re-opening. The first follow up inspection is free of charge. Any and all subsequent follow up inspections shall be charged at the approved hourly rate of \$298.00/hr, minimum of one hour, during normal business hours: Monday through Friday 7:30am to 4:30pm or \$645/hour minimum two hour during non business hours, and upon inspector availability.

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 **10/24/2024**. 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.

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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: Hoa Do
Cashier

Signed On: October 10, 2024