

Agenda Report

TO: CITY COUNCIL
Through: PUBLIC SAFETY COMMITTEE

DATE: OCTOBER 20, 2003

FROM: CITY MANAGER

SUBJECT: PREPARATION OF AN ORDINANCE TO IMPLEMENT A HEALTH INSPECTION POSTING PROGRAM FOR RETAIL FOOD ESTABLISHMENTS

RECOMMENDATION

It is recommended that the City Council:

- 1) Direct the City Attorney to draft an ordinance amending Chapter 8 of the Pasadena Municipal Code to require all food establishments to post a sign with the date of the last health inspection, description of patrons' rights to review health inspection report as allowed under California Health and Safety Code, and instructions on how to file a complaint with the Public Health Department; and,
- 2) Approve an increase of 1.00 FTE Environmental Health Specialist in the Environmental Health Division contingent on approval of proposed amendment to General Fee Schedule.

EXECUTIVE SUMMARY

On April 7, 2003, staff presented recommendations for an enhanced Retail Food Inspection Program to the Public Safety Committee. The Committee raised several questions related to the rationale, fairness, and effectiveness of the proposed ordinance to require the posting of inspection results. In response to these concerns, staff has revised the proposed Retail Food Inspection program enhancement to include: (1) adoption of the Health Inspection Posting Ordinance, requiring the posting of a sign by all retail food establishments (restaurants, delis, fast food outlets, bars, bakeries, and retail food markets) showing the most recent health inspection date and reminding the public of its rights and how to file a complaint regarding an establishment (2) a voluntary Food Safety Recognition Program to give positive recognition to those food establishments that have consistently exceeded requirements in terms of protecting the public from food borne illness risks.

An increase to all health permit fees for retail food establishments is recommended to cover the increased costs of personnel and supplies for the health inspection posting program and the complementary voluntary recognition program. Staff will request an amendment to the General Fee Schedule at a future public hearing.

BACKGROUND

In 1998, the Los Angeles County Department of Health Services recommended adoption of a grading system for all retail food establishments. Although a majority of cities and the unincorporated areas of the county adopted ordinances that reflected this new system, some cities (including Pasadena) opted not to adopt the grading system. Meanwhile, consumer and Pasadena food establishment demand for Pasadena to adopt a similar grading program grew. Staff recommended an alternative program to assure patrons that food establishments are sanitary and safe.

On April 7, 2003, the Public Safety Committee considered proposed enhancements of the Public Health Department's Restaurant Inspection Program, including the adoption of an ordinance that would require food establishments to post their most recent health inspection score and critical risk violations. The Public Safety Committee raised questions related to three key issues. The questions and respective responses from staff follow.

1. What is the level of community interest in adopting a "restaurant grading" program for Pasadena restaurants, similar to the County's grading program?

The results of the FY 2002 Citizens Survey strongly suggest the community's interest in such a program. The FY 2002 Citizen's Survey asked residents "Should restaurants display current results of inspection by Pasadena Health Department." Ninety-five percent (95%) of respondents citywide answered, "yes", and no individual District response rates were equal to or below 93%. The Environmental Health Division staff receives approximately six requests (phone calls, email, or face-to-face inquiries) from the public and restaurant owners per month expressing a desire for restaurant grading. As proposed, the enhanced restaurant inspection program serves the public interest and provides desired information to consumers, while minimizing risks and mitigating conditions that threaten the health and safety of consumers.

2. Is there a potential punitive impact of requiring restaurants to post their inspection results since inspection results only reflect a moment of time and not necessarily the actual condition of a restaurant throughout the year?

Health inspectors are trained to recognize persistent, recurring and severe conditions in restaurants. The purpose of requiring restaurants to post their inspection results is to provide public information about critical risk violations that could contribute to a food borne illness. These critical risk violations are generally not isolated incidents and can often be found in an establishment that has not committed to implementing safe food handling practices. Any single inspection report may well reflect the actual condition of a restaurant throughout the year, not just the condition at time of inspection. Non-critical risk violations (dirty floors and dirty walls) do not directly contribute to a potential food borne illness and these type of violations are not always noted during an inspection if found to be caused by that day's operation or there has been no past history of such violations in the establishment.

While quantifying a restaurant's food handling and sanitary practices with a letter grade or aggregate score is informative to the public and a score along with critical risk violations is more informative, the most thorough and meaningful information comes from a detailed inspection report which notes specific violations and/or descriptions of

conditions or practices that caused the score. The posting requirement established by the proposed ordinance will help to educate the public about their right to view the most recent inspection report and allow patrons to make informed decisions about the restaurants they patronize. Since the restaurant health inspections are conducted three times per year, consumers can be assured that the report reflects a recent inspection.

3. What do the results or data from other cities and counties that have implemented grading programs show?

Since the implementation of the County Grading Program, two articles have been published citing benefits of the County grading program. First, an article in *Preventive Medicine*, documented a decrease in the average number of violations and a marked increase in the percentage of scores falling within the A or B range after the first year of the program.¹ Secondly, an article in the *Quarterly Journal of Economics* examines the effect of the County grading program for consumers and restaurants. The findings of the study are: (1) issuing grades to restaurants improve overall sanitation scores by an average of 5 points; (2) the number of food borne illness hospitalization in the county decreased by 20%; and (3) restaurants with A-grades experienced a revenue increase of 5.7%.² A list of cities and counties with a public notification program to inform patrons of the condition of eating establishments is shown in Appendix A.

4. Could staff work with affected businesses to further develop a public notification program that is both fair to the food retailers and reassuring to the public?

In June 2003, staff reconvened a workgroup of four restaurant owners to consider: (1) an alternate posting for retail food establishments (restaurants, delis, fast food outlets, bars, and retail food markets); and (2) promotion of an incentive food safety award program for restaurants that would distinguish food establishments with best practices in food safety. The workgroup recommended a Health Inspection Posting that will be required by ordinance and the voluntary Food Safety Recognition Program which is described and recommended in this report.

Mandatory Health Inspection Posting

The Inspection Summary Report proposed to the Public Safety Committee on April 7th would have provided the public with information about any critical risk violations that could contribute to a food borne illness along with the date of the last health inspection, the re-inspection date for compliance (if required), and the cumulative score found at the conclusion of the inspection. In response to Public Safety Committee concerns and recommendation of the workgroup, staff recommends that an abbreviated posting replace the previously proposed Inspection Summary Report. The new proposed posting (Appendix B) would include the following information:

- Date of the last health inspection by the Public Health Department;

¹ Fielding JE, Aguirre A, Palaiologos, E. (2001): "Effectiveness of Altered Incentives in a Food Safety Inspection Program," *Preventive Medicine*; 32:239-244.

² Jin, G. and Leslie P. (2003): "The Effect of Information on Product Quality: Evidence from Restaurant Hygiene Grade Cards," *The Quarterly Journal of Economics*, 118:409-451.

- Patrons' right to review a copy of the restaurant's most recent health inspection report, as allowed under Section 113946 of the California Health and Safety Code; and
- Instructions for a patron to file a complaint with the Public Health Department in case of a suspected food borne illness, or an unhealthy or unsanitary condition at any food facility in Pasadena.

Staff recommends City Council adoption of an ordinance that requires establishments to post the sign, with the above information, at a conspicuous location for the public after each health inspection has been completed. The Health Inspection Posting shall not be changed, defaced, marred, camouflaged, hidden or removed. Owners would be required to report to the Public Health Department, within 24 hours, if the sign is discovered missing or damaged. The sign will remain valid and posted until the next routine inspection of the food establishment by the Public Health Department. The inspection report will be printed immediately following inspection or re-inspection using hand-held computer devices to enter, store and retrieve the data in real time. Data can later be uploaded to post on the City web site for Internet access.

Voluntary Food Safety Recognition Program

The purpose of the voluntary Food Safety Recognition Program is to give positive annual recognition to those food establishments that have consistently exceeded requirements in terms of protecting the public from food borne illness risks. Only facilities with full food preparation and service operations are eligible for an award. Eligible types of establishments include restaurants, bakeries, school cafeterias, which prepare their own food, and full-scale deli operations at retail markets. To receive a plaque, an establishment must meet five stringent criteria:

1. Score \geq 90 from each routine health inspection throughout the calendar year;
2. No major critical risk violations were found during any routine health inspection;
3. Satisfactory completion and submission of two self-evaluation health surveys during the year;
4. Use of a digital thermometer to monitor internal cooking temperatures in instances that require precise temperature location readings; and
5. Completion of a food safety certification course from a list of approved curriculum by 75% of employees with primary responsibility related to food handling and preparation. The Pasadena Public Health Department will be one of several training sites available for food establishment employees.

Establishments that complete 4 of the 5 criteria will receive a certificate at the end of the year for public display. The Program implementation would include marketing and promotion strategies to raise the program visibility and highlight the recognition of the award-winning food establishments.

HEALTH PERMIT FEES

The program enhancements will result in an increased workload that cannot be managed by the existing FTEs in the Environmental Health Division. Staff recommends the addition of 1.00 FTE Environmental Health Specialist to effectively implement the food safety education component and maintain the goal of providing three inspections per year for restaurants.

Staff has prepared an updated cost of service study with the proposed enhancements of the Retail Food Inspection Program; and, based on current costs and projected revenues for FY 2004, staff has revised the proposed health permit fee increase to 24%. This increase will be recommended to cover the increased costs of personnel and supplies for this program to include the following expenditures: (1) 1.00 FTE Environmental Health Specialist (\$69,626); (2) 5 pen-based tablets including software (\$20,000); and (3) services and supplies (\$14,704). The total cost of the Retail Food Inspection Program, including the proposed program enhancement and base budget cost increases is \$608,040 for FY 2004.

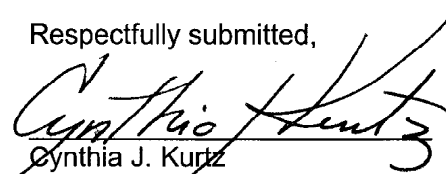
The proposed 24% increase to the FY 2004 health permit fees is still below the County's FY 2004 health permit fees for similar food establishments. The type of businesses that will be affected by the fee increase is shown below:

Sample Establishment	Current FY 2004 Health Fees (Pasadena)	Proposed Fees for FY 2004 (Pasadena)	FY 2004 Health Fees for LA County
Restaurants with 11-30 seats	\$408	\$507	\$592
Restaurants with 31-60 seats	\$475	\$590	\$685
Retail food market > 6,000 sq ft	\$549	\$681	\$876
Retail food market < 2,000 sq feet	\$288	\$358	\$465

FISCAL IMPACT

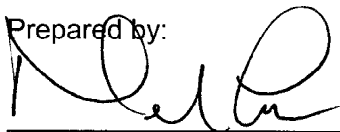
Implementation of this program requires costs and revenues in the amount of \$104,330. A future public hearing will be required to amend the General Fee Schedule increasing health permit fees to cover these costs.

Respectfully submitted,



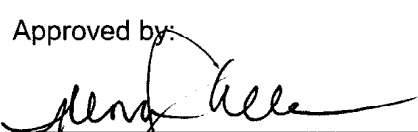
Cynthia J. Kurtz
City Manager

Prepared by:



Mel Lim
Environmental Health Division Manager

Approved by:



Wilma J. Allen, Director
Public Health Department

- Attachment A – Cities and Counties with a Public Notification Program
- Attachment B – Health Inspection Posting Sign
- Attachment C-- FY 2004 Health Permit Fee Comparison