

# Agenda Report

**TO:** CITY COUNCIL  
**Through:** PUBLIC SAFETY COMMITTEE

**DATE:** APRIL 7, 2003

**FROM:** CITY MANAGER

**SUBJECT:** ADOPT ORDINANCE TO IMPLEMENT INSPECTION RESULTS  
POSTING PROGRAM FOR RETAIL FOOD INSPECTION SERVICES

## RECOMMENDATION

It is recommended that the City Council:

1. Direct the City Attorney to draft an ordinance requiring retail food establishments to post results of regular public health inspections; and,
2. Approve an increase of 1.00 FTE Environmental Health Specialist in the Environmental Health Division.

## EXECUTIVE SUMMARY

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. Concerned that the program introduced false public perceptions of food safety and inequities in the inspection process, staff continued to consider alternatives. Meanwhile, consumer and Pasadena food establishment interest in Pasadena adopting a similar grading program to assure patrons that food establishments are sanitary and safe has grown.

Staff recommends establishing a Retail Food Inspection program to include: (1) adoption of the Food Establishment Inspection Summary Report Ordinance, requiring the posting of an Inspection Summary Report by all retail food establishments (restaurants, delis, fast food outlets, bars, bakeries, and retail food markets); (2) use of computer-based technology (computer pen tablets) for the data input and completion of health inspection reports and the Inspection Summary Report; and, (3) addition of an Environmental Health Specialist (1.00 FTE) to the Environmental Health Division. These program enhancements will provide customers with information about the safety of the city's retail

food establishments, maximize efficiency, quality and accuracy of inspections, and expand the program's food safety education component for retail food establishments.

## **BACKGROUND**

In November 1997, a local television station aired an undercover investigative report that exposed unsafe and unhygienic food handling at several restaurants under the jurisdiction of Los Angeles County Department of Health Services (DHS). As a result of the news expose, the County implemented a grading program for all retail food establishments. Under this program, the results of inspections would be posted as a letter grade based on the aggregate score (A = 90–100, B = 80–89, and C = 70–79) of health violations found during inspection.

In 1998, the County Board of Supervisors adopted an ordinance to implement the grading program in the unincorporated portion of the county allowing DHS to issue and post letter grades that signify the result of retail food establishment health inspections. Under encouragement of the County, 69 of 85 cities in Los Angeles County, covering more than 80% of the County population, passed ordinances that exactly or closely conformed to those adopted by the County.

Those cities that have not adopted the program-- particularly those with a city public health department such as Long Beach and Pasadena and Vernon with its own environmental health services department-- were opposed to the County's program for several reasons:

1. Issuing of a letter grade may give the public a false sense of security of whether the restaurant is a safe place to eat. The grade only reflects a moment in time regarding the condition of a restaurant. There may have been an unusual circumstance on the day of the inspection that may not truly reflect the actual condition of the restaurant throughout the year.
2. The health inspection of an establishment deducts the same number of points for a housekeeping violation as for a food protection or vermin related violation.
3. Posting the letter grade is seen as punitive and unfair to older restaurants that may not have the financial resources for a major upgrade.
4. The County ordinance allows for owner-initiated inspections for the purpose of raising an establishment's grade of B or lower to an A, if the owner pays a \$190 inspection fee. This provides an advantage to those establishments with the ability to pay for a new inspection.

In January 2000, in lieu of issuing a letter grade to food establishments, the Long Beach City Council adopted an ordinance requiring the display of an inspection card indicating the month and year the food establishment was inspected along with the outcome of the inspection in the general areas of food handling, food storage, food preparation and establishment cleanliness.

Consumers have used the County's grading program as a major factor in determining whether a restaurant should be patronized. Some consumers will not dine in a restaurant without an A grade. However, restaurants with a B grade are safe to patronize, but may have deficiencies that do not necessarily contribute to causing a food borne illness. The Centers for Disease Control and Prevention (CDC) identifies five critical risk factors that could cause food borne illness: (1) improper holding temperature

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of perishable food that would allow microorganisms associated with food borne illness to multiply; (2) inadequate cooking of meat, poultry or raw egg products that does not eliminate all microorganisms associated with food borne illness; (3) inadequate cleaning and sanitizing of equipment used in food handling; (4) food from unsafe sources; and, (5) poor personal hygiene of food handlers.

In Pasadena, an establishment found not safe by the Public Health Department is required to immediately correct all critical risk violations. Staff remains in the establishment until the correction is completed. If the correction cannot be completed immediately, the business is closed until all critical risk violations affecting public health and safety have been corrected. There are other health violations that may warrant the immediate closure of the business, including, but not limited to: cockroach and rodent infestation, sewage backup, and the lack of running water. Yet, consumers and some Pasadena food establishments have requested Pasadena to adopt a grading program for food establishments.

### **ENHANCED RETAIL FOOD INSPECTION PROGRAM**

The Pasadena Public Health Department Environmental Health Division is responsible for inspecting the 850 retail food establishments in the City including all restaurants, delis, fast food outlets, bars, bakeries, and retail food markets. The goal of the Retail Food Inspection Program is to prevent food borne illness and to assure all retail food establishments are clean, safe and sanitary.

Staff recommends enhancement of the Retail Food Inspection Program that will: 1) provide consumers with information about whether a retail food establishment is operating in a condition that is safe; and 2) ensure consistency and standardization of all health inspections performed by staff. The enhanced Retail Food Inspection Program would include the following new components:

- A. Adoption of the Food Establishment Inspection Summary Report Ordinance, requiring the posting of an Inspection Summary Report by all retail food establishments.
- B. Use of computer-based technology (computer pen tablets) for the data input and completion of health inspection reports and the Inspection Summary Report.
- C. Addition of an Environmental Health Specialist (1.00 FTE) to the Environmental Health Division allowing for the expansion of the educational component of the Retail Food Inspection Program while maintaining the number of health inspections conducted during the year.

#### **A. Food Establishment Inspection Summary Report Ordinance**

In November 2002, staff convened a workgroup to help formulate a mandatory program requiring all retail food establishments to publicly display a grade, score or other information to increase consumer awareness of food safety in retail food establishments. The workgroup included seventeen Pasadena restaurants, a representative from the California Restaurant Association, a representative from the California Grocers Association, and a restaurant review critic with the Pasadena Weekly. With input from the workgroup, staff decided to recommend mandatory posting of an Inspection Summary Report to be issued upon completion of a routine health inspection of every retail food establishment.

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The purpose of the Inspection Summary Report is to provide the public 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. Although non-critical risk violations that do not contribute to a potential food borne illness would not be included on the Summary Report, they would still be noted during the inspection and would still require corrections by the owner within a reasonable time. A copy of the Inspection Summary Report is included with this report (Attachment A).

Staff proposes that a Food Establishment Inspection Summary Report Ordinance be drafted that would require the following:

1. Retail food establishments (restaurants, delis, fast food outlets, bars, bakeries, and retail food markets) must post the Inspection Summary Report that indicates a summary of the findings contained in the Official Inspection Report. The report will be printed on the spot upon the completion of a routine health inspection. A routine inspection means a specific, unannounced inspection of any food establishment to determine compliance with all applicable Federal, State, and local statues, orders, ordinances, quarantines, rules, regulations, or directives relating to the public health.
2. The Inspection Summary Report must be posted in a conspicuous location to the general public entering or using the food establishment.
3. The Inspection Summary Report shall not be changed, defaced, marred, camouflaged, hidden or removed. Any of these actions would be a violation and subject to a fine. Owners would be required to report to the Public Health Department, within 24 hours, if an Inspection Summary Report is discovered missing or damaged.
4. The Inspection Summary Report will remain valid and posted until the next routine inspection of the food establishment by the Public Health Department.

To promote rapid abatement of unhealthy or risky practices or conditions, owners will have an opportunity to upgrade an Inspection Summary Report if a low score (less than 90 points) is received or when one or more critical risk violations were noted during the inspection. To qualify for the upgrade, the owner, designated manager, or other key food-handling employees would be required to attend a food safety education class. The goal of the food safety class is to improve food-handling practices by food service employees and to prevent food borne illness incidents. This requirement is similar to a person attending traffic school after having received a traffic violation with the goal that attending traffic school would improve the person's driving skills.

The food establishment owner/manager must also request a new inspection within 72 hours of receiving the original health inspection. The new inspection of the establishment will be unannounced and conducted within 14 days after the request is made. The result of the new inspection will be final and the Inspection Summary Report must then be posted for public review until the establishment receives its next routine health inspection. Repeat violators during the same calendar year that request another opportunity to upgrade an Inspection Summary Report must pay an inspection fee or the Department will require additional food handlers to attend a food safety class

Before the implementation of the Ordinance, staff will notify all retail food establishments about the new requirements of the Food Establishment Inspection Summary Report Ordinance, along with a background fact sheet about the workgroup discussions and research that went into establishing the Ordinance. A workshop will be conducted for all retail food establishment owners and managers to provide follow-up information and answer questions.

**B. Computer-Based Technology for Health Inspection**

Staff recommends the purchase and use of a pen-based computer tablet that can be used for all health inspection activities at an establishment. The advantage of using this technology is that it will provide increased efficiency, improved work quality, organization and accuracy of inspections. The technology will also provide the Environmental Health Specialists with immediate access to information about the food establishment and the complete history of all complaints, services, and activities performed at the establishment that is being inspected. Inspection reports can be generated on the spot.

The use of the technology will also allow staff to post inspection summaries for all restaurants on the City's website. Los Angeles County Department of Health Services, along with other public health departments throughout the country, has been posting restaurant inspection results on their websites for the past several years. Information on the City's website allows the public to access up-to-date information about a restaurant's most recent health inspection results. Accessing restaurant inspection results through the Internet has been well received by the public. Staff anticipates that the posting of restaurant inspection results would become available on the Internet after January 2004.

**C. Addition of an Environmental Health Specialist (1 FTE)**

These 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 the increased number of health inspections resulting from the new program.

Currently, routine health inspections of retail food establishments are conducted an average of 2.60 times per year. This is .40 below the goal of 3.0 inspections per establishment per year. The shortfall is the result of additional workload on staff, including: (1) more new restaurants in the City; (2) increased time required for the completion of regular inspections of retail food establishments due to additional City and State mandates; and, (3) increased number and complexity of plan check reviews involving new retail food establishments and kitchen remodels of existing establishments. For example, a new City mandate for restaurants is the Grease Ordinance, adopted by the City Council in February 2002, requires staff to ensure restaurants continue to implement Best Management Practices for the handling and disposal of fats, grease, and oils.

The addition of an Environmental Health Specialist will allow the Public Health Department to handle the additional workload and raise the number of health inspections to three times a year. The additional staff will decrease the turn-around time for plan reviews of new establishments and remodels from ten business days to five business days. Staff will be able to provide additional food safety education classes as a condition

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for allowing a retail food establishment to upgrade their Inspection Summary Report. Staff will also be able to download updated information to the web site.

### **HEALTH PERMIT FEES AND COST OF SERVICE STUDY**

A cost of service study was conducted by staff to determine the cost of all Environmental Health division services, including the proposed enhancement to the Retail Food Inspection Program. The methodology used for the cost study was reviewed by the Finance Department. The calculation includes direct and indirect costs.

The cost study revealed that the cost of the enhanced program is \$104,326 as follows:

1.00 FTE Environmental Health Specialist	\$69,626
Five pen-based tablets, including software	\$20,000
Services and supplies	\$14,700

The total cost of the Retail Food Inspection Program, including the proposed program enhancement and base budget cost will be \$608,040 for FY 2004.

Based upon the cost study, a 34% increase to all health permit fees for retail food establishments will be necessary to cover the full costs of the Retail Food Inspection Program. Examples of the fee increases are provided in the following table:

Sample Establishment	FY 2003 Health Fees	Proposed Fees for FY 2004	Difference
Restaurants with 11-30 seats	\$378	\$507	\$129
Restaurants with 31-60 seats	\$440	\$590	\$150
Retail food market > 6,000 sq ft	\$508	\$681	\$173
Retail food market < 2,000 sq feet	\$267	\$358	\$91

Attached to this report is a fee schedule showing Environmental Health Division's FY 2003 Health Permit Fees and proposed FY 2004 Health Permit Fees for all retail food establishments that will be affected by the fee change (Attachment B). The attachment also contains the 2003 health permit fees for the County of Los Angeles Department of Health Services and the City of Long Beach Public Health Department for comparison. Pasadena's proposed FY 2004 health permit fees for restaurants and retail food markets would continue to be less than the County of Los Angeles and City of Long Beach's FY 2003 health permit fees.

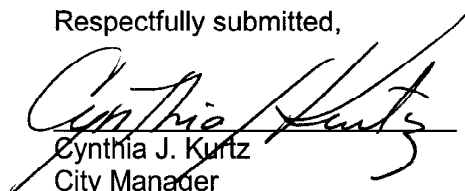
The fees in Attachment B have been included in the FY 2004 Proposed Amendments to the General Fee Schedule. Changes in fees will be before the City Council on April 21, 2003 and if approved would be in effect beginning July 1, 2003.

**FISCAL IMPACT**

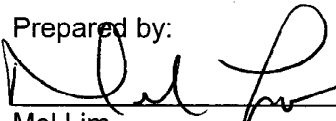
If approved by City Council, the costs and revenues in the amount of \$104,326 for this proposed program enhancement will be included in the City Manager's Recommended FY 2004 Operating Budget. Funds will be appropriated for program costs as follows:

Environmental Health Specialist	\$69,626
Software	\$20,000
Other Supplies	\$14,700


Respectfully submitted,

  
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Attachment A – Inspection Summary Report

Attachment B – Health Permit Fee Comparison