



<b>Title:</b> Enforcement of Critical Violations	Page 1 of 9
<b>Number:</b> FLE Policy 2022-03	<b>Effective Date:</b> 8/10/19
<b>Applies To:</b> Retail food establishments in Kitsap County	<b>Supersedes:</b> N/A
<b>Approved:</b> John Kiess, RS, EH Director	<b>Next Review:</b> 12/01/24

**A. Purpose**

The purpose of this policy is to provide Health District staff and operators of food establishments in Kitsap County with a policy and procedure when critical violations are observed during food safety inspections.

**B. Policy Statement**

It is the policy of the Kitsap Public Health District (Health District) to minimize the public’s exposure to foodborne illness by ensuring local ordinance and state law requirements are being met.

**C. Definitions**

For the purposes of administration and enforcement of this policy and procedure, the following definitions shall apply in addition to those found in Chapter 246-215 Washington Administrative Code (Food Code) and Kitsap Public Health Board Ordinance 2022-02 (Ordinance).

1. **Additional inspections:** Any routine inspection or reinspection that occurs after the designated number of routine inspections and one reinspection during the same permit year.
2. **Critical violations:** Factors that contribute to an increase in volume and severity of foodborne illness. Critical violations are represented on inspection reports as red headers.
3. **Follow-up inspections (also known as “reinspections”):** A specific evaluation of compliance of violations that were recorded during the previous inspection. These inspections may occur as many times as needed until violations are sufficiently corrected.
4. **High risk factors:** The Centers for Disease Control and Prevention (CDC) has identified five risk factors which are most frequently identified as contributing to foodborne illness and can be attributed to improper employee behaviors or practices. Each risk factor is comprised of a group of critical violations and are summarized in Table 1.
5. **Reinspections:** See definition of “follow-up inspections.”
6. **Routine inspections:** A complete evaluation of a food establishment, including food safety risks and compliance with the Food Code.

#### D. Implementing Procedures

1. If a critical violation is recorded for the **first** time, regardless of the type of inspection that was performed:
  - a. Violation must be corrected immediately\*. Health District staff will record the corrective action that was taken on the inspection report and check the “CDI” box on the inspection report.
  - b. A reinspection will occur when:
    - i. Recorded violations are in two or more CDC risk factors (see p. 6); or
    - ii. 60 or more critical violation points were recorded. See Section F, *High Priority Status*, for more information.
2. If a critical violation worth 10 points or more was recorded for the **second** time in a row, regardless of the type of inspection that was performed:
  - a. Violation must be corrected immediately\*. Health District staff will record the corrective action that was taken on the inspection report and check the “CDI” box on the inspection report.
  - b. Health District staff may choose to require additional steps to be taken by the operator. See Appendix Table 2, *Corrective Action Menu*, for options that may be implemented.
  - c. A reinspection will occur. The Health District will strive to complete the reinspection within 30 days. See Section H, *Additional Inspections*, for more information.
3. If a critical violation worth 10 points or more was recorded for the **third** time in a row, regardless of the type of inspection that was performed:
  - a. Violation must be corrected immediately\*. Health District staff will record the corrective action that was taken on the inspection report and check the “CDI” box on the inspection report.
  - b. A reinspection will occur. The Health District will strive to complete the reinspection within 30 days. See Section H, *Additional Inspections*, for more information.
  - c. Health District staff may choose to require additional steps to be taken by the operator. See Appendix Table 2, *Corrective Action Menu*, for options that may be implemented.
  - d. An office conference may be required. See Section E, *Office Conferences*, for more information.

4. If a critical violation worth 10 points or more was recorded for the **fourth** time in a row or more, regardless of the type of inspection that was performed:
  - a. Violation must be corrected immediately\*. Health District staff will record the corrective action that was taken on the inspection report and check the “CDI” box on the inspection report.
  - b. A reinspection will occur. The Health District will strive to complete the reinspection within 30 days. See Section H, *Additional Inspections*, for more information.
  - c. Health District staff may choose to require additional steps to be taken by the operator. Due to the long-term presence of the critical violation(s), progressive enforcement may be required. The plan of progressive enforcement will be customized for the specific, persistent public health risk(s) at the food establishment by the inspector and the Food & Living Environment Program Manager. See Appendix Table 2, *Corrective Action Menu*, for options that may be implemented.

#### **E. Office Conferences**

1. Health District staff may require an office conference with food establishment operators:
  - a. After a critical violation is recorded three or more consecutive times.
  - b. After an inspection results in Closure Status for the establishment.
  - c. To reinstate a permit after it has been suspended.
  - d. At any time if egregious food handling behaviors or practices are observed.
  - e. At any time if an inspection is interfered with, including aggressive or unprofessional behavior by an employee from the food establishment.
2. An office conference may be held at the Health District office, by phone, or via a virtual platform.
3. When possible and when applicable based on the topic of the office conference, those that should attend an office conference are the permit holder, person-in-charge, Certified Food Protection Manager, any relevant food workers, food inspector, and food inspector’s supervisor.
4. An office conference may be waived at the inspector’s discretion if they determine that the operator’s proposed plan to address continued critical violations is adequate.
  - a. The acceptance of the proposed plan of action will be documented by Health District staff in an inspection report.
  - b. The proposed plan will be evaluated for effectiveness at next inspection.
  - c. An office conference may be held if violation is present at the next inspection.

## F. High Priority Status

1. A food establishment may be placed on High Priority Status when:
  - a. 60 critical violation points or 70 total (critical and non-critical) violations points are accumulated during one inspection, or
  - b. The establishment's permit has been suspended for a violation of food service regulations
2. Food establishments on High Priority Status will be inspected at the following frequency:
  - a. Routine inspections will occur at least once every 60 days. See Section H, *Additional Inspections*, for more information.
  - b. Reinspections will occur as needed in-between routine inspections in accordance with Section D, *Implementing Procedures*. See Section H, *Additional Inspections*, for more information.
3. High Priority Status may be removed when:
  - a. The establishment receives two consecutive routine inspections (reinspections are not included) with a score of 95% or better, **and**
  - b. There have been no critical violations repeated from the inspection responsible for the establishment obtaining High Priority Status.

## G. Closure Status

1. A food establishment may be placed on Closure Status due to:
  - a. The presence of an imminent health hazard.
  - b. 75 critical violation points or 100 total (critical and non-critical) violations points are accumulated during one inspection, or
  - c. Persistent critical violations.
  - d. A compliance schedule not completed within time limits set forth by Health District staff.
2. An establishment may be allowed to remain open to operate if critical violations are corrected during the inspection.
3. An establishment is not allowed to remain open to operate if critical violations are not corrected during the inspection, with the exception of violations 1, 2, and 22, which may not be able to be corrected during the inspection. The criteria to reopen will be documented in writing in an inspection report.

4. The establishment will automatically be placed on High Priority Status if Closure Status was attained by exceeding violation point thresholds (Section F.1.a). See Section F, *High Priority Status* for more information.

#### **H. Additional Inspections**

1. A specified number of routine inspections and one reinspection per permit year is included in the cost of each annual Food Service Establishment Permit. See Appendix Table 3, *Routine Inspection Frequency*, to see how many routines each permit type is designated each year.
2. Additional inspections will incur a fee, per the *Environmental Health Fee Schedule*.

**Appendix**

1. **Table 1: CDC Risk Factors.** A summary of high-risk factors and associated critical violation items on a food establishment inspection report.

CDC risk factor	Associated critical violation items
#1- Food from unsafe source	7- Food obtained from approved source
	8- Water supply, ice from approved source
	10- Food in good condition, safe and unadulterated; approved additives
	11- Proper disposition of returned, previously served, unsafe, or contaminated food; proper date marking procedures for food at high risk for <i>Listeria</i>
	12- Proper shellstock ID; wild mushroom ID; parasite destruction procedures for fish
	24- Pasteurized foods used as required; prohibited foods not offered
	26- Compliance with valid permit, operating and risk control plans, and required written procedures
	27- Compliance with variance; specialized process; HACCP plan
#2- Improper holding temperature	16- Proper cooling procedures
	17- Proper hot holding temperatures ( $\leq 135^{\circ}\text{F}$ )
	19- No room temperature storage; proper use of time as a control
	21- Proper cold holding temperatures ( $\geq 41^{\circ}\text{F}$ )
#3- Inadequate cooking	18- Proper cooking time and temperature; proper use of non-continuous cooking
	20- Proper reheating procedures for hot holding
	23- Proper Consumer Advisory posted for raw or undercooked foods
#4- Protection from contamination	9- Proper washing of fruits and vegetables
	13- Food contact surfaces cleaned and sanitized; no cross contamination
	14- Raw meats below or away from ready-to-eat food; species separated
	15- Proper preparation of raw shell eggs
	25- Toxic substances properly identified, stored, used
#5- Poor personal hygiene	3- Proper ill worker and conditional employee practices; no ill workers present; proper reporting of illness
	4- Hands washed as required
	5- Proper methods used to prevent bare hand contact with ready-to-eat foods
	6- Adequate handwashing facilities

\*Violations 1, 2, and 22 may not be able to be corrected on-site. In these instances, the establishment will be given 7 days to correct the violation and must send the inspector proof or otherwise demonstrate that the violation was corrected (e.g., educated on-site by inspector, email photos of thermometer or copies of Food Worker Cards). If the establishment does not send the required documentation outlined in the inspection report, an on-site reinspection may be conducted. If applicable, an additional inspection fee may be assessed, per the *Environmental Health Fee Schedule* (see Section H).

- Violation 1** PIC present, demonstrates knowledge and performs duties to maintain active managerial control; certified manager on staff unless exempt
- Violation 2** Food Worker Cards current for all food workers; new food workers trained
- Violation 22** Accurate thermometer provided and used to evaluate temperature of time/temperature control for safety foods.

2. **Table 2: Corrective Action Menu.** Health District staff may implement corrective actions from, but not limited to, this list to address continuous critical violations.
- a. The longer violations persist, the more progressive the corrective action Health District staff may take.
  - b. Administrative Hearings must follow the guidelines outlined in Kitsap Public Health Board Ordinance 2022-02.

Critical Violation & Suggested Corresponding Corrective Action (CA) Focus		Corrective actions (public health interventions)	Suggested Deadlines	
<b>Demonstration of Knowledge</b> CA focus		<b>Administrative</b>		
<ul style="list-style-type: none"> <li>• Person in charge</li> <li>• Active managerial control</li> <li>• Valid Food Worker Cards/Certified Food Protection Manager</li> <li>• Trained food workers</li> </ul>	Administrative, training	Require office conference	Schedule it within 7 days	
		Require Administrative Hearing with Environmental Health Director. Permit holder will be invoiced the amount published in the Environmental Health Fee Schedule.	Schedule it within 7 days	
<b>Employee Health</b> CA focus		Submit agreement (restroom, wastewater, sales site, etc.)		
<ul style="list-style-type: none"> <li>• Ill worker</li> <li>• Active managerial control</li> <li>• Valid Food Worker Cards/Certified Food Protection Manager</li> </ul>	Administrative, training	Require Risk Control Plan	7 days	
		Restrict menu items	14 days	
			3 days	
<b>Preventing Contamination by Hands</b> CA focus		Restrict food handling processes (e.g., cooling no longer allowed)		
<ul style="list-style-type: none"> <li>• Hands washed as required</li> <li>• Proper barriers used</li> <li>• Adequate handwashing facilities</li> </ul>	Training, issue-specific actions	Restrict use of specific equipment	3 days	
		Require written plans of operation	7-14 days	
			3 days	
<b>App Source, Not adulterated</b> CA focus		Require installation of additional equipment		
<ul style="list-style-type: none"> <li>• Food from approved source</li> <li>• Water &amp; ice from approved source</li> <li>• Food in good condition; approved additives</li> <li>• Proper date marking</li> <li>• Proper disposition of food</li> <li>• Shellfish &amp; wild mushroom tags</li> <li>• Fish parasite destruction procedures</li> </ul>	Training, issue-specific actions	Suspend or revoke Food Service Establishment Permit	30 days	
		Issue citation	Immediately	
		Any other administrative control needed to mitigate public health risk	7 days	
		<b>Training</b>		Inspector discretion
		Require food worker to obtain Certified Food Protection Manager certification	30 days	
		Require all-staff educational site visit. Permit holder will be invoiced for an additional inspection at the rate published in the Environmental Health Fee Schedule.	Schedule it within 7 days	
		Require hiring a professional food safety consultant	Sign and submit copy of contract within 14 days	
		Retrain food workers	Within 7 days	

		Any other training control needed to mitigate public health risk	Inspector discretion
<b>Cross Contamination Protection</b>	<b>CA focus</b>	<b>Issue-Specific Actions</b>	
<ul style="list-style-type: none"> <li>Food contact surfaces cleaned/sanitized</li> <li>Raw meats below ready-to-eat foods</li> <li>Species separated</li> <li>Proper preparation of raw eggs</li> </ul>	Issue-specific actions	Discard food per Reconditioning & Destruction Guidelines	Immediately
		Recondition food per Reconditioning & Destruction Guidelines	
		Reorganize food on shelves	
		Divide or uncover cooling food	
<b>Time/Temperature for Control Safety Foods</b>	<b>CA focus</b>	Wash hands	
<ul style="list-style-type: none"> <li>Proper cooling &amp; reheating procedures</li> <li>Proper hot &amp; cold holding temperatures</li> <li>No room temperature storage</li> <li>Proper use of time as a control</li> <li>Accurate thermometer</li> </ul>	Administrative, training, issue-specific actions	Clean and sanitize surfaces	
		Relocate food	
		Post consumer advisory	
		Label chemicals	
<b>Consumer Advisory</b>	<b>CA focus</b>	Move chemicals	
<ul style="list-style-type: none"> <li>Proper consumer advisory posted</li> </ul>	Issue-specific actions	Cease food handling process until approved	
		Hold Order/embargo	
<b>Highly Susceptible Populations</b>	<b>CA focus</b>	Revoke Food Worker Card	
<ul style="list-style-type: none"> <li>Pasteurized foods served as required</li> <li>Prohibited foods not offered</li> </ul>	Issue-specific actions	One-day use of time as a control	
		Temperature/time logs	
<b>Chemical</b>	<b>CA focus</b>	Thermometer calibration logs	For at least two weeks
<ul style="list-style-type: none"> <li>Toxic chemicals properly identified/stored/used</li> </ul>	Issue-specific actions	Email copies of valid Food Worker Cards	
		Obtain thermometer, then email photo/receipt	
<b>Approved Procedures</b>	<b>CA focus</b>	Any other corrective action needed to mitigate public health risk	7 days
<ul style="list-style-type: none"> <li>Compliance with valid permit</li> <li>Compliance with operating and risk control plans</li> <li>Required written procedures</li> <li>Compliance with variance</li> <li>Compliance with HACCP plan</li> </ul>	Administrative		Inspector discretion



3. **Table 3: Routine inspection frequency.** A list the number of routine inspections by permit type that is included in an annual Food Service Establishment Permit fee.

Permit type	Risk category	Routine inspections received annually
Approved Kitchen	N/A	0
Bakery	Low	1
Bed and Breakfast	Low	1
Caterer with a Commissary	High	2*
Caterer with a Restaurant	Medium	1
Demonstrators	Low	1
Grocery	Low	1
Hotels/Motels	Low	1
Limited	Low	1
Meat/Fish Market	Low	1
Mobile Unit	High	2*
Restaurant (No Lounge)	High	2
Restaurant (No Lounge)- Seasonal	High	1
Restaurant (with a Lounge)	High	2
School (Central Kitchen)	Medium	2
Schools (Warming Kitchens/Preschools/Headstarts/ECAPs)	Low	1
Soup/Food Banks	N/A	0
Special Processes	High	1
Tavern (No Food)	Low	1

\*At least one of the two inspections should occur at the commissary kitchen when applicable.

**I. References**

- KPHB Ordinance 2022-02, *Food Service Regulations*
- Chapter 246-215 Washington Administrative Code, *Washington State Retail Food Code*

**J. Policy Review History**

Initial Approval	Pre-2019
Kitsap Food Advisory Council review	2019
Revision approval	8/10/2019
Reviewed & updated	10/27/2022