

DEPARTMENT OF HEALTH AND HUMAN SERVICES



Food Inspection Violations

Public Health Services · Licensure and Regulatory Services

2425 Reedie Drive, 9th Floor · Wheaton, MD 20902 · 240-777-3986 · 240-777-3088 FAX

www.montgomerycountymd.gov/hhs

The Montgomery County Department of Health and Human Services developed this document to assist food service facilities with the interpretation of inspections. It is intended to clarify the required frequency of inspection and observations documented on the inspection report.

A priority assessment of each food facility based on risk determines the frequency of inspections. Once an assessment has been performed, each food service facility is classified as either a high, moderate, or low priority as directed under the Code of Maryland Regulations (COMAR) 10.15.03.33. Frequency and type of the food service facility inspections is defined under COMAR 10.15.03.30 and Montgomery County Code, Section 15-3.

High Priority (three inspections annually) - a health care facility; or serves potentially hazardous food that is prepared a day or more in advance of service; or uses food preparation methods that require the food to pass through the temperature range of 41°F to 135°F two or more times before service, such as cooking, cooling and then reheating.

Moderate Priority (two inspections annually) - a facility that serves potentially hazardous food that is prepared using methods that require the food to pass through the temperature range of 41°F to 135°F not more than one time before service, such as cooking, hot holding, and then serving; or that is cut, assembled, or packaged on the premises, such as meats.

Low Priority (one inspection annually) - a facility that serves commercially packaged potentially hazardous foods directly to the consumer; non -potentially hazardous food that is cut, assembled, or packaged on the premises, such as candy, popcorn, and baked goods; or hand dipped ice cream.



Examples of inspection observations are included and grouped under the appropriate compliance item. References to the specific Code of Maryland Regulations (COMAR) 10.15.03, Code of Montgomery County Regulations (COMCOR), Chapter 15, or Montgomery County Code (MCC), Chapter 15 citations are included following each entry and links provided for further explanation and research.

Food Inspection Violations

Code of Maryland Regulations
[COMAR 10.15.03 Food Facilities](#)

Code of Montgomery County Regulations
[COMCOR Chapter 15. Eating and Drinking Establishments](#)

Montgomery County Code
[Chapter 15. Eating and Drinking Establishments](#)

Critical Items - (Items 1 - 9 on Inspection Report) Food safety requirements which must be followed to reduce the incidence of food-related illness and injury. Failure to correct these violations immediately results in a suspension of food facility license until the violation is corrected (COMAR 10.15.03.31).

Critical Items:

Food Source and Protection

1. Food obtained from approved source (COMAR 10.15.03.04)

- Food is not supplied from a licensed commercial facility.
- Retail food service facility conducting a special process at retail without prior approval.
- Containers of shellfish are mixed, combined or not tagged. Shellfish tags are incomplete.
- Records – such as invoices or letters of guarantee of fish being frozen for parasite destruction or records verifying aquacultured fish were fed formulated feed - not available. ([FDA Food Code 2017](#) 3-402.11-12)

2. Food separated and protected from adulteration, spoilage, and contamination (COMAR 10.15.03.04, .06, .14)

- Food is not wholesome; shows evidence of spoilage or is contaminated by soiled hands or stored items.
- Ready-to-eat food is contaminated by people, equipment, or raw potentially hazardous food.
- Improper thawing of ROP (Reduced oxygen packaged) fish or seafood. (i.e. thawed and not completely removed from the package).

Employee Health and Hand Washing

3. Food workers with infection or diarrhea restricted in accordance with COMAR 10.06.01

- An employee with a communicable disease observed handling food.
- An employee experiencing persistent sneezing, coughing, or a runny nose that causes discharge from the eyes or nose observed handling exposed food, clean equipment, or unwrapped utensils.

4. Hands clean and properly washed (COMAR 10.15.03.14)

- Food handler observed not thoroughly washing their hands and exposed arm areas with soap and warm water before handling exposed food, touching food contact surfaces, or starting work.
- Employee observed not washing their hands before using single-use gloves and handling exposed food.
- Employee washing hands but not using proper hand washing procedure.

Potentially Hazardous Food

5. Cooling time and temperature (COMAR 10.15.03.11)

- Potentially hazardous cooked food's internal temperature is not cooled from 135° F to 70° F within two hours and 70° F to 41° F within an additional four hours.
- Ready-to-eat potentially hazardous cold foods (such as salads, cold meat sandwiches or cut melons) are not cooled to an internal temperature of 41° F within four hours.

6a. Cold holding temperature (COMAR 10.15.03.06)

- The internal temperature of a potentially hazardous cold food to include pasteurized crab meat held under ROP conditions is not held at 41° F or below where required.
- Shell eggs and shellfish are not held at 45° F or below.
- Potentially hazardous reduced oxygen packaged products are not maintained at 38° F or below or as specified by manufacturer.
- Cold food placed on display is held above the required cold food temperature standard for more than 4 hours or an unverifiable time.

6b. Hot holding temperature (COMAR 10.15.03.06)

- The internal temperature of a potentially hazardous hot food is not kept at 135° F or above during storage, display or transport.

7a. Cooking time and temperature (COMAR 10.15.03.10)

- Potentially hazardous food is not cooked to the minimum required temperature and for the specified holding time:
 - Chicken, stuffed meat, stuffed pasta, poultry, or stuffing containing fish or meat - 165° F or above for 15 seconds.
 - Shell eggs for immediate service, fish, meat, pork- 145° F for 15 seconds.
 - Shell eggs not for immediate service, ground fish or meats - 155° F for 15 seconds.
 - Whole roast - 130° F and held for 112 minutes.
 - Fruit, vegetables, and ready-to-eat commercially processed foods for hot holding – 135° F.

7b. Reheating time and temperature (COMAR 10.15.03.11)

- Reheated food is not rapidly reheated to 165°F for 15 seconds within two hours.
- Commercially processed food is not reheated to minimum of 135°F for at least 15 seconds within 2 hours before hot holding.

Water and Sewage (COMAR 10.15.03.18)

8. Potable hot and cold running water provided

- Adequate hot and cold running water is not provided -where required- to meet peak demands throughout the facility.
- Water is not from an approved source.
- Cross connection between potable and non -potable water system.

9. Sewage discharged in accordance with all applicable State and Local Codes

- Sewage is overflowing, and sinks are not discharging waste properly into sanitary sewer.

Good Retail Practices - (Items 10 - 38 on Inspection Report) Preventive measures which control the introduction of pathogens, chemical and physical objects into foods. A Good Retail Practice violation may result in the food service facility being given a specified time up to 30 days to correct or an approved written schedule for compliance dependent on the severity of the violation and no immediate or substantial danger to public health (COMAR 10.15.03.31).

Good Retail Practices:

Food Temperature Control

10. Thawing Methods (COMAR 10.15.03.09)

- Potentially hazardous food is not thawed using one of the following methods:
 - In refrigerated units
 - Under potable running water that is 70°F or less
 - In a microwave oven only...
 - ...when the food will also be immediately cooked in the microwave oven, **or**
 - when the food will be immediately transferred to the grill, oven, stove top, etc. to be fully cooked as part of a continuous cooking process.
- Not completely removing vacuum-packaged seafood or fish from the reduced oxygen environment or package prior to thawing.

11. Cooling Methods (COMAR 10.15.03.11)

- Facility observed not using one or more of the following methods to cool foods:
 - Cooling foods in a refrigerator in shallow pans not over three inches deep that are loosely covered.
 - Reduce food mass by separating foods into smaller or thinner portions.
 - Use rapid cooling equipment such as an ice wand.
 - Using ice water baths combined with frequent stirring.
 - Add ice made from potable water as an ingredient.
 - Refrigerate loosely covered or allow the food to remain uncovered until cooled provided the food is protected from overhead contamination.

12. “Time-only”: procedures and record keeping (COMAR 10.15.03.08)

- The approved “time-only” procedures are not followed, such as:
 - Not keeping record of each food item currently under “time-only” control procedures.
 - Not labeling each “time-only” food product with a time for when it is to be used or discarded.

13. Thermometers provided and accurate (COMAR 10.15.03.06 and COMAR 10.15.03.09)

- Facility does not have a metal stemmed thermometer to take internal temperatures of food products.
- Refrigerated and heated units do not have an easily readable properly located temperature measuring devices.

Food Identification

14. Labeling accurate, truthful, date (COMAR.10.15.03.04, .06, .12)

- Milk is offered for sale past the sell-by-date.
- Packaged food products that require refrigeration are not labeled as such.
- Foods not properly labeled.
- Potentially hazardous bakery products approved for room temperature storage are not labeled with sell-by-date or removed from original packaging prior to sale.

15. Required records available: shellfish tags, egg records (COMAR 10.15.03.04-.05)

- Shellfish
 - Shellfish tags are not dated with the last shellfish sold/served from the specific bushel/container.
 - Shellfish tags are not kept in the facility for 90 days after the last shellfish sold/served, and not maintained in chronological order.
- Egg records (invoices, daily records, etc.) are not kept in the facility for 90 days.

Prevention of Food Adulteration, Spoilage, & Contamination

16. Adulteration, spoilage and contamination practices during food preparation, storage and display (COMAR 10.15.03.06, .04, .05, .07, .09 & .10)

- Food not protected from contamination during storage, preparation, display, service, and transportation.
 - Food stored under drain lines, or in toilet or locker room.
 - Food in non-waterproof containers stored on floor, exposed food stored less than 18 inches off floor.
 - Unwrapped, previously served food being reused.
 - Raw meats and/or seafood are stored over ready-to-eat food.
- Severely overcrowded/overstocked storage or display of cold foods.
- Overstocking refrigeration units.
- Frozen food found in unfrozen state.
- Raw unpackaged animal foods offered for consumer self-service (other than items like sushi, Mongolian BBQ, and frozen, shell-on shrimp and lobster).
- Food for outdoor cooking not prepared inside facility.
- Non-food grade bags being used to store food.

17. Personal cleanliness (COMAR 10.15.03.14)

- Food handlers not wearing hair restraints, wearing unclean garments, having untrimmed nails, lower arm jewelry other than plain ring while handling exposed food and food-contact surfaces.

- Employee eating (including chewing gum) or smoking/vaping in food prep area; except drinking from covered beverage containers.
- Employee using cloth towel to wipe hands.

18. Bare hand contact with ready-to-eat food and proper utensil use (COMAR 10.15.03.14 & .09)

- Bare hand contact with ready-to-eat food.
- Gloves not changed between raw and ready-to-eat food, improper glove use.
- Using a cup or bowl -without a handle- as scoop.

19. Adequate hand washing facilities supplied and accessible (COMAR 10.15.03.18)

- Hand washing sink is blocked, broken, in disrepair, or full of items.
 - No hand soap or paper towels at hand sinks.
 - Hand sink unable discharge hot and cold running water or tempered running water of at least 100°F .
 - Hand washing facilities not provided in each food preparation, processing, utensil washing area, and adjacent to all toilet rooms.
 - Water is turned off at hand sink.
 - Use of utensil washing vat, food prep sink or mop sink for hand washing.
 - Metered or automatic faucets not providing at least 15 seconds of flow when activated.
- *The above also applies to hand washing sinks serving toilet rooms.**

20. Toxic substances: use, pesticide storage, labeling pesticide disposal, pesticide consumer advisory posted (COMAR 10.15.03.13 & .15)

- Poisonous or toxic material or chemicals used or stored in a way that will contaminate food or food equipment; improperly labeled, stored, or used.
- Sanitizing solution too strong.
- Medication or first aid supplies not stored separately from food .
- Household pesticides used in food service facility.
- Non-food grade lubricant used on food contact equipment.
- Uncovered rodent bait station in kitchen.

21. Wiping cloths: properly used and stored (COMAR 10.15.03.16)

- Wet wiping cloths not rinsed and stored in sanitizing solution when not in use or stored in sanitizing solution that is too weak.
- Reuse of soiled dry wiping cloth.
- Cloths for wiping food spills used for other purpose.

22. Insects, rodents, and animals: not present, control means (COMAR 10.15.03.20 & .23)

- Rodents, roaches, flies, insects, birds, or other pests present. Evidence of pests such as droppings, urine stains, gnawing, nesting material, egg cases, or rodent burrows present.
- Openings in facility that allow entrance of pests.

- Inadequate screening of open windows and doors.
- Doors not tightly fitting and self-closing.
- Other openings
- Live birds or animals present other than edible or decorative fish, service animals not controlled by the disabled individual, or pets in common dining area of health care facilities during non-meal times.
- Dogs observed in outdoor serving area without prior approval by Health Department.
- Facility operating with open windows and doors but not in compliance with 10.15.03.20E (3)(a)

Utensils and Equipment: Design, Installation, and Storage

23. Single use/serving articles: use, storage, dispensing (COMAR 10.15.03.17 H, G)

- Re-using single use items such as #10 cans, plastic buckets, bulk food containers or plastic bags.
- Storing single service items in the toilet room or in a manner that can cause contamination.
- Re-using flatware that was designed for single use (disposable).
- Single service items not protected from splash.
- Single-service articles not handled or dispensed in a manner that prevents contamination.

24. Food contact surfaces & equipment: cleaned and sanitized; storage (COMAR 10.15.03.06, 10.15.03.16, 10.15.03.17)

- Improper storage of food prep or dispensing utensils, i.e. ice cream scoops or soup ladles in standing water.
- Equipment or utensils not cleaned and sanitized, or stacked or handled in a manner that may result in contamination.
- Dishes not air dried before stacking such as “wet nesting” or “wet stacking”.
- Food contact surfaces not cleaned and sanitized as often as needed or ineffectively cleaned and sanitized by ware washing procedure resulting in residue on sanitized dish.
- Food equipment or food contact surfaces stored in a toilet room or under water or sewer lines.
- Reusing soiled tableware
- Exposed tableware stored lower than 18 inches from floor and not protected by door or enclosure.
- Clean equipment not protected from splash.

25. Food contact surfaces & equipment: properly designed, constructed & used (COMAR 10.15.03.06, 10.15.03.15)

- Equipment or utensils not non-toxic, smooth, easily cleanable and/or free from cracks and crevices such as cutting boards with deep knife marks
- Refrigerated or heating units not maintaining temperature because the thermostat is improperly set.

- Improper design of food guards.
- Inadequate equipment provided for storage, thawing, cooling, reheating, or holding foods.
- Spaces between adjoining stationary food contact equipment not sealed or exposed to seepage.
- Food and non-food contact equipment that needs repair or is scheduled to be repaired.
- Equipment not used as designed.
- Food contact equipment or utensils stored on an unapproved surface.

26. Ware washing facilities: installed, maintained, used; test strips (COMAR 10.15.03.16)

- Gross food particles not removed from food contact surfaces before washing; pre-rinse device for ware washing machine not provided.
- Sanitizing rinse does not meet minimum requirements for time, temperature, or concentration (too weak) for manual or mechanical operations.
- 3 compartment sink is not large enough to accommodate the largest piece of equipment and/ or is improperly set up.
- Table, drainboard or wall mounted rack not available for soiled or clean utensils.
- Mechanical dishwasher missing required data plate with operation specifications, pressure, or temperature gauge.
- Automatic detergent dispensers not properly maintained or operational.
- Interior of mechanical dishwasher not cleaned as needed or in disrepair.
- Dishes & utensils not properly racked during wash, rinse, sanitize procedure.
- No chemical test kit available to check sanitizer being used.

Physical Facilities

27. Garbage/refuse properly disposed: facilities maintained (COMAR 10.15.03.19)

- Garbage containers are not properly constructed, clean, covered, in good repair or vermin proofed.
- Garbage storage areas are not grease resistant, properly constructed, or maintained.
- Used cooking grease and oils are not stored, recycled, or disposed of properly.
- Garbage and rubbish not disposed of daily, or as often as needed.

28. Plumbing installed: proper backflow devices (COMAR 10.15.03.18)

- Plumbing to all fixtures is not properly sized, maintained or installed; to include lack of backflow prevention devices where needed and potential cross- connections between potable and non- potable water supply.
- Hot and/or cold water are plumbed to fixtures, but the valve is turned off; (not handsink fixtures).
- Overhead waste pipes are not constructed, installed, or maintained in food storage, preparation or serving areas.
- Indirect waste lines are not provided where required such as three compartment sink, food preparation sink, ice making machine, steam table or counter installed hand sink.
- Flooding on floor caused by clear liquid discharge from equipment.

29. Toilet facilities: properly constructed, supplied, clean (COMAR 10.15.03.18

- Toilet rooms are inconveniently located, insufficient in number, inaccessible to employees and/or do not have self-closing doors.
- Toilet rooms are not clean, in disrepair, or properly supplied with toilet tissue.
- Covered waste receptacles are not provided where required.

30. Physical facilities and non-food-contact surfaces installed, maintained, and cleaned (COMAR 10.15.03.15-16, & COMAR 10.15.03.21,.23)

- Floors, walls, or ceilings not constructed with approved surface finish, installed, maintained, properly sealed/caulked, or clean.
- Non-food contact surfaces of equipment such as- fan grids in refrigerated units, shelving, refrigerator doors, gaskets, drawers, and interior of packaged food display cases- are not clean, maintained, or installed as required.
- Area for employees' belongings is not provided.
- Workspaces or aisles between equipment are not adequate for employees to perform duties without contamination of food.
- Lack of a mop sink.
- Mop water disposed of in utensil washing or food preparation sink.
- Freezer has ice buildup.
- Walls in food preparation, utensil washing, or hand washing rooms or areas are not smooth, easily cleanable, or grease resistant to level of splash; block or brick walls in these areas are not filled, sealed, and smoothly finished.
- Pooled water other than sewage or clear liquid drainage present on the floor.
- Walk-in floor, walls, ceiling, and door not in good repair or not clean.
- Facility and premises not clean or free of litter and rubbish, such as unused or unnecessary equipment, excess storage containers, or boxes
- Living or sleeping quarters in facility or unnecessary people in food preparation and utensil washing areas.

31. Adequate ventilation and lighting (COMAR 10.15.03.16 & COMAR 10.15.03.22)

- Lighting is not shielded, sufficient, installed or maintained in areas where required.
- Rooms not adequately vented to remove excessive heat, steam, smoke, vapors, fumes or condensation to include toilet rooms.
- Ventilation hood or filters/HVAC not clean and maintained in required rooms.
- Shelving over cooking equipment under hood is not installed with deflector or installed in manner that interferes with hood function.
- Grease removal exhaust hood, or heat and steam removal exhaust hood, not provided where needed.
- Outside venting creating harmful or unlawful discharge.

Miscellaneous

32. Required postings: license, choking poster, consumer advisory, handwashing signs

(COMAR 10.15.03.10F, 10.15.03.28D, 10.15.03.32)

- Consumer advisory not posted when facility offers raw animal products or items that include raw/undercooked ingredients.
- License not conspicuously posted.
- Choking poster not posted in a facility that offers seating for dining in.
- Handwashing signs are not posted at all hand washing stations.
- Food allergy poster not posted in staff area.

33. HACCP plan complies with requirements (COMAR 10.15.03.34)

- HACCP plan does not contain all specified requirements.
- HACCP plan not updated, readily accessible or being followed as approved. (Required for high and moderate priority facilities only)
- Employees not monitoring CCPs using appropriate and properly calibrated device such as pH meters.
- Facility conducting a Special Process at Retail without prior approval.

34. Certified food manager present, active supervision (COMCOR 15.00.01, MCC 15-8)

- Personnel on-site not in possession of a valid Montgomery County Food Manager's card. (Required for high and moderate priority facilities only)

NOTE: Possession of an ANSI approved food manager's course certification is not a substitute for a valid Montgomery County Food Manager's card.

Allergen Awareness Training (Montgomery County Code 15-15B)

Personnel on-site are not in possession of a valid Food Allergen Awareness Training certificate by ANSI. (Required for high and moderate priority facilities only)

35. Foods free of artificial trans-fat, sign posted (Montgomery County Resolution 16- 134)

- Restaurants/grocery stores that prepare food using partially hydrogenated vegetable oils, shortenings, or margarine that contain more than 0.5 grams trans-fat per serving.
- At least one sign is not posted at each entrance to an eating and drinking establishment indicating the eating and drinking establishment complies with the requirements.

36. Smoking not permitted; sign posted (Montgomery County Code, Chapter 24, Section 24-9, and Maryland Health General 24-501)

- The observance of an individual smoking or vaping inside or in an outdoor serving area. This includes evidence of smoking being permitted on premises such as paraphernalia, odor and/or cigarette ashes or butts.
- Signs prohibiting or permitting smoking, as the case may be, must be posted at each entrance to a public place covered by this section.
- Signs posted do not meet the minimum requirements as designated.

37. Nutritional Labeling; Information posted and Healthy Meals for Children (Montgomery County Code 15-15A and, 15C: Eating and Drinking Establishments – Nutrition Labeling; Healthy Meals for Children)

- Required nutrition information is not posted in a location and manner in accordance with applicable regulations. This is only applicable to food service facilities with 20 or more locations nationwide.
- A food service facility that offers for sale a children’s meal must offer for sale at least one healthy children’s meal.

38. Gender Inclusive Public Restrooms (Montgomery County Bill No. 4-22)

- A public single-user restroom, existing or newly built, must be:
(1) made available for use by individuals of any gender; and
(2) identified with gender-inclusive signage.