

Steven J. Ward, M.P.H., C.H.O.  
Director of Public Health

TOWN OF WATERTOWN  
*Board of Health*

Administration Building  
149 Main Street  
Watertown, MA 02472  
Phone: 617-972-6446  
Fax: 617-972-6499  
www.watertown-ma.gov

Barbara D. Beck, Ph.D., Chair  
John H. Straus, M.D., Clerk  
Carl N. Brownsberger, M.D., Member

July 10, 2008

Agatha Benincasa  
Napoli Pizza  
9 Main Street  
Watertown, MA 02472

Hand Delivered  
by Constable:

Date:

*Pova Santamaria*  
7/10/08

**RE: Food Code Violations – Napoli Pizza**

Dear Ms. Benincasa:

As a result of a complaint on July 3, 2008 at 12:55pm, Mark Waksmonski, Sanitarian for the Watertown Board of Health, inspected the above referenced establishment. It was during this inspection that the following violations of the Federal Food Code and Chapter X of the State Sanitary Code 105 CMR 590.000 were found:

**VIOLATIONS**

- 1. On July 3, 2008, Mark Waksmonski, Sanitarian for the Watertown Health Department issued an order to cease and desist food service operation as a result of a sewerage leak in the basement of the establishment. The permit holder failed to discontinue operations and notify the Board of Health for serious violations of the state sanitary code in violation of Food Code 8-404.11. The establishment was reinspected on July 3, 2008 at 3:30 pm by Mark Waksmonski, and at that time, the sewage pipe was repaired and the basement was cleaned and sanitized.**

Food Code 8-404.11 states in part that "Except as specified in ¶ (B) of this section, a permit holder shall immediately discontinue operation and notify the regulatory authority if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstance that may endanger public health."

2. **On July 3, 2008, while Mark Waksmonski was attempting to issue the cease and desist food service operation order at the time of the inspection, the establishment's permit holder interfered with and impeded the inspection by laying hands on the inspector, denying that the establishment will close, and throwing paper towels in the direction of the inspector in violation of 105 CMR 400.100 (C) and 105 CMR 590.014(B).**

105 CMR 400.100 (C) states in part that "If any owner, occupant or other person refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to every part of the structure, operation or premise where inspection authorized by the State Sanitary Code is sought, the board of health or Commissioner or Public Health or the authorized agent or representative of either may: revoke or suspend any license, permit or other permission regulated under the State Sanitary Code where the inspection of the structure, operation or premises is sought to determine compliance with the State Sanitary Code." 105 CMR 590.014(B) states in part that "The board of health or its authorized agent, as determined by the board of health, may issue a notice to suspend a permit to operate a facility licensed under 105 CMR 590.000 or one or more particular operations of the facility. Each of the following grounds shall constitute full and adequate grounds to suspend a permit... (b) Denial of entry to agents of the board of health or the Department or attempts to impede the work of a duly authorized agent of the board of health of the Department."

#### NOTICE OF HEARING

**As a result of the violations listed in this order letter you are required to attend a show cause hearing before the Board of Health on Wednesday, July 16, 2008 at 8:15 pm in the Council Chambers room of the Watertown Town Hall located at 149 Main Street, to show cause why the Board of Health should not pursue possible suspension or revocation of your permit to operate a food service establishment for interference with a food inspection as defined in Chapter 1 of the State Sanitary Code, specifically 105 CMR 400.100 (C), Article X of the State Sanitary Code 105 CMR 590.014 (B), and noncompliance with the State Sanitary Code, 105 CMR 590.000. You also have a right to be represented at the hearing.**

**Pursuant to 105 CMR 590.014 (B) You have a right to obtain copies of all relevant inspection reports, orders, notices and other documentary information in the possession of the Board of Health. Requests for any such documents should be made to the Board of Health, located at 149 Main Street, Watertown, MA 02472.**

Any person who shall fail to comply with any order issued pursuant to the provisions of the State Sanitary Code, Chapter X 105 CMR 590.019(B) shall upon conviction be fined not more than \$100 for the first offense and not more than \$500 for a subsequent offense. Each day's failure to comply with the order shall constitute a separate offense.

July 10, 2008

In addition, you may be fined up to \$300 per violation of the Board of Health Regulations pursuant to MGL Chapter 40, § 21D (Non-Criminal Disposition). These fines are as follows:

\$25.00	For First Offense
\$50.00	For Second Offense
\$100.00	For Third Offense
\$300.00	For Fourth Offense, and Any Further Offenses

Each day of a continuing violation shall constitute a separate offense and shall be subject to a separate penalty.

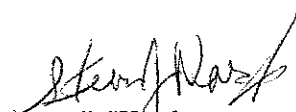
**Note: Each subsequent reinspection after an order letter has a fee of \$60.00.**

If you have any questions concerning this matter, you may contact this office at (617) 972-6446.

Sincerely,



Kristel Bennett  
Chief Environmental Health Officer



Steven J. Ward  
Director of Public Health



Mark Waksmonski  
Sanitarian

cc: File  
Mark Waksmonski, Sanitarian  
Licensing Board  
Board of Health

## NOTICE OF SURCHARGE

DATE: 7/10/08

TO: Agatha Benincasa

Napoli Pizza

9 Main St

Watertown, MA 02472

RE: Sanitary Code Violations / Napoli Pizza

Due to non-compliance, the fee for this inspection is sixty (\$60.00) dollars. Please make the check payable to the Town of Watertown.

Failure to pay this fee within fourteen (14) days of receipt of this letter will result in an administrative hearing before the Board of Health, and could lead to a suspended license and/or **Doubling** in permit fees.

**TO: NAPOLI PIZZA**

**FROM: WATERTOWN HEALTH DEPARTMENT**

**RE: SURCHARGE FOR ADDITIONAL REINSPECTIONS**

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For the majority of permitted establishments, two routine inspections annually are mandated and sufficient to ensure compliance with all State and local regulations. For some establishments however, two annual inspections are inadequate and additional visits by the Health Department's inspectors are found to be necessary. In some instances, a number of re-inspections are necessary to assure the correction of critical violations and/or previously cited violations. Accordingly, additional comprehensive inspections may be needed to maintain an acceptable level of compliance. In this situation, the Health Department and/or Health Agent may issue order letters, schedule and conduct administrative hearings and take action to suspend or revoke permits.

It is both fair and equitable that establishments which, by reason of negligence and/or non-compliance, require expenditure of additional inspection time by the Health Department should pay the additional costs involved in providing this work.

Accordingly, any re-inspection subsequent to the issuance of an order letter carries a sixty (\$60) dollar surcharge fee. Failure to pay the fee within fourteen (14) days of receipt of the order letter will result in an administrative hearing before the Board of Health, and could lead to a suspended license and/or **doubling** in permit fees.

No permit renewals will be issued until all outstanding fees have been paid in full.

Establishment Name: Napoli Pizza

Date: 7/3/08

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of 3

Address: 9 Main St

Item No.	Code Reference	C - Critical Item R - Red Item	DESCRIPTION OF VIOLATION / PLAN OF CORRECTION Please Print Clearly	Date Verified
			<p>Inspection inspection notes</p> <p>After writing the inspection report in the dining area of the establishment I waited until the majority of the patrons left the establishment to go over the inspection report.</p> <p>I entered a food employee named Maria (owner's daughter) to follow me to the back of the kitchen area so I could explain the report while stating that the establishment must cease and desist all food service, the owner Ms. Agathe Benicose began to come to where Maria and I were speaking. As I stated Ms. Benicose began to raise her voice and stated that I cannot close the establishment.</p> <p>Ms. Benicose then had her hands on my arms and then my stomach area continuously stating that I cannot close the establishment. I allowed Ms. Benicose and Marie to voice these concerns but insisted that the front door be locked.</p> <p>A food employee then locked the front door and I made my way to the customer service area near the front inline unit. I could not avoid listening to their concerns. Ms. Benicose continued yelling and became red-faced with anger. High up at she walked towards me grabbed a pile of paper towels and threw them in my direction. She then held to be restrained by two food employees preventing her from coming any closer to me. I then decided to exit the establishment and request the front door to be unlocked for me.</p> <p>As I exited Ms. Benicose was still verbally abusing me. I then asked Marie to sign the inspection report where I requested the report which was then signed by her.</p>	

Discussion With Person In Charge:

*Done Done all*  
*made webmaster, San Antonio*