

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 24, 2020

Sent via email and regular mail

Grumpy's Bar & Grill
c/o Richard Leclaire
20 Plaistow Rd.
Plaistow, NH 03865

**Re: Violations of New Hampshire's Emergency Order #52, as extended, the
Universal Guidelines and the Food Services Industry Guidance**

Dear Mr. Leclaire:

Grumpy's Bar & Grill in Plaistow is operating in violation of the Governor's Emergency Order #52, as extended by Emergency Order #72. This Emergency Order was issued pursuant to section 18 of Executive Order 2020-04, as extended by Executive Order 2020-21. Exhibit A to Emergency Order #52 establishes Universal Guidelines that apply to all businesses, organizations, and individual business operators in the State. Exhibit B to Emergency Order #52 establishes industry-specific guidance, including a Food Service Industry Guidance. Despite the use of the terms "guidelines" and "guidance" in the titles of these documents, your business is required to comply with the mandatory provisions of these documents if you want to continue to operate. *See* Emergency Order #52, Paragraph 1 ("All businesses and other organizations operating within this State shall comply with the . . . Universal Guidelines . . . and any other industry-specific guidelines . . . issued subsequent to this Order.").

Emergency Order #52 and its Applicable Guidelines and Guidance

As has been explained to you directly and repeatedly, your business must comply with both the Universal Guidelines and the Food Services Industry Guidance. Under the Universal Guidelines, "[e]mployees and volunteers who are directly providing service to consumers or individuals must wear masks while providing such service."

The Food Services Industry Guidance similarly requires that "[d]irect customer contact employees shall wear face coverings over their nose and mouth when at work and around others in settings where social distancing may be difficult (e.g. serving clients, greeting, etc.)." This Guidance also requires that "[c]ustomers should be asked to bring and wear cloth face coverings when entering and exiting a facility to protect other patrons and employees during the seating and exiting process, or when getting up to use the restroom." Additionally, "[t]able spacing . . .

should be maintained so people sitting at adjacent tables are more than 6 feet apart . . . People moving between tables . . . should also have adequate space to move between tables.” Finally, “[b]ar areas can be open while following social distancing protocols between groups or individuals seated at the bar . . . Customers are not allowed to stand/mingle in the bar area and must be seated . . .”

The Plaistow Health Officer has contacted you by email on at least four occasions (May 13, July 24, July 25, and August 10) to share these Guidelines and Guidance with you, and to specifically highlight the face covering and social distancing requirements. Nevertheless, when the Plaistow Police Department visited your business on November 14, the police officer observed only one person in the bar—a bartender—wearing a face covering. The police officer’s observations were consistent with a photograph received by the Health Office on November 13 (attached as Exhibit A), which clearly shows overcrowding, standing and mingling in the bar area, no social distancing between tables, and no face coverings. The police officer also observed tables spaced with less than 6 feet between them, lines of people not wearing face coverings while waiting at the bar, and customers seated less than 6 feet apart at the bar. As the Health Officer explained to you in her November 14 email following the police officer’s visit, these are all violations of the provisions of the Universal Guidelines and the Food Services Industry Guidance noted above.

Violations

Violations of the Governor’s Emergency Order #52 and its applicable Guidelines and Guidance are taken very seriously. COVID-19 has already infected over 15,300 people in New Hampshire to date, and caused more than 500 deaths. The Governor’s Emergency Orders were instituted so New Hampshire businesses can operate as safely as possible during the COVID-19 pandemic. By not complying with Emergency Orders, businesses risk endangering the health of all individuals involved, as well as everyone else who those individuals later come into contact with.

In addition to jeopardizing the health and safety of both the public and your employees, your failure to follow Emergency Order #52 is a violation of state law. Pursuant to RSA 21-P:47, the violation of an emergency order, rule, or regulation issued by the Governor can lead to misdemeanor criminal charges. Further, under Emergency Order #65, violations of any Emergency Order are subject to civil penalties of up to \$1,000 per violation or up to \$2,000 per day, depending on the nature of the violation. Grumpy’s Bar & Grill’s continued violation of the Emergency Orders place both you and your business at risk of these civil and criminal penalties.

In accordance with Emergency Order 65, Paragraph 4, and based on all of the relevant facts and circumstances, specifically including that Grumpy’s Bar & Grill was made aware in writing that employees serving customers had to wear face coverings, 6 feet of distance is required between tables, the number of individuals at the bar must be restricted in order to maintain 6 feet of distance between groups, and standing and mingling in bar areas is prohibited, **a civil penalty of \$ 1,500 is being assessed for violating Emergency Order 52.**

This civil penalty must be paid by December 8, 2020. The payment should be directed/written out to the "State of New Hampshire" and sent to me at the Attorney General's Office. If Grumpy's Bar & Grill wants to challenge this civil penalty, it can raise that issue with the Attorney General's Office under Paragraph 4 of Emergency Order 65, and negotiate a settlement or request a hearing.

Ensure that Grumpy's Bar & Grill complies with all applicable Emergency Orders, the Universal Guidelines, and the Food Service Industry Guidance in the future and do not otherwise put the public or your employees at risk.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anne M. Edwards".

Anne M. Edwards
Associate Attorney General

Enclosure

Exhibit A

Photograph taken of Grumpy's Bar & Grill interior on November 13, 2020

