

**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 25, 2020

VIA FIRST CLASS MAIL AND EMAIL

White Mountain Tavern  
c/o David Culhane  
527 US-3  
Lincoln, NH 03251

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

Dear Mr. Culhane:

The White Mountain Tavern in Lincoln 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 already been explained to you, 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 you to “[p]lace hand sanitizer stations in restaurant lobby, reception, cashier stations, bathrooms, and other frequently used areas throughout the establishment.” 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.” “Bar 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 . . . .” Finally, “[s]mall group bands are allowed to perform outside only, as long as they can maintain physical of 6 feet apart from each other and any table. No bands are allowed to perform indoors at restaurants or function halls.” Only “disc jockeys and solo artists, consisting of one artist either singing or singing and laying an instrument, are allowed inside...”

We initially received a complaint about your establishment on October 20. That complaint stated that both you and a waitress were not wearing masks while interacting with customers, and that your cook was wearing his mask around his neck. The Town of Lincoln Fire Chief, Ron Beard, did a compliance check with you on November 4. Chief Beard found only one small bottle of hand sanitizer in your restaurant. He also learned that you were not keeping a log of employee health screenings, and that your tables were not spaced six feet apart, although you told him that you taped off an “X” on every other table to keep customers spaced out. Chief Beard provided you with a copy of the Guidelines and Guidance, as well as a copy of the NH Health Officer Food Service Guidance Checklist. Chief Beard reported that you did well on a follow-up inspection.

However, on November 22, we received another complaint that The White Mountain Tavern had hosted music performances on November 21. An online video of the performance clearly shows two guitarists performing indoors close together. The video also shows customers seated shoulder-to-shoulder at the bar, and customers standing and mingling in the bar area. Only one bartender is wearing a mask in the video. We have a Face Book post showing a photograph of you, with your back to the camera, not wearing a face covering while standing very close to bar patrons who are not spaced 6 feet apart. These actions violate the Governor’s Emergency Order #52.

## **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 18,000 people in New Hampshire to date, and caused over 510 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. The White Mountain Tavern's continued violations 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 the White Mountain Tavern was made aware in writing through providing the Food Service Guidance that employees serving customers had to wear face coverings, tables had to be spaced six feet apart, groups in the bar must be seated 6 feet apart, standing and mingling in bar areas is prohibited, and small group bands are allowed to perform outside only, **a civil penalty of \$1,000 is being assessed for violating Emergency Order #52. Please submit payment in the form of a check or money order made payable to "The State of New Hampshire" and send the check or money order directed to Anne Edwards, Associate Attorney General, Office of the Attorney General, 33 Capitol Street, Concord, NH 03301.**

**This civil penalty must be paid by December 9, 2020.** If the White Mountain Tavern 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 the White Mountain Tavern 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 black ink, appearing to read "Anne M. Edwards". The signature is fluid and cursive, with the first name "Anne" being the most prominent.

Anne M. Edwards  
Associate Attorney General

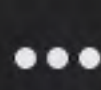
Enclosure  
cc: Chief Ron Beard

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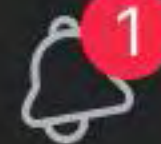


The Gannon Company · 🔔

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Amazing night!



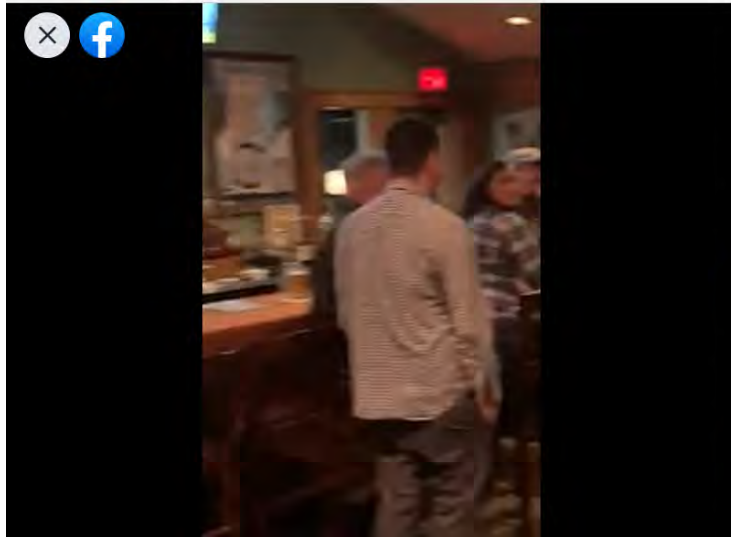


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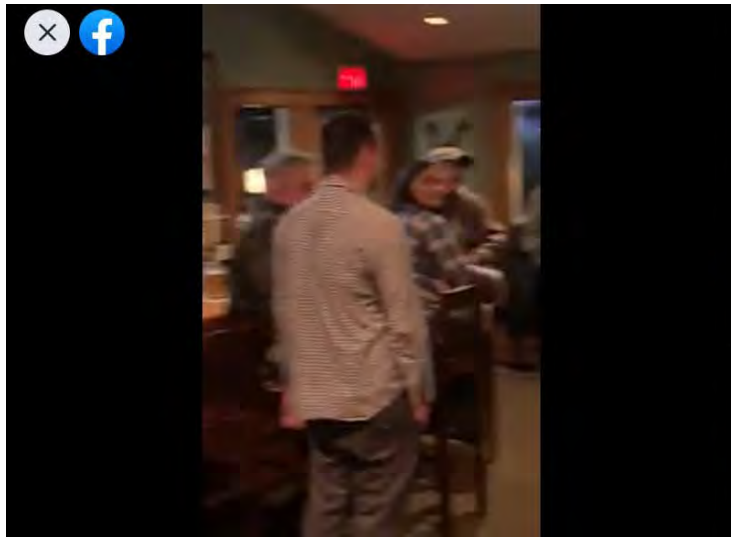
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Facebook post interface for 'The Gannon Company' dated November 22 at 3:48 PM. The post title is 'Amazing night!' and the text reads: 'The Gannon Company wants to thank White Mountain Tavern for putting on such an amazing event last ni... See More'. It shows 12 reactions (likes, loves, hearts) and interaction buttons for Like, Comment, and Share. Below the post is an 'Up Next' section featuring a video thumbnail from 'The Gannon Company' posted 6 weeks ago with 1.3K views. A 'Comments' section is visible with a 'See All' link.



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