

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

November 16, 2020

Simply Delicious Baking Co.
c/o Alexa Firman
176 Route 101
Bedford, NH 03110

**Re: Violations of New Hampshire's Emergency Order 52, as extended, and the
Restaurant/Food Service Industry Guidance**

Dear Ms. Firman:

Simply Delicious Baking Co. in Bedford is operating in violation of the Governor's Emergency Order 52, as extended by Emergency Order 70. 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 guidance for the Restaurant/Food Service Industry. 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 Guidance

As has been explained to you directly and repeatedly, your business must comply with both the Universal Guidelines and the Restaurant/Food Service Industry Guidance. Under the Universal Guidelines established under Emergency Order 52, "[e]mployees and volunteers who are providing services to consumers or individuals must wear masks while providing such service." Exhibit A to Emergency Order 52, ¶ C-4-a. Additionally, under the Restaurant/Food Service Industry Guidance, "[d]irect customer contact employees shall wear cloth 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.)." Exhibit B to Emergency Order 52, Restaurant/Food Service Industry Guidance, Safeguarding Guidance ¶ 7.

On July 13, 2020, Health Inspector Gary Pariseau conducted a compliance inspection of Simply Delicious Baking Co. as a result of a public complaint about your establishment. During that inspection, employees were not wearing face coverings. Moreover, you directly refused Inspector Pariseau's instruction to wear face coverings while directly serving customers. On July 14, Bedford Fire Chief Scott Hunter and Bedford Police Chief John Bryfonski, the Co-Directors of Town of Bedford Emergency Management, issued a written warning to you, explaining that your refusal to wear a face covering while directly serving customers violated the Food Services Industry Guidance. Even after this warning, you continued to refuse to wear a face covering while serving customers. As recently as October 29, Health Officer Wayne Richardson visited your establishment and found that you and your employees are not wearing face coverings while serving customers.

Violation and Civil Penalty

Not requiring your direct customer service staff to wear face coverings while working is a violation of Emergency Order 52. Violations of the Governor's Emergency Order 52, and its applicable Guidance, are taken very seriously. These Orders have been instituted so New Hampshire businesses and organizations can operate as safely as possible during the COVID-19 pandemic. By not complying with the Emergency Orders, businesses risk endangering the health of their employees, customers, and the public in general. Businesses also risk further legal enforcement actions to achieve compliance.

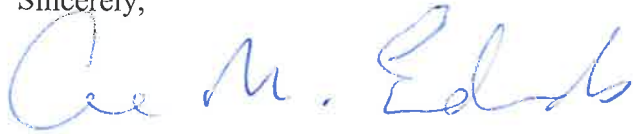
In addition to jeopardizing the health and safety of both the public and your employees, your failure to follow Emergency Order 52, as extended, is a violation of state law. Pursuant to RSA 21-P:47, the violation of an emergency order, rule, or regulation issued by the Governor can lead to misdemeanor criminal charges. Violations of any Emergency Order are subject to civil penalties of up to \$1,000 per violation or up to \$2,000 per day under Emergency Order 65, depending on the nature of the violation. Simply Delicious Baking Co.'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 Simply Delicious Baking Co. was made aware on at least 3 occasions that its staff had to wear face coverings while providing direct customer service, **a civil penalty of \$500.00 is being assessed for violating Emergency Order 52.**

This civil penalty is required to be paid by November 30, 2020. If Simply Baking Co. 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.

Please ensure that Simply Delicious Baking Co. complies with the Emergency Orders and does not otherwise put the public or your employees at risk.

Sincerely,

A handwritten signature in blue ink that reads "Anne M. Edwards". The signature is written in a cursive style with a large initial "A" and a distinct "M" and "E".

Anne M. Edwards
Associate Attorney General

Enclosure