

**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 16, 2020

What A Bagel  
c/o Christopher Weier  
P.O. Box 120  
Weare, NH 03281

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

Dear Mr. Weier:

What A Bagel in Nashua 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 Restaurants/Food Service operators. 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, "[a]ll 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. Based upon visits to your business by the City of Nashua Environmental Health Department and Nashua Police Department and telephone calls from Bianca Monroe of the Attorney General's Office, we have learned that your staff are not wearing face coverings while providing direct customer services, such as serving food, greeting customers, and seating customers. This is a violation of the Restaurant/Food Service Industry Guidance, under Safeguarding Guidance, Paragraph 7, and under the Universal Guidelines, Section B, Paragraph 4.f.

What A Bagel has been informed on no less than five occasions by the City of Nashua Health Department, the Nashua Police Department, and the Attorney General's Office of the

guidance Restaurants/Food Service operators are required to comply with to remain operational at this time. Specifically, under the Restaurant/Food Services Industry Guidance, Safeguarding Guidance, Paragraph 7, and under the Universal Guidelines, Section B, Paragraph 4.f., "Direct 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.)." Despite this requirement, What A Bagel employees continue to operate without wearing face coverings.

### **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. What A Bagel'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 What A Bagel was made aware on at least 5 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 What A Bagel 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 What A Bagel complies with the Emergency Orders and does not otherwise put the public or your employees at risk.

Sincerely,



Anne M. Edwards  
Associate Attorney General