



December 10, 2020

CERTIFIED MAIL

Tony's Café
366 Possum Park Rd.
Newark, DE 19711

Notice of Administrative Penalty

Dear Tony's Café,

The following Notice of Violation is issued under the authority of the Secretary, Delaware Health and Social Services pursuant to 16 Del. C. §122 (3) and the Declaration of a State of Emergency for the State of Delaware Due to a Public Health Threat, including its modifications.

Notice of Violation

After receiving complaints of non-compliance, the Division of Public Health (DPH) conducted site visits to the above referenced location on June 29, 2020, July 24, 2020, October 23, 2020, and November 19, 2020 to assess compliance with the current restrictions in place to reduce transmission of COVID-19. DPH inspectors provided education to Tony's Café during these visits to assist with compliance.

During the June 29th visit, DPH inspectors observed the following violations:

- Lack of appropriate face coverings among staff and customers, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of appropriate disinfection between guests, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Napkins and condiments pre-set on table, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of reopening plan, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

DPH inspectors performed a reinspection of Tony's Café on July 24th and found the following violations:

- Lack of appropriate face coverings among staff and customers, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of appropriate disinfection between guests, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of contamination protection for to-go containers, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of reopening plan, in violation of the Twenty-First Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

After receiving additional complaints, DPH performed a reinspection on October 23rd and observed the following violations:

- Lack of appropriate face coverings among staff, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of floor markings or signage for counter service/pickup, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

DPH inspectors performed a reinspection of Tony's Café on November 19th and found the following violations:

- Lack of appropriate spacing between tables, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Guests seated at tables with lack of appropriate spacing between other guests, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of floor markings or signage for counter service/pickup, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Napkin dispenser and condiment holder pre-placed on tables, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of contamination protection for to-go containers, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.
- Lack of reopening plan, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

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- Lack of floor markings or signage to guide customers in appropriately spacing, in violation of the Twenty-Seventh Modification of the Declaration of a State of Emergency for the State of Delaware and the Governor's Phase 2 Reopening Plan.

Notice of Administrative Penalty

Under 16 *Del. C.* §107(a) the Department of Health and Social Services has the authority to impose an administrative penalty upon any individual who refuses, fails or neglects to perform the duties required of it. The penalty shall be \$100.00 to \$1,000.00 per violation per day. Based on the continued failure to comply with COVID-19 requirements, you are hereby assessed an Administrative Penalty. Due to repeated non-compliance, the administrative penalty assessed is \$700.00 (\$100.00 per violation observed on November 19, 2020). This penalty is payable to the "State of Delaware" and must be received within 30 days of receipt of this notice. DPH does not accept the validity of any disclaimer of liability that may accompany your payment of this penalty. Payment must be sent to the following address:

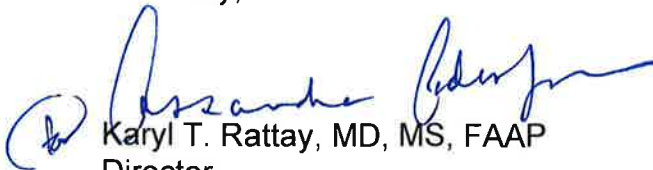
CENTRAL BILLING
DIVISION OF PUBLIC HEALTH
417 Federal Street
Dover, DE 19901

If you wish to contest this administrative penalty, you may request an administrative hearing before an Administrative Hearing Officer. Your written request must be sent to the address listed above within 30 calendar days of receipt of this notice.

Failure to remit payment or request an administrative hearing within 30 days of receipt of this letter may result in additional legal action.

Any questions should be addressed to Mr. Jamie Mack, (302) 744-4832.

Sincerely,


Karyl T. Rattay, MD, MS, FAAP
Director

cc: Jamie Mack, Section Chief, Health Systems Protection
Joanna Suder, DAG