



**STATE OF RHODE ISLAND
RHODE ISLAND DEPARTMENT OF HEALTH**

**ELIZABETH M. TANNER, ESQ.
IN HER CAPACITY AS CHAIR OF THE
RHODE ISLAND COVID-19 ENFORCEMENT
TASK FORCE**

**IN THE MATTER OF:
Back in Thyme Herb Garden and Kitchen
Violations of Executive Orders and
RI Department of Health Regulations**

NOTICE OF VIOLATION AND COMPLIANCE ORDER

Now comes the Chair (“Chair”) of the Rhode Island COVID-19 Enforcement Task Force (“Task Force”) and pursuant to R.I. Gen. Laws § 23-1-20, Executive Orders 20-32, 20-40, and 20-79, and Rhode Island Department of Health (“RIDOH”) regulation 216-RICR-50-15-7 (“Safe Regulations”), determines that there are reasonable grounds to believe that Back in Thyme Herb Garden and Kitchen (“Respondent”) is in violation of Executive Orders and/or the Safe Regulations, and provides notice thereof.

REASONABLE GROUNDS FOR DETERMINATION OF VIOLATION

- I. Respondent is a retail and dining establishment located at 493 Main Street in Hopkinton.
- II. Respondent is a covered entity as defined in the Safe Regulations. As such, the Respondent is required to comply with applicable Executive Orders and the Safe Regulations.
- III. On or about September 10, 2020, a Task Force inspector met with owner Maryanne McNamara (“Owner”) and conducted a Healthy Environment inspection of the Respondent. The inspector

performed a checklist inspection based on the Safe Regulations and determined that Respondent scored a 3/11 for overall requirements and a 1/5 for dining requirements. During the inspection, the owner was uncooperative and belligerent toward the inspector. As a result of the Owner's actions, the inspector did not complete the full inspection.

- IV. On or about October 2, 2020, the same Task Force inspector attempted to conduct a reinspection of the Respondent. When the inspector arrived, there was an "Open" flag displayed. The inspector found the door to be locked but could see the Owner inside. He knocked on the door to try to get her attention but was unsuccessful. The inspector conducted a reinspection to the extent that he could and determined that the Respondent this time scored a 4/12 for overall requirements and a 2/5 for dining requirements.
- V. On or about October 15, 2020, a different Task Force inspector met with the Owner and conducted a Healthy Environment inspection of the Respondent. The inspector performed a checklist inspection based on the Safe Regulations and determined that Respondent scored a 6/12 for overall requirements. The dining inspection was not performed because there is no dining on site. Although the Owner was cooperative in the beginning of the inspection, she once again became belligerent as it went on. Ultimately, though, the inspector was able to complete the inspection and note that Respondent had made no attempts to achieve compliance.
- VI. Therefore, as a result of the Respondent's continued failure to comply with applicable Executive Orders and the Safe Regulations, and, in the absence of any other information to rebut the allegations above, RIDOH has drawn the conclusion that the above allegations are true, and the Respondent is not in compliance with applicable Executive Orders and/or the Safe Regulations.

ALLEGED VIOLATIONS

The following alleged violations stem from the October 15, 2020 reinspection.

- I. Respondent is in violation of Section 7.4.1(A)(1)(f) of the Safe Regulations, which requires the designation of a point of contact who is familiar with the applicable Executive Orders and the Safe Regulations, and who will work with RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow up. Based on the interaction with the Owner, who admitted that she did not know the regulations, the inspector concluded that there was no point of contact who is familiar with the guidance and regulations.
- II. Respondent is in violation of Section 7.4.1(A)(1) of the Safe Regulations, which requires each covered entity to develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment. Upon request, Respondent could not produce a written plan.
- III. Respondent is in violation of Section 7.4.1(A)(1)(a) of the Safe Regulations, which requires establishments to ensure compliance with a plan that includes procedures relative to, among other things, physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible. As stated, above, Respondent admitted to not having the required plan and the inspector observed that there were no measures in place to ensure that physical distancing was maintained.
- IV. Respondent is in violation of Section 7.4.1(A)(4) of the Safe Regulations, which requires each covered entity to ensure the placement of posters or signs at entry to its establishments educating any individual at the establishment concerning entry screening, required physical distancing, use of cloth face coverings, and other subjects as provided in guidance issued by RIDOH. The inspector observed that none of the required information was posted at the entry to the establishment and concluded, therefore, that the Respondent failed to ensure the placement of required posters.
- V. Respondent is in violation of Section 7.4.1(A)(2) of the Safe Regulations, which requires each covered entity to implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason. Upon inquiry, the Respondent admitted that it did

not conduct entry screening. The inspector observed several customers enter the store, none of which was screened by the Respondent. In addition, there were no posters visible at or near the entrance concerning entry screening.

- VI. Respondent is in violation of Section 7.4.1(A)(8) of the Safe Regulations, which requires all covered entities to maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. This work log must be maintained for at least thirty (30) days. Upon request, Respondent could not produce an employee work log.

ORDER

It is hereby ORDERED, that on or before the tenth (10th) day from service of this Notice of Violation and Compliance Order, Respondent shall remedy the above cited violations and come into full compliance with applicable Executive Orders and Regulations, by fulfilling the conditions as set forth below:

- I. Respondent shall designate a point of contact who is familiar with applicable Executive Orders and the Safe Regulations, and who will work with RIDOH on testing, contact tracing, case investigation, isolation and quarantine follow up.
- II. Respondent shall develop, maintain, and ensure compliance with a written plan for the safe operation of the establishment.
- III. Respondent shall ensure compliance with its plan for safe operation, required pursuant to Section 7.4.1(A)(1) of the Safe Regulations, including compliance with, among other things, procedures consistent with the Safe Regulations relative to physical distancing at all times, to the extent feasible, and additional measures to be taken in high traffic, communal, or other areas where physical distancing is not feasible.
- IV. Respondent shall ensure the placement of posters or signs at entry to its establishment educating any individual at the establishment concerning entry screening, required physical distancing, use of cloth face coverings, and other subjects as provided in guidance issued by RIDOH.

- V. Respondent shall implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason.
- VI. Respondent shall maintain an employee work log that identifies the full name, phone number, and the date and time of all shifts worked by each employee. This work log must be maintained for at least thirty (30) days.

Failure to comply with this ORDER may result in the imposition of civil fines, the issuance of an immediate compliance order, and/or any other action authorized by regulation, the Act, or other applicable law.

Entered this 19th day of October 2020.



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**A WRITTEN REQUEST FOR A HEARING MAY BE FILED IN WRITING WITHIN
TEN DAYS AFTER THIS NOTICE**