



**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:
The Harmony Cafe
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 Order 20-95, and Rhode Island Department of Health (“RIDOH”) regulation 216-RICR-50-15-7 (“Safe Regulations”), determines that there are reasonable grounds to believe that The Harmony Cafe (“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 dining establishment located at 3 Main Street in Lincoln.
- 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 August 21, 2020, a Task Force inspector met with owner Neil Laferriere (“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 7/11 for overall requirements, a 5/5 for dining requirements, a 6/7 for bar requirements. After the inspection, the inspector provided information and resources to the Respondent to help it achieve full compliance. This included a recommendation to the Respondent on how to access www.ReopeningRI.com and the relevant websites for the Executive Orders, rules, regulations, and guidance. The Respondent was also advised that an inspector would conduct a reinspection in the near future.

- IV. On or about September 24, 2020, a different Task Force inspector conducted a reinspection of the Respondent. The inspector met with the Owner and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored an 11/11 for overall requirements and a 5/5 for dining requirements.
- V. On or about October 22, 2020, a different Task Force inspector conducted a reinspection of the Respondent. The inspector met with the Owner and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored an 12/12 for overall requirements.
- VI. On or about November 14, 2020, a different Task Force inspector conducted a reinspection of the Respondent. The inspector met with the Owner and performed a checklist inspection based on the Safe Regulations. The inspector determined that the Respondent scored an 4/12 for overall requirements, a 1/5 for dining requirements, and a 4/7 for bar requirements.
- VII. On or about November 16, 2020, the Task Force received a copy of Lincoln Police Department Report 20-2272-OF, which described an officer's observations that the Respondent was open and serving customers past 10:30 p.m., in violation of Executive Order 20-95. (See "Exhibit A")
- VIII. Therefore, as a result of the Respondent's failure to maintain compliance 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 November 14, 2020 reinspection and Lincoln Police Department Report 20-2272-OF.

- I. Respondent is in violation of Section 7.4.1(A)(3) of the Safe Regulations, which requires all individuals in an establishment to wear cloth face coverings unless an exception applies and requires establishments to deny entry to any employee, who is not otherwise exempt from the requirement or who refuses to wear a cloth face covering when required. The inspector observed one (1) employee behind the bar wearing his mask improperly below his nose and mouth on his chin. The inspector also observed the Owner walking around with his mask improperly worn below his nose and mouth. Neither employee claimed an exception.
- 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, due to the excessive number of patrons in the establishment, the inspector observed that physical distancing was not being maintained to the extent feasible.
- 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 Sections 7.4.1(A)(6) & (7) of the Safe Regulations, which require each covered entity to ensure the performance of environmental cleaning of its establishments once per day and to maintain records documenting such environmental cleaning. Upon request, the Respondent could not produce the required records.
- VI. 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. The inspector observed numerous patrons enter the establishment, none of which were screened by the Respondent. In addition, there were no posters visible at or near the entrance concerning entry screening.
- VII. Respondent is in violation of Section 7.4.2(A)(1)(a) of the Safe Regulations, which requires that tables be separated by at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed that numerous tables were not separated by a barrier of any kind and were neither spaced at least eight (8) feet from table edge to table edge nor allowed six (6) feet of spacing between seated customers at different tables.
- VIII. Respondent is in violation of Section 7.4.2(A)(2) of the Safe Regulations, which prohibits self-service seating. The inspector observed that patrons were allowed to seat themselves without assistance by the Respondent.
- IX. Respondent is in violation of Section 7.4.2(A)(3) of the Safe Regulations, which prohibits service to standing customers. The inspector observed numerous standing patrons being served.

- X. Respondent is in violation of Section 7.4.2(A)(1)(a) of the Safe Regulations, which requires that information be collected from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more solely for the purposes of contact tracing. Upon request, the Respondent could not produce the required records.
- XI. Respondent is in violation of Section 7.4.2(A)(5) of the Safe Regulations, which requires that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height. The inspector observed that multiple parties were seated at the bar without being separated by at least 6 feet, and without being separated by a physical, non-porous barrier.
- XII. Respondent is in violation of Section 7.4.1.(A)(12) of the Safe Regulations, which prohibits congregating and/or mingling in an establishment or areas under the establishment's control. The inspector observed that numerous patrons were congregating and/or mingling in areas under the establishment's control.
- XIII. Respondent is in violation of Executive Order 20-95, paragraph 23, which states that restaurants and bars may serve patrons on-site, indoors and outdoors, until 10:00 p.m. Sunday through Thursday and until 10:30 p.m. Friday and Saturday, after which times restaurants and bars shall only offer pickup, delivery and drive-through service. Per the Lincoln Police Department Report, an officer on patrol observed that the establishment was still open to patrons at 12:30 a.m. The officer entered the establishment and observed thirteen (13) patrons still consuming beverages and several individuals playing pool after the mandated closing time of 10:30 p.m. (See "Exhibit A")

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 require all employees in its establishment to wear cloth face coverings unless an exception applies. In accordance with Section 7.4.1(3)(a) of the Safe Regulations, Respondent shall deny access to its establishment to any employee who refuses to wear a cloth face covering when required by the Safe Regulations unless an exception applies.
- 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 ensure the performance of environmental cleaning of its establishment once per day and maintain records documenting such environmental cleaning.
- VI. Respondent shall implement and ensure compliance with screening of all individuals entering its establishment(s) at any time for any reason.

- VII. Respondent shall ensure that tables are situated to allow separation of at least eight (8) feet from table edge to table edge or to allow six (6) feet spacing between seated customers at different tables unless separated by a physical, non-porous barrier of an appropriate height.
- VIII. Respondent shall ensure that service is made only to seated customers and that no service to standing customers occurs.
- IX. Respondent shall ensure that information be collected from all visitors and other entrants who have interacted with others present on site for a period of 15-minutes or more solely for the purposes of contact tracing.
- X. Respondent shall ensure that all parties seated at a bar be separated by at least 6 feet, unless separated by a physical, non-porous barrier of an appropriate height.
- XI. Respondent shall ensure that no congregating and/or mingling occurs within the establishment or any area under the establishment's control.
- XII. Respondent shall ensure that on at 10:00 p.m. Sunday through Thursday and at 10:30 p.m. Friday and Saturday, it shall remain open to only offer pickup, delivery and drive-through service.

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 18th day of November 2020.



Elizabeth M. Tanner, Esq.
Chair
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**A WRITTEN REQUEST FOR A HEARING MAY BE FILED IN WRITING WITHIN
TEN DAYS AFTER THIS NOTICE**

EXHIBIT A

Lincoln Police Department

NARRATIVE FOR PATROL OFFICER KYLE KINNIBURGH

Ref: 20-2272-OF

Entered: 11/16/2020 @ 0145

Entry ID: KKIN

Modified: 11/16/2020 @ 0705

Modified ID: KKIN

On 11/15/20 at approximately 0030 hrs, I was on patrol in the area of the Harmony Cafe when I observed several vehicles still in the lot. I also observed several lights on inside the establishment. As I entered the Harmony, I observed approximately thirteen individuals consuming alcoholic beverages and several individuals playing pool. I made contact with the bartender who identified himself as Colby Laferriere DOB 7/27/01. Laferriere stated that he did not know of the closing mandate of 2230 hrs for weekend nights.

Laferriere attempted to contact the owner Neal LaFerriere with negative results. All patrons were told to vacate the bar immediately and I remained on scene to all parties were on their way. I advised LaFerriere that bars must be closed by 2200 hrs Sunday-Thursday and 2230 hrs on Friday and Saturday nights due to the current governor's mandate. I cleared without further incident.