



December 1, 2020

CERTIFIED MAIL

Felix Ceron
El Maguey Mexican Cuisine & Bar
3320 Old Capitol Trail
Wilmington, DE 19808

Notice of Administrative Penalty

Dear Mr. Ceron:

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 July 7, 2020, September 18, 2020, and November 21, 2020 to assess compliance with the current restrictions in place to reduce transmission of COVID-19. DPH inspectors provided education to El Maguey Mexican Cuisine & Bar during these visits to assist with compliance.

During the July 7th visit, DPH inspectors observed the following violation:

- Lack of single-use condiments, 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 El Maguey Mexican Cuisine & Bar on September 18th and found no violations.

After receiving additional complaints, DPH performed a reinspection on November 21st and observed the following violations:

- Lack of appropriate face coverings among staff and customers, 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 social distancing among customers in line and seated at 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 social distancing among customers in bar area, 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 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 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.

Additionally, both DPH and the Division of Alcohol and Tobacco Enforcement (DATE) have received multiple complaints with video evidence of lack of social distancing and face coverings during events held at El Maguey Mexican Cuisine & Bar.

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 \$500.00 (\$100.00 per violation observed on November 21, 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