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Governor

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NEW MEXICO ENVIRONMENT DEPARTMENT

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James C. Kenney
Cabinet Secretary

Jennifer J. Pruett
Deputy Secretary

May 22, 2020

NOTICE OF IMMEDIATE FOOD SERVICE PERMIT SUSPENSION

Notice is hereby given that the food service permit for Jalisco Cafe (Permittee) permit number 000228 is immediately suspended for violating the Food Service and Sanitation Act. The Permittee is operating in a manner that presents a substantial danger of illness, serious physical harm or death to consumers who patronize the food service establishment for dine in service given the public health emergency declared by the Governor of the State of New Mexico (Executive Order 2020-030, May 15, 2020) and the Public Health Order issued by the Secretary of the Department of Health (May 15, 2020) related to the ongoing coronavirus pandemic.

The authority for this permit suspension is derived from the Food Service and Sanitation Act, NMSA 1978, Section 25-1-9, which states as follows:

The agency may suspend a permit immediately without prior notice to the holder of the permit if it determines, after inspection, that conditions within a food service establishment present a substantial danger of illness, serious physical harm or death to consumers who might patronize the food service establishment. A suspension action taken under this section is effective when communicated to the food service establishment operator or any employee or agent of the operator who is in charge of the premises involved. If there is no designated employee or agent in charge of the premises, communication to any employee physically present on the premises is sufficient communication to make the suspension effective.

The Permittee may request an appeal hearing by submitting a timely written request as specified in paragraphs 35 and 36 of Subsection B of 7.6.2.8 NMAC to:

Hearing Clerk
Office of Public Facilitation
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502
pub.facilitation@state.nm.us

If the establishment continues to engage in food service operations after this Notice is served, the New Mexico Environment Department (NMED) may seek relief in district court to enjoin the operation of the establishment. In addition to granting injunctive relief, the district court may impose a civil penalty not exceeding five hundred dollars (\$500) on any person who violates any provision of the Food Service Sanitation Act. Each and every violation of the provisions of that act shall constitute a separate offense. NMSA 1978, Section 25-1-12, Enforcement.

Upon curing the violation, the Permittee may request NMED reinstate their food service permit by submitting a written request for re-inspection to:

Jonathan Gerhardt
Food Program Manager
New Mexico Environment Department
Albuquerque, NM 87502
Johnathan.gerhardt@state.nm.us

The NMED is authorized and has the duty to execute any provisions of the Food Service Sanitation Act delegated to it under the Act or by the Environmental Improvement Board. The NMED is specifically directed to administer and enforce the provisions of regulations adopted under it. Pursuant to the delegation of signature authority executed by the Secretary of the Environment Department on January 15, 2020, the Environmental Protection Division Director is delegated to sign food permit revocations.

If you have any questions related to this Notice, please contact Sandra Ely, Environmental Protection Division Director, at 505-629-6307 or sandra.ely@state.nm.us.

Sandra Ely, Director
Environmental Protection Division
New Mexico Environment Department

Date