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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
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ORDER RETURNING ALL MUNICIPALITIES TO PHASE III, STEP 1 COVID-19 SAFETY RULES

COVID-19 Order No. 58

Superseding and Rescinding Order No. 56

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the Federal Centers for Disease Control and Prevention ("CDC") have advised that COVID-19 is spread mainly by person-to-person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with large groups and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of the large number of persons present or passing through the area who may spread the virus through respiratory activity or surface contacts;

WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact and movement outside the home and reduce opportunities for spreading the COVID-19 virus within the Commonwealth, I issued COVID-19 Order No. 13, which temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services;

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WHEREAS, in response to gradual improvements in the public health data, on May 18, 2020, June 6, 2020, and July 2, 2020, I issued COVID-19 Orders No. 33, 37, and 43, respectively, which designated certain businesses and other organizations as Phase I, II, III, or IV enterprises and initiated a progressive, phased plan for re-opening workplaces and other facilities across the Commonwealth;

WHEREAS, on September 29 and November 6, 2020, I issued COVID-19 Order Nos. 51 and 56 which authorized the reopening of Phase III, Step 2 enterprises and the application of relaxed capacity rules and other allowances in municipalities determined to be "Lower-Risk Communities" based on a reduced incidence of COVID-19 infection;

WHEREAS, the CDC, the Department of Public Health, and other public health authorities continue to improve their understanding of how COVID-19 is spread, where the risk of spread is greatest, and how best to mitigate the risk of transmission, which permits periodic adjustments to safety measures addressing commercial, recreational, and social activities;

WHEREAS, as of December 7, 2020, the Department of Public Health has reported 250,022 confirmed cases of COVID-19 and the average daily rate of COVID-19 incidence per 100,000 is 35.7;

WHEREAS, the Commonwealth has seen a significant increase in its 7-day average of new daily confirmed cases of COVID-19: as of December 6, 2020, the daily average was 3,509 compared to 1,837 on November 8;

WHEREAS, the Commonwealth has likewise seen a significant increase in its 7-day weighted average of positive molecular test rate: as of December 6, 2020, the rate was 5.5% compared to 2.7% on November 8;

WHEREAS, between Thanksgiving and December 6, hospitalizations for COVID-19 in the Commonwealth increased 54% from 986 to 1,516 admissions;

WHEREAS, as of December 7, 2020, the Executive Office of Health and Human Services has moved all regions in Massachusetts to the Tier 3 designation of the Resurgence Planning and Response Framework due to decreasing hospital capacity and increasing community transmission of COVID-19;

WHEREAS, left unchecked, current COVID-19 case growth poses a risk to the Commonwealth's healthcare system, and intervention is warranted to moderate case growth and preserve hospital capacity; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting the state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and

household articles, variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies or political subdivisions, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby Order the following:

1. Statewide Return to Phase III, Step 1 COVID-19 Safety Rules

Effective at 12:01 am on December 13, COVID-19 Order No. 56, is rescinded, and all enterprises authorized to open their brick-and-mortar premises to workers, customers, and the public under the Commonwealth's phased Re-Opening Plan must comply with rules applicable to Step 1 of Phase III of the Re-Opening Plan.

Accordingly, effective at 12:01 am on December 13, 2020, in every municipality in the Commonwealth:

a. Businesses and other organizations identified as Phase III, Step 2 enterprises in Schedule A attached hereto must close their brick-and-mortar premises to workers, customers, and the public;

b. Phase I and II enterprises, and Phase III, Step 1 enterprises, all as identified in Schedule A, may only operate pursuant to Step 1 Sector-Specific COVID-19 workplace safety rules issued pursuant to Section 2 of this Order. Earlier-issued Sector-Specific rules applicable to Step 2 of Phase III, which permitted enterprises located in "Lower-Risk Communities" to operate with increased capacity allowances and other adjustments, are hereby withdrawn; and

c. Reduced capacity allowances for gatherings shall apply uniformly in every municipality as provided in COVID-19 Order No. 57, or as provided in any later Order further adjusting capacity allowances for gatherings.

2. Step 1 Adjustments to COVID-19 Workplace Safety Rules

The Director of the Department of Labor Standards and the Secretary of the Executive Office for Energy and Environmental Affairs shall issue, subject to my approval, revised Sector-Specific COVID-19 workplace safety rules for Phase I and II enterprises, and Phase III, Step 1 enterprises as necessary to respond to the increased prevalence of COVID-19 infections that has required the return to Step 1 rules across the Commonwealth.

The provisions of Sections 4 and 5 of COVID-19 Order No. 43 (and Section 4 of COVID-19 Order No. 37 as incorporated in COVID-19 Order No. 43), which set requirements for compliance with generally applicable and Sector-Specific COVID-19 safety rules and mechanisms for enforcement shall continue to apply to all Phase I, II, III enterprises authorized to open their brick-and-mortar premises.

Accordingly, any violation of the terms of this Order or any directives, regulations, or guidance issued pursuant to or to enforce this Order may result in a civil fine as provided in

Section 4 of COVID-19 Order No. 37, provided, however, that as provided in St. 1950, c. 639, § 8, a fine of up to $500 per violation may apply. Each individual instance of non-compliance and each day of continuing non-compliance may be fined as a separate violation. Any penalties issued in an enforcement action shall be administered as provided in COVID-19 Order No. 48.

This Order is effective at 12:01 am on December 13, 2020 and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 11:45 AM/PM this 8th day of December, two thousand and twenty

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

Schedule A
to COVID-19 Order No. 58 effective December 13, 2020

	All Phase I, II, III, and IV enterprises are required to comply with general and, where applicable, sector-specific COVID-19 workplace safety rules administered by DLS, DPH, EEA, and local boards of health. Workplace safety rules include a variety of mandatory context-specific COVID-19 safety measures such as occupancy limitations, operational modifications, social distancing rules, and specialized cleaning requirements.
Phase I	As specified in COVID-19 Order No. 33: • Businesses and other organizations providing products and services identified as "COVID-19 Essential Services" in COVID-19 Order No. 13 • Manufacturing • Construction • Places of Worship • Firearms retailers and shooting ranges • General Use Offices • Car Washes • Hair Salons and Barber Shops • Pet Groomers • Drive-In Movie Theaters • Laboratories • Certain Outdoor Recreational Facilities and Activities as specified in Exhibit 1 to COVID-19 Order No. 33
Phase II	As specified in COVID-19 Order No. 37 and including specifically: • Retail Stores including stores in enclosed shopping malls • Restaurants providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000, including beer gardens/wineries/distilleries meeting these criteria o Step 1: outdoor table service o Step 2: indoor table service • Hotels, motels, inns, and other short-term lodgings (no events, functions, or meetings) • Limited organized youth and adult amateur sports activities and programs—no contact and no games or scrimmages, and indoor facilities limited to youth programs • Professional sports practice and training programs--no inter-team games and no admission for the public • Personal Services provided at a fixed place of business or at a client location o Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.) o Step 2: Services involving close personal contact (massage, nail salons, personal training for individuals or no more than 2 persons from same household, etc.) • Non-athletic instructional classes in arts/education/life skills for youths under 18 years of age in groups of fewer than 10 • Driving schools and flight schools • Outdoor historical spaces—no functions or gatherings and no guided tours • Funeral homes—increased capacity to permit 40% occupancy for one service at a time within the facility • Warehouses and distribution centers • Golf facilities including outdoor driving ranges • Other outdoor recreational facilities o pools, playgrounds and spray decks o mini golf, go karts, batting cages, climbing walls, ropes courses • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools

	○ for the limited purposes of permitting students to complete a degree, program, or prerequisite for employment, or other similar requirement for completion, for summer youth programming including athletic facilities, and any necessary supporting services • Day Camps including sports and arts camps • Public libraries
Phase III	<u>Step 1</u> • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations • Casino gaming floors • Horse racing tracks and simulcast facilities • Indoor recreational and athletic facilities for general use (not limited to youth programs) • Fitness centers and health clubs including ○ cardio/weight rooms/locker rooms/inside facilities ○ fitness studios (yoga, barre, cross-fit, spin classes, general fitness studios) ○ indoor common areas ○ indoor swimming pools ○ indoor racquet courts and gymnasiums ○ locker rooms ○ excluding saunas, hot-tubs, steam rooms • Museums • Indoor historic spaces/sites • Aquariums • Outdoor theatres and other outdoor performance venues not designated as Phase IV enterprises • Movie theatres • Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching) • Motion picture, television, and video streaming production • Fishing and hunting tournaments and other amateur or professional derbies • Outdoor event spaces used for gatherings and celebrations including those in parks, reservations, and other outdoor spaces not designated as Phase IV enterprises • Indoor event spaces such as meeting rooms, ballrooms, and private party rooms--only when used for functions or events permitted under Sector-Specific Rules for Indoor and Outdoor Events • Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older • Indoor recreational activities with low potential for contact: batting cages, driving ranges, go karts, bowling alleys, rock-climbing walls • Indoor and outdoor gaming arcades and associated gaming devices <u>Step 2</u> • Indoor performance venues used for live performances such as concert halls, theaters, and other indoor performance spaces not designated as Phase IV enterprises • Indoor recreational activities with greater potential for contact: laser tag, roller skating, trampolines, obstacle courses
Phase IV	• Amusement parks, theme parks, indoor or outdoor water parks and indoor or outdoor ball pits • Saunas, hot-tubs, steam rooms at fitness centers, health clubs, and other facilities • Bars, dance clubs, and nightclubs—venues offering entertainment, beverages, or dancing and not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000

	• Beer gardens/breweries/wineries/distilleries not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000
	• Large capacity venues used for group or spectator sports, entertainment, business, and cultural events including
	  ○ Stadiums, arenas, and ballparks
	  ○ Dance floors
	  ○ Exhibition and convention halls
	• Street festivals and parades and agricultural festivals
	• Road races and other large, outdoor organized amateur or professional group athletic events
	• Overnight camps (Summer 2021)
	This listing is subject to amendment.