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CHARLES D. BAKER
GOVERNOR

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LIEUTENANT GOVERNOR

THIRD REVISED ORDER REGULATING GATHERINGS THROUGHOUT THE COMMONWEALTH

COVID-19 Order No. 46

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, the CDC has issued guidance for large gatherings and community events, such as conferences, festivals, parades, concerts, sporting events, and other potentially super-spreading events, recognizing that gatherings can significantly contribute to the spread of COVID-19 and introduce the virus to new communities;

WHEREAS, that CDC guidance states that, while virtual-only activities are the safest, the risks associated with in-person events can be reduced if they are held outdoors, remain small, and participants maintain 6 feet of distance and wear face coverings;

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WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact, non-essential 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 and prohibited gatherings of more than 10 people;

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, again in response to sustained improvements in the public health data at the time, on July 2, 2020, I issued COVID-19 Order No. 44, which rescinded the 10 person limitation on gatherings and set a maximum gatherings limitation of 25 persons for indoor gatherings and 100 persons for outdoor gatherings, with exceptions for certain businesses and organizations governed by sector-specific guidance and for outdoor gatherings organized for the purposes of political expression;

WHEREAS, contrary to the sustained improvements in the public health data in the preceding period, over the last 3 weeks, the 7-day rolling average of percent positive COVID-19 molecular tests has increased from approximately 1.7% each day to approximately 2.1% each day and the 7-day rolling average number of confirmed cases from 166 to 234 over the same period;

WHEREAS, clusters of COVID-19 infections have been traced to house parties in the Commonwealth and in other States experiencing increases in infection rates, suggesting that gatherings are contributing to the current rise in cases in the Commonwealth and that increased vigilance and enforcement of safety measures for gatherings is necessary;

WHEREAS, the statewide increase in the rate of transmission means that it is appropriate to reduce the allowances on outdoor gatherings so as to continue to minimize opportunities for person-to-person spread of the COVID-19 virus while the Commonwealth remains in the midst of the COVID-19 public health emergency; 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 a 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, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, I hereby Order the following:

1. *Entities Subject to Sector-Specific Rules*: A business or other organization that has been designated by Executive Order as a Phase I, Phase II, or Phase III enterprise and that is permitted to open its brick-and-mortar premises to workers and the public shall not be subject to the general gathering limitations in Section 3 of this Order, if the enterprise is operating in compliance with COVID-19 safety rules and any applicable capacity limitation issued by the Department of Public Health, the Department of Labor Standards, the Massachusetts Gaming Commission, or the Executive Office of Energy and Environmental Affairs.

   Phase IV enterprises shall remain closed, consistent with the requirements of the Order Authorizing the Re-Opening of Phase III Enterprises (COVID-19 Order No. 43).

2. *Gatherings for Political Expression and Religious Activities*. Outdoor gatherings for the purpose of political expression and gatherings for religious activities shall not be subject to the limitations in Section 3 of this Order; provided, however, that indoor gatherings for the purposes of political expression shall be governed by the indoor limitations of Section 3, and gatherings for the purpose of religious services shall follow the COVID-19 safety rules and capacity limitations set forth in the Places of Worship sector-specific guidance.

3. *Otherwise Applicable Indoor and Outdoor Gathering Limits*: The following limitations apply to indoor and outdoor gatherings not exempted by Sections 1 and 2:

   - Indoor gatherings are limited to 8 persons per 1,000 square feet of accessible, indoor floor space, and never more than 25 persons in a single enclosed, indoor space.

   - Outdoor gatherings are limited to 25% of the maximum permitted occupancy of the facility or space as documented in the occupancy permit on record with the municipal building department or other municipal record holder if there is a capacity limitation on record, or 8 persons per 1,000 square feet where no occupancy limitation is on record, and never more than 50 persons in a gathering in a single outdoor space.

   - All participants in indoor and outdoor gatherings must maintain at least 6 feet of physical distance from every other participant in the gathering aside from participants who are members of the same household. A gathering shall violate this provision where, no matter the number of participants present, conditions or activities at the gathering are such that it is not reasonably possible for all participants to maintain this degree of separation.

   Gatherings that are subject to the limitations of this Section include, without limitation, community, civic, public, leisure, sporting events, concerts, conferences, conventions, fundraisers, fairs, festivals, road races, and other similar events or activities. Except as provided in Sections 1 and 2, these restrictions apply to gatherings in all public and private venues and locations in the Commonwealth, including private homes, backyards, parks, athletic fields, and parking lots.

This Order does not impose a general capacity limitation on large, unenclosed public spaces such as beaches, parks, and recreation areas. Capacity limitations for such spaces set by other rules and regulations shall continue to apply. The limitations of this Order are instead specifically applicable to programs, celebrations, social outings, and similar events that draw together groups of people. Such gatherings are subject to the limitations of this Order when they take place within large, unenclosed public spaces such as beaches, parks, and recreation areas or within any other indoor or outdoor space, public or private, that falls within the scope of this Order.

4. *Face Coverings*: For gatherings of more than 10 people, all persons over the age of two must wear a face covering when they attend indoor and outdoor gatherings where participants other than those in the same household will be in attendance, unless they are prevented from wearing a face covering by a medical or disabling condition. This restriction applies to gatherings in all venues and locations, including private homes, backyards, parks, athletic fields, and parking lots.

5. *Legal Exceptions*: This Order shall not apply to any of the following businesses, organizations, workplaces, or facilities:

    a. Any municipal legislative body, the General Court, or the Judiciary
    b. Federal governmental entities
    c. Any health care facility or licensed health care provider
    d. Any of the following workplaces or facilities with specialized functions and populations:
        - Polling places
        - Public and private elementary and secondary (K-12) schools
        - Residential and day schools for special needs students
        - Licensed, approved, or exempt child care programs and any emergency child care centers and emergency residential programs operating under emergency authorization
        - Facilities operated by the Department of Correction or any Sheriff
        - Facilities operated, contracted, or licensed by the Department of Youth Services, Department of Mental Health, Department of Public Health, or the Department of Developmental Services
        - Facilities and programs that provide safe spaces for the unstably housed such as homeless and domestic violence shelters
        - and any other facility or workplace that the Commissioner of Public Health may in writing exempt from the terms of this Order

6. *Enforcement.* The Department of Public Health, local boards of health and their authorized agents pursuant to G. L. c. 111, § 30, and State and municipal police are authorized to

enforce this Order. Violation of the terms of this Order may result in a civil fine of up to $500 per violation as provided in St. 1950, c. 639, § 8, provided that the fine shall be administered in the manner provided for the non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. This Order may also be enforced by injunction. A motion for an injunction to enforce this Order may be filed in the district court or any other court of competent jurisdiction for the municipality in which the violation has been charged. The Alcoholic Beverages Control Commission or a local licensing authority may, after notice to the licensee and a reasonable opportunity to be heard, suspend, revoke, or cancel a license for the sale or service of alcoholic beverages or take other appropriate enforcement action upon satisfactory proof that the licensee has violated or permitted a violation of this Order.

If any provision of this Order or the application thereof to any person, entity, or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or its application to other persons, entities, and circumstances.

The Second Revised Order Regulating Gatherings Throughout the Commonwealth (COVID-19 Order No. 44) is hereby rescinded effective 12:01 am on August 11 2020.

This Order shall be effective 12:01 am on August 11, 2020 and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 12:45 AM/~~PM~~ this 7th day of August, two thousand and twenty

Charles D Baker

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts