GUIDANCE TO MUNICIPALITIES ON ENFORCING COVID-19 ORDERS

Slowing the spread of COVID-19 requires the cooperation of all of us. The plan to re-open the economy safely requires that everyone do their part, and we expect most people will be diligent about keeping themselves and their neighbors safe and healthy.

Permitted Activities

Phase 1 of the re-opening plan keeps in place existing restrictions, advisories and guidance but provides exceptions for certain activities that can resume safely.

What Can Individuals Do?

- A new "stay safer at home" advisory requests that individuals stay at home when they can. The safer at home advisory is not enforceable. However, all individuals are required to wear a face covering in most places when outside of the home. The requirement to wear a face covering is enforceable by the local board of health.

- All individuals remain subject to the existing order limiting gatherings to no more than 10 persons, except in unconfined outdoor spaces. The restriction on gathering size is enforceable by the local board of health. This limitation does not apply to workplaces authorized to operate, but more specific capacity and meeting rules will apply.

- Compliance with the mandatory rules outlined above is enforceable by the local board of health through the issuance of civil fines of up to $300 per violation.

What Can Businesses Do?

- Essential services have been allowed to operate prior to first phase or reopening. Currently operating businesses must come into compliance with new workplace safety standards by May 25.

- In addition, the businesses listed in the table below will be permitted to resume operations on May 18 or May 25. **All other businesses and workplaces remain closed through Phase 1.** No business is required to re-open and may not reopen until it is ready.

May 18	May 25
▪ Essential businesses already operating must self-certify and comply with applicable standards by May 25 or July 1. ▪ Manufacturing ▪ Construction ▪ Retail curbside pickup only ▪ Places of worship (40% occupancy limit) ▪ Firearms retailers and shooting ranges	▪ Laboratories and life sciences facilities ▪ Offices limited to < 25% maximum occupancy; work from home strongly encouraged. (Boston office opening delayed to June 1.) ▪ Car Washes exterior and self-service only ▪ Hair salons/barber shops by appointment only ▪ Pet grooming by appointment (curbside drop-off and pick-up) ▪ Certain outdoor recreational facilities and activities

- All operating businesses must comply with general mandatory workplace safety standards, as well as sector-specific workplace standards and protocols where applicable. Note that some specific sector and workplace standards and protocols are mandatory (actions that "must" be taken), while others are best practice guidance (actions that "should" be taken).

Enforcement of Workplace Safety Standards

- Only essential services and businesses specifically designated for reopening can operate in phase 1. In order to open or continue operation, all businesses must:

    - Develop a written COVID-19 safety plan outlining how will prevent the spread of COVID-19.
    - Self-certify that it will operate in compliance with all applicable and mandatory workplace safety standards. Templates are available here.
    - Produce this self-certification, if requested, by the local board of health, DLS or DPH. Failure or refusal to produce the self-certification upon request is grounds for enforcement action.

- Workplace safety standards are enforced jointly by the local boards of health and DLS. Enforcement can be initiated by either the local board of health or DLS, whichever entity is called in first by a person filing a complaint. DLS and each municipal authority shall uniformly apply any enforceable COVID-19 workplace safety rule.

- Local boards of health and DPH retain all authority they have under current public laws to regulate and inspect under chapters of the State Sanitary Code. Cities and towns should not adopt stricter rules or ordinances that are intended to address the risks of COVID-19.

Escalating Enforcement

- DLS and local boards of health are not required to undertake inspections of businesses that are reopening. It is expected that most enforcement actions will be initiated by a complaint from a customer or employee.

- The goal of enforcement should be to educate and promote compliance. Enforcement escalation for any particular business should follow the escalation grid below. Upon issuance of each escalation measure, the enforcement authority should allow for at least 24 hours for the business to make necessary changes prior to a subsequent inspection.

Verbal consultation & redirection	Up to 1 time before escalation to next level
Written redirection	Up to 1 time before escalation to next level
Fines up to $300	Up to 3 times before escalation to next level
Cease & Desist letter	Up to 1 time

- Enforcement actions taken by DLS will be communicated to the local board of health. Enforcement actions taken by a board of health should be communicated to DLS.

- Neither DLS nor the local board of health has authority to close a business for violation of a COVID-19 workplace safety standard. They may revoke a permit or close a business pursuant to other regulations or local ordinances. Where continued non-compliance with a COVID-19 workplace safety standard warrants the closing of a business, the local board of health or DLS must first seek a court injunction.

- DLS and local boards of health may request the assistance of state and local law enforcement authorities when needed. It is expected that police presence will be limited and will be required only when a compliance issue presents an immediate threat to health and safety or the risk of a violent confrontation.

- Local boards of health can request enforcement assistance and interpretive guidance can be by calling the DLS hotline: (508) 616-0461 x9488 or by sending an email to safepublicworkplacemailbox@mass.gov.