

Municipal Alert
September 1, 2020

**Governor Baker Issues Guidance on the Enforcement Mechanism
for COVID-19 Executive Orders**

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On August 18th, Governor Baker issued an [executive order](#) providing guidance to municipalities regarding how to enforce the numerous executive orders in effect in response to COVID-19. Many of the Governor's prior orders provided municipalities with the authority to enforce the executive orders. For example, the Governor's recent order mandating quarantine for travelers entering the Commonwealth from out of state provides local boards of health and their authorized agents as well as municipal police with powers to enforce the order. The Governor's August 7th executive order limiting the size of in-person gatherings also allowed for enforcement by local boards of health and municipal police departments.

In addition, many of the Governor's executive orders provide for fines in the event that someone is found in violation of the order. The out-of-state quarantine order provides for fines up to \$500 per violation. Violations of the order limiting in-person gatherings may also be penalized by a fine of up to \$500. The Governor's August 18th executive order addresses the mechanism for imposition of these penalties.

The Order provides that penalties should be processed and imposed in accordance with M.G.L. c. 40, § 21D regarding noncriminal disposition of violations. § 21D provides that the person enforcing the violation should give the offender a written notice to appear before the clerk of the district court within 21 days. The notice should include the name and address (if known) of the offender, the offense charged, and the time and place of the required appearance and should be signed by the enforcement officer and the offender whenever practicable. The notice should be provided to the offender at the time and place of the violation if possible.

The offender may confess to the violation and pay the penalty or request a hearing to contest the violation. If the offender fails to pay the fine when required, the enforcing person may determine whether to apply for the issuance of a complaint for the violation.

The Governor's Order, and therefore the process laid out by M.G.L. c. 40, § 21D, applies to penalties imposed for violations of the following executive orders.

- COVID-19 Order No. 31 requiring face coverings in public places
- COVID-19 Order No. 33 implementing a phased reopening of workplaces

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- COVID-19 Order No. 37 authorizing the reopening of Phase II businesses
- COVID-19 Order No. 40 authorizing the reopening of additional Phase II businesses
- COVID-19 Order No. 43 authorizing the reopening of Phase III businesses
- COVID-19 Order No. 45 instituting a quarantine requirement for travelers
- COVID-19 Order No. 46 limiting the size of in-person gatherings

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This Client Alert was prepared by Rachel Mills and was reviewed by Dave DeLuca, Karis North, and Nan O'Neill. If you have any questions, please contact Rachel Mills, Dave DeLuca, Karis North or the attorney assigned to your account, or call (617) 479-5000.

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