**City/Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Board of Health**

**NOTICE OF VIOLATION**

UNDER MASSACHUSETTS EMERGENCY COVID ORDERS

AND/OR M.G.L. c. 111, §§ 122, 123

**[While the nuisance statute is cited herein, fines for violation of the nuisance statute are probably best left until a Cease and Desist Order is issued. Check with your city/town attorney].**

**Date: \_\_\_\_\_\_\_\_\_\_**

**Name of Business/Landowner/Individual: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(Hereafter referred to as “Respondent”)**

**Address of Business/Landowner/Individual: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

The above-named Board of Health, working under the authority of the Governor’s Emergency Orders, including, without limitation, COVID-19 Orders Numbered 31, 33, 37, 38, 43, 44, and M.G.L. c. 111, §§ 122, 123, hereby issues a **NOTICE OF VIOLATION** to the Respondent identified above, for the reasons stated herein.

The specific violation(s) leading to the issuance of this Notice of Violation include one or more of the following:

[ ]  The Respondent is a business, organization, or enterprise that is **not an industry permitted to be open under the currently achieved Phase of the scheduled “Phased Reopening” plans** and has not closed their physical workplaces and facilities to workers, customers, and the public, pursuant to the applicable Massachusetts COVID-19 Orders.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Order No. 31 mandating the **wearing of facial coverings, including masks**, and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **maximum premises capacity** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **indoor and/or outdoor entertainment** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **proper “social distancing” of patrons** **or guests** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **food service** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **indoor and/or outdoor recreational activities** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **summer day camps** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **day care services** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **congregate living facilities** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders regulating **public gatherings** and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

[ ]  The Respondent has violated applicable laws and regulations pertaining to COVID-19 Orders as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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and is thereby endangering the general public by nuisance in violation of M.G.L. c. 111, §§122, 123.

**PENALTIES:**

Violation of terms of COVID-19 Order Nos. 33, 37 and 43 and 44 may result in a civil fine up to $300 *per violation*, in the manner provided for in M.G.L. c. 277, § 70C, and M.G.L. c 40, §21D.

**ESCALATING ENFORCEMENT [check all that apply]**

[ ]  Prior to the issuance of this Notice of Violation, the respondent received a verbal consultation and redirection on \_\_\_\_\_\_\_\_\_, 2020.

[ ]  Prior to the issuance of this Notice of Violation the respondent received a written redirection on \_\_\_\_\_\_\_\_\_\_\_, 2020.

[ ]  Prior to the issuance of this Notice of Violation, the respondent received a fine of \_\_\_\_\_\_ [fine can be up to $300] on \_\_\_\_\_\_\_\_\_\_\_\_\_.

[ ]  Prior to the issuance of this Notice of Violation and 24 hours after receiving the above-described fine of \_\_\_\_\_\_\_ [fine can be up to $300], the respondent received a fine of on \_\_\_\_\_\_\_\_\_\_\_.

[ ]  Prior to the issuance of this Notice of Violation and 24 hours after receiving the above-described fine of \_\_\_\_\_\_ [fine can be up to $300], the respondent received a fine of \_\_\_\_\_\_\_ on \_\_\_\_\_\_\_\_\_\_.

You are hereby ordered to pay the amount of \_\_\_\_\_\_\_\_\_\_ [fine can be up to $300 with escalating enforcement and up to $1000 with the nuisance statute (Ch.111, §§122, 123] by check or money order made payable to the **[city/town]** of **[name of city/town]** within twenty-one (21) days of receipt of this order to the address below.

**ENFORCEMENT:**

The Board of Health or its agent may be assisted by the Massachusetts Department of Labor Standards and/or the Massachusetts Department of Public Health for matters that fall within the statutory purview of those Departments, together with local Police or State Police in the enforcement of this Cease and Desist Order.

**APPEAL:**

If you are aggrieved by this order, you have the right to request a Hearing before the above-named Board of Health. This request must be made by you, in writing, and filed within seven (7) days after the date this Order was served or actually received. Any affected party has a right to appear at said hearing.

Signed by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Date:

As agent of the **[city/town][health department/board of health]**

**Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**