

SELECTMEN'S MEETING AGENDA*

Executive Session 6:00 P.M.

Regular Meeting 6:30 P.M.

Tuesday, February 16, 2021

REMOTE PARTICIPATION ONLY

OPEN PUBLIC FORUM – NEW STEPS – PLEASE READ

1. First, send an email to: comment@town.harwich.ma.us (send emails at any time after the meeting agenda has been officially posted)
 - a. In the subject line enter "request to speak, your name"
 - b. In the body of the email please indicate which specific agenda item you wish to speak on.
No further detail is necessary.
2. The meeting will close to new attendees promptly at the scheduled start time for the meeting, generally 6:30pm. It will remain closed to new attendees until agenda items with scheduled speakers are reached. This is to minimize interruptions. You may join prior to (6:30) or when the meeting has been opened up. You may participate using your computer and the GoToMeeting interface or simply using your phone. Connection information can be found below.
3. After the Chairman has opened the floor to those wishing to speak callers will be taken in the order the emails are received.

Use *6 to mute and unmute your phone

When you join the meeting by phone you should turn off Channel 18 or your computer if streaming the meeting.

Board of Selectmen Meeting

Tue, Feb 16, 2021 6:30 PM

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/302385317>

You can also dial in using your phone.

United States: [+1 \(872\) 240-3311](tel:+18722403311)

Access Code: 302-385-317

I. CALL TO ORDER

II. EXECUTIVE SESSION

- A. Pursuant to M.G.L. c. 30A section 21 (a) paragraph 3 to discuss with respect to collective bargaining for the Highways and Maintenance Employees Association. (HMEA) if an open session would have a detrimental effect on the town's bargaining position and the Chair so declares

III. PLEDGE OF ALLEGIANCE

IV. WEEKLY BRIEFING

- A. COVID-19 Updates
- B. Update on ongoing efforts by the Town in support of the business community

V. PUBLIC COMMENTS/ANNOUNCEMENTS

VI. ANNUAL COMMITTEE PRESENTATIONS

- A. Traffic Committee
- B. Treasure Chest Committee
- C. Voter Information Committee

VII. PUBLIC HEARING/PRESENTATIONS

VIII. CONSENT AGENDA

- A. Vote to approve the Town Administrator's recommendation to grant permission request of NSTAR/EVERSOURCE ENERGY of installing approximately 25' of conduit and cable and one (1) handhold #106/H70A in town road to provide electrical service to customer at 1361 Orleans Road.
- B. Vote to accept a gift from the Harwich Athletic Association (Harwich Mariners) in the amount of \$75,000.00 for its efforts to replace the existing scoreboard and field lighting at Whitehouse Field

IX. NEW BUSINESS

- A. Ember Pizza, Inc. – discussion concerning Town Administrator's Findings and Recommendations after disciplinary hearing; discussion and possible vote to relative to discipline based on said findings; discussion and possible vote on procedure for considering applications to renew licenses.
- B. Port Restaurant and Bar, Inc. - discussion concerning Town Administrator's Findings and Recommendations after disciplinary hearing; discussion and possible vote to relative to discipline based on said findings; and discussion and possible vote on procedure for considering applications to renew licenses.

- C. Discussion and possible vote to approve Police Chief Guillemette’s appointing of a new dispatcher
- D. Discussion and possible vote to approve ArbNet Arboretum Accreditation for Marceline Arboretum at Island Pond
- E. Discussion and possible vote to authorize the Chairman to sign the Certificate of Announcement for DCR #P-000974 pursuant to 301 CMR 51.08(2) which states that the Department of Conservation and Recreation is considering acquiring a 1.38 acre parcel of land located in Harwich known as “0 Headwaters Drive”, located on Assessors Map 81, Parcel G2-4-2, for conservation and/or recreation purposes
- F. Discussion and possible vote to waive the 120 day notice period as required by 301 CMR 51.08(1)(b) pursuant to DCR #P-000974, the 1.38 acre parcel of land located on Assessors Map 81, Parcel G2-4-2
- G. Vote to approve 2021 Annual Entertainment license renewals:
 - 1. 400 East – Weekday – Wednesday, Friday, Saturday 5PM – 10PM outside
 - 2. 400 East – Sunday 2PM – 6PM outside

X. **OLD BUSINESS**

- A. Discussion and possible vote – Amendments to the Town Administrator’s FY 2022 Budget
- B. Ongoing discussion – Comprehensive Wastewater Management Plan (CWMP)
 - 1. CWMP Revision Strategy
 - 2. Chatham Sewer Coordinator
- C. Discussion and possible vote – Approve the reorganization plan proposed by the Town Administrator relative to the Planning Department and Community Development organizational structure

XI. **CONTRACTS**

- A. Discussion and possible vote for the Board of Selectmen to execute contract with GHD for Town-Wide Sewer Modeling for \$150,000

XII. **TOWN ADMINISTRATOR’S REPORT**

XIII. **SELECTMEN’S REPORT**

XIV. **ADJOURNMENT**

**Per the Attorney General’s Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting following “New Business.” If you are deaf or hard of hearing or a person with a disability who requires an accommodation contact the Selectmen’s Office at 508-430-7513.*

Authorized Posting Officer:

Patricia A. Macura, Admin Secretary

Posted by: _____
Town Clerk

Date: _____
February 11, 2021

WEEKLY BRIEFING



Town of Harwich Board of Health

732 Main Street Harwich, MA 02645
508-430-7509 – Fax 508-430-7531
E-mail: health@town.harwich.ma.us

February 12, 2021

Weekly COVID-19 Case Update

CASES AND STATISTICS

To date there have been a total of 547 cases of COVID-19 in the Town of Harwich. As of today, we are following 32 active cases of COVID-19 in Harwich residents (not including Wingate). Wingate is reporting zero active cases within the facility as of February 7th. We continue to have an elevated active caseload.

Harwich has been downgraded from Red to Yellow due to our lower positivity rate. We have a positivity rate of 4.84% which is determined by the number of tests administered. There were 1282 tests administered and 62 tests were positive in the last 2 weeks. This is lower than last week.



Massachusetts Department of Public Health COVID-19 Dashboard – Thursday, February 11, 2021

Count and Rate of Confirmed COVID-19 Cases and Tests Performed in MA by City/Town, January 1, 2020 – February 9, 2021

City/Town	Total Case Count	Case Count (Last 14 Days)	Average Daily Incidence Rate per 100,000 (Last 14 days) ¹	Relative Change in Case Counts ²	Total Tests	Total Tests (Last 14 days)	Total Positive Tests (Last 14 days)	Percent Positivity (Last 14 days)	Change in Percent Positivity ³
Hampden	337	26	37.9	Lower	8002	485	31	6.39%	No Change
Hancock	16	<5	22.3	Higher	218	10	2	20.00%	Higher
Hanover	1053	104	51.7	Lower	19272	1980	110	5.56%	Lower
Hanson	694	61	40.5	Lower	13053	1088	71	6.53%	Lower
Hardwick	67	6	12.8	Lower	2829	217	9	4.15%	Higher
Harvard	105	12	12.3	Higher	6937	596	12	2.01%	No Change
Harwich	547	58	32.9	Lower	14531	1282	62	4.84%	Lower

VACCINE UPDATE

We are still in Phase 2 of the Vaccination Plan, which includes all those in Phase 1 and the first group of Phase 2 (people age 75 and over). The Department of Public Health has allowed one caregiver to assist a person age 75+ to a vaccination clinic and obtain a vaccine themselves. The caregiver must pre-register for the same clinic as the person they are transporting.

All Health Departments on the Cape have been meeting weekly to talk about vaccine distribution. We continue to be frustrated by the limited supply of vaccine on Cape Cod. Please know that each local board of health has voiced their concern and are working collaboratively to change this inequity. We have gotten the attention of our local delegation, who have brought the concern up to the Governor's Office.

Vaccine distribution statistics from the Department of Public Health:

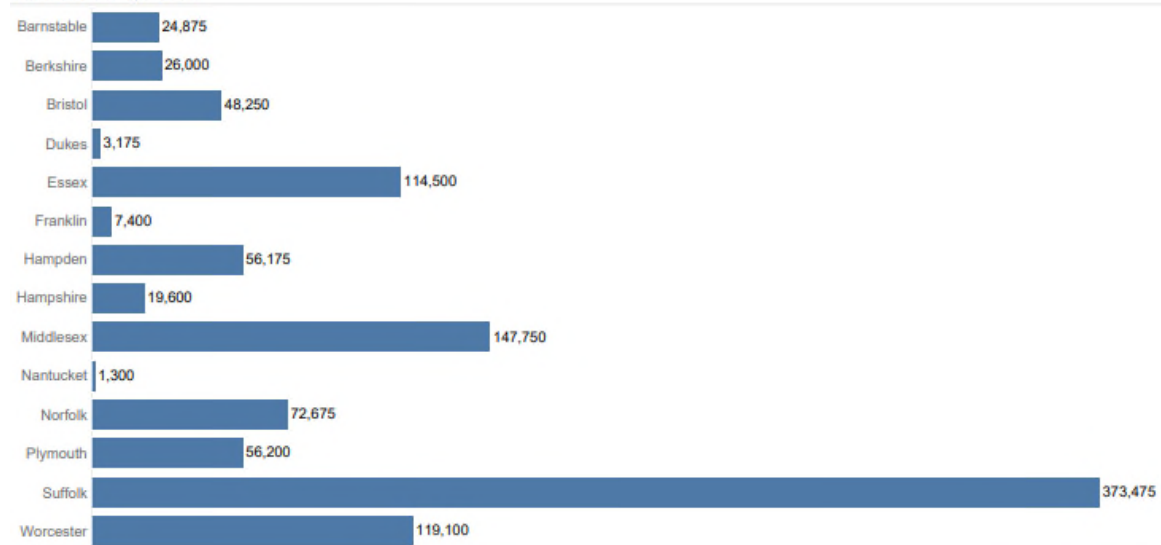
	Feb 5 th	Feb 6 th	Feb 7 th	Feb 8 th	Feb 9 th	Feb 10 th	Feb 11 th
Doses shipped to MA providers (MIIS)*	960,100	960,100	960,100	960,100	960,100	1,070,525	1,103,925
Doses shipped to FPPP providers (Tiberius)	283,025	287,900	287,900	316,225	323,600	342,500	350,250
Grand Total Shipped to MA	1,243,125	1,248,000	1,248,000	1,276,325	1,283,700	1,413,025	1,454,175
1st doses Administered (MIIS)* # of people with at least one dose	584,934	621,225	641,611	659,905	696,051	723,327	748,544
2nd doses Administered (MIIS)* # of people fully vaccinated	169,940	186,320	191,896	199,213	214,361	227,188	239,230
Grand Total Doses Administered (MIIS)*	754,874	807,545	833,507	859,118	910,412	950,515	987,774
% of total doses shipped that have been reported to MIIS as administered	60.7%	64.7%	66.8%	67.3%	70.9%	67.3%	67.9%

*Data from the Massachusetts Immunization Information System (MIIS) are as of midnight the night before.

Massachusetts Department of Public Health COVID-19 Dashboard - Thursday, February 11, 2021

Cumulative COVID-19 Vaccine Doses Shipped to Massachusetts Providers by County of Provider

Data as of February 09, 2021



Next Local Public Regional Clinic
Clinic Date: Wednesday, February 17, 2021
Orleans Department of Public Works (DPW)

Address: 40 Giddiah Hill Road, Orleans, MA 02653

Time: 9:00 AM - 4:00 PM

Number of doses available on February 17: 800

Go to: www.maimmunizations.org

Directions: See [Google Maps](#)

Registration Tip: On www.maimmunizations.org, manually scroll through the sites until you see this clinic listed. We advise that you do not enter the date or any other parameters in the search.

This clinic is available for those who live or work on Cape Cod and meet the criteria for Phase One or who are 75 years or older. Caregivers who accompany someone age 75 or older registered for this clinic may also register and receive their own vaccination on the same day.

TESTING

FREE asymptomatic testing for COVID-19 is still available at Outer Cape Health Service through February 28, 2021. This is the rapid antigen test and is not valid for Travel Order compliance. PCR testing is also available here. For testing options at Outer Cape Health, please call [508-905-2888](tel:508-905-2888) in advance to make a testing appointment.

Testing is available in other locations 7 days per week through Cape Cod Healthcare. Call the Community Testing Line at 508-534-7103 to make an appointment.

We are advocating for more vaccine! Please be patient.

Meggan Eldredge

Health Director

ANNUAL
COMMITTEE
PRESENTATIONS

To Board of Selectmen
From Traffic Safety Committee
Date 2/16/2021

Many thanks for the opportunity this evening. Attached is our formal report.

Answers to the questions posed:

Attendance/absences- has been fine, even in this remote platform era
Members sworn in- yes
Ethics testing completed by Beltis and Cebula, Scannell in process
Posting of Agendas/Minutes yes all agendas posted ,and minutes posted once
Approved by the Committee

According to our charge dated December 2020, the committee composition is 5 or 7 members.

The Town Administrator appoints 3: currently

Aram Goshgarian Police Department
Lincoln Hooper Department of Public Works
Griffin Ryder Town Engineer

The Board of Selectmen appoints either 2 or 4: currently

Jerry Beltis
Linda Cebula
Gerry Scannell

The Committee has a vacancy and there is a member of the public who is interested and will attend our next meeting. If an application for appointment is made, we hope that it will find agreement with the Board members..

Report of the Traffic Safety Committee

To the Harwich Board of Selectmen and the Residents of the Town of Harwich,

The Traffic Safety Committee is an advisory committee and reports to the Town Administrator. The purpose of the committee is to assist the town and staff with planning and design improvements to roadways, intersections, sidewalks, etc.

Due to the regulations that surrounded the current pandemic, the committee was only able to meet once via remote platform provided by the Town of Harwich.

We continue to monitor the changes to the intersections of Pleasant, Miles and South Streets, which involved moving a pole, and we are waiting for the utility to move the wires to the new pole. and is an ongoing project. We continue to monitor the lines of site at Rt. 39 and Chatham Road to address the line of sight issue entering Rt. 39 from Chatham Road.

The committee worked with the DPW to review and improve the line of sight at Freeman Street and Snow Inn Road at Rt. 28 to reduce the accident rate at this location. If time permits, we plan a review of the current status for allowing additional streetlights.

In the next year the committee plans on creating a policy to ensure lines of sight issues at problem areas are quickly recognized and addressed by appropriate town departments and resolved.

A reminder to the community that the Traffic Calming Policy and the Crosswalk Policy are both available on the Harwich website, the page for the Traffic Safety Committee.

We on the Traffic Safety Committee would like to thank all the staff of the Town and the Barnstable County Commission that assisted us in achieving our objectives. The committee has a vacancy for an appointed member and a member of the community has applied and is awaiting consideration.

With many thanks,

Traffic Safety Committee

Gerald (Jerry) Beltis, Chair

Linda Cebula, Vice Chair

Aram Goshgarian, Harwich Police Department

Lincoln Hooper, Harwich Department of Public Works

Griffin Ryder, Harwich Town Engineer

Gerard Scannell

December 14, 2020

Treasure Chest
Report to the Board of Selectmen
February 16, 2021

"The Treasure Chest closed on March 11, 2020 and the Treasure Chest Committee has been inactive since then. There have been no meetings of the Committee. Link Hooper has said that he cannot recommend the re-opening of the Treasure Chest until COVID-19 is no longer with us. Currently the Treasure Chest building is being used by the Highway and Maintenance Department for winter storage of some equipment."

February 16th Report to the Board of Selectmen Voter Information Committee. Our charge from the Board of Selectmen is *to inform and prepare voters on issues to be addressed at the Annual and Special town meetings and the local annual election and to encourage voter registration and participation.*

Know Your Town: Prior to Covid-19 and guidance regarding in-person meetings, Brooks Free Library staff and Voter Information Committee member's hosted five civic engagement programs at Brooks Free Library. The public was invited, encouraged to participate; and each program was also taped and later broadcast on Channel 18.

The objective was to provide voters with the information from department heads on the following:

- What are your department's mission and challenges?
- How does your department interact with other departments?
- What is your annual budget, how funded and what line items are included?
- Are there ways residents and voters can participate with your department?

The following participated in the five sessions:

- Board of Selectmen Chair, Larry Ballantine
- Interim Town Administrator, Joe Powers
- Town Clerk, Anita Doucette
- Library Staff Emily Milan, Virginia Hewitt and Jennifer Pickett
- Channel 18 Manager, Jamie Godwin
- Council on Aging Director, Emily Milan
- Community Center, Carolyn Carey
- Department of Public Works Director, Linc Hooper
- Water Superintendent, Dan Pelletier
- Finance Director, Carol Coppola;
- Assessor, Donna Molino
- Treasurer, Amy Bullock.

Web Page: Committee Member, Emily Milan, continued to maintain a robust web including November election information, committee member contact information, and links to Town web pages such as the *Selectmen's Committee Handbook*, and the application for committee appointment.

Conflict of Interest/Swearing In: Each member is current with training and has submitted proof of same to the Town Clerk. Additionally, each member is sworn in.

Review of Warrant Articles: In preparation for the September Town Meeting, Chris Joyce moderated a discussion with Interim Town Administrator Joe Powers; Financial Committee Chair, Dana DeCosta; and Finance Director, Carol Coppola. The focus was on projected revenue, budget constraints, use of free cash, warrant articles and how they will be funded. Joe Powers also provided information on the process for town meeting attendees to check in and safety whatever. Channel 18 taped and later broadcast the program numerous times as the Town Meeting date approached. .

Future Plans: Continue the Know Your Town series with Brooks Free Library, and moderate the following programs in preparation for the 2021 Annual Town Meeting and local election: Financial State of Harwich, Meet the Candidates and Warrant Articles Review.

Christina Joyce, Chair
Peggy Rose
Pam Groswald
Emily Milan, Secretary

CONSENT AGENDA

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Town Administrator*
Meggan M. Eldredge, *Assistant Town Administrator*

732 MAIN STREET, HARWICH, MA



MEMO

TO: Board of Selectmen

FROM: Joseph Powers, Town Administrator JP

RE: Utility Hearing February 9, 2021
NSTAR Electric dba Eversource Electric
1361 Orleans Road

DATE: February 16, 2021

A Utility Hearing was held on Tuesday, February 9, 2021 at 10:03 am via teleconference, at the request of NSTAR/Eversource for the purpose of the installing approximately 25' of conduit and cable and 1 handhold #106/H70A in town road to provide electrical service to customer at 1361 Orleans Road, Harwich.

Legal ads were published and notifications were given. There were no abutters present. There were no objections to installing approximately 25' of conduit and cable and 1 handhold #106/H70A in town road to provide electrical service to customer at 1361 Orleans Road, Harwich.

There were no other questions, concerns or objections and the Hearing was adjourned at 10:06 AM. After careful review, I recommend that the Board approve Eversource Plan No. 438832 Dated January 2, 2021 – WO#4388132.



Phone (508) 430-7513

Fax (508) 432-5039

TOWN OF HARWICH

732 MAIN STREET, HARWICH, MA 02645

MINUTES Utility Hearing – 1361 Orleans Road Tuesday, February 9, 2021

THOSE IN ATTENDANCE: Joseph Powers Town Administrator, Meggan Eldredge, Assistant Town Administrator, Patti Macura, Administrative Secretary, Representatives from Eversource; Marissa Jackson and Jessica Elder. There were no abutters.

The Town Administrator called the hearing to order at 10:03 A.M. and read the Utility Hearing Notice.

Marissa Jackson from Eversource, confirmed the work to be performed which is proposed to install approximately 25' (feet) conduit and one handhole#106/H70A in town road to customer at 1361 Orleans Road who requested underground services.

Mr. Powers advised that he would recommend to the Board of Selectmen at the 2/16/21 meeting to approve the installation of (feet) conduit and one handhole#106/H70A in town road to customer at 1361 Orleans Road.

The hearing was adjourned at 10:06 A.M.

Submitted by:
Patricia Macura
Administrative Secretary

Attachments

TOWN OF HARWICH
NOTICE OF PUBLIC HEARING
February 9, 2021

Pursuant to M.G.L. Ch. 166, § 22, the Interim Town Administrator will hold a Public Hearing at **10:00 AM on Tuesday February 9, 2021 via Teleconference** in reference to the following matter:

A petition by NSTAR ELECTRIC COMPANY dba EVERSOURCE ENERGY requesting permission to locate underground cables, conduits and manholes, including the necessary sustaining and protecting fixtures, in, under, along and across the following public way or ways:

1361 ORLEANS ROAD

PROPOSED: To install approximately 25' of conduit and cable and 1 handhold #106/H70A in town road.

All abutters and other interested persons are invited to dial in

TELECONFERENCE ACCESS INSTRUCTIONS

Utility Hearing - 1361 Orleans Road, Harwich

Tue, Feb 9, 2021 10:00 AM - 11:00 AM (EST)

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/682826405>

You can also dial in using your phone.

United States: [+1 \(312\) 757-3121](tel:+13127573121)

Access Code: 682-826-405

For further information, please call the Town Administrator's Office at (508) 430-7513 x 3319

Joseph F. Powers
Interim Town Administrator

Cape Cod Chronicle
January 21, 2021

January 5, 2021

Town Administrators
732 Main Street
Harwich, MA 02653

Dear Board Members:

Enclosed is a petition to install handhole 106/H70A @ 106/70 and approximately 25 feet of conduit under town road on Orleans Road, Harwich.

This proposed location is necessary to provide electrical service to customer at 1361 Orleans Road. This petition will require a notice to abutters and a hearing.

Will you please present this petition before the Board for customary action and approval?

If you have any questions, feel free to contact me at 508-790-9022 or the email address provided below.

Warm Regards,

Jessica Elder

Jessica Elder
Right of Way Agent
Jessica.Elder@Eversource.com
NSTAR Electric
d/b/a Eversource Energy

JE-MJ
Enclosures

**PETITION FOR
UNDERGROUND CABLE AND CONDUIT LOCATIONS**

WO#4388132

Barnstable, Massachusetts

January 5, 2021

To the Board of Selectmen for the Town of Harwich, Massachusetts.

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY

request permission to locate underground cables, conduits and manholes, including the necessary sustaining and protecting fixtures, in, under, along and across the following public way or ways:

1361 Orleans Road, Harwich

To install approximately 25 feet of conduit and cable and one handhole #106/H70A in town road.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to install and maintain underground cables, conduits, and manholes, together with such sustaining and protecting fixtures as it may find necessary, said underground cables, conduits, and manholes to be installed in accordance with the plan files herewith marked Plan No. 4388132 Dated January 4, 2021.

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY

By *Jessica S. Elder*

Right of Way Agent

Jessica S. Elder

**FORM OF ORDER FOR
UNDERGROUND CABLE AND CONDUIT LOCATIONS
WO#4388132**

IN BOARD OF SELECTMEN FOR THE TOWN OF HARWICH, MASSACHUSETTS.

Notice having been given and a public hearing held, as provided by law,
IT IS HEREBY ORDERED: that the **NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY** be and it is hereby granted a location for and permission to install and maintain underground cables, conduits and manholes, together with such sustaining and protecting fixtures as said Company may deem necessary, in, under, along and across the public way or ways hereinafter referred to, as requested in petition of said Company dated the 5th day of January 2021.

All construction under this order shall be in accordance with the following conditions:

Cables, conduits, and manholes shall be installed substantially at the point indicated upon the plan marked Plan No. 4388132 Dated January 4, 2021 filed with said petition. The following are the public ways or parts of ways under, along and across which the cables above referred to may be installed under this order.

1361 Orleans Road, Harwich
Installing approximately 25'(feet) of conduit and one handhole #106/H70A in town road to provide service to customer at 1361 Orleans Road.

I hereby certify that the foregoing order was adopted at a meeting of the Board of Selectmen of the Town of Harwich, Massachusetts held on the _____ day of _____ 2021.

Clerk of Selectmen.

_____, Massachusetts _____ 2021.

Received and entered in the records of location orders of the Town of Harwich
Book _____ Page _____.

Attest:

Town Clerk

We hereby certify that on _____ 2021, at _____ o'clock,
_____ M. at _____ a public hearing was held on the
petition of the

NSTAR ELECTRIC COMPANY d/b/a EVERSOURCE ENERGY

for permission to install and maintain the underground cables, conduits, manholes and fixtures described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to install underground cables, conduits, manholes and fixtures under said order. And that thereupon said order was duly adopted.

**Selectmen of the Town of
Harwich, Massachusetts**

CERTIFICATE

I hereby certify that the foregoing is a true copy of a location order and certificate of hearing with notice adopted by the Board of Selectmen of the Town of Harwich, Massachusetts, on the _____ day of _____ 2021, and recorded with the records of location orders of said Town, Book _____, Page _____.

This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

Town Clerk.

Plan to accompany petition of EVERSOURCE ENERGY
to install handhole 106/H70A @ 106/70 and approximately 25'± of 1-3" conduit
under public road to handhole 106/H70B for electric service relocation for customer
at #1361 Orleans Road.



LEGEND

- ⊕ Proposed Hand Hole
- ⊗ Existing Hand Hole
- Proposed Conduit
- - Existing Conduit
- Proposed Pole
- Existing Pole
- Ⓜ Proposed Multitap
- Ⓢ Proposed Manhole

74-N5-0
1360 ORLEANS RD
N/F
WOODWARD HEATHER C

86-M8-1-0
4 OLD SALTY LN
N/F
GALLAGHER PATRICIA LIFE ESTATE

● 106/70-S

ORLEANS RD

OLD-HERITAGE
WAY

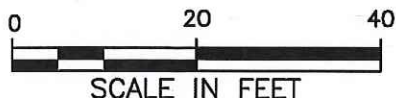
74-K1-0
1353 ORLEANS RD
N/F
WOODLAND RAY &
WOODLAND SIMONE N

106/70 ● ⊕ 106/H70A

1-3" CONDUIT
TL=25'±

⊕ 106/H70B

74-K2-3-0
1361 ORLEANS RD
N/F
TUCCI MARGARET M &
TUCCI MICHAEL



BY YOUR USE OF THE INFORMATION CONTAINED IN THIS MAP, YOU AGREE THAT NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IS GIVEN WITH RESPECT TO THE INFORMATION. NEITHER NSTAR ELECTRIC COMPANY, NSTAR GAS COMPANY NOR ITS PARENTS, AFFILIATES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES OR AGENTS (COLLECTIVELY THE "NSTAR ENTITIES") SHALL BE LIABLE FOR ANY LOSS OR INJURY CAUSED IN WHOLE OR IN PART BY USE OF THIS INFORMATION OR IN RELIANCE UPON IT, TO THE MAXIMUM EXTENT ALLOWED BY LAW, YOU AGREE BY YOUR ACCEPTANCE OF THE INFORMATION TO RELEASE, INDEMNIFY AND HOLD THE NSTAR ENTITIES HARMLESS FROM ANY SUCH LOSS OR INJURY.

THE INFORMATION MAY NOT REPRESENT A SURVEY, MAY NOT BE THE MOST COMPLETE AND IS SUBJECT TO CHANGE WITHOUT NOTICE. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE INFORMATION, EITHER EXPRESSED OR IMPLIED. UNAUTHORIZED ATTEMPTS TO MODIFY THE INFORMATION OR USE THE INFORMATION FOR OTHER THAN ITS INTENDED PURPOSES ARE PROHIBITED.

MASS. LAW

REQUIRES 72 HOURS ADVANCE NOTICE TO UTILITY COMPANIES
BEFORE DIGGING BY ANYONE. CALL DIG-SAFE 1-888-344-7233

Plan# 4388132
Ward #
Work Order # 4388132
Surveyed by: N/A
Research by: JC/SC
Plotted by: TL
Proposed Structures: TL
Approved: T. THIBAUT
P#

NSTAR
ELECTRIC
d/b/a **EVSOURCE**

1105 MASSACHUSETTS AVE. DORCHESTER, MASS. 02125

Plan of ORLEANS ROAD, HARWICH

Showing PROPOSED CONDUIT AND HANDHOLE

Scale 1"=20' Date 01/04/21

SHEET 1 of 1



Harwich Athletic Association

P.O. Box 271 Harwich Port, MA 02646

February 10, 2021

Eric Beebe
Recreation Director
Town of Harwich

Re: Funding Gift-Whitehouse Field Scoreboard and Lighting Projects

The Harwich Athletic Association (Harwich Mariners) is please to offer a gift in the amount of \$75,000.00 to the Town of Harwich for its efforts to replace the existing scoreboard and field lighting at Whitehouse Field.

We hope this gift will help update and enhance the parks features for the coaches, players and spectators enjoying America's pastime at Whitehouse Field, home of the Harwich Mariners.

Please accept this gift on behalf of the Mariners Board of Directors, our alumni, and the many fans who support such a great baseball park in our community of Harwich.

Sincerely,

Ben A. Layton
General Manager
Harwich Athletic Association
Harwich Mariners
Cape Cod Baseball League

NEW BUSINESS

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039


Joseph F. Powers, *Town Administrator*

732 MAIN STREET, HARWICH, MA



MEMO

TO: Board of Selectmen

FROM: Joseph F. Powers, Town Administrator 

CC: David J. Guillemette, Chief – Police
Gregg J. Corbo, Esq. – KP Law

RE: Recommended action following disciplinary hearing held on
January 12, 2021 re: Ember Pizza, Inc., Liquor License Violations

DATE: February 8, 2021

The following is my report on a disciplinary hearing held on January 12, 2021 for alleged violations of the liquor license for Ember Pizza, Inc., 600 Route 28, Harwich, MA.

Violations alleged:

Specifically, the alleged violations were: two (2) violations of 204 CMR 2.05(2), permitting a disorder, disturbance or illegality to take place on the licensed premises, to wit: violations of the Governor’s COVID-19 orders and guidance on May 22 and May 24, 2020.

Hearing summary:

The hearing was originally commenced on August 12, 2020, with all participants joining the hearing via the Go to Meeting remote video platform. Participating in the hearing were four members of the Harwich Police Department: Chief Guillemette, Deputy Chief Considine, Officer Nolan, Officer Dutra and Sgt. Boorack; the licensee and his attorney, Raymond Tomlinson, Jr.

At various times during the original hearing, it became apparent that Attorney Tomlinson’s connection to the Go to Meeting platform was not working. He repeatedly claimed that he was unable to hearing witnesses, Town Counsel and the Hearing Officer. No other participants appeared to have the same level of difficulty. However, as a result of Attorney Tomlinson’s alleged inability to effectively participate in the hearing, the Hearing Officer decided to suspend the hearing.

The hearing was reconvened on January 12, 2021. To alleviate the difficulties experienced by Attorney Tomlinson, the Hearing Officer made arrangements to have him and his client participate from a separate location within Town Hall, connected to the other participants by a closed-circuit video feed.

The arrangement was reviewed and approved by the Town's Health Director. Attorney Tomlinson, however, refused to participate in the hearing, claiming that he would be unavailable until March, 2021 due to a medical condition. Based on the numerous delays already experienced, the Hearing Officer chose not to reschedule the hearing and informed Attorney Tomlinson of his decision in writing.

Neither Attorney Tomlinson nor his client appeared for the hearing on January 12, 2021. The Hearing Officer commenced the hearing from the beginning (without reference to anything that occurred during the original hearing), and heard oral testimony from Officer Nolan, Officer Dutra and Sgt. Boorack. The hearing officer also considered exhibits labeled A through J.

Legal Standard:

I applied the following legal standard, as suggested by Town Counsel, in making my recommendation:

- 204 CMR 2.05(2), prohibits license holders from permitting any disorder, disturbance or illegality to take place on the licensed premises.
- On March 10, 2020, Governor Baker declared a State of Emergency in the Commonwealth due to the COVID-19 pandemic, and he issued numerous executive orders designed to prevent the spread of the virus.
- The Governor's orders have the force of law.
- On March 23, 2020, the Governor issued COVID-19 Emergency Order No. 13, in which he allowed restaurants to be open to the public for take-out and delivery only, but prohibiting the on-premises consumption of food and beverages.
- On April 3, 2020, the ABCC issued an advisory informing all license holders that all alcohol sales must be part of a take-out order.
- On May 18, 2020, the ABCC issued an advisory reminding all license holders that all on-premises consumption was prohibited until June 8, 2020 at the earliest.
- On June 1 and June 6, 2020, the Governor issued orders allowing restaurants to open for outdoor table service on June 8, 2020, and on June 19, 2020, the Governor issued COVID-19 Emergency Order No. 40 in which he allowed restaurants to be open for indoor dining on June 22, 2020, subject to guidance and standards issued by the Department of Public Health.

Statement of findings:

I find that the licensed establishment did, in fact, permit a disorder disturbance or illegality to take place on the licensed premises by violating the Governor's orders and guidance relative to the operation of restaurants during the COVID-19 State of Emergency on one of the two dates in question, May 22, 2020, as follows:

- On May 22, 2020, Harwich Police Officer Nolan observed what appeared to be a full service bar area on the patio to the establishment, with in violation of the Governor's orders prohibiting on-premises consumption. There were a few people standing around the outside bar area and around the fire pit, he observed individuals with canned beverages in their hands and they were

drinking from containers. He also observed a staff member behind the bar area actively serving the beverages.

- On May 24, 2020, Harwich Police Officer Dutra observed an individual on the outdoor patio area of the establishment with a container that appeared to contain an alcoholic beverage in violation of the Governor's orders prohibiting on-premises consumption. Although the initial call log indicated that he observed this individual drinking from the container, during hearing it was clarified that the officers did not observe the container to be open and they did not observe the individual taking a drink. I, therefore, find no violation with respect to this report.

These observations are described in greater detail in reports admitted into evidence at the hearing, which reports are consistent with the sworn testimony offered by the witnesses and which I credit as true and which establish that the licensee permitted disorders, disturbances or illegalities to take place on the licensed premises.

Recommended disciplinary action:

Based on the facts admitted into evidence at the public hearing, I find that one (1) violation of the laws of the Commonwealth has been established. The licensee has been found responsible for six (6) violations in the two years prior to the violations described herein. In addition, the Hearing Officer is aware of numerous public complaints about the manner in which the establishment is operated, and that the Board intends to conduct a public hearing to determine whether or not the license should be renewed. Therefore, I will hold my recommendation in abeyance until after that hearing.

**HEARING SUMMARY
SHOW CAUSE HEARING
EMBER PIZZA, INC.
JANUARY 12, 2021 – 1:00 P.M.
HELD REMOTELY VIA GO TO MEETING
AND CLOSED CIRCUIT AT HARWICH TOWN HALL
732 MAIN STREET
HARWICH, MA 02645**

Present

Joseph F. Powers, Hearing Officer
Attorney Gregg Corbo, Town Counsel
Danielle Delaney, Executive Assistant – Licensing
Jamie Goodwin, Channel 18
Trish O’Neil, Resident
Bill Galvin, Reporter for the Cape Cod Chronicle
Laurel Beloin, Resident
Bob Nickerson, Resident
Police Chief David Guillemette, Harwich Police Department
Deputy Chief Kevin Considine, Harwich Police Department
Officer Neil Nolan, Harwich Police Department
Sergeant Paul Boorack, Harwich Police Department
Officer Derek Dutra, Harwich Police Department

The Hearing Officer opened the licensing hearing at 1:00 PM, introduces Town Council, Gregg Corbo and explains why the hearing is taking place and describes the overall hearing process. The Hearing Officer proceeds to ask all parties to identify themselves for the record. All parties comply. The Hearing Officer explains that on the Go To Meeting screen there are two empty chairs that are available for the licensed establishment. The Hearing Officer states to let the record show that are 1:03 P.M. there are no individuals from the licensed establishment present or on the Go To Meeting screen.

Attorney Corbo introduces Exhibit A which is the Notice of Hearing that was delivered via hand delivery and email to the licensee dated December 28, 2020. Attorney Corbo states as the Hearing Officer indicated earlier there does not appear to be any representatives from the licensed establishment. Attorney Corbo would like the record to note that subsequent to the notice, one of the representatives from Ember requested a continuance of the hearing and by written correspondence to Attorney Raymond Tomlinson dated January 7, 2021 the Hearing Officer rejected the request for continuance. This written correspondence will be entered into the record as Exhibit B.

Attorney Corbo explains to all parties why the hearing is being held and goes through the dates that the alleged incident's occurred. Police Chief Dave Guillemette joins the Go To Meeting and identifies himself for the record.

Attorney Corbo states the first incident that occurred was on May 22, 2020 and introduces the Harwich Call summary dated May 22, 2020, call 20-5519 as Exhibit C. Attorney Corbo continues to read the Harwich Police narrative for all parties. Attorney Corbo calls Officer Neil Nolan as a witness and proceeds to swear him in. Attorney Corbo asks Officer Nolan if he was on duty on May 22, 2020 and Officer Nolan states yes, he was. Attorney Corbo asks Officer Nolan if he submitted a report from his interactions at Ember Pizza and Officer Nolan confirmed he did. Attorney Corbo states Exhibit D will be Harwich Police Incident Report 20-5519-OF which consists of a cover page and narrative. Attorney states he will read the report into the record and confirms with Officer Nolan that he has a copy of the report presently. Attorney Corbo asks Officer Nolan if the report is accurately described, the officer confirms it is. Officer Nolan states he does not need to clarify anything in the report or add details. Attorney Corbo states he has no further questions.

The Hearing Officer states for the record at 1:16 P.M. there are no representatives from the licensed establishment present in person or via Go To Meeting.

Attorney Corbo calls Officer Derek Dutra as his next witness and swears him in. Attorney Corbo introduces Exhibit E Harwich Police Call Summary dated May 24, 2020 and reads the narrative for all parties. Attorney Corbo introduces Exhibit F Harwich Police Incident Report 20-5566-OF which consists of a cover page, a narrative from Officer Dutra and a supplement report from Sergeant Paul Boorack.

Attorney Corbo asks Officer Dutra if he was on duty on May 24, 2020. Officer Dutra stated he was. Officer Dutra stated he checked on a compliant that night, but did not make any contact with anyone working. Attorney Corbo confirmed with Officer Dutra that he offered a report and that he has it with him presently. Attorney Corbo proceeds to read to the report for all parties. Officer Dutra states the report is accurate and has nothing to add or clarify. Attorney Corbo has no further questions for Officer Dutra. The Hearing Officer states for the record it is 1:20 P.M. and there remain no representatives from the licensed establishment.

Attorney Corbo calls Sergeant. Paul Boorack to be his next witness. Sergeant Boorack confirms he was on duty the night of May 24, 2020 and that he drove by the licensed establishment. He also confirms he did offer a report. Attorney Corbo states that he will read the narrative which is already marked an exhibit as it's the third page of Exhibit E. Sergeant Boorack confirms that he has the report presently and that it is accurate. Attorney Corbo asks if the individual appeared to have a to-go bag of food with them and Sergeant Boorack states he could not see from his vantage point. Sergeant Boorack states he would like to clarify he forgot the word "can" next to 24 ounce in his report. Attorney Corbo states he has no further questions. The Hearing Officer states for the record it is 1:23 P.M. and there are no representatives from licensed establishment present.

The participants of the hearing experience a few moments of technical difficulties.

Attorney Corbo enters additional documents into the record as Exhibits.

Exhibit G – Covid order 13 from Governor Baker

Attorney Corbo directs attention to the next to last paragraph on second page and reads paragraph for all parties.

Exhibit H – Alcoholic Beverages Control Commission Advisory regarding on premise licensees' selling for off premise consumption dated April 3, 2020

Attorney Corbo reads the fourth and fifth paragraph of the Advisory for all parties.

Exhibit I – Covid order 35 from Governor Baker

Attorney Corbo directs attention to the chart on page three along with page six, sub-paragraph four and reads for all parties.

Exhibit J – Covid 19 order 37 from Governor Baker dated June 6, 2020

Attorney Corbo directs attention to page three, under paragraph 2 and reads for all parties.

Attorney Corbo states he has no more exhibits and would like to offer the Police Chief and Deputy Chief time to make any statements if they would like. Both Police Chief and Deputy Chief have nothing further at this time.

The Hearing Officer states for the record it is 1:28 P.M. and there remains no representatives from the licensed establishment.

Attorney Corbo makes his closing statement. He states two violations have been made while at the time the Governors orders were in effect and states two violations have been made valid.

The Hearing Officer states it is 1:30 P.M. and the record for this hearing is now closed. He continued to thank town staff for their efforts and states the town sought out every measure and spared no expense to have a safe and efficient method for any and all parties to participate in this matter. The Hearing Officer concludes by thanking all who participated.

Respectfully Submitted,

Danielle Delaney

Executive Assistant – Licensing

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Interim Town Administrator*

732 MAIN STREET, HARWICH, MA



December 28, 2020

VIA HAND-DELIVERY AND EMAIL

Mr. Justin Brackett, Manager
Ember Pizza, Inc.
600 Route 28
Harwich Port, MA 02646

Re: Notice of Liquor License Disciplinary Hearing
Ember Pizza, Inc.

Dear Mr. Brackett:

On **Tuesday, January 12, 2021, at 1:00 pm**, acting on behalf of the Harwich Board of Selectmen as local licensing authority, I will conduct a Show Cause Hearing, in accordance with Massachusetts General Laws, Chapter 138, Sections 23 and 64, to determine whether you have violated the terms of the Alcoholic Beverages License for Ember Pizza Inc.

The specific charges are as follows: Violation of 204 CMR 2.05 (2): Permitting a disorder, disturbance or illegality to take place on the licensed premises. The facts underlying this charge arise from incidents occurring on or about May 22 and 24, 2020, as described in detail in the Harwich Police Incident Report attached hereto.

As you are aware, I attempted to begin this hearing on August 12, 2020, using a remote video platform to accommodate your Attorney's request to not have to appear in person due to concerns relating to COVID-19. However, after commencement of the hearing, and despite numerous efforts cure the alleged deficiencies, your attorney claimed that technical difficulties prevented him from participating. Although these difficulties did not appear to effect other remote participants, I decided to suspend the hearing. On January 12, 2021, I will start the hearing anew, using the following arrangements to ensure that all interested parties can participate in the hearing, while also ensuring that they can properly distance so as to avoid any risks that may be associated with COVID-19.

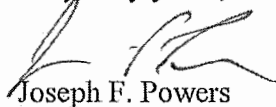
Specifically, the hearing will be conducted in separate locations within the Harwich Town Hall, 732 Main Street, Harwich, MA, which will be connected by closed-circuit, two-way video broadcast. The licensee and its counsel, should they choose to attend, will be located in the small hearing room, while me, Town Counsel and Ms. Delaney will be located in the Griffin Room. The two locations will be equipped with cameras and monitors to enable two-way communication. This system has been tested and proven effective. Members of the Town's Police Department and the ABCC will be permitted to participate via GoToMeeting, and both Town Hall locations will have the ability to interact with them.

These measures have been tested and approved by the Town's Health Director, and it is my opinion that they represent a reasonable accommodation to guard against the risks associated with indoor gatherings, while also providing the licensee and its attorney with a reasonable opportunity to participate in the hearing. Therefore, I will not agree to further suspend or delay the hearing for anyone who chooses not to participate under these circumstances.

You are invited to participate in the hearing and be represented by counsel at your own expense if you wish. At that time you may produce any documentation and/or witnesses which show that you did not commit the violations described herein. Please provide copies of any documents and a list of participants to Danielle Delaney at ddelaney@town.harwich.ma.us by the close of business January 8, 2021.

The allegations, if proven, may result in a recommendation to the Board of Selectmen for disciplinary action, including warning, suspension, revocation or modification of the above-referenced license.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. Powers', is written over the typed name.

Joseph F. Powers
Interim Town Administrator

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Interim Town Administrator*

732 MAIN STREET, HARWICH, MA



January 7, 2021

Raymond H. Tomlinson, Jr.
Tomlinson Law
1170 Main Street, Suite #1
West Barnstable, MA 02668

Dear Attorney Tomlinson:

I am writing in response to your request to postpone the disciplinary hearings for the above-referenced establishments. With all due sympathy to your medical condition, I find your request to postpone the hearings to mid-March to be wholly unreasonable. The incidents which are the subject of these hearings occurred in May, 2020. When I originally attempted to schedule the hearings in July of 2020 you objected and suggested that they be postponed to September or October because you believed that it was not safe for you to attend an in-person hearing. I attempted to accommodate your request by making arrangements for the hearing to be conducted by remote video platform, at significant expense to the Town. However, when I attempted to conduct the hearings remotely, they had to be stopped due to technical difficulties on your end. Notably, you were the only participant to have such difficulties.

After much deliberation as to how to proceed with these hearings in a manner that would allow you to safely participate, I arranged for you to participate on January 12, 2020 from a separate location within Town Hall linked to the other participants via closed-circuit video feed, again at significant expense to the Town. Despite my efforts, you again objected, first stating that you are not available any day prior to 1:00 pm, and then stating that you are not available at all due to a medical procedure.

I have gone to great lengths to provide you with a reasonable opportunity to participate in these hearings, only to have you obstruct the process at every turn. Therefore, I plan to proceed with the hearings as originally scheduled on January 12, 2020. Although I have made arrangements for you and your client to participate from a location within Town Hall, I will allow Mr. Bracket to participate remotely, at his own risk. Please be advised, however, that I will not stop or reschedule the hearings if he experiences technical difficulties.

If you are unable to attend, I will accept any written material you wish to submit on your clients' behalf.

Thank you for your attention to this matter.

Sincerely,

Joseph F. Powers
Interim Town Administrator

For Date: 05/22/2020 - Friday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>
20-5519	1908	GENERAL SERVICES	Services Rendered
Call Taker:	1608 - PSD Telecommunicator DIANE NICHOLSON		
Location/Address:	[HAR 2082] EMBER PIZZA - 600 RT 28		
Initiated By:	181 - Patrol Supervisor Keith T Kannally		
ID:	123 - Patrol Supervisor Neil A Nolan		
			Arvd-19:09:44 Cld-19:09:49

Narrative: 05/22/2020 2342 Patrol Supervisor Neil A Nolan
After receiving complaint of improper alcohol sales at The Port I observed the exact same violation taking place at Ember Pizza as I drove by. Ember had the outside bar set up, with a staff member serving. My initial observations were of subjects standing around the outside fire pit consuming what appeared to be alcoholic beverages. Outward appearances were that the patio was open for full service. Contact made with on sight manager who told me that they were only making "sealed to go" sales and that customers decided to open beverages while waiting for take out order. Manager advised that this action was a violation of the temporary modification allowing to go alcohol sales. Manager advised to go alcohol could only be provided to customer at time of to go order food pick up and needed to be removed from the premises.



Harwich Police Department
Incident Report

Page: 1
05/29/2020

Incident #: 20-5519-OF
Call #: 20-5519

Date/Time Reported: 05/22/2020 1908
Report Date/Time: 05/28/2020 1929
Status: No Crime Involved

Reporting Officer: Patrol Supervisor Neil Nolan

Signature: _____

EVENTS(S)

LOCATION TYPE: Restaurant/Cafeteria Zone: HARWICHPORT
EMBER PIZZA
600 RT 28
HARWICH MA 02645

1 LIQUOR LAW VIOLATIONS

PERSON(S) PERSON TYPE SEX RACE AGE SSN PHONE

1 EMBER PIZZA BUSINESS
600 RT 28
HARWICH MA 02645

*****This report is being submitted by Officer Nolan.*****

On 5-22-20 I was assigned to uniformed patrol as the Officer-in-Charge (OIC) of the 4-12 shift. As I was driving east on Rt. 28 I approached Ember Pizza located on the corner of Rt. 28 and Bank St. Ember has an outside patio that is located along Rt. 28. Due to Covid 19 restrictions restaurants are limited to take out food service. Temporary modifications have been made by the Commonwealth to liquor licensing allowing restaurants to serve "to-go" beer and wine with take out food service. Earlier during my shift I had dealt with a violation of these new "to-go" allowances at a restaurant just up the road. As I got closer to Ember's patio I observed two males standing around the fire pit on location. They each had canned beverage containers in their hands. I then observed a few people standing around the outside bar area on the patio. This bar area had several canned and bottled containers on display along with some bottles of wine. To the casual observer it would appear that the restaurant was open for business as usual.

I parked across the street to continue observations. The two males I had observed initially were continuing in a what appeared to be a very lively and entertaining conversation actively drinking from the containers that they held. I also observed what appeared to be a staff member standing behind the bar area actively serving beverages. There were approximately 8-12 people on the patio area, with some people leaving with take out orders and others arriving.

I went to Ember to speak to a manager and to try and clarify just what was being served and consumed on premises. As I walked onto the patio area I observed a few other canned beverages in the possession of customers along with a few clear plastic bottles with a red top and bottom. I was met by the manager on duty. I explained my observations and concerns to him. He confirmed to me that the container one of the males by the fire pit was drinking from was a Bud Light Seltzer. His claim that he was only serving sealed containers of alcohol per the temporary allowance and what the customer did with it was up to them. He and I had a bit of a back and forth about what was allowed. He was informed that the "to-go" alcohol was in fact meant to leave and was not to be consumed on premises. He was informed that any purchases of alcohol needed to be served along with the customer's take out food order and be removed by the customer.

For Date: 05/24/2020 - Sunday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>
20-5566	1714	GENERAL SERVICES	Investigated
Call Taker:	135	- Patrol Supervisor Derek J Dutra	
Primary Id:	135	- Patrol Supervisor Derek J Dutra	
Location/Address:	[HAR 2082] EMBER PIZZA - 600 RT 28		
Initiated By:	135	- Patrol Supervisor Derek J Dutra	
ID:	135	- Patrol Supervisor Derek J Dutra	
			Arvd-17:19:23 Cld-17:21:28
Narrative:	05/24/2020 1719 Patrol Supervisor Derek J Dutra		
Modified By:	Patrol Supervisor Derek J Dutra		
	Checked on a complaint about patrons possibly drinking in the front patio area. Sgt. Boorack and I checked the area, Sgt Boorack saw a male patron drinking near the fire pit. (COVID-19 Guidance - not following).		

Refer To Incident: 20-5566-0F



Harwich Police Department
Incident Report

Page: 1
06/15/2020

Incident #: 20-5566-OF
Call #: 20-5566

Date/Time Reported: 05/24/2020 1714
Report Date/Time: 05/24/2020 2011
Status: No Crime Involved

Reporting Officer: Patrol Supervisor Derek Dutra
Approving Officer: Sergeant Paul Boorack

Signature: _____

Signature: _____

EVENTS(S)

LOCATION TYPE: Restaurant/Cafeteria Zone: HARWICHPORT
EMBER PIZZA
600 RT 28
HARWICH MA 02645

1 COVID-19 GUIDANCE VIOL

PERSON(S) PERSON TYPE SEX RACE AGE SSN PHONE

1 EMBER PIZZA BUSINESS
600 RT 28
HARWICH MA 02645

This report is submitted by Officer Dutra regarding a possible non-compliance issue at Ember Pizza on May 24, 2020 at approximately 5:14 pm.

While assigned to the 4-12 shift our department was notified about a possible non-compliance act, patrons drinking on the front patio/bar area of the establishment. The non-compliance issue would have to do with the current guidelines set forth by the Governor pertaining to the Covid-19 pandemic. Sgt. Boorack and I checked the area to see if in fact such an act was taking place. I could not see from my angle but Sgt. Boorack saw a male party sitting by the fire pit with what appeared to be a canned beverage. There were several other patrons on the patio area but it was unclear from our angle if they were drinking or waiting for their food orders.


SUPPLEMENTAL NARRATIVE FOR SERGEANT PAUL P BOORACK

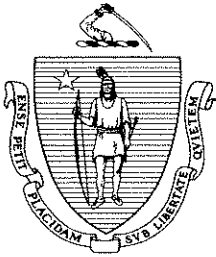
Ref: 20-5566-OF

The following is the supplemental report of Sergeant Boorack regarding the possible violation of the Governor's Order regarding alcohol being served at Ember's Pizza.

On 05/24/20, at approximately 17:15 hours. Officer Dutra and I received word that Ember Pizza was serving alcohol on their patio, in violation of the Governor's Order that alcohol could be served to go but not consumed on the property.

As I drove by Ember, I noticed approximately 6-8 people sitting in the patio area. I did not notice anyone with a drink in their hand. I did observe a white male sitting on a bench, next to the fire pit. I noticed what appeared to be either a 16 or 24 ounce aluminum beside this individual. From my vantage point, I did not see this individual take a drink from the can. Also, I was unable to tell if the beverage was an alcoholic beverage nor could I tell if the can was even opened.

This supplemental report is being submitted by Sergeant  #130.
Sgt Paul Boorack



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER ASSURING CONTINUED OPERATION OF ESSENTIAL SERVICES
IN THE COMMONWEALTH, CLOSING CERTAIN WORKPLACES,
AND PROHIBITING GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 13

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 number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 22, 2020, the Department of Public Health had reported 646 cases of COVID-19, including 5 deaths, with 13 of the 14 counties in the Commonwealth impacted;

WHEREAS, the Department of Public Health is urging all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times, both inside and outside of the home to limit the spread of this highly contagious and potentially deadly virus;

WHEREAS, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States that identifies 14 critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

WHEREAS, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and

therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; 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 public assemblages in order to protect the health and safety of persons, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, in order to minimize all unnecessary activities outside of the home during the state of emergency, I hereby order the following:

1. Maintaining Operation of COVID-19 Essential Services and Workforces

The production and service sectors identified in Exhibit A are hereby designated as “COVID-19 Essential Services.” The workforces engaged and working in these production and service sectors are hereby designated as “COVID-19 Essential Workforces.” I shall amend and publish updates to Exhibit A as I determine necessary in response to conditions as they develop.

Businesses and other organizations that provide the services and functions identified as COVID-19 Essential Services in Exhibit A are urged to continue operations during the state of emergency, but to do so with allowance for social distancing protocols consistent with guidance provided by the Department of Public Health.

Restaurants, bars, and other retail establishments that sell food and beverage products to the public provide COVID-19 Essential Services and are designated as such in Exhibit A. These establishments are therefore encouraged to continue to offer food and beverages for take-out and by delivery provided that they follow the social distancing protocols set forth in Department of Public Health guidance. Restaurants, bars, or other establishments that offer food or beverages to the public shall not permit on-premises consumption of food or beverages.

2. Temporary Closing of Other Businesses and Organizations

All businesses and other organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities (“brick-and-mortar premises”) to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before 12:00 noon on April 7, 2020. Churches, temples, mosques, and other places of worship shall not be required to close their brick and mortar premises to workers or the public; provided, however, that such institutions shall be required to comply with all limitations on gatherings established in section 3 below.

Businesses and other organizations that do not provide COVID-19 Essential Services are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order.

3. Limitations on Gatherings

Gatherings of more than 10 people are prohibited throughout the Commonwealth. Gatherings subject to this Order include, without limitation, community, civic, public, leisure, faith-based, or sporting events, concerts, conferences, conventions, fundraisers, parades, fairs, festivals, weddings, funerals, and any similar event or activity that brings together more than 10 persons in any confined indoor or outdoor space. This limitation shall not apply to the operations or activities of any business or organization in its provision or delivery of COVID-19 Essential Services.

This Order does not prohibit gatherings of more than 10 people in an unenclosed, outdoor space such as a park, athletic field, or parking lot.

Athletic and recreational activities that bring participants into close, physical contact are prohibited even when involving 10 or fewer people and regardless of where conducted.

4. Exceptions

(a) This Order shall not apply to any municipal legislative body or to the General Court or to the Judiciary.

(b) This Order shall not apply to residential schools for special needs students. This Order also does not apply to public and private elementary and secondary (K-12) schools in the Commonwealth, which are subject to the March 15, 2020 Order Temporarily Closing All Public and Private Elementary and Secondary Schools, as may be subsequently amended, which suspended all normal, in-person instruction.

(c) This Order does not apply to the operation of child care programs in the Commonwealth, which are subject to the March 18, 2020 Order Temporarily Closing All Child Care Programs and Authorizing the Temporary Creation and Operation of Emergency Child Care Programs, as may be subsequently amended.

5. Implementing Guidance and Enforcement

The Commissioner of Public Health is directed to issue guidance (“DPH Guidance”), subject to my approval, to implement the terms of this Order. The DPH Guidance shall include a requirement that grocery stores and other retailers with substantial retail grocery sales establish special limited access hours during which elderly and other vulnerable populations may have exclusive access to make grocery purchases.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall enforce this Order and if necessary may do so with the assistance of State or municipal police. Violation of the terms of this Order or the DPH Guidance may result in a criminal penalty pursuant to Section 8 of Chapter 639 of the Acts of 1950 or a civil fine of up to \$300 per violation, in the manner provided for non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. A criminal complaint for violation of or a motion for an injunction to enforce this Order or the DPH Guidance shall be filed in the district court with jurisdiction for the municipality in which the violation has been charged.

In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines additional measures are required to ensure that the terms of this Order are observed.

This Order supersedes and makes inoperative any order or rule issued by a municipality that will or might in any way impede or interfere with the achievement of the objectives of this Order. With respect to work and travel in particular, any order or rule issued by a municipality is hereby made inoperative to the extent: (1) such municipal order or rule will or might interfere with provisions of this Order ensuring the continued operation of COVID-19 Essential Services; or (2) such municipal order or rule will or might interfere with the free travel anywhere within the Commonwealth of any person who is a member of any COVID-19 Essential Workforce where such travel is made in connection with the ongoing operation of COVID-19 Essential Services.

This Order rescinds and revokes the Order Prohibiting Gatherings of More than 25 People and On-Premises Consumption of Food or Drink, issued March 15, 2020.

If any provision of this Order or the application thereof to any person or 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 the application thereof to other persons, entities, and circumstances.

This Order shall be effective at 12:00 noon March 24, 2020 and shall remain in effect through 12:00 noon on April 7, 2020 unless further extended.

Given in Boston at 9:15 AM this 23rd day
of March, two thousand and twenty

A handwritten signature in black ink, appearing to read "Charles D. Baker", written over a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

Jean M. Lorizio, Esq.
Chairman

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING
ON-PREMISES LICENSEES SELLING FOR OFF-PREMISES CONSUMPTION**

Today, April 3, 2020, Governor Charlie Baker signed a bill authorizing on-premises licensees to sell malt beverages and wine for off-premises consumption for the duration of the Governor's declared state of emergency, issued March 10, 2020.¹

Effective immediately and until the end of the state of emergency, all on-premises licensees (M.G.L. c. 138, § 12 bars, restaurants, general on premises, hotels, taverns, clubs, war veterans' clubs, and continuing care retirement communities) may sell up to 192 ounces of malt beverages and 1.5 liters of wine for off-premises consumption only as part of a transaction for the purchase of food.

The sale of malt beverages and wine by § 12 licensees may only be done from opening until 12:00 am midnight, or the licensee's closing time previously approved by the Local Licensing Authority, whichever is earlier. All wine must be in its original sealed container and all malt beverages must be in sealed containers. All licensees must verify that both the purchaser and recipient of alcohol are at least 21 years old.

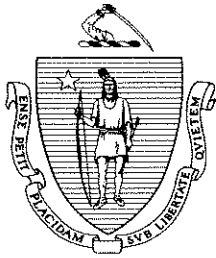
Sales must be made as part of a takeout order by way of pickup, including curbside pickup, or delivery. Licensees do not need to obtain a separate transportation permit under M.G.L. c. 138, § 22, in order to make deliveries. Licensees are advised to check with their Local Licensing Authority on any additional requirements in order to sell alcohol for curbside pickup.

All sales must be accompanied by a receipt reflecting the purchase of food along with alcohol, and licensees must keep copies of all receipts for inspection by licensing authorities.

As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to the ABCC Executive Director Ralph Sacramone at rsacramone@tre.state.ma.us or (617) 727-3040 x 731.

(Issued April 3, 2020)

¹ The Governor's March 10, 2020, declaration of a state of emergency can be found [HERE](#).



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER CLARIFYING THE PROGRESSION OF THE COMMONWEALTH'S
PHASED WORKPLACE RE-OPENING PLAN AND AUTHORIZING
CERTAIN RE-OPENING PREPARATIONS AT PHASE II WORKPLACES**

COVID-19 Order No. 35

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 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 protecting oneself and others by minimizing personal contact with environments where this potentially deadly virus may be transmitted;

WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact and non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order, 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, on March 31, 2020, April 28, 2020, and May 15, 2020, I issued COVID-19 Orders No. 21, 30, and 32, respectively, which extended the period in which COVID-19 Order No. 13 would continue to restrict the operation of businesses and organizations that do not provide COVID-19 Essential Services;

WHEREAS, recent public health data indicate continued improvement in key areas of measurement as a result of the extraordinary efforts of health care providers in the Commonwealth and the public's unselfish compliance with the restrictions imposed in COVID-19 Order No. 13 and other measures implemented in response to the COVID-19 health crisis;

WHEREAS, on May 18, 2020, I issued COVID-19 Order No. 33, which authorized the re-opening of certain brick-and-mortar premises designated as "Phase I" workplaces ("Phase I enterprises"), subject to the requirement that all such workplaces comply with workplace safety rules and standards implemented to protect against the risk of the COVID-19 virus and which otherwise further extended the period in which COVID-19 Order No. 13 will continue to restrict the operations of businesses and organizations that do not provide Essential Services or that have not been designated as Phase I workplaces;

WHEREAS, a sustained trend of improvement in public health data will permit a continuing, carefully phased relaxation of certain restrictions that COVID-19 Order No. 13 has placed on businesses and other organizations, provided that any adjustment can only be maintained or expanded on the basis of continuing improvements in the public health data, and further provided that any adjustment must reflect the reality that the Commonwealth remains in the midst of a public health emergency, as demonstrated by reporting from the Department of Public Health that as of May 31, 2020, 1,824 persons remain hospitalized in the Commonwealth as a result of COVID-19 and 436 of these patients are receiving treatment in intensive care units;

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, 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. Advance Preparations by Phase II Enterprises

Beginning immediately, businesses and other organizations that are included within Phase II of the re-opening plan, as defined in Section 2 below, may open their physical workplaces and facilities ("brick-and-mortar premises") to workers for the purpose of preparing for a Phase II re-opening when authorized. In preparing their premises for re-opening, Phase II businesses and other organizations ("Phase II enterprises") must at all times comply with all generally applicable COVID-19 workplace safety rules and any relevant sector-specific COVID-

19 workplace safety rules issued pursuant to Section 2 of COVID-19 Order No. 33 or otherwise by the Department of Labor Standards (“DLS”), the Department of Public Health (“DPH”), or any other agency authorized to issue similar health and safety rules.

Phase II enterprises may not open their premises to customers and the public generally until authorized to do so by subsequent Order.

2. Designation of Phase II Enterprises

Phase II enterprises are businesses or other organizations that meet each of the following conditions:

They are

- not currently permitted to open their premises as an Essential Service or Phase I enterprise pursuant to Section 1 of COVID-19 Order No. 33;
- not closed by any COVID-19 Order separate from or in addition to COVID-19 Order No. 13;
- not excluded or excepted from the terms of this Order in Section 4; and
- not designated on the chart below as a Phase III or Phase IV enterprise.

	All Phase II, III, and IV enterprises will be required to comply with general and, where applicable, sector-specific COVID-19 workplace safety rules administered by DPL, DPH, and local boards of health. Workplace safety rules will 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 II	<p>Enterprises that meet all of the conditions specified above and including</p> <ul style="list-style-type: none"> • 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 • 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 <ul style="list-style-type: none"> ○ Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.) ○ 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

	<ul style="list-style-type: none"> • Warehouses and distribution centers • Golf facilities including outdoor driving ranges • Other outdoor recreational facilities <ul style="list-style-type: none"> ○ pools, playgrounds and spray decks ○ mini golf, go karts, batting cages, climbing walls, ropes courses • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools <ul style="list-style-type: none"> ○ 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	<ul style="list-style-type: none"> • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations • Casino gaming floors • Horse racing simulcast facilities (no spectators) • Indoor recreational and athletic facilities for general use (not limited to youth programs) • Fitness centers and health clubs including <ul style="list-style-type: none"> ○ 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/shower rooms ○ excluding saunas, hot-tubs, steam rooms • Museums • Indoor historic spaces/sites • Aquariums • Outdoor theatres and performance venues of moderate capacity • Indoor theatres, concert halls, and other performance venues of moderate capacity • Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching) • Fishing and hunting tournaments and other amateur or professional derbies • Weddings/events/gatherings in parks, reservations, and open spaces with allowance for moderate capacity • Overnight camps • Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older • Indoor recreational businesses: batting cages, driving ranges, go karts, bowling alleys, arcades, laser tag, roller skating rinks, trampolines, rock-climbing <p>This listing is subject to amendment.</p>
Phase IV	<ul style="list-style-type: none"> • Amusement parks, theme parks, indoor or outdoor water parks • 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

	<ul style="list-style-type: none"> ○ Theaters and concert halls ○ Ballrooms ○ Stadiums, arenas, and ballparks ○ Dance floors ○ Exhibition and convention halls ● Private party rooms ● Street festivals and parades and agricultural festivals ● Road races and other large, outdoor organized amateur or professional group athletic events <p>This listing is subject to amendment.</p>
--	---

3. Rules for Phase II Limited Organized Sports Activities and Programs

Amateur Sports: Effective immediately, organizers of sports activities and programs for youths and adults and facilities that host such programs or activities may open their premises to employees to begin preparations, consistent with the provisions of Section 1, for authorized Phase II activities. In addition to complying with generally applicable COVID-19 workplace safety rules, organizers of sports activities and programs for youths and adults and facilities that host such programs or activities shall be subject to the following directives during Phase II:

- a. Programs for contact sports must limit activities exclusively to no-contact drills and practices. Programs for no contact sports where ordinary play allows for social distancing may include ordinary play.
- b. Games, scrimmages, and tournaments shall not be permitted for any organized sports activities.
- c. Programs must separate participants into groups of no more than 10 participants, including coaches and staff.
- d. Indoor athletic facilities shall be open and available exclusively for the use of supervised sports programs, including sports camps, for youths under the age of 18.

The Secretary of the Executive Office of Energy and Environmental Affairs (“EEA”) shall issue guidance to implement these directives and all generally applicable COVID-19 workplace standards for organizers of youth and adult sports programs and operators of facilities that host those programs. Organizers of youth and adult sports programs shall follow the EEA guidance; provided, however, that when the program is governed by formal league rules or other binding agreements or affiliations, the organizer shall comply with any COVID-19 and other health and safety rules applicable under those authorities. The requirements of items (a) – (d) above shall apply in all circumstances.

Professional Sports: Effective immediately, professional sports organizations may open their premises to employees and other workers for the activities provided for in Section 1 and may also open their premises to employees for on-premises athletic practices and training,

subject to adoption of COVID-19 health and safety rules implemented under the authority of formal league rules or other binding agreements or affiliations.

Professional sports organizations may not engage in inter-team games within the Commonwealth and may not open any facilities within the Commonwealth to the public until further Order.

4. Preparations and Accommodation for Outdoor Restaurant Dining Service

Restaurants will be authorized to provide outdoor table service at the commencement of Phase II of the Commonwealth's phased re-opening of workplaces. If the public health data reflects continued positive progression, restaurants will be authorized at a later date and by a subsequent Phase II Order to commence indoor table service. In each case, restaurants will be required to comply with sector-specific COVID-19 workplace safety rules for restaurants.

"Outdoor table service" shall mean service that is provided outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area, or other outdoor space. Outdoor table service may be provided under awnings or table umbrellas or other cover from the elements, provided, however, that at least 50 percent of the perimeter of any covered dining space must remain open and unobstructed by any form of siding or barriers at all times.

Notwithstanding the provisions of chapter 40A of the general laws, or any special permit, variance or other approval thereunder, or any other general or special law to the contrary, a city or town may approve requests for expansion of outdoor table service, including in the description of licensed premises as described below. Prior to such approval, the mayor, select board, or chief executive as established by charter or special act, shall establish the process for approving such requests. Such process need not comply with the notice and publication provisions of section 11 of chapter 40A.

Any such approval may be exercised immediately upon filing of notice thereof with the city or town clerk, without complying with any otherwise applicable recording or certification requirements.

In order to provide improved opportunities for outdoor table service, for any type of license that permits the sale of alcoholic beverages for on-premises consumption, a local licensing authority ("LLA") may grant approval for a change in the description of the licensed premises for the purpose of permitting outdoor alcohol service as the LLA may deem reasonable and proper, and issue an amended license to existing license holders, without further review or approval by the Alcoholic Beverages Control Commission ("ABCC") prior to issuance. Upon approval of an amended license, the LLA shall provide notice of the amended license to the ABCC. Nothing in this Order shall prevent the ABCC from exercising its statutory or regulatory enforcement authority over any such amended license issued.

On November 1, 2020 or the date this Order is rescinded, whichever is sooner, any approval issued under this Section, including any amended license issued by an LLA as a result of this Order, shall automatically revert back to its status prior to the approval of the change for expansion of outdoor table service or in the description of a licensed premises.

5. Sector-Specific Rules

The Director of Labor Standards and the Commissioner of Public Health shall issue, subject to my approval, COVID-19 workplace safety rules for certain, specific Phase II enterprise workplace sectors (“Sector-Specific Rules”) to address the particular circumstances and operational needs of those specific workplace sectors. These Phase II Sector-Specific Rules shall supplement the generally applicable COVID-19 safety rules applicable to all workplaces in the Commonwealth. Phase II enterprises shall adopt and comply with all Sector-Specific Rules applicable to their workplaces.

6. Limitations on Gatherings

A Phase II enterprise that is authorized to open its brick-and-mortar premises to workers under the terms of this Order shall not be subject to the 10-person limitation on gatherings established in Section 3 of COVID-19 Order No. 13 in its normal operations of those premises; provided, however, that Phase II enterprises must comply with the social distancing requirements in the Commonwealth’s generally applicable COVID-19 workplace safety rules, any more specific limitations on gatherings and meeting sizes included in any applicable Sector-Specific Rules, and any other similar restrictions specified in this Order.

Section 3 of COVID-19 Order No. 13 shall otherwise remain in effect for businesses or organizations not permitted to open their brick-and-mortar premises as COVID-19 Essential Services, or Phase I or Phase II enterprises.

4. Exceptions

This Order shall have no application 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 provider licensed by the Department of Public Health or the Board of Registration in Medicine
- d. Any of the following workplaces or facilities with specialized functions and populations:
 - 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 or licensed by the Department of Mental Health or the Department of Developmental Services
- And any other facilities or workplaces that the Commissioner of Public Health may in writing exempt from the terms of this Order

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 2:20 PM this 1st day
of June, two thousand and twenty



CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ORDER AUTHORIZING THE RE-OPENING OF PHASE II ENTERPRISES

COVID-19 Order No. 37

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 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 protecting oneself and others by minimizing in-person contact with others and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of limited ventilation or numbers of persons present or passing through 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 non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order, 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, on March 31, 2020, April 28, 2020, and May 15, 2020, I issued COVID-19 Orders No. 21, 30, and 32, respectively, which extended the period in which COVID-19 Order No. 13 would continue to restrict the operation of businesses and organizations that do not provide COVID-19 Essential Services;

WHEREAS, recent public health data indicate continued improvement in key areas of measurement as a result of the extraordinary efforts of health care providers in the Commonwealth and the public's unselfish compliance with the restrictions imposed in COVID-19 Order No. 13 and other measures implemented in response to the COVID-19 health crisis;

WHEREAS, on May 18, 2020, I issued COVID-19 Order No. 33, which authorized the re-opening of certain brick-and-mortar premises designated as "Phase I" workplaces ("Phase I enterprises"), subject to the requirement that all such workplaces comply with workplace safety rules and standards designed to protect against the risk of the COVID-19 virus and which otherwise further extended the period in which COVID-19 Order No. 13 would continue to restrict the operations of businesses and organizations that do not provide Essential Services or that were not designated as Phase I workplaces;

WHEREAS, a sustained trend of improvement in public health data permits a continued, carefully phased relaxation of certain restrictions on businesses and other organizations, provided that any adjustment can only be maintained or expanded on the basis of continuing improvements in the public health data, and at present the Commonwealth remains in the midst of a public health emergency, as demonstrated by reporting from the Department of Public Health on June 5, 2020 that 1,533 persons remain hospitalized in the Commonwealth as a result of COVID-19 and 350 of these patients are receiving treatment in intensive care units;

WHEREAS, according to the Centers for Disease Control and Prevention, a precipitous removal of targeted restrictions that have proven effective in combatting the spread of COVID-19 could result in a recurrence of the virus spread, as has been the experience in certain States and countries; 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, 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. Opening of Phase II Enterprises Generally

Businesses and other organizations that are Phase II enterprises, as defined below, are permitted to open and operate from their physical workplaces and facilities ("brick-and-mortar premises") according to the progressive, two-step schedule specified in Section 2. Phase II

enterprises may open those premises to workers, customers, and the public when authorized under the two-step schedule in Section 2 provided they comply with all workplace safety rules and standards issued or maintained pursuant to Section 3 and all other terms of this Order.

Phase II enterprises are businesses or other organizations that are designated as such on the chart attached as Schedule A or businesses and other organizations that meet each of the following conditions:

- a. not previously permitted to open their premises as an Essential Service or Phase I enterprise pursuant to Section 1 of COVID-19 Order No. 33;
- b. not closed by any COVID-19 Order separate from or in addition to COVID-19 Order No. 13;
- c. not excluded or excepted from the terms of this Order in Section 5; and
- d. not designated as a Phase III or Phase IV enterprise on the chart attached as Schedule A.

Businesses and other organizations that are designated as Phase III and Phase IV enterprises on the chart attached as Schedule A must keep their brick-and-mortar premises closed to workers, customers, and the public and may not conduct Phase III and IV activities except as remote means permit. Phase III and IV enterprises shall not re-open their brick-and-mortar premises until specifically authorized to do so by subsequent Order. Phase III and IV enterprises may, however, open their premises to workers to the degree reasonably necessary to perform critical tasks that cannot be conducted remotely, such as ensuring on-going maintenance of the premises, preservation of inventory and equipment, and compliance with legal obligations.

2. Two-Step Progression of Phase II Openings

Step 1: On June 8, 2020, Phase II enterprises that are not designated as Step 2 enterprises may open their brick-and-mortar premises to workers, customers, and the public.

Restaurants are authorized to provide outdoor table service beginning with the June 8 commencement of Step 1. For the purposes of this Order, the term “restaurant” shall mean an establishment that provides seated food service that is prepared on-site and under a retail food permit issued by a municipal authority pursuant to 105 CMR 590.000.

“Outdoor table service” shall mean service that is provided outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area, or other outdoor space. Outdoor table service may be provided under awnings or table umbrellas or other cover from the elements, provided, however, that at least 50 percent of the perimeter of any covered dining space must remain open and unobstructed by any form of siding or barriers at all times.

Step 2: If the public health data reflects continued positive progression, Step 2 will be announced by a subsequent Phase II Order. Effective upon the commencement of Step 2

- a. close contact personal services, as defined below, may open their brick-and-mortar premises to workers, customers, and the public; and
- b. Restaurants may commence indoor table service.

“Close contact personal services” shall mean any personal service typically delivered through close physical contact with a client including, without limitation, nail care services, massage therapy, personal training services, and tattoo, piercing, and body art services. The Director of Labor Standards shall issue guidance to define such services more completely.

3. Sector-Specific Rules and Self-Certification

The Director of Labor Standards and the Commissioner of Public Health shall issue, subject to my approval, COVID-19 workplace safety rules for certain, specific Phase II enterprise sectors (“Sector-Specific Rules”) to address the particular circumstances and operational needs of those specific sectors.

The Secretary of the Executive Office of Energy and Environmental Affairs (“EEA”), subject to my approval, shall issue Sector-Specific Rules to implement COVID-19 safety measures for organized youth and adult amateur sports activities and shall continue to issue COVID-19 workplace safety standards for operators of and participants in outdoor recreational activities as provided for in COVID-19 Order No. 34. In issuing such standards, the Secretary may from time to time, following consultation with the Commissioner of the Department of Public Health, adjust the capacity restrictions in Section 3(c) of COVID-19 Order No. 35 and the capacity and other limitations applicable to the recreational activities and facilities specified in Attachment 1 to COVID-19 Order No. 33.

Phase II Sector-Specific Rules shall supplement the generally applicable COVID-19 safety rules applicable to all workplaces in the Commonwealth adopted in COVID-19 Order No. 33. Phase II enterprises shall adopt and comply with all Sector-Specific Rules applicable to their workplaces.

Newly Opened Premises: Phase II enterprises that are authorized under the terms of this Order to open their brick-and-mortar premises to workers, customers, and the public shall be required to self-certify that they are in compliance with all generally applicable COVID-19 workplace safety rules and any applicable Sector-Specific rules. Before opening a brick-and-mortar premises under the terms of this Order, a Phase II enterprise not previously authorized to operate as a COVID-19 Essential Service pursuant to COVID-19 Order No. 13 shall be required to implement the following measures:

- a. Bring the workplace into full compliance with all generally applicable COVID-19 workplace safety rules and all Sector-Specific Rules that are applicable to the individual workplace

- b. Complete the required self-certification to verify compliance with all general and any applicable Sector-Specific Rules and make the self-certification available for inspection upon a request by State or Local authorities
- c. Post on the premises all public notices and advisories that are required to be displayed under the terms of this Order

A Phase II enterprise that has prior to the issuance of this Order been authorized to remain open to workers, customers, and the public as a “COVID-19 Essential Service” shall have until June 15, 2020 to certify its compliance with any COVID-19 workplace safety rule issued pursuant to this Order and with the public notice provisions specified above.

All such businesses and other organizations shall, in any event, immediately undertake best efforts to comply with all generally applicable COVID-19 workplace safety rules applicable to all businesses and other organizations operating within the Commonwealth.

4. Enforcement and Authority

The Department of Labor Standards, in consultation with the Department of Public Health (“DPH”), shall have general authority to promulgate directives, regulations, and guidance to implement and enforce the COVID-19 workplace safety rules authorized under this Order.

DPH shall have specific authority to promulgate directives, regulations, and guidance to implement and enforce the terms of this Order as it applies to businesses, organizations, and workplaces subject to the sanitary code established pursuant to section 127A of chapter 111 of the General Laws and where DPH otherwise has existing regulatory authority.

A municipal board of health or authorized agent pursuant to G. L. c. 111, § 30 shall have concurrent authority with DLS and DPH to enforce the terms of this Order and any directives, regulations, or guidance issued by DLS, DPH, and EEA under the authority of this Order.

This Order is intended to establish a uniform set of COVID-19 workplace safety rules for all businesses and other organizations operating brick-and-mortar premises across the Commonwealth. No municipal or other local authority should adopt or enforce any workplace health or safety rule to address COVID-19 that is in addition to, stricter than, or otherwise in conflict with any COVID-19 workplace safety rule adopted in this Order or under the implementing directives, regulations, and guidance issued by DLS, DPH, or EEA under the authority granted by this Order. DLS, DPH, EEA, and each municipal or local authority shall uniformly apply any enforceable COVID-19 workplace safety rule.

Violation of the terms of this Order or any directives, regulations, or guidance issued pursuant to this Order may result in a civil fine of up to \$300 per violation, in the manner provided for in G. L. c. 277, § 70C. This Order may also be enforced by injunction. A motion for an injunction to enforce this Order or any directives, regulations, or guidance issued on its

authority may be filed in the district court or other any court of competent jurisdiction for the municipality in which the violation has been charged.

In issuing directives, regulations, or guidance under the terms of this Order, (a) the Director of Labor Standards shall act under the authority G. L. c. 149, §§ 6 & 6½; and (b) the Commissioner of Public Health shall act under the authority of G. L. c. 17, § 2A and G. L. c. 111, §§ 6 & 127A, insofar as those statutes are consistent with the provisions of this Order and authority is available thereunder. In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines that additional measures are required to ensure that the terms of this Order are observed. The Director of Labor Standards and the Commissioner of Public Health may issue regulations implementing the terms of this Order pursuant to the processes generally provided in G. L. c. 30A, §§ 2-6.

If any provision of this Order or the application thereof to any person or 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.

5. Exceptions

This Order shall have no application 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, provided that DPH shall in each case consult with the responsible authority and provide COVID-19 health and safety guidance as needed:
 - 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 that provide safe spaces for the unstably housed such as homeless and domestic violence shelters

- and any other facilities or workplaces that the Commissioner of Public Health may in writing exempt from the terms of this Order

COVID-19 Order No. 13 is rescinded effective at 12:01 am on June 8, 2020.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 12:45 PM this 6th day
of June, two thousand and twenty



CHARLES D. BAKER
GOVERNOR

Commonwealth of Massachusetts

Schedule A to COVID-19 Order No. 37

	<p>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 DPL, DPH, 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.</p>
<p>Phase I</p>	<p>As specified in COVID-19 Order No. 33:</p> <ul style="list-style-type: none"> • 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 <u>Exhibit 1</u> to COVID-19 Order No. 33
<p>Phase II</p>	<ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> ○ Step 1: outdoor table service ○ 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 <ul style="list-style-type: none"> ○ Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.) ○ 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 <ul style="list-style-type: none"> ○ pools, playgrounds and spray decks ○ mini golf, go karts, batting cages, climbing walls, ropes courses • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools

	<ul style="list-style-type: none"> ○ 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	<ul style="list-style-type: none"> • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations • Casino gaming floors • Horse racing tracks and simulcast facilities (no spectators) • Indoor recreational and athletic facilities for general use (not limited to youth programs) • Fitness centers and health clubs including <ul style="list-style-type: none"> ○ 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/shower rooms ○ excluding saunas, hot-tubs, steam rooms • Museums • Indoor historic spaces/sites • Aquariums • Outdoor theatres and performance venues of moderate capacity • Indoor theatres, concert halls, and other performance venues of moderate capacity • Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching) • Motion picture, television, and video streaming production, except for activities specifically permitted in Phases I and II • Fishing and hunting tournaments and other amateur or professional derbies • Weddings/events/gatherings in parks, reservations, and open spaces with allowance for moderate capacity • Overnight camps • Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older • Indoor recreational businesses: batting cages, driving ranges, go karts, bowling alleys, arcades, laser tag, roller skating rinks, trampolines, rock-climbing <p>This listing is subject to amendment.</p>
Phase IV	<ul style="list-style-type: none"> • Amusement parks, theme parks, indoor or outdoor water parks • 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 <ul style="list-style-type: none"> ○ Theaters and concert halls ○ Ballrooms ○ Stadiums, arenas, and ballparks ○ Dance floors ○ Exhibition and convention halls

	<ul style="list-style-type: none">• Private party rooms• Street festivals and parades and agricultural festivals• Road races and other large, outdoor organized amateur or professional group athletic events <p>This listing is subject to amendment.</p>
--	--

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Town Administrator*

732 MAIN STREET, HARWICH, MA



MEMO

TO: Board of Selectmen

FROM: Joseph F. Powers, *Town Administrator*

CC: David J. Guillemette, Chief – Police
Gregg J. Corbo, Esq. – KP Law

RE: Recommended action following disciplinary hearing held on
January 12, 2021 re: Port Restaurant and Bar, Liquor License Violations

DATE: February 8, 2021

The following is my report on a disciplinary hearing held on January 12, 2021 for alleged violations of the liquor license for Port Restaurant and Bar, Inc., 541 Route 28, Harwich, MA.

Violations alleged:

Specifically, the alleged violations were: four (4) violations of 204 CMR 2.05(2), permitting a disorder, disturbance or illegality to take place on the licensed premises, to wit: violations of the Governor's COVID-19 orders and guidance on May 22, May 24, July 16 and July 17, 2020.

Hearing summary:

The hearing was originally commenced on August 12, 2020, with all participants joining the hearing via the Go to Meeting remote video platform. Participating in the hearing were four members of the Harwich Police Department: Chief Guillemette, Deputy Chief Considine, Officer Nolan and Officer Dutra; the General Counsel of the Alcoholic Beverages Control Commission, Kyle Gill, Alcoholic Beverages Control Commission Investigator Binienda, the licensee and his attorney, Raymond Tomlinson, Jr.

At various times during the original hearing, it became apparent that Attorney Tomlinson's connection to the Go to Meeting platform was not working. He repeatedly claimed that he was unable to hearing witnesses, Town Counsel and the Hearing Officer. No other participants appeared to have the same level of difficulty. However, as a result of Attorney Tomlinson's alleged inability to effectively participate in the hearing, the Hearing Officer decided to suspend the hearing.

The hearing was reconvened on January 12, 2021. To alleviate the difficulties experienced by Attorney Tomlinson, the Hearing Officer made arrangements to have him and his client participate from

a separate location within Town Hall, connected to the other participants by a closed-circuit video feed. The arrangement was reviewed and approved by the Town's Health Director. Attorney Tomlinson, however, refused to participate in the hearing, claiming that he would be unavailable until March, 2021 due to a medical condition. Based on the numerous delays already experienced, the Hearing Officer chose not to reschedule the hearing and informed Attorney Tomlinson of his decision in writing.

Neither Attorney Tomlinson nor his client appeared for the hearing on January 12, 2021. The Hearing Officer commenced the hearing from the beginning (without reference to anything that occurred during the original hearing), and heard oral testimony from ABCC Investigator Binienda, Officer Nolan and Officer Dutra. The hearing officer also considered exhibits labeled A through Q.

Legal Standard:

I applied the following legal standard, as suggested by Town Counsel, in making my recommendation:

- 204 CMR 2.05(2), prohibits license holders from permitting any disorder, disturbance or illegality to take place on the licensed premises.
- On March 10, 2020, Governor Baker declared a State of Emergency in the Commonwealth due to the COVID-19 pandemic, and he issued numerous executive orders designed to prevent the spread of the virus.
- The Governor's orders have the force of law.
- On March 23, 2020, the Governor issued COVID-19 Emergency Order No. 13, in which he allowed restaurants to be open to the public for take-out and delivery only, but prohibiting the on-premises consumption of food and beverages.
- On April 3, 2020, the ABCC issued an advisory informing all license holders that all alcohol sales must be part of a take-out order.
- On May 18, 2020, the ABCC issued an advisory reminding all license holders that all on-premises consumption was prohibited until June 8, 2020 at the earliest.
- On June 1 and June 6, 2020, the Governor issued orders allowing restaurants to open for outdoor table service on June 8, 2020, and on June 19, 2020, the Governor issued COVID-19 Emergency Order No. 40 in which he allowed restaurants to be open for indoor dining on June 22, 2020, subject to guidance and standards issued by the Department of Public Health.
- On June 22, 2020, the Department of Public Health issued guidance for indoor table service, which included requirements that tables be spread at least six feet apart, that table sizes be limited to six guests, that customers may not be seated at bars or served while standing, that gaming areas remain closed and that all customers and employees be wearing masks when not seated at tables.
- On July 6, 2020, the Department of Public Health issued updated safety standards for restaurants which clarified that establishments must provide seated service of food that is prepared on site if they wished to open for indoor table service.
- On August 10, 2020, the ABCC issued an advisory reminding all licensees that they were required to provide seated food service along with the sale of alcohol.

Statement of findings:

I find that the licensed establishment did, in fact, permit a disorder disturbance or illegality to take place on the licensed premises by violating the Governor's orders and guidance relative to the operation of restaurants during the COVID-19 State of Emergency on three of the four dates in question, May 22, July 16 and 17, 2020, as follows:

- On May 22, 2020, Harwich Police Officer Nolan observed numerous individuals congregating on the outdoor patio area of the establishment, drinking from open containers, as well as the operation of what appeared to be a full service bar in violation of the Governor's orders prohibiting on-premises consumption.
- On May 24, 2020, Harwich Police Officer Dutra observed an individual on the outdoor patio area of the establishment with a container that appeared to contain an alcoholic beverage in violation of the Governor's orders prohibiting on-premises consumption. Although Officer Dutra's initial call log indicated that he observed this individual drinking from the container, during hearing he clarified that he did not observe the container to be open and he did not observe the individual taking a drink. I, therefore, find no violation with respect to this report.
- On July 16, 2020, investigators from the ABCC observed numerous violations of DPH guidance for on-premises service, including the consumption of alcohol without food, the service of alcohol without food prepared on site, and individuals standing at outdoor bar areas consuming alcoholic beverages.
- On July 17, 2020, investigators from the ABCC observed numerous violations of DPH guidance for on-premises service, including patrons walking around the establishment without facial coverings, customers playing in gaming areas, more than six people at tables and customers consuming alcoholic beverages without food prepared on site.

These observations are described in greater detail in reports admitted into evidence at the hearing, which reports are consistent with the sworn testimony offered by the witnesses and which I credit as true and which establish that the licensee permitted disorders, disturbances or illegalities to take place on the licensed premises.

Recommended disciplinary action:

Based on the facts admitted into evidence at the public hearing, I find that three (3) violations of the laws of the Commonwealth have been violated. The licensee does not have a history of violations occurring within two years of the date of the violations described herein. However, the Hearing Officer is aware of numerous public complaints about the manner in which the establishment is operated, and that the Board intends to conduct a public hearing to determine whether or not the license should be renewed. Therefore, I will hold my recommendation in abeyance until after that hearing.

**HEARING SUMMARY
SHOW CAUSE HEARING
PORT RESTAURANT AND BAR
JANUARY 12, 2021 – 9:00 A.M.
HELD REMOTELY VIA GO TO MEETING
AND CLOSED CIRCUIT AT HARWICH TOWN HALL
732 MAIN STREET
HARWICH, MA 02645**

Present

Joseph F. Powers, Interim Town Administrator and Hearing Officer
Gregg Corbo, Town Counsel, KP Law
Danielle Delaney, Executive Assistant – Licensing
Jamie Goodwin, Director, Channel 18
David Guillemette, Chief of Police
Kevin Considine, Deputy Police Chief
Neil Nolan, Police Officer
Derek Dutra, Police Officer
Kyle Gill, Counsel, Alcoholic Beverages Control Commission
Jamie Binienda, Special Investigator, Alcoholic Beverages Control Commission
Bill Galvin, Reporter, Cape Cod Chronicle
Bob Nickerson, Harwich Resident
Laurel Beloin, Harwich Resident
Dale & Martha Kennedy, Harwich Resident
Joe Ganley, Harwich Resident

Hearing Overview

The Hearing Officer opened the hearing for Port Restaurant and Bar promptly at 9:00AM. He explained the hearing process and introduced all people present in the room; Gregg Corbo, KP Law, Danielle Delaney, Executive Assistant – Licensing and Jamie Goodwin, Director of Channel 18. The Hearing Officer states that he is present in the Griffin Room at Harwich Town Hall and the town has made arrangements for a closed circuit hearing for the licensee and their representatives to avail themselves of that opportunity. The Hearing Officer asks all callers to identify themselves for the record and state their affiliation. All callers comply. The Hearing Officers asks, for the record, if there are any representatives from the licensed establishment present. There was no response, therefore indicating no representatives present. The Hearing Officer states let the record reflect that at 9:06 A.M. no individuals presented themselves.

Attorney Corbo starts the hearing and would like the record to show that on December 28, 2020 via hand delivery and electronic mail, Justin Brackett, manager of Port Restaurant and bar, was provided Notice of Hearing. He would further like the record to show that subsequent thereto, their counsel, Attorney Raymond Tomlinson requested a continuance of this hearing. By written correspondence dated January 7, 2021, that continuance was denied. The Hearing Officer

confirms Attorney Corbo would like to add these items to the record. Attorney Corbo states Exhibit A is the December 28, 2020 Notice of Hearing to Port Restaurant and Bar and Exhibit B is the January 7, 2021 correspondence to Attorney Tomlinson.

Attorney Corbo states as indicated in the Notice of Hearing, the charges that will be considered today are whether the licensee has violated the terms of their license as well as the regulations of the Alcoholic Beverages Control Commission; specifically 204CMR2.05, sub-section 2 by permitting a disturbance or illegality to take place on the licensed premises. He proceeds to state that the evidence will show that the charges arise from incidents occurring on or about May 22 and 24, 2020, as described in detail in the Harwich Police incident reports that are part of the record. Also, occurring on or about July 16 and 17, 2020, as detailed in the Alcoholic Beverages Control Commission Investigative Report. The Hearing Officer confirmed this information was noted.

Attorney Corbo proceeded with calling on and swearing in the first witness, Jamie Binienda, Special Investigator with the Alcoholic Beverages Control Commission. Attorney Corbo asked if Mr. Binienda, in his role as Special Investigator, investigated The Port Restaurant and Bar on July 16, 2020 and continued the investigation on July 17, 2020. Mr. Binienda confirmed that statement is correct. Attorney Corbo asked if Mr. Binienda is familiar with the written report of Investigator Nicole Smith, dated July 17, 2020, and if it accurately describes the events that took place and he confirmed that to be correct. Mr. Binienda confirmed he had the report in front of him presently. Attorney Corbo asks Mr. Binienda if there are any additional facts he wishes to add to the record and Mr. Binienda stated, no, not at this time. Attorney Corbo proceeded to add the Investigative Report by Nicole Smith as Exhibit C and was read into the record. Attorney Corbo asks Mr. Binienda again if this report accurately describes the events of that July 16 and July 17, 2020 and Mr. Binienda stated yes, it does. Mr. Binienda stated he would like to clarify one thing in the report on the second page, fourth paragraph, where it says approximately at 11:30 P.M. Mr. Binienda advised the Manager of their observations and that he responded that he had tried to remind customers to wear masks and then stated “people get drunk and stupid, well not overserved, but drunk and stupid”. Mr. Binienda stated he wanted to clarify that was the manager’s statement. Attorney Corbo states since there are no representatives from the licensee present that he has no further questions. The Hearing Officer states for the record the empty chairs that can be seen on the screen labeled Town of Harwich is a safe and secure place for the licensee to participate and let the record show there is no one from the licensee present on Go To Meeting. The Hearing Officer confirms that Mr. Binienda is excused and states he would like to thank the Inspector and Attorney for their patience, time and participation.

Attorney Corbo proceeds to the events on May 22, 2020. He states Exhibit D is the Harwich Police Department Call Summary and reads the narrative for all parties. The Hearing Officer confirms Exhibit D is added to the record. Attorney Corbo states Exhibit E is a Harwich Police Department Incident Report 20-5518-OF, Call 20-5518. The Hearing Officer states Exhibit E has been entered into the record.

Attorney Corbo calls his next witness which is Officer Nolan, Harwich Police Department. Officer Nolan states his full name and title and is sworn in by Attorney Corbo. Officer Nolan confirms he is the author of the police report and that he has a copy of the report with him

presently. Attorney Corbo reads the report into the record and confirms with Officer Nolan that the report is accurate. Attorney Corbo asks Officer Nolan if he has any additional information or clarifications he would like to add. Officer Nolan responded he did not. Attorney Corbo states he has no further questions for the Officer and there are no representatives from the Port present therefore he would like to excuse the Officer.

The Hearing Officer states an individual has joined the hearing and asks the individual to state their name for the record. The Hearing Officer asks again and states for the record, at 9:26 A.M. the individual is removed from the hearing as they will not state their name for the record.

Attorney Corbo proceeds to the events on May 24, 2020. He states Exhibit F is the Harwich Police Department Call summary and reads the narrative for all parties. The Hearing Officer confirms this document has been added to the record. Attorney Corbo states Exhibit G is the Harwich Police Department Incident Report 20-5567-OF, Call 20-5567 reported by Supervisor Derek Dutra. Officer Dutra states his full name, affiliation and is sworn in. Officer Dutra confirms he is the author of the report and that he has the report presently. Attorney Corbo reads the report into the record. Officer Dutra confirms the report is accurate. Attorney Corbo states he has one clarifying question for Officer Dutra. He proceeds to ask that Officer Dutra reported he saw a male party sitting at a wooden table, near the entrance, with a Bud Light bottle and would like to know if Officer Dutra observed if the bottle was opened or closed. Officer Dutra states he could not see if bottle was open or closed. Attorney Corbo asked Officer Dutra if he observed the individual drinking from the bottle. Officer Dutra stated one error in his report that he would like to point out is that he did not see drinking.

The Hearing Officer states a caller, by the name of Trish, has joined the hearing. The Hearing Officer asks if they can identify themselves, which they do, Patricia Neal, Resident. The hearing proceeds.

Attorney Corbo states he has one more clarifying question and asks if the patron had food with him. Officer Dutra states no, just a beverage. Attorney Corbo states he has no further questions and Officer Dutra has nothing further to add. Attorney Corbo states there are no representatives from the licensed establishment present and asks the Officer to be excused.

Attorney Corbo states he has no further witnesses in this matter and proceeds to read the following exhibits into record. Attorney Corbo and the Hearing Officer discuss what was going to be listed at Exhibit H and decided this document will not be entered into the record as an Exhibit.

Exhibit I: Covid Order 13 from Governor Baker dated March 23, 2020

Attorney Corbo directs attention to the second page, section one, paragraph three and reads the section for all parties.

Exhibit J: Alcoholic Beverages Control Commission Advisory regarding on premise licensees selling for off premise consumption dated April 3, 2020

Attorney Corbo directs attention to the third paragraph and reads for all parties.

Exhibit K: Alcoholic Beverages Control Commission Advisory on the continued prohibition of selling alcohol for on premise consumption dated May 18, 2020

Attorney Corbo points out the bold underlined language in the second paragraph and reads paragraph for all parties.

Exhibit L: Covid Order 35 from Governor Baker June 1, 2020

Attorney Corbo reads an overview on page three of the order along with page six, paragraph four which continues on page seven.

Exhibit M: Covid Order 37 from Governor Baker dated June 6, 2020

Attorney Corbo directs attention to page three, step two and reads paragraph.

Exhibit N: Covid Order 40 from Governor Baker dated June 19, 2020

Attorney Corbo directs attention to the second page, step 2 and reads paragraph.

Exhibit O: Alcoholic Beverages Control Commission Advisory regarding indoor service at on premise locations dated June 19, 2020

Attorney Corbo directs attention to the second paragraph and reads for all parties.

Exhibit P: Restaurants Massachusetts safety standards dated June 22, 2020

Attorney Corbo directs attention to the first paragraph and reads for all parties.

Exhibit Q: Sector Specific Workplace Safety Standards for restaurants to address Covid-19 updated July 6, 2020

Attorney Corbo directs attention to the end of first page along with the following paragraphs and reads for all parties.

The Hearing Officer states for the record, at 9:44 A.M. on January 12, 2021, we are in a hearing for alleged violations against the Port Restaurant and Bar in Harwich Port and there remain no representatives from the licensed establishment. He proceeds to say we have heard testimony provided in support of the allegations through questioning by Attorney Corbo.

Attorney Corbo gives Police Chief David Guillemette and Deputy Chief Kevin Considine a chance to speak if they have anything to add. The Police Chief states he has nothing to add. Deputy Chief Considine states that Harwich Police Report 20-5567 was initiated by a call to him from the Harwich Health Director who received a complaint. Attorney Corbo states the reference is to Exhibit F.

Attorney Corbo completes his closing statements and reads the charges that the licensee has been charged with and the dates they allegedly occurred. He briefly describes alleged violations for both dates. Attorney Corbo explains the Governors COVID-19 Orders and that the Alcoholic Beverages Control Commission investigative report show numerous violations.

The Hearing Officer thanks Attorney Corbo and confirms the record can be closed. The Hearing Officer states for the record, it is 9:50 A.M. on Tuesday, January 12, 2021 and reiterates for the record that no representatives from the licensed establishment are present despite numerous efforts made by the town to accommodate. The Hearing Officer states at this time he considers the record to be closed and will take this matter under advisement and will be submitting his report to the Board of Selectmen. The licensed establishment will be advised when the Board is set to meet on this matter.

The Hearing Officer thanks Town of Harwich staff for their efforts and shares the town did not spare expense to provide a safe and efficient method for all who wished to participate in this matter.

Hearing is closed 9:52AM.

Respectfully Submitted,

Danielle Delaney
Executive Assistant – Licensing

OFFICE OF THE TOWN ADMINISTRATOR

Joseph F. Powers, *Interim Town Administrator*

Phone (508) 430-7513

Fax (508) 432-5039

732 MAIN STREET, HARWICH, MA



December 28, 2020

VIA HAND-DELIVERY AND EMAIL

Justin Bracket, Manager
Port Restaurant and Bar, Inc.
541 Route 28
Harwich Port, MA 02646

Re: Notice of Liquor License Disciplinary Hearing
Port Restaurant and Bar, Inc.

Dear Mr. Bracket:

On **Tuesday, January 12, 2021, at 9:00 am**, acting on behalf of the Harwich Board of Selectmen as local licensing authority, I will conduct a Show Cause Hearing, in accordance with Massachusetts General Laws, Chapter 138, Sections 23 and 64, to determine whether you have violated the terms of the Alcoholic Beverages License for Port Restaurant and Bar, Inc.

The specific charges are as follows: Violation of 204 CMR 2.05 (2): Permitting a disorder, disturbance or illegality to take place on the licensed premises. The facts underlying this charge arise from incidents occurring on or about May 22 and 24, 2020, as described in detail in the Harwich Police Incident Report attached hereto, and occurring on or about July 16 and 17, 2020, as described in detail in the Alcoholic Beverages Control Commission Investigative Report attached hereto.

As you are aware, I attempted to begin this hearing on August 12, 2020, using a remote video platform to accommodate your Attorney's request to not have to appear in person due to concerns relating to COVID-19. However, after commencement of the hearing, and despite numerous efforts cure the alleged deficiencies, your attorney claimed that technical difficulties prevented him from participating. Although these difficulties did not appear to effect other remote participants, I decided to suspend the hearing. On January 12, 2021, I will start the hearing anew, using the following arrangements to ensure that all interested parties can participate in the hearing, while also ensuring that they can properly distance so as to avoid any risks that may be associated with COVID-19.

Specifically, the hearing will be conducted in separate locations within the Harwich Town Hall, 732 Main Street, Harwich, MA, which will be connected by closed-circuit, two-way video broadcast. The licensee and its counsel, should they choose to attend, will be located in the small hearing room, while me, Town Counsel and Ms. Delaney will be located in the Griffin Room. The two locations will be equipped with cameras and monitors to enable two-way communication. This system has been tested and proven effective. Members of the Town's Police Department and the ABCC will be

permitted to participate via GoToMeeting, and both Town Hall locations will have the ability to interact with them.

These measures have been tested and approved by the Town's Health Director, and it is my opinion that they represent a reasonable accommodation to guard against the risks associated with indoor gatherings, while also providing the licensee and its attorney with a reasonable opportunity to participate in the hearing. Therefore, I will not agree to further suspend or delay the hearing for anyone who chooses not to participate under these circumstances.

You are invited to participate in the hearing and be represented by counsel at your own expense if you wish. At that time you may produce any documentation and/or witnesses which show that you did not commit the violations described herein. Please provide copies of any documents and a list of participants to Danielle Delaney at ddelaney@town.harwich.ma.us by the close of business January 8, 2021.

The allegations, if proven, may result in a recommendation to the Board of Selectmen for disciplinary action, including warning, suspension, revocation or modification of the above-referenced license.

Very truly yours,



Joseph F. Powers
Interim Town Administrator

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Interim Town Administrator*

732 MAIN STREET, HARWICH, MA



January 7, 2021

Raymond H. Tomlinson, Jr.
Tomlinson Law
1170 Main Street, Suite #1
West Barnstable, MA 02668

Dear Attorney Tomlinson:

I am writing in response to your request to postpone the disciplinary hearings for the above-referenced establishments. With all due sympathy to your medical condition, I find your request to postpone the hearings to mid-March to be wholly unreasonable. The incidents which are the subject of these hearings occurred in May, 2020. When I originally attempted to schedule the hearings in July of 2020 you objected and suggested that they be postponed to September or October because you believed that it was not safe for you to attend an in-person hearing. I attempted to accommodate your request by making arrangements for the hearing to be conducted by remote video platform, at significant expense to the Town. However, when I attempted to conduct the hearings remotely, they had to be stopped due to technical difficulties on your end. Notably, you were the only participant to have such difficulties.

After much deliberation as to how to proceed with these hearings in a manner that would allow you to safely participate, I arranged for you to participate on January 12, 2020 from a separate location within Town Hall linked to the other participants via closed-circuit video feed, again at significant expense to the Town. Despite my efforts, you again objected, first stating that you are not available any day prior to 1:00 pm, and then stating that you are not available at all due to a medical procedure.

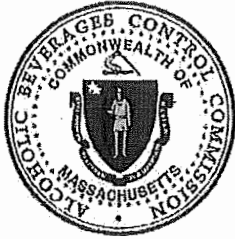
I have gone to great lengths to provide you with a reasonable opportunity to participate in these hearings, only to have you obstruct the process at every turn. Therefore, I plan to proceed with the hearings as originally scheduled on January 12, 2020. Although I have made arrangements for you and your client to participate from a location within Town Hall, I will allow Mr. Bracket to participate remotely, at his own risk. Please be advised, however, that I will not stop or reschedule the hearings if he experiences technical difficulties.

If you are unable to attend, I will accept any written material you wish to submit on your clients' behalf.

Thank you for your attention to this matter.

Sincerely,

Joseph F. Powers
Interim Town Administrator



The Commonwealth of Massachusetts
Department of the State Treasurer
Alcoholic Beverages Control Commission
Chelsea, MA 02150

Investigative Report

To: Chief Investigator Frederick Mahony

From: Investigator Nicole Smith

Licensee: Port Restaurant and Bar, Inc. **DBA:** Port Restaurant and Bar
541 Route 28
Harwich, MA 02646

Date: Friday, July 17, 2020

On Thursday July 16, 2020 at approximately 9:00PM Special Investigators Smith, Binienda and Temple investigated a complaint regarding the Port Restaurant and Bar. Smith approached the premises and asked the manager how late food would be available and he advised that the kitchen would close at 10:00PM.

At approximately 11:00PM Smith, Binienda and Temple entered the establishment and observed individuals seated or standing at two outdoor bar locations and an outdoor area with Adirondack chairs. Individuals in these areas were consuming what appeared to be alcoholic beverages but Investigators did not observe any indication of food service.

Investigator Binienda informed the manager that the Phase 2 Sector Specific Safety Standards require that Restaurants comply with the following distancing standards: Restaurants may not seat any customers at a bar; all customers must be seated and eat-in service to standing customers (e.g., around bar areas) is prohibited; Restaurants must require face coverings for all customers and workers at all times and Ensure separation of 6 feet or more between all individuals.

The manager stated that they offer slices of pizza to guests that remain on the premises after 10:00PM when their kitchen closes. Binienda informed him that the Safety Standards require that restaurants serve alcoholic beverages only to customers that order food for seated dining and he indicated that he would make changes to ensure compliance with the Safety Standards.

On July 17, 2020 at approximately 9:00PM, Smith and Binienda returned to the Port Restaurant and Bar where they observed at least 25 individuals walking throughout the licensed premises without facial coverings and did not observe any Port staff to take any corrective action.

Smith and Binienda observed several individuals without facial coverings playing a ring and hook game on the premises in violation of the Safety Standards which require that areas not employed for food and beverage service (dance floors, pool tables, playgrounds, etc.) be closed.

Smith and Binienda observed two tables with seven customers. Per the Governor's Phase 2 Sector Specific Safety Standards, the size of the party cannot exceed 6 people.

Smith and Binienda further observed at least 6 tables in the outdoor area where individuals were consuming what appeared to be alcoholic beverages without ordering or consuming food. At approximately 10:30PM a vehicle delivered several boxes of pizza to the premises.

At approximately 11:30PM Binienda advised the manager of our observations; he responded that he had been trying to remind customers to wear a mask and then stated, "People get drunk and stupid, well not overserved, but drunk and stupid and forget".

Smith pointed out to the manager that several customers were walking around without facial coverings; to which he responded, "if I wasn't talking to you, I would be telling them to wear their masks". Smith also pointed out a table of 6 individuals where at least 4 other individuals without facial coverings stopped to engage in conversation and the waitress did not take any corrective action.

Binienda asked the manager about the pizza delivery and he again indicated that that he offers slices of pizza to guests that remain on the premises after 10:00PM when the kitchen closes. The manager indicated that the pizza was delivered from Ember, a nearby restaurant.

Investigators informed the manager, identified as Jake, that a violation report would be filed with the Chief Investigator for further review.

Respectfully Submitted,

Nicole Smith

Special Investigator Nicole Smith

For Date: 05/22/2020 - Friday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>
20-5518	1908	GENERAL SERVICES	Services Rendered
Call Taker:		1608 - PSD Telecommunicator DIANE NICHOLSON	
Location/Address:		[HAR 48] THE PORT - 541 RT 28	
Initiated By:		123 - Patrol Supervisor Neil A Nolan	
ID:		123 - Patrol Supervisor Neil A Nolan	

Arvd-19:08:00 CIRD-19:08:44

Narrative: 05/22/2020 2336 Patrol Supervisor Neil A Nolan
Complaint of The Port having outside patio bar service with guests standing around drinking. Complaint observed to be valid. Contact made with on sight manager who told me that he was only serving "sealed take out" beverages and that the guests then decided to open while waiting for take out food order. Manager advised that the current arrangement was in violation of state of emergency allowances of the liquor license. Instructed that no alcohol was to be consumed on premises and that any "to go" alcohol sales should be provided with to go food order and then removed from premises.



**Harwich Police Department
Incident Report**

Page: 1
05/29/2020

Incident #: 20-5518-OF
Call #: 20-5518

Date/Time Reported: 05/22/2020 1908
Report Date/Time: 05/28/2020 1835
Status: No Crime Involved

Reporting Officer: Patrol Supervisor Neil Nolan

Signature: _____

EVENTS(S)

LOCATION TYPE: Restaurant/Cafeteria Zone: HARWICHPORT
THE PORT
541 RT 28
HARWICH MA 02645

1 LIQUOR LAW VIOLATIONS

PERSON(S) PERSON TYPE SEX RACE AGE SSN PHONE

1 THE PORT BUSINESS
541 RT 28
HARWICH MA 02645

*****This report is being submitted by Officer Nolan.*****

On 5-22-20 I was assigned to uniformed patrol and the Officer-in-Charge (OIC) of the 4-12 shift. I was contacted on the phone by dispatch and was advised that there was a complaint about The Port restaurant and possible issues regarding Covid 19 restriction violations. Dispatch was advised that unless there was a disturbance, complaints of any "social distancing" were a health department concern. Dispatch then advised that the complaint also included the service and consumption of alcohol that appeared to be in violation of the "take out" alcohol sales provision enacted during the covid crisis.

I responded to the area of The Port to make observations. I parked across the street to the rear of the restaurant in order to observe the patio area. I immediately noticed 5-6 people standing around an outside bar structure on the property. A male subject was drinking from a brown bottle that I observed to be a Budwieser beer. A female subject was drinking from a canned beverage that I could not make out. I continued to observe other people actively socializing and moving about, some with beverage containers in their hands. I did observe a few people leaving with take out food as well.

I decided that I would contact management to make some inquiries regarding my observations. When I got to the rear patio area I observed approximately 15-17 people sitting at picnic tables or standing around. It is important to note that the rear deck/patio area is very narrow due to its location between the building and a fence separating a neighboring property. I observed a number of different open alcoholic beverage containers either in peoples hands or on table/ledge/railing in front of people. I observed a number of Bud Light bottles, some canned beverages and a number of clear plastic bottles with red caps and bottom with no labeling. In addition to the outside bar structure I observed there was also a bar setup to the rear of the building. There were 4-5 people crammed around this bar area. This bar was setup as an active service location.

I made contact with the manager on location. His response to my inquiry of the active consumption of alcohol on premises was that they were serving sealed "to go" beverages as customers waited for their take out food orders. After a brief conversation I explained that the consumption on premises was not the intent of the "to go" allowance of alcohol sales at this time. I told him that alcohol orders need to be served at the same time as the take out orders and are to be removed from premises.

For Date: 05/24/2020 - Sunday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>
20-5567	1727	GENERAL SERVICES	Investigated
Call Taker:		135 - Patrol Supervisor Derek J Dutra	
Primary Id:		135 - Patrol Supervisor Derek J Dutra	
Location/Address:		[HAR 48] THE FORT - 541 RT 28	
Initiated By:		135 - Patrol Supervisor Derek J Dutra	
ID:		135 - Patrol Supervisor Derek J Dutra	
			Arvd-17:32:21 Clrd-17:34:09
Narrative:		05/24/2020 1732 Patrol Supervisor Derek J Dutra	
Modified By:		Patrol Supervisor Derek J Dutra	
		Member of the Admin received a complaint of a live band playing on the property. I checked the area, did not hear music nor did I see a band. There were people standing near the back bar area and there was one male party sitting at a picnic type table near the rear entrance drinking a bud light beer. (COVID-19 Guidance - not following).	

Refer To Incident: 20-5567-OF



Incident Report

05/27/2020

Incident #: 20-5567-OF
Call #: 20-5567

Date/Time Reported: 05/24/2020 1727
Report Date/Time: 05/24/2020 2022
Status: No Crime Involved

Reporting Officer: Patrol Supervisor Derek Dutra
Approving Officer: Sergeant Paul Boorack

Signature: _____

Signature: _____

EVENTS(S)

LOCATION TYPE: Restaurant/Cafeteria Zone: HARWICHPORT
THE PORT
541 RT 28
HARWICH MA 02645

1 COVID-19 GUIDANCE VIOLATION

PERSON(S) PERSON TYPE SEX RACE AGE SSN PHONE

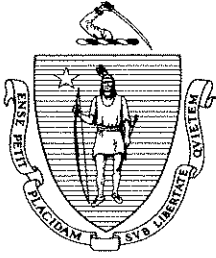
1 THE PORT BUSINESS
541 RT 28
HARWICH MA 02645

This report is submitted by Officer Dutra regarding a possible non-compliance act that took place at The Port Restaurant on May 24, 2020 at approximately 5:27 pm.

While assigned to the 4-12 shift our department was notified about a possible non-compliance act, live band playing on the property. The non-compliance issue would have to do with the current guidelines set forth by the Governor pertaining to the Covid-19 pandemic. I checked the rear of the business, at that time I did not hear any music nor did I see a band. While conducting that check I did see a male party sitting at a wooden table near the rear entrance area with a Bud Light bottle in front of him. As I was driving by the front of the establishment I slowed down and saw several patrons in the rear outer bar area. They could be seen down the narrow walkway, side of the Oyster Bar. I did not see anyone holding any bottles or cups so I'm not sure if they were just waiting for food orders or drinking.

For Date: 05/24/2020 - Sunday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>
20-5574	2227	GENERAL SERVICES	Investigated
Call Taker:		2373 - PSD Telecommunicator IRIS G MCINALLY	
Primary Id:		130 - Sergeant Paul P Boorack	
Location/Address:		[HAR 48] THE PORT - 541 RT 28	
Calling Party:		ANONYMOUS @ ***UNKNOWN**	
ID:		130 - Sergeant Paul P Boorack	
		Disp-22:30:26 Enrt-22:30:30 Arvd-22:31:51 Clrd-22:45:35	
Cleared By:		130 - Sergeant Paul P Boorack	
Narrative:		05/24/2020 2230 PSD Telecommunicator IRIS G MCINALLY	
		Anonymous complaint from female reporting 15+ people on the deck drinking alcohol.	
Narrative:		05/24/2020 2245 Sergeant Paul P Boorack	
		Upon my arrival, I did not observe anyone on or around the deck, not even an employee. As I was there, 3 employees walked out of the rear of the building and walked to thier respective vehicles which were parking in the lot across the street.	
Narrative:		05/24/2020 2251 PSD Telecommunicator IRIS G MCINALLY	
		G10 clear, no one at the building in the rear or inside. 3 employees left to leave in their cars.	



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER ASSURING CONTINUED OPERATION OF ESSENTIAL SERVICES
IN THE COMMONWEALTH, CLOSING CERTAIN WORKPLACES,
AND PROHIBITING GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 13

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 number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 22, 2020, the Department of Public Health had reported 646 cases of COVID-19, including 5 deaths, with 13 of the 14 counties in the Commonwealth impacted;

WHEREAS, the Department of Public Health is urging all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times, both inside and outside of the home to limit the spread of this highly contagious and potentially deadly virus;

WHEREAS, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States that identifies 14 critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

WHEREAS, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and

therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; 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 public assemblages in order to protect the health and safety of persons, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, in order to minimize all unnecessary activities outside of the home during the state of emergency, I hereby order the following:

1. Maintaining Operation of COVID-19 Essential Services and Workforces

The production and service sectors identified in Exhibit A are hereby designated as “COVID-19 Essential Services.” The workforces engaged and working in these production and service sectors are hereby designated as “COVID-19 Essential Workforces.” I shall amend and publish updates to Exhibit A as I determine necessary in response to conditions as they develop.

Businesses and other organizations that provide the services and functions identified as COVID-19 Essential Services in Exhibit A are urged to continue operations during the state of emergency, but to do so with allowance for social distancing protocols consistent with guidance provided by the Department of Public Health.

Restaurants, bars, and other retail establishments that sell food and beverage products to the public provide COVID-19 Essential Services and are designated as such in Exhibit A. These establishments are therefore encouraged to continue to offer food and beverages for take-out and by delivery provided that they follow the social distancing protocols set forth in Department of Public Health guidance. Restaurants, bars, or other establishments that offer food or beverages to the public shall not permit on-premises consumption of food or beverages.

2. Temporary Closing of Other Businesses and Organizations

All businesses and other organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities (“brick-and-mortar premises”) to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before 12:00 noon on April 7, 2020. Churches, temples, mosques, and other places of worship shall not be required to close their brick and mortar premises to workers or the public; provided, however, that such institutions shall be required to comply with all limitations on gatherings established in section 3 below.

Businesses and other organizations that do not provide COVID-19 Essential Services are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order.

3. Limitations on Gatherings

Gatherings of more than 10 people are prohibited throughout the Commonwealth. Gatherings subject to this Order include, without limitation, community, civic, public, leisure, faith-based, or sporting events, concerts, conferences, conventions, fundraisers, parades, fairs, festivals, weddings, funerals, and any similar event or activity that brings together more than 10 persons in any confined indoor or outdoor space. This limitation shall not apply to the operations or activities of any business or organization in its provision or delivery of COVID-19 Essential Services.

This Order does not prohibit gatherings of more than 10 people in an unenclosed, outdoor space such as a park, athletic field, or parking lot.

Athletic and recreational activities that bring participants into close, physical contact are prohibited even when involving 10 or fewer people and regardless of where conducted.

4. Exceptions

(a) This Order shall not apply to any municipal legislative body or to the General Court or to the Judiciary.

(b) This Order shall not apply to residential schools for special needs students. This Order also does not apply to public and private elementary and secondary (K-12) schools in the Commonwealth, which are subject to the March 15, 2020 Order Temporarily Closing All Public and Private Elementary and Secondary Schools, as may be subsequently amended, which suspended all normal, in-person instruction.

(c) This Order does not apply to the operation of child care programs in the Commonwealth, which are subject to the March 18, 2020 Order Temporarily Closing All Child Care Programs and Authorizing the Temporary Creation and Operation of Emergency Child Care Programs, as may be subsequently amended.

5. Implementing Guidance and Enforcement

The Commissioner of Public Health is directed to issue guidance (“DPH Guidance”), subject to my approval, to implement the terms of this Order. The DPH Guidance shall include a requirement that grocery stores and other retailers with substantial retail grocery sales establish special limited access hours during which elderly and other vulnerable populations may have exclusive access to make grocery purchases.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall enforce this Order and if necessary may do so with the assistance of State or municipal police. Violation of the terms of this Order or the DPH Guidance may result in a criminal penalty pursuant to Section 8 of Chapter 639 of the Acts of 1950 or a civil fine of up to \$300 per violation, in the manner provided for non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. A criminal complaint for violation of or a motion for an injunction to enforce this Order or the DPH Guidance shall be filed in the district court with jurisdiction for the municipality in which the violation has been charged.

In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines additional measures are required to ensure that the terms of this Order are observed.

This Order supersedes and makes inoperative any order or rule issued by a municipality that will or might in any way impede or interfere with the achievement of the objectives of this Order. With respect to work and travel in particular, any order or rule issued by a municipality is hereby made inoperative to the extent: (1) such municipal order or rule will or might interfere with provisions of this Order ensuring the continued operation of COVID-19 Essential Services; or (2) such municipal order or rule will or might interfere with the free travel anywhere within the Commonwealth of any person who is a member of any COVID-19 Essential Workforce where such travel is made in connection with the ongoing operation of COVID-19 Essential Services.

This Order rescinds and revokes the Order Prohibiting Gatherings of More than 25 People and On-Premises Consumption of Food or Drink, issued March 15, 2020.

If any provision of this Order or the application thereof to any person or 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 the application thereof to other persons, entities, and circumstances.

This Order shall be effective at 12:00 noon March 24, 2020 and shall remain in effect through 12:00 noon on April 7, 2020 unless further extended.

Given in Boston at 9:15 AM this 23rd day
of March, two thousand and twenty

A handwritten signature in black ink, appearing to read "Charles D. Baker", written over a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

Jean M. Lorizio, Esq.
Chairman

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING
ON-PREMISES LICENSEES SELLING FOR OFF-PREMISES CONSUMPTION**

Today, April 3, 2020, Governor Charlie Baker signed a bill authorizing on-premises licensees to sell malt beverages and wine for off-premises consumption for the duration of the Governor's declared state of emergency, issued March 10, 2020.¹

Effective immediately and until the end of the state of emergency, all on-premises licensees (M.G.L. c. 138, § 12 bars, restaurants, general on premises, hotels, taverns, clubs, war veterans' clubs, and continuing care retirement communities) may sell up to 192 ounces of malt beverages and 1.5 liters of wine for off-premises consumption only as part of a transaction for the purchase of food.

The sale of malt beverages and wine by § 12 licensees may only be done from opening until 12:00 am midnight, or the licensee's closing time previously approved by the Local Licensing Authority, whichever is earlier. All wine must be in its original sealed container and all malt beverages must be in sealed containers. All licensees must verify that both the purchaser and recipient of alcohol are at least 21 years old.

Sales must be made as part of a takeout order by way of pickup, including curbside pickup, or delivery. Licensees do not need to obtain a separate transportation permit under M.G.L. c. 138, § 22, in order to make deliveries. Licensees are advised to check with their Local Licensing Authority on any additional requirements in order to sell alcohol for curbside pickup.

All sales must be accompanied by a receipt reflecting the purchase of food along with alcohol, and licensees must keep copies of all receipts for inspection by licensing authorities.

As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to the ABCC Executive Director Ralph Sacramone at rsacramone@tre.state.ma.us or (617) 727-3040 x 731.

(Issued April 3, 2020)

¹ The Governor's March 10, 2020, declaration of a state of emergency can be found [HERE](#).



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

Jean M. Lorizio, Esq.
Chairman

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY
ON THE CONTINUED PROHIBITION OF
SELLING ALCOHOL FOR ON-PREMISES CONSUMPTION**

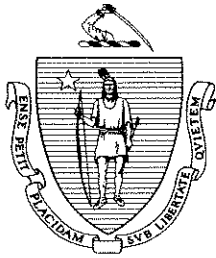
On May 18, 2020, Governor Charlie Baker issued a plan, Reopening Massachusetts, which provides a four-phase reopening of businesses in the Commonwealth including retail alcohol licenses for on-premises consumption. The text of the Governor's Plan can be found [HERE](#).

Please be advised that all on-premises consumption licensees remain prohibited from selling alcohol for on-premises consumption to the public until June 8, 2020 at the earliest, awaiting further notice by the Governor. This includes restaurants, bars, hotels, general-on-premises, clubs, war veterans' clubs, continuing care retirement communities, pub-brewers (M.G.L. c. 138, §§ 12 and 19D), farmer-series pouring permits, and manufacturer's pouring permits (M.G.L. c. 138, §§ 19(b), 19B(n), 19C(n), and 19E(o)). These establishments are also prohibited from serving any food or drinks for on-premises consumption; only takeout and delivery are permitted. Please refer to the ABCC's April 3, 2020, Advisory for how § 12 licensees may sell wine and malt beverages for off-premises consumption during the state of emergency, which can be found [HERE](#)

Please note that this Advisory does not apply to licenses for off-premises consumption, including grocery stores, pharmacies, package stores, direct wine shippers, and farmer-series licensees (M.G.L. c. 138, §§ 15, 19B(g)(2), 19C(g)(7), 19E(g)(7), and 19F).

As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to the ABCC at (617) 727-3040.

(Issued May 18, 2020)



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER CLARIFYING THE PROGRESSION OF THE COMMONWEALTH'S
PHASED WORKPLACE RE-OPENING PLAN AND AUTHORIZING
CERTAIN RE-OPENING PREPARATIONS AT PHASE II WORKPLACES**

COVID-19 Order No. 35

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 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 protecting oneself and others by minimizing personal contact with environments where this potentially deadly virus may be transmitted;

WHEREAS, on March 23, 2020, in order to restrict all non-essential person-to-person contact and non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order, 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, on March 31, 2020, April 28, 2020, and May 15, 2020, I issued COVID-19 Orders No. 21, 30, and 32, respectively, which extended the period in which COVID-19 Order No. 13 would continue to restrict the operation of businesses and organizations that do not provide COVID-19 Essential Services;

WHEREAS, recent public health data indicate continued improvement in key areas of measurement as a result of the extraordinary efforts of health care providers in the Commonwealth and the public's unselfish compliance with the restrictions imposed in COVID-19 Order No. 13 and other measures implemented in response to the COVID-19 health crisis;

WHEREAS, on May 18, 2020, I issued COVID-19 Order No. 33, which authorized the re-opening of certain brick-and-mortar premises designated as "Phase I" workplaces ("Phase I enterprises"), subject to the requirement that all such workplaces comply with workplace safety rules and standards implemented to protect against the risk of the COVID-19 virus and which otherwise further extended the period in which COVID-19 Order No. 13 will continue to restrict the operations of businesses and organizations that do not provide Essential Services or that have not been designated as Phase I workplaces;

WHEREAS, a sustained trend of improvement in public health data will permit a continuing, carefully phased relaxation of certain restrictions that COVID-19 Order No. 13 has placed on businesses and other organizations, provided that any adjustment can only be maintained or expanded on the basis of continuing improvements in the public health data, and further provided that any adjustment must reflect the reality that the Commonwealth remains in the midst of a public health emergency, as demonstrated by reporting from the Department of Public Health that as of May 31, 2020, 1,824 persons remain hospitalized in the Commonwealth as a result of COVID-19 and 436 of these patients are receiving treatment in intensive care units;

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, 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. Advance Preparations by Phase II Enterprises

Beginning immediately, businesses and other organizations that are included within Phase II of the re-opening plan, as defined in Section 2 below, may open their physical workplaces and facilities ("brick-and-mortar premises") to workers for the purpose of preparing for a Phase II re-opening when authorized. In preparing their premises for re-opening, Phase II businesses and other organizations ("Phase II enterprises") must at all times comply with all generally applicable COVID-19 workplace safety rules and any relevant sector-specific COVID-

19 workplace safety rules issued pursuant to Section 2 of COVID-19 Order No. 33 or otherwise by the Department of Labor Standards (“DLS”), the Department of Public Health (“DPH”), or any other agency authorized to issue similar health and safety rules.

Phase II enterprises may not open their premises to customers and the public generally until authorized to do so by subsequent Order.

2. Designation of Phase II Enterprises

Phase II enterprises are businesses or other organizations that meet each of the following conditions:

They are

- not currently permitted to open their premises as an Essential Service or Phase I enterprise pursuant to Section 1 of COVID-19 Order No. 33;
- not closed by any COVID-19 Order separate from or in addition to COVID-19 Order No. 13;
- not excluded or excepted from the terms of this Order in Section 4; and
- not designated on the chart below as a Phase III or Phase IV enterprise.

	All Phase II, III, and IV enterprises will be required to comply with general and, where applicable, sector-specific COVID-19 workplace safety rules administered by DPL, DPH, and local boards of health. Workplace safety rules will 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 II	<p>Enterprises that meet all of the conditions specified above and including</p> <ul style="list-style-type: none"> • 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 • 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 <ul style="list-style-type: none"> ○ Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.) ○ 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

	<ul style="list-style-type: none"> • Warehouses and distribution centers • Golf facilities including outdoor driving ranges • Other outdoor recreational facilities <ul style="list-style-type: none"> ○ pools, playgrounds and spray decks ○ mini golf, go karts, batting cages, climbing walls, ropes courses • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools <ul style="list-style-type: none"> ○ 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	<ul style="list-style-type: none"> • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations • Casino gaming floors • Horse racing simulcast facilities (no spectators) • Indoor recreational and athletic facilities for general use (not limited to youth programs) • Fitness centers and health clubs including <ul style="list-style-type: none"> ○ 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/shower rooms ○ excluding saunas, hot-tubs, steam rooms • Museums • Indoor historic spaces/sites • Aquariums • Outdoor theatres and performance venues of moderate capacity • Indoor theatres, concert halls, and other performance venues of moderate capacity • Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching) • Fishing and hunting tournaments and other amateur or professional derbies • Weddings/events/gatherings in parks, reservations, and open spaces with allowance for moderate capacity • Overnight camps • Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older • Indoor recreational businesses: batting cages, driving ranges, go karts, bowling alleys, arcades, laser tag, roller skating rinks, trampolines, rock-climbing <p>This listing is subject to amendment.</p>
Phase IV	<ul style="list-style-type: none"> • Amusement parks, theme parks, indoor or outdoor water parks • 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

	<ul style="list-style-type: none"> ○ Theaters and concert halls ○ Ballrooms ○ Stadiums, arenas, and ballparks ○ Dance floors ○ Exhibition and convention halls ● Private party rooms ● Street festivals and parades and agricultural festivals ● Road races and other large, outdoor organized amateur or professional group athletic events <p>This listing is subject to amendment.</p>
--	---

3. Rules for Phase II Limited Organized Sports Activities and Programs

Amateur Sports: Effective immediately, organizers of sports activities and programs for youths and adults and facilities that host such programs or activities may open their premises to employees to begin preparations, consistent with the provisions of Section 1, for authorized Phase II activities. In addition to complying with generally applicable COVID-19 workplace safety rules, organizers of sports activities and programs for youths and adults and facilities that host such programs or activities shall be subject to the following directives during Phase II:

- a. Programs for contact sports must limit activities exclusively to no-contact drills and practices. Programs for no contact sports where ordinary play allows for social distancing may include ordinary play.
- b. Games, scrimmages, and tournaments shall not be permitted for any organized sports activities.
- c. Programs must separate participants into groups of no more than 10 participants, including coaches and staff.
- d. Indoor athletic facilities shall be open and available exclusively for the use of supervised sports programs, including sports camps, for youths under the age of 18.

The Secretary of the Executive Office of Energy and Environmental Affairs (“EEA”) shall issue guidance to implement these directives and all generally applicable COVID-19 workplace standards for organizers of youth and adult sports programs and operators of facilities that host those programs. Organizers of youth and adult sports programs shall follow the EEA guidance; provided, however, that when the program is governed by formal league rules or other binding agreements or affiliations, the organizer shall comply with any COVID-19 and other health and safety rules applicable under those authorities. The requirements of items (a) – (d) above shall apply in all circumstances.

Professional Sports: Effective immediately, professional sports organizations may open their premises to employees and other workers for the activities provided for in Section 1 and may also open their premises to employees for on-premises athletic practices and training,

subject to adoption of COVID-19 health and safety rules implemented under the authority of formal league rules or other binding agreements or affiliations.

Professional sports organizations may not engage in inter-team games within the Commonwealth and may not open any facilities within the Commonwealth to the public until further Order.

4. Preparations and Accommodation for Outdoor Restaurant Dining Service

Restaurants will be authorized to provide outdoor table service at the commencement of Phase II of the Commonwealth's phased re-opening of workplaces. If the public health data reflects continued positive progression, restaurants will be authorized at a later date and by a subsequent Phase II Order to commence indoor table service. In each case, restaurants will be required to comply with sector-specific COVID-19 workplace safety rules for restaurants.

"Outdoor table service" shall mean service that is provided outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area, or other outdoor space. Outdoor table service may be provided under awnings or table umbrellas or other cover from the elements, provided, however, that at least 50 percent of the perimeter of any covered dining space must remain open and unobstructed by any form of siding or barriers at all times.

Notwithstanding the provisions of chapter 40A of the general laws, or any special permit, variance or other approval thereunder, or any other general or special law to the contrary, a city or town may approve requests for expansion of outdoor table service, including in the description of licensed premises as described below. Prior to such approval, the mayor, select board, or chief executive as established by charter or special act, shall establish the process for approving such requests. Such process need not comply with the notice and publication provisions of section 11 of chapter 40A.

Any such approval may be exercised immediately upon filing of notice thereof with the city or town clerk, without complying with any otherwise applicable recording or certification requirements.

In order to provide improved opportunities for outdoor table service, for any type of license that permits the sale of alcoholic beverages for on-premises consumption, a local licensing authority ("LLA") may grant approval for a change in the description of the licensed premises for the purpose of permitting outdoor alcohol service as the LLA may deem reasonable and proper, and issue an amended license to existing license holders, without further review or approval by the Alcoholic Beverages Control Commission ("ABCC") prior to issuance. Upon approval of an amended license, the LLA shall provide notice of the amended license to the ABCC. Nothing in this Order shall prevent the ABCC from exercising its statutory or regulatory enforcement authority over any such amended license issued.

On November 1, 2020 or the date this Order is rescinded, whichever is sooner, any approval issued under this Section, including any amended license issued by an LLA as a result of this Order, shall automatically revert back to its status prior to the approval of the change for expansion of outdoor table service or in the description of a licensed premises.

5. Sector-Specific Rules

The Director of Labor Standards and the Commissioner of Public Health shall issue, subject to my approval, COVID-19 workplace safety rules for certain, specific Phase II enterprise workplace sectors (“Sector-Specific Rules”) to address the particular circumstances and operational needs of those specific workplace sectors. These Phase II Sector-Specific Rules shall supplement the generally applicable COVID-19 safety rules applicable to all workplaces in the Commonwealth. Phase II enterprises shall adopt and comply with all Sector-Specific Rules applicable to their workplaces.

6. Limitations on Gatherings

A Phase II enterprise that is authorized to open its brick-and-mortar premises to workers under the terms of this Order shall not be subject to the 10-person limitation on gatherings established in Section 3 of COVID-19 Order No. 13 in its normal operations of those premises; provided, however, that Phase II enterprises must comply with the social distancing requirements in the Commonwealth’s generally applicable COVID-19 workplace safety rules, any more specific limitations on gatherings and meeting sizes included in any applicable Sector-Specific Rules, and any other similar restrictions specified in this Order.

Section 3 of COVID-19 Order No. 13 shall otherwise remain in effect for businesses or organizations not permitted to open their brick-and-mortar premises as COVID-19 Essential Services, or Phase I or Phase II enterprises.

4. Exceptions

This Order shall have no application 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 provider licensed by the Department of Public Health or the Board of Registration in Medicine
- d. Any of the following workplaces or facilities with specialized functions and populations:
 - Public and private elementary and secondary (K-12) schools
 - Residential and day schools for special needs students

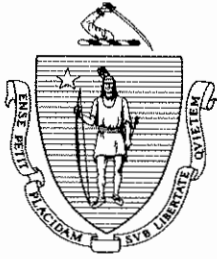
- Licensed, approved, or exempt child care programs and any emergency child care centers and emergency residential programs operating under emergency authorization
- Facilities operated by the Department of Correction or any Sheriff
- Facilities operated or licensed by the Department of Mental Health or the Department of Developmental Services
- And any other facilities or workplaces that the Commissioner of Public Health may in writing exempt from the terms of this Order

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 2:20 PM this 1st day
of June, two thousand and twenty



CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

ORDER AUTHORIZING THE RE-OPENING OF PHASE II ENTERPRISES

COVID-19 Order No. 37

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 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 protecting oneself and others by minimizing in-person contact with others and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of limited ventilation or numbers of persons present or passing through 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 non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order, 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, on March 31, 2020, April 28, 2020, and May 15, 2020, I issued COVID-19 Orders No. 21, 30, and 32, respectively, which extended the period in which COVID-19 Order No. 13 would continue to restrict the operation of businesses and organizations that do not provide COVID-19 Essential Services;

WHEREAS, recent public health data indicate continued improvement in key areas of measurement as a result of the extraordinary efforts of health care providers in the Commonwealth and the public’s unselfish compliance with the restrictions imposed in COVID-19 Order No. 13 and other measures implemented in response to the COVID-19 health crisis;

WHEREAS, on May 18, 2020, I issued COVID-19 Order No. 33, which authorized the re-opening of certain brick-and-mortar premises designated as “Phase I” workplaces (“Phase I enterprises”), subject to the requirement that all such workplaces comply with workplace safety rules and standards designed to protect against the risk of the COVID-19 virus and which otherwise further extended the period in which COVID-19 Order No. 13 would continue to restrict the operations of businesses and organizations that do not provide Essential Services or that were not designated as Phase I workplaces;

WHEREAS, a sustained trend of improvement in public health data permits a continued, carefully phased relaxation of certain restrictions on businesses and other organizations, provided that any adjustment can only be maintained or expanded on the basis of continuing improvements in the public health data, and at present the Commonwealth remains in the midst of a public health emergency, as demonstrated by reporting from the Department of Public Health on June 5, 2020 that 1,533 persons remain hospitalized in the Commonwealth as a result of COVID-19 and 350 of these patients are receiving treatment in intensive care units;

WHEREAS, according to the Centers for Disease Control and Prevention, a precipitous removal of targeted restrictions that have proven effective in combatting the spread of COVID-19 could result in a recurrence of the virus spread, as has been the experience in certain States and countries; 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, 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. Opening of Phase II Enterprises Generally

Businesses and other organizations that are Phase II enterprises, as defined below, are permitted to open and operate from their physical workplaces and facilities (“brick-and-mortar premises”) according to the progressive, two-step schedule specified in Section 2. Phase II

enterprises may open those premises to workers, customers, and the public when authorized under the two-step schedule in Section 2 provided they comply with all workplace safety rules and standards issued or maintained pursuant to Section 3 and all other terms of this Order.

Phase II enterprises are businesses or other organizations that are designated as such on the chart attached as Schedule A or businesses and other organizations that meet each of the following conditions:

- a. not previously permitted to open their premises as an Essential Service or Phase I enterprise pursuant to Section 1 of COVID-19 Order No. 33;
- b. not closed by any COVID-19 Order separate from or in addition to COVID-19 Order No. 13;
- c. not excluded or excepted from the terms of this Order in Section 5; and
- d. not designated as a Phase III or Phase IV enterprise on the chart attached as Schedule A.

Businesses and other organizations that are designated as Phase III and Phase IV enterprises on the chart attached as Schedule A must keep their brick-and-mortar premises closed to workers, customers, and the public and may not conduct Phase III and IV activities except as remote means permit. Phase III and IV enterprises shall not re-open their brick-and-mortar premises until specifically authorized to do so by subsequent Order. Phase III and IV enterprises may, however, open their premises to workers to the degree reasonably necessary to perform critical tasks that cannot be conducted remotely, such as ensuring on-going maintenance of the premises, preservation of inventory and equipment, and compliance with legal obligations.

2. Two-Step Progression of Phase II Openings

Step 1: On June 8, 2020, Phase II enterprises that are not designated as Step 2 enterprises may open their brick-and-mortar premises to workers, customers, and the public.

Restaurants are authorized to provide outdoor table service beginning with the June 8 commencement of Step 1. For the purposes of this Order, the term “restaurant” shall mean an establishment that provides seated food service that is prepared on-site and under a retail food permit issued by a municipal authority pursuant to 105 CMR 590.000.

“Outdoor table service” shall mean service that is provided outside the restaurant building envelope, whether on a sidewalk, patio, deck, lawn, parking area, or other outdoor space. Outdoor table service may be provided under awnings or table umbrellas or other cover from the elements, provided, however, that at least 50 percent of the perimeter of any covered dining space must remain open and unobstructed by any form of siding or barriers at all times.

Step 2: If the public health data reflects continued positive progression, Step 2 will be announced by a subsequent Phase II Order. Effective upon the commencement of Step 2

- a. close contact personal services, as defined below, may open their brick-and-mortar premises to workers, customers, and the public; and
- b. Restaurants may commence indoor table service.

“Close contact personal services” shall mean any personal service typically delivered through close physical contact with a client including, without limitation, nail care services, massage therapy, personal training services, and tattoo, piercing, and body art services. The Director of Labor Standards shall issue guidance to define such services more completely.

3. Sector-Specific Rules and Self-Certification

The Director of Labor Standards and the Commissioner of Public Health shall issue, subject to my approval, COVID-19 workplace safety rules for certain, specific Phase II enterprise sectors (“Sector-Specific Rules”) to address the particular circumstances and operational needs of those specific sectors.

The Secretary of the Executive Office of Energy and Environmental Affairs (“EEA”), subject to my approval, shall issue Sector-Specific Rules to implement COVID-19 safety measures for organized youth and adult amateur sports activities and shall continue to issue COVID-19 workplace safety standards for operators of and participants in outdoor recreational activities as provided for in COVID-19 Order No. 34. In issuing such standards, the Secretary may from time to time, following consultation with the Commissioner of the Department of Public Health, adjust the capacity restrictions in Section 3(c) of COVID-19 Order No. 35 and the capacity and other limitations applicable to the recreational activities and facilities specified in Attachment 1 to COVID-19 Order No. 33.

Phase II Sector-Specific Rules shall supplement the generally applicable COVID-19 safety rules applicable to all workplaces in the Commonwealth adopted in COVID-19 Order No. 33. Phase II enterprises shall adopt and comply with all Sector-Specific Rules applicable to their workplaces.

Newly Opened Premises: Phase II enterprises that are authorized under the terms of this Order to open their brick-and-mortar premises to workers, customers, and the public shall be required to self-certify that they are in compliance with all generally applicable COVID-19 workplace safety rules and any applicable Sector-Specific rules. Before opening a brick-and-mortar premises under the terms of this Order, a Phase II enterprise not previously authorized to operate as a COVID-19 Essential Service pursuant to COVID-19 Order No. 13 shall be required to implement the following measures:

- a. Bring the workplace into full compliance with all generally applicable COVID-19 workplace safety rules and all Sector-Specific Rules that are applicable to the individual workplace

- b. Complete the required self-certification to verify compliance with all general and any applicable Sector-Specific Rules and make the self-certification available for inspection upon a request by State or Local authorities
- c. Post on the premises all public notices and advisories that are required to be displayed under the terms of this Order

A Phase II enterprise that has prior to the issuance of this Order been authorized to remain open to workers, customers, and the public as a “COVID-19 Essential Service” shall have until June 15, 2020 to certify its compliance with any COVID-19 workplace safety rule issued pursuant to this Order and with the public notice provisions specified above.

All such businesses and other organizations shall, in any event, immediately undertake best efforts to comply with all generally applicable COVID-19 workplace safety rules applicable to all businesses and other organizations operating within the Commonwealth.

4. Enforcement and Authority

The Department of Labor Standards, in consultation with the Department of Public Health (“DPH”), shall have general authority to promulgate directives, regulations, and guidance to implement and enforce the COVID-19 workplace safety rules authorized under this Order.

DPH shall have specific authority to promulgate directives, regulations, and guidance to implement and enforce the terms of this Order as it applies to businesses, organizations, and workplaces subject to the sanitary code established pursuant to section 127A of chapter 111 of the General Laws and where DPH otherwise has existing regulatory authority.

A municipal board of health or authorized agent pursuant to G. L. c. 111, § 30 shall have concurrent authority with DLS and DPH to enforce the terms of this Order and any directives, regulations, or guidance issued by DLS, DPH, and EEA under the authority of this Order.

This Order is intended to establish a uniform set of COVID-19 workplace safety rules for all businesses and other organizations operating brick-and-mortar premises across the Commonwealth. No municipal or other local authority should adopt or enforce any workplace health or safety rule to address COVID-19 that is in addition to, stricter than, or otherwise in conflict with any COVID-19 workplace safety rule adopted in this Order or under the implementing directives, regulations, and guidance issued by DLS, DPH, or EEA under the authority granted by this Order. DLS, DPH, EEA, and each municipal or local authority shall uniformly apply any enforceable COVID-19 workplace safety rule.

Violation of the terms of this Order or any directives, regulations, or guidance issued pursuant to this Order may result in a civil fine of up to \$300 per violation, in the manner provided for in G. L. c. 277, § 70C. This Order may also be enforced by injunction. A motion for an injunction to enforce this Order or any directives, regulations, or guidance issued on its

authority may be filed in the district court or other any court of competent jurisdiction for the municipality in which the violation has been charged.

In issuing directives, regulations, or guidance under the terms of this Order, (a) the Director of Labor Standards shall act under the authority G. L. c. 149, §§ 6 & 6½; and (b) the Commissioner of Public Health shall act under the authority of G. L. c. 17, § 2A and G. L. c. 111, §§ 6 & 127A, insofar as those statutes are consistent with the provisions of this Order and authority is available thereunder. In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines that additional measures are required to ensure that the terms of this Order are observed. The Director of Labor Standards and the Commissioner of Public Health may issue regulations implementing the terms of this Order pursuant to the processes generally provided in G. L. c. 30A, §§ 2-6.

If any provision of this Order or the application thereof to any person or 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.

5. Exceptions

This Order shall have no application to any of the following businesses, organizations, workplaces, or facilities:

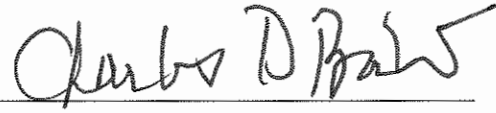
- a. Any municipal legislative body, the General Court, or the Judiciary
- b. Federal governmental entities
- c. Any health care facility or licensed health care provider
- d. Any of the following workplaces or facilities with specialized functions and populations, provided that DPH shall in each case consult with the responsible authority and provide COVID-19 health and safety guidance as needed:
 - 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 that provide safe spaces for the unstably housed such as homeless and domestic violence shelters

- and any other facilities or workplaces that the Commissioner of Public Health may in writing exempt from the terms of this Order

COVID-19 Order No. 13 is rescinded effective at 12:01 am on June 8, 2020.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 12:45 PM this 6 th day
of June, two thousand and twenty



CHARLES D. BAKER
GOVERNOR

Commonwealth of Massachusetts

Schedule A to COVID-19 Order No. 37

	<p>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 DPL, DPH, 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.</p>
Phase I	<p>As specified in COVID-19 Order No. 33:</p> <ul style="list-style-type: none"> • 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 <u>Exhibit 1</u> to COVID-19 Order No. 33
Phase II	<ul style="list-style-type: none"> • 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 <ul style="list-style-type: none"> ○ Step 1: outdoor table service ○ 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 <ul style="list-style-type: none"> ○ Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.) ○ 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 <ul style="list-style-type: none"> ○ pools, playgrounds and spray decks ○ mini golf, go karts, batting cages, climbing walls, ropes courses • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools

	<ul style="list-style-type: none"> ○ 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	<ul style="list-style-type: none"> • Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations • Casino gaming floors • Horse racing tracks and simulcast facilities (no spectators) • Indoor recreational and athletic facilities for general use (not limited to youth programs) • Fitness centers and health clubs including <ul style="list-style-type: none"> ○ 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/shower rooms ○ excluding saunas, hot-tubs, steam rooms • Museums • Indoor historic spaces/sites • Aquariums • Outdoor theatres and performance venues of moderate capacity • Indoor theatres, concert halls, and other performance venues of moderate capacity • Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching) • Motion picture, television, and video streaming production, except for activities specifically permitted in Phases I and II • Fishing and hunting tournaments and other amateur or professional derbies • Weddings/events/gatherings in parks, reservations, and open spaces with allowance for moderate capacity • Overnight camps • Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older • Indoor recreational businesses: batting cages, driving ranges, go karts, bowling alleys, arcades, laser tag, roller skating rinks, trampolines, rock-climbing <p>This listing is subject to amendment.</p>
Phase IV	<ul style="list-style-type: none"> • Amusement parks, theme parks, indoor or outdoor water parks • 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 <ul style="list-style-type: none"> ○ Theaters and concert halls ○ Ballrooms ○ Stadiums, arenas, and ballparks ○ Dance floors ○ Exhibition and convention halls

- | | |
|--|---|
| | <ul style="list-style-type: none">• Private party rooms• Street festivals and parades and agricultural festivals• Road races and other large, outdoor organized amateur or professional group athletic events |
|--|---|

This listing is subject to amendment.



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER FURTHER ADVANCING THE RE-OPENING
OF PHASE II ENTERPRISES**

COVID-19 Order No. 40

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, on March 23, 2020, in order to restrict all non-essential person-to-person contact and non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order and temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services;

WHEREAS, on May 18, 2020 and June 6, 2020, I issued COVID-19 Order Nos. 33 and 37, which authorized the re-opening of certain brick-and-mortar premises designated as “Phase I” and “Phase II” enterprises, subject to the requirement that all such enterprises comply with workplace safety rules and standards designed to protect against the risk of the COVID-19 virus;

WHEREAS, COVID-19 Order No. 37 provided that certain Phase II enterprises were authorized to re-open at the commencement of Phase II (“Step 1”) and that certain other Phase II enterprises would be authorized to re-open only when permitted to do so by a subsequent Executive Order to be issued only on the basis of continued positive progression in the public health data (“Step 2”);

WHEREAS, the current, sustained trend of improvement in public health data permits a continuing, carefully phased relaxation of certain restrictions on businesses and other organizations, provided that any adjustment can only be maintained or expanded on the basis of continuing positive trends in the public health data; 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, 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:

Step 2 of Phase II of the Commonwealth's Re-Opening Plan shall commence at 12:01 am on Monday, June 22, 2020.

Effective upon the commencement of Step 2

- a. close contact personal services, as defined in COVID-19 Order No. 37 and in any implementing rules or regulations, may open their brick-and-mortar premises to workers, customers, and the public; and
- b. restaurants, as defined in COVID-19 Order No. 37, may commence indoor table service.

Any Phase II enterprise that opens its brick-and-mortar premises to workers, customers, or the public on or after the commencement of Step 2 shall be subject to all rules, requirements, limitations, and provisions applicable to Phase II enterprises generally under the terms of COVID-19 Order No. 37 or under the terms of any prior or subsequent Order of continuing effect, including any Sector-Specific Rules applicable to those facilities.

Given in Boston at 11:55 AM this 19th day of June, two thousand and twenty



CHARLES D. BAKER
GOVERNOR

Commonwealth of Massachusetts



*Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
95 Fourth Street, Suite 3
Chelsea, Massachusetts 02150*

Jean M. Lorizio, Esq.
Chairman

**ALCOHOLIC BEVERAGES CONTROL COMMISSION ADVISORY REGARDING
INDOOR SERVICE AT ON-PREMISES CONSUMPTION LICENSEES**

On June 19, 2020, Governor Charlie Baker approved the reopening of all licensees for on-premises consumption of food and alcohol beginning Monday, June 22, 2020, as part of Phase II of the Governor's reopening of the Commonwealth.

On Monday, June 22, 2020, all licensees for on-premises consumption of alcohol may commence indoor table service so long as they comply with the Governor's Safety Standards and Checklist for Restaurants, which can be found [HERE](#).

As always, all licensees must ensure that they comply with the laws of the Commonwealth of Massachusetts, and that sales of alcoholic beverages take place only as authorized by federal, state, and local law. All questions should be directed to Executive Director Ralph Sacramone at (617) 727-3040 x 731.

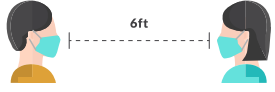
(Issued June 19, 2020)



“Restaurant” means an establishment that provides seated food service that is prepared on-site and under a retail food permit issued by a municipal authority pursuant to 105 CMR 590.000.

Restaurants may provide outdoor table service at the commencement of Phase 2 of the Commonwealth’s Reopening Plan. Restaurants will be authorized as part of Step 2 of Phase 2 of the Re-Opening Plan to commence indoor table service starting June 22, 2020.

MANDATORY SAFETY STANDARDS



SOCIAL DISTANCING

When indoor table service is permitted, restaurants are encouraged to structure operations to operate as much as possible through outdoor table service and to strictly limit indoor table service in order to assure effective compliance with social distancing requirements and to limit activities within confined spaces

Restaurants must comply with the following sector specific social distancing rules for providing dining services in all customer seating areas:

- Tables must be positioned so to maintain at least a 6 foot distance from all other tables and any high foot traffic areas (e.g., routes to bathrooms, entrances, exits); tables may be positioned closer if separated by protective / non-porous barriers (e.g., structural walls or plexi-glass dividers) not less than 6 feet high installed between tables and high foot traffic areas
- The size of a party seated at a table cannot exceed 6 people
- Restaurants may not seat any customers at the bar, but subject to any applicable building and fire code requirements, bar areas may be re-configured to accommodate table seating that complies with all spacing and other requirements in these COVID-19 safety standards
- All customers must be seated; eat-in service to standing customers (e.g., around bar areas) is prohibited
- Restaurants may provide carry-out or delivery service, but all safety standards for table separation, size of party, and hygiene must be maintained for any indoor or outdoor table seating that is available to carry-out patrons
- All other amenities and areas not employed for food and beverage service (e.g., dance floors, pool tables, playgrounds, etc.) must be closed or removed to prevent gathering of customers

Ensure separation of 6 feet or more between all individuals (workers, vendors, and customers) unless this creates a safety hazard due to the nature of the work or the configuration of the workspace:

- Close or reconfigure worker common spaces and high density areas where workers are likely to congregate (e.g., break rooms, eating areas) to allow 6 feet of physical distancing; redesign work stations to ensure physical distancing (e.g., separate tables, stagger workstations on either side of processing lines so workers are not face-to-face, use distance markers to assure spacing including in the kitchen area)
- Establish directional hallways and passageways for foot traffic if possible, to minimize contact (e.g., one-way entrance and exit to the restaurant). Post clearly visible signage regarding these policies
- Prohibit lingering in common areas (e.g., waiting areas, bathrooms) and ensure social distancing in common areas by marking 6 feet spacing with tape or paint on the floor and signage
- All customer-facing workers (e.g., servers, bus staff) must minimize time spent within 6 feet of customers

Designate assigned working areas to workers where possible to limit movement throughout the restaurant and limit contact between workers (e.g., assigning zones to servers)

Stagger work schedules and staff meal and break times, regulating maximum number of people in one place and ensuring at least 6 feet of physical distancing

Minimize the use of confined spaces (e.g., elevators, vehicles) by more than one individual at a time

Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability

Recommended best practices

Improve ventilation for enclosed spaces where possible (e.g., open doors and windows)

Customers may remove face coverings while seated at tables



HYGIENE PROTOCOLS

All workers must wash their hands frequently, and table servers must wash their hands or apply hand sanitizer between each table interaction

Ensure access to handwashing facilities on site, including soap and running water, and allow sufficient break time for workers to wash hands frequently; alcohol-based hand sanitizers with at least 60% alcohol may be used as an alternative

Alcohol-based hand sanitizers with at least 60% alcohol should be made available at entrances, exits, and in the dining area

Supply workers at workplace location with adequate cleaning products (e.g., sanitizer, disinfecting wipes)

Post visible signage throughout the site to remind workers and customers of hygiene and safety protocols

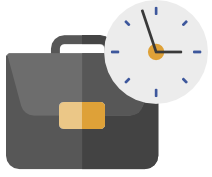
Self-serve, unattended buffets, topping bars, drink stations, and other communal serving areas must remain closed

Condiments and similar products (e.g., salt, pepper, and salad dressing) should not be pre-set on tables and should instead only be provided upon request either in single-serving portions (e.g., individual packages or cups) or in serving containers that are sanitized between each use

Menus must be one of the following: 1) paper, single-use menus disposed after each use, 2) displayed menu (e.g., digital, whiteboard, chalkboard), 3) electronic menus viewed on customers’ phones / mobile devices

Utensils and place settings must be either single-use or sanitized after each use; utensils should be rolled or packaged. Tables should not be pre-set to reduce opportunity for exposure

Tables and chairs must be cleaned and sanitized thoroughly between each seating



STAFFING & OPERATIONS

MANDATORY SAFETY STANDARDS

When possible, reservations or call ahead seating should be encouraged; managers must ensure that diners waiting for tables do not congregate in common areas or form lines

Restaurants may not provide customers with buzzers or other devices to provide alerts that seating is available or orders are ready; restaurants should instead use no-touch methods such as audio announcements, text messaging, and notices on fixed video screens or blackboards

Provide training to workers on up-to-date safety information and precautions including hygiene and other measures aimed at reducing disease transmission, including:

- Social distancing, hand-washing, and requirement and proper use of face coverings
- Modifying practices for serving in order to minimize time spent within 6 feet of customers
- Self-screening at home, including temperature or symptom checks
- Reinforcing that staff may not come to work if sick
- When to seek medical attention if symptoms become severe
- Which underlying health conditions may make individuals more susceptible to contracting and suffering from a severe case of the virus

Restaurant operators should establish adjusted workplace hours and shifts for workers to minimize contact across workers and reduce congestion at entry points

Limit visitors and vendors on site; shipping and deliveries should be completed in designated areas

Workers should not appear for work if feeling ill

Restaurants must screen workers at each shift by ensuring the following:

- Worker is not experiencing any symptoms such as fever (100.3 and above), cough, shortness of breath, or sore throat;
- Worker has not had 'close contact' with an individual diagnosed with COVID-19. "Close contact" means living in the same household as a person who has tested positive for COVID-19, caring for a person who has tested positive for COVID-19, being within 6 feet of a person who has tested positive for COVID-19 for 15 minutes or more, or coming in direct contact with secretions (e.g., sharing utensils, being coughed on) from a person who has tested positive for COVID-19, while that person was symptomatic
- Worker has not been asked to self-isolate or quarantine by their doctor or a local public health official
- Workers who are sick or feeling ill must be sent home.

Anyone showing signs of illness may be denied entry

If the employer is notified of a positive case at the workplace, the employer shall notify the local Board of Health (LBOH) in the city or town where the workplace is located and assist the LBOH as reasonably requested to advise likely contacts to isolate and self-quarantine. Testing of other workers may be recommended consistent with guidance and / or at the request of the LBOH

Notify workers that they may not work if they test positive for COVID-19 (they should be isolated at home) or are found to be a close contact of someone with COVID-19 (they should be quarantined at home)

Post notice to workers and customers of important health information and relevant safety measures as outlined in the Commonwealth's [Mandatory Safety Standards for Workplace](#)

Designate the Person in Charge (105 CMR 590) for each shift to oversee implementation of the guidelines in this document

Restaurants will be allowed to maximize outdoor dining space, including patios and parking lots where available, where municipal approval is obtained

Recommended best practices

When taking reservations and when seating walk-in customers, restaurants should retain a phone number of someone in the party for possible contact tracing

Encourage use of technological solutions where possible to reduce person-to-person interaction (e.g., contactless payment, mobile ordering, text on arrival for seating)

Workers who are particularly high risk to COVID-19 according to the Centers for Disease Control (e.g., due to age or underlying conditions) are encouraged to stay home or arrange an alternate work assignment

Workers are strongly encouraged to self-identify symptoms or any close contact to a known or suspected COVID-19 case to the employer

Encourage workers who test positive for COVID-19 to disclose to the employer for purposes of cleaning / disinfecting and contact tracing



CLEANING & DISINFECTING

Clean commonly touched surfaces in restrooms (e.g., toilet seats, doorknobs, stall handles, sinks, paper towel dispensers, soap dispensers) frequently and in accordance with CDC guidelines

Keep cleaning logs that include date, time, and scope of cleaning

Conduct frequent disinfecting of heavy transit areas and high-touch surfaces (e.g., doorknobs, elevator buttons, staircases)

Implement procedures to increase cleaning / disinfecting in the back-of-house. Avoid all food contact surfaces when using disinfectants. Food contact surfaces must be cleaned and sanitized before use with a sanitizer approved for food contact surfaces. Non-food contact surfaces must be frequently cleaned

In the event of a presumptive or actual positive COVID-19 case of a worker, patron, or vendor, the restaurant must be immediately shut down for 24 hours and then must be cleaned and disinfected in accordance with current CDC guidance before re-opening



**SECTOR SPECIFIC WORKPLACE SPECIFIC SAFETY STANDARDS
FOR RESTAURANTS TO ADDRESS COVID-19
Updated as of July 6, 2020**

Purpose

These sector specific COVID-19 workplace safety standards for Restaurants are issued to provide owners, operators, and workers of restaurants with instructions to help protect against the spread of COVID-19.

These standards are minimum requirements only and are not exclusive or exhaustive. The public health data for disease prevention that inform these guidelines can and does change frequently, and the operator of the restaurant is accountable for adhering to all local, state and federal requirements. The operator of the restaurant is also responsible for staying abreast of any updates to these requirements.

Standards for Responsible Restaurants in Massachusetts

“Restaurant” means an establishment that provides seated food service that is prepared on-site and under a retail food permit issued by a municipal authority pursuant to 105 CMR 590.000.

No activity in Restaurants can occur without meeting the following sector specific COVID-19 workplace safety standards for restaurants. These standards apply to all restaurants in operation until rescinded or amended by the State. The operator of each restaurant shall be responsible for meeting these standards.

The following workplace specific safety standards are organized around four distinct categories covering Social Distancing, Hygiene Protocols, Staffing and Operations, and Cleaning and Disinfecting.

I. Social Distancing

- While indoor table service is permitted, restaurants are encouraged to structure operations to operate as much as possible through outdoor table service and to strictly limit indoor table service in order to assure effective compliance with social distancing requirements and to limit activities within confined spaces
- Restaurants must comply with the following sector specific social distancing rules for providing dining services in all customer seating areas:
 - Tables must be positioned so to maintain at least a 6 foot distance from all other tables and any high foot traffic areas (e.g., routes to bathrooms, entrances, exits); tables may be positioned closer if separated by protective / non-porous barriers (e.g., structural walls or plexi-glass dividers) not less than 6 feet high installed between tables and high foot traffic areas
 - The size of a party seated at a table cannot exceed 6 people

- Restaurants may not seat any customers at the bar, but subject to any applicable building and fire code requirements, bar areas may be re-configured to accommodate table seating that complies with all spacing and other requirements in these COVID-19 safety standards
- All customers must be seated; eat-in service to standing customers (e.g., around bar areas) is prohibited
- Restaurants may provide carry-out or delivery service, but all safety standards for table separation, size of party, and hygiene must be maintained for any indoor or outdoor table seating that is available to carry-out patrons
- All other amenities and areas not employed for food and beverage service (e.g., dance floors, pool tables, playgrounds, etc.) must be closed or removed to prevent gathering of customers
- Ensure separation of 6 feet or more between all individuals (workers, vendors, and customers) unless this creates a safety hazard due to the nature of the work or the configuration of the workspace
 - Close or reconfigure worker common spaces and high density areas where workers are likely to congregate (e.g., break rooms, eating areas) to allow 6 feet of physical distancing; redesign work stations to ensure physical distancing (e.g., separate tables, stagger workstations on either side of processing lines so workers are not face-to-face, use distance markers to assure spacing including in the kitchen area)
 - Establish directional hallways and passageways for foot traffic if possible, to minimize contact (e.g., one-way entrance and exit to the restaurant). Post clearly visible signage regarding these policies
 - Prohibit lingering in common areas (e.g., waiting areas, bathrooms) and ensure social distancing in common areas by marking 6 feet spacing with tape or paint on the floor and signage
 - All customer-facing workers (e.g., servers, bus staff) must minimize time spent within 6 feet of customers
- Designate assigned working areas to workers where possible to limit movement throughout the restaurant and limit contact between workers (e.g., assigning zones to servers)
- Stagger work schedules and staff meal and break times, regulating maximum number of people in one place and ensuring at least 6 feet of physical distancing
- Minimize the use of confined spaces (e.g., elevators, vehicles) by more than one individual at a time
- Require face coverings for all customers and workers at all times, except where an individual is unable to wear a face covering due to medical condition or disability
- Customers may remove face coverings while seated at tables

II. Hygiene Protocols

- All workers must wash their hands frequently, and table servers must wash their hands or apply hand sanitizer between each table interaction
- Ensure access to handwashing facilities on site, including soap and running water, and allow sufficient break time for workers to wash hands frequently; alcohol-based hand sanitizers with at least 60% alcohol may be used as an alternative
- Alcohol-based hand sanitizers with at least 60% alcohol should be made available at entrances, exits, and in the dining area

- Supply workers at workplace location with adequate cleaning products (e.g., sanitizer, disinfecting wipes)
- Post visible signage throughout the site to remind workers and customers of hygiene and safety protocols
- Self-serve, unattended buffets, topping bars, drink stations, and other communal serving areas must remain closed
- Condiments and similar products (e.g., salt, pepper, and salad dressing) should not be pre-set on tables and should instead only be provided upon request either in single-serving portions (e.g., individual packages or cups) or in serving containers that are sanitized between each use
- Menus must be one of the following: 1) paper, single-use menus disposed after each use, 2) displayed menu (e.g., digital, whiteboard, chalkboard), 3) electronic menus viewed on customers' phones / mobile devices
- Utensils and place settings must be either single-use or sanitized after each use; utensils should be rolled or packaged. Tables should not be pre-set to reduce opportunity for exposure
- Tables and chairs must be cleaned and sanitized thoroughly between each seating

III. Staffing and Operations

- When possible, reservations or call ahead seating should be encouraged; managers must ensure that diners waiting for tables do not congregate in common areas or form lines
- When taking reservations and when seating walk-in customers, restaurants should retain a phone number of someone in the party for possible contact tracing
- Encourage use of technological solutions where possible to reduce person-to-person interaction (e.g., contactless payment, mobile ordering, text on arrival for seating)
- Restaurants may not provide customers with buzzers or other devices to provide alerts that seating is available or orders are ready; restaurants should instead use no-touch methods such as audio announcements, text messaging, and notices on fixed video screens or blackboards
- Provide training to workers on up-to-date safety information and precautions including hygiene and other measures aimed at reducing disease transmission, including:
 - Social distancing, hand-washing, and requirement and proper use of face coverings
 - Modifying practices for serving in order to minimize time spent within 6 feet of customers
 - Self-screening at home, including temperature or symptom checks
 - Reinforcing that staff may not come to work if sick
 - When to seek medical attention if symptoms become severe
 - Which underlying health conditions may make individuals more susceptible to contracting and suffering from a severe case of the virus
- Restaurant operators should establish adjusted workplace hours and shifts for workers to minimize contact across workers and reduce congestion at entry points
- Limit visitors and vendors on site; shipping and deliveries should be completed in designated areas
- Workers should not appear for work if feeling ill
- Workers who are particularly high risk to COVID-19 according to the Centers for Disease Control (e.g., due to age or underlying conditions) are encouraged to stay home or arrange an alternate work assignment
- Restaurants must screen workers at each shift by ensuring the following:

- Worker is not experiencing any symptoms such as fever (100.0 and above) or chills, cough, shortness of breath, sore throat, fatigue, headache, muscle/body aches, runny nose/congestion, new loss of taste or smell, or nausea, vomiting or diarrhea
- Worker has not had “close contact” with an individual diagnosed with COVID-19. “Close contact” means living in the same household as a person who has tested positive for COVID-19, caring for a person who has tested positive for COVID-19, being within 6 feet of a person who has tested positive for COVID-19 for 15 minutes or more, or coming in direct contact with secretions (e.g., sharing utensils, being coughed on) from a person who has tested positive for COVID-19, while that person was symptomatic
- Worker has not been asked to self-isolate or quarantine by their doctor or a local public health official
- Workers who fail to meet the above criteria must be sent home
- Anyone showing signs of illness may be denied entry
- Workers are strongly encouraged to self-identify symptoms or any close contact to a known or suspected COVID-19 case to the employer
- Workers must stay home if feeling ill
- Encourage workers who test positive for COVID-19 to disclose to the employer for purposes of cleaning / disinfecting and contact tracing. If the employer is notified of a positive case at the workplace, the employer shall notify the local Board of Health (LBOH) in the city or town where the workplace is located and assist the LBOH as reasonably requested to advise likely contacts to isolate and self-quarantine. Testing of other workers may be recommended consistent with guidance and / or at the request of the LBOH
- Notify workers that they may not work if they test positive for COVID-19 (they should be isolated at home) or are found to be a close contact of someone with COVID-19 (they should be quarantined at home)
- Post notice to workers and customers of important health information and relevant safety measures as outlined in the Commonwealth’s [Mandatory Safety Standards for Workplace](#)
- Designate the Person in Charge (105 CMR 590) for each shift to oversee implementation of the guidelines in this document
- Restaurants will be allowed to maximize outdoor dining space, including patios and parking lots where available, where municipal approval is obtained
- Additional on-site amenities and services may only open and operate when those amenities or services would otherwise be authorized to operate under the Commonwealth’s Phased Reopening Plan and then must adhere to all sector-specific safety protocols, available on the [Reopening Plan website](#), applicable to the amenity or service. Examples include:
 - Pool tables, darts, and other indoor games: Must remain closed
 - Musical and other performances: Must follow the latest Theater and Performance Venue guidance, including distance between performers and between performers and attendees. Performances at indoor venues may not include singing or the playing of wind or brass instruments
 - Dance floors: Must remain closed until Phase 4
 - Gift shops: Must follow the latest retail guidance

IV. Cleaning and Disinfecting

- Clean commonly touched surfaces in restrooms (e.g., toilet seats, doorknobs, stall handles, sinks, paper towel dispensers, soap dispensers) frequently and in accordance with CDC guidelines
- Keep cleaning logs that include date, time, and scope of cleaning
- Conduct frequent disinfecting of heavy transit areas and high-touch surfaces (e.g., doorknobs, elevator buttons, staircases)
- Implement procedures to increase cleaning / disinfecting in the back-of-house. Avoid all food contact surfaces when using disinfectants. Food contact surfaces must be cleaned and sanitized before use with a sanitizer approved for food contact surfaces. Non-food contact surfaces must be frequently cleaned
- In the event of a presumptive or actual positive COVID-19 case of a worker, patron, or vendor, the restaurant must be immediately shut down for 24 hours and then must be cleaned and disinfected in accordance with current CDC guidance before re-opening
- Open windows and doors to increase airflow where possible

Additional worker safety guidelines and resources (with hyperlinks to web pages) are available below:

U.S. Department of Labor, Occupational Safety and Health Administration (OSHA):

[OSHA – COVID-19 Webpage](#)

[OSHA – Enforcement Guidelines Webpage](#)

[OSHA Fact Sheet – Protecting Workers During a Pandemic](#)

U.S. Centers for Disease Control (CDC):

[CDC – Environmental Cleaning and Disinfection Recommendations](#)

[CDC – Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease \(Updated 3/21/20\)](#)

CDC – Decision Tool for Reopening Bars and Restaurants (5/15/20)

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/restaurants-and-bars-decision-tool.html>

Additional Information:

Massachusetts State Coronavirus (COVID-19) Website
mass.gov/covid19

United States Centers for Disease Control and Prevention Coronavirus (COVID-19) Website
<https://www.cdc.gov/coronavirus/2019-ncov/index.html>



HARWICHPolice

DEPARTMENT

183 Sisson Road, Harwich, MA 02645

Tel 508-430-7541 Fax 508-432-2530




DAVID J. GUILLEMETTE
Chief of Police

KEVIN M. CONSIDINE
Deputy Chief

Memorandum

TO: Board of Selectmen

FROM: David J. Guillemette
Chief of Police 

DATE: February 5, 2021

SUBJECT: Police Emergency Telecommunication Dispatcher
Appointment Recommendation

Background

The Harwich Police Department has an authorized strength of 5 full time police dispatchers. We have been running one position short since the departure of Gabby Parker in February 2020. The COVID crisis and concerns about budget shortfalls resulted in a significant delay in filling the open dispatch position. Our selection process eventually got under way in the late fall of 2020. Interviews of six finalists were conducted in early December of 2020.

Recommendation

I am pleased to recommend Kyleigh Sears for the position of Police Emergency Telecommunications Dispatcher for the Harwich Police Department effective February 22, 2021 with an annual salary of \$45,199.64. This appointment recommendation is fully endorsed by Town Administrator Joe Powers.

Candidate Information

Kyleigh is a graduate of DY High School and a current resident of Dennis. She holds a Bachelor's degree in Business Operations Management from the University of Massachusetts Dartmouth and has experience working as a legal assistant for a local attorney. Kyleigh finished first in a very competitive selection process. We are looking forward to her joining our dispatch team at Harwich PD.



ARBNET ARBORETUM ACCREDITATION APPLICATION FORM

The ArbNet Arboretum Accreditation Program provides standards and guidelines for the establishment and development of an arboretum. The goals of the accreditation program are to:

- 1) *foster the establishment and professionalism of arboreta;*
- 2) *identify arboreta capable of participating or collaborating in certain scientific, collections, or conservation activities; and*
- 3) *advance the planting, study, and conservation of trees to improve the world.*

Arboreta that are accredited are encouraged to become leaders and serve as models to promote professional development and engagement with other arboreta.

Different levels of accreditation have been established to recognize arboreta at varying degrees of development, capacity, and professionalism. Accredited arboreta are encouraged to continue their growth and development to achieve higher professional standards.

Arboreta and public gardens are eligible to apply for accreditation by submitting this form along with supporting documentation to demonstrate their level of achievement according to the specified standards. Once the application is completed, a decision will usually be made within four weeks. A site visit by an ArbNet representative may be required as part of the accreditation process.

The ArbNet Arboretum Accreditation Program is sponsored and supported by The Morton Arboretum, Botanic Gardens Conservation International (BGCI), and the American Public Gardens Association (APGA).

Arboreta and public gardens completing an application for ArbNet Accreditation Level III or Level IV are able to provide additional information to be considered for BGCI Botanic Garden Accreditation: <https://www.bgci.org/our-work/services-for-botanic-gardens/bgci-accreditation-scheme/botanic-garden-accreditation/>.

For more information regarding specific accreditation requirements:

Visit: arbnet.org/accreditation

Call: 630-310-7013

Email: arbnet@mortonarb.org

Please submit your completed application via email:

Email: arbnet@mortonarb.org



ARBORETUM:

Name of Arboretum:	James G. Marceline Arboretum at Island Pond Cemetery
Address or PO Box:	15 Island Pond Road, Harwich, MA 02645
Mailing Address:	732 Main Street
City:	Harwich
State/Province:	MA
Country:	USA
ZIP/Postal Code:	02645
Latitude and Longitude:	41.686314,-70.078323
Acres:	25
URL:	www.Harwich-ma.gov/cemetery We will be registering domain name and creating website.

ARBORETUM CONTACT (FOR ARBNET PURPOSES):

Name:	Robbin Kelley
Title:	Cemetery Administrator
Email:	rkelly@town.harwich.ma.us
Phone:	508-430-7549

INDIVIDUAL SUBMITTING APPLICATION (IF NOT ARBORETUM CONTACT):

Name:	
Title:	
Email:	
Phone:	

TYPE OF ORGANIZATION:

Please check all that apply:

<input checked="" type="checkbox"/>	Arboretum		Historical Site		Nonprofit
	Garden		Museum		City Park
	College	<input checked="" type="checkbox"/>	Cemetery	<input checked="" type="checkbox"/>	Town
	University		Business		City
	Zoo		Golf Course		Community
	Other:				

AUTHORIZATION AND VERIFICATION

The chairperson or leader of the applicant arboretum's governing board, organizational group, or authority (corresponding to Section I. below) must approve this application, specifically verifying the accuracy and authenticity of the information it contains. Approval is indicated by placement below of this individual's name, title or role at arboretum, and contact information.

Authorizing/Verifying Governance Leader (other than individual submitting application):

Name:	Larry G. Ballantine
Title:	Board of Selectmen, Chairman
Email:	lballantine@townofharwich.us
Phone:	508-430-7513
Name:	Joseph F. Powers
Title:	Town Administrator
Email:	jpowers@town.harwich.ma.us
Phone:	508-430-7513

ARBORETUM ACCREDITATION STANDARDS

Accreditation standards are outlined on the website, arbnet.org/accreditation, and described in each of the following application sections. Please indicate which of the following standards have been met by the applicant and provide the information requested. Fulfillment of these standards is self-determined by the applicant.

Arboretum accreditation level sought: X LEVEL I

FOUR LEVELS OF ACCREDITATION

Please use this chart as a reference. The levels of accreditation recognize arboreta with different degrees of development, capacity, and professionalism.

	LEVEL I	LEVEL II	LEVEL III	LEVEL IV
Arboretum plan	■	■	■	■
Organizational or governance group	■	■	■	■
Labeled tree and woody plant taxa				
25+	■			
100+		■		
500+			■	■
Staff or volunteer support				
Volunteer or paid	■			
Paid management		■	■	■
Curator			■	■
Scientific or conservation staff				■
Public dimension				
Public access and at least one event per year	■	■	■	■
Enhanced public and educational programs		■	■	■
Substantial educational programming			■	■
Collections policy		■	■	■
Collaboration with other arboreta			■	■
Collections data sharing with networked collections			■	■
Agenda for tree science, planting, and conservation			■	■
Collections conservation				■
Conservation role in Global Trees Campaign				■

1. GENERAL ACCREDITATION REQUIREMENTS (ALL LEVELS)

a. Arboretum Plan

Documentation such as an organizational plan, strategic plan, master plan, or other, that defines the purpose of the arboretum, its audience(s), the types of plants that are to be grown to achieve that purpose and serve those audiences, provisions for the maintenance and care of the plants, and provisions for the continuing operation of the organization through time with a clear succession plan. Sample organizational plans can be found [here](#) on ArbNet.

Provide a brief description or outline of the type and scope of the plan for your arboretum. Attach the Master Plan document if possible.

The Arboretum will be conserving property, educating students and the public on the importance of this valuable Town resource, researching for long-term studies. (See Attached Plan)

b. Organizational or Governance Group

A governing board, group of people, or authority that is dedicated to the arboretum plan and its continuation beyond the efforts of a single individual. Such an organizational/governance group will affirm fulfillment of standards and authorize participation as an accredited arboretum.

Describe the nature of your governance board or authority and the number and type of individuals involved. Attach any relevant documents or policies relating to the Governance Group.

Open Town Meeting form of Government - Board of Selectmen 5 members, Town Manager, Cemetery Commission 3 members and Cemetery Administrator, Conservation Commission 7 members and Conservation Administrator.

c. Arboretum Collection

The number of tree and woody plant species being grown in accordance with the arboretum plan. Plants in the arboretum's collection must be labeled in some way to identify them taxonomically, including scientific name and cultivar if applicable, and documented in some way so that information on their acquisition (source or origin, date of acquisition, etc.) is available for access. Minimum numbers are:

25+ Species (Level I) 100+ Species (Level II) 500+ Species (Levels III and IV)

Indicate the number of trees/woody plant species in the collection and describe the method for labeling and documenting the plants. Provide the link to your collections database and indicate if it is shared in a searchable, open-access database, such as BGCI PlantSearch (http://www.bgci.org/plant_search.php). If your collection species list is not shared or accessible online, please attach the list with your application.

List any special taxonomic, geographic, ecological, or conservation collections of note (e.g. oaks; Acer; dwarf conifers; halophytes; woody plants of Madagascar, etc.):

See attached sheet with 44 species listed, containing common name, scientific name and location in the Arboretum.

Botanical Gardens Conservation International (BGCI) is an international organization with a mission to ensure the conservation of threatened plants worldwide. Its global database provides information on the plants kept in living collections around the world. Your data will help conservationists, policy makers and planners, educators, and others working to save plant diversity—and can help measure the threatened plants safely in cultivation somewhere in the world. The location of your plants is kept hidden from Plant Search users so you will not face any security issues regarding rare or valuable plants.



SHARE YOUR DATA

To share your collections database with BGCI, visit: <https://www.bgci.org/resources/bgci-tools-and-resources/plantsearch-upload-instructions/>.

Detailed instructions are provided.

d. Arboretum Staff or Volunteer Support

i. Level I

Employees or volunteers who ensure fulfillment of the arboretum plan and provide for the basic needs of the arboretum collection and functions of the arboretum.

Describe the scope of staff or volunteers engaged in or supporting the work of the arboretum.

Cemetery Administrator Robbin Kelley, oversees the development and day to day operations of Arboretum property.

Amy Usowski Conservation Agent, provides guidance and assistance pertaining to Conservation parcels within the Arboretum.

The above staff members have the full support of the Town Administrator and will work with him on regular updates to Arboretum property.

AmeriCorps of Cape Cod member serves two days a week to create programing, invasive species removal and general maintenance, planning of new gardens and ground improvements, as well as giving tours.

Russ Norton Cape Cod Cooperative Extension Educator provides tree identification, soil reports, and recommendations for new tree species to be planted and long term goals for property.

Cemetery Commission provides guidance on current and future projects.

Harwich Garden Club and Master Gardeners provide volunteer help with pruning, planting and watering.

Cemetery Maintenance employees provide day to day maintance mowing, snow removal.

e. Arboretum Public Dimension

A public dimension that includes some level of public access, and at least one public event or educational program each year focused on trees, forest ecology, or arboretum purposes (for example, an Arbor Day observance).

Describe how the arboretum is open or accessible to the public, and name and describe the public events or programs offered.

2. COLLECTIONS AND EDUCATION (REQUIRED FOR LEVELS II, III, AND IV)

a. Arboretum Collections Policy

A collections policy describes the purpose, development, and professional management of the plants in the arboretum collection, in accordance with standards developed in the public garden and museum fields. Such a policy and related practices includes a rationale for holding the particular collections of the arboretum, collections inventory, and record-keeping practices. Examples are available on the [ArbNet website](#).

Describe and outline the elements of the collections policy and attach the document if possible.

We have created a Tree Identification sheet. Each tree identified within the property must be filled out with location. Pictures will be taken of tree, leaf, bark and berries or fruit. (See attached Identification Sheet)

<p>Where tree is growing.</p> <p><input type="checkbox"/> Swamp/wetlands</p> <p><input type="checkbox"/> Upland</p> <p>Bark texture</p> <p><input type="checkbox"/> Deep ridges or furrows</p> <p><input type="checkbox"/> Peeling in horizontal strips</p> <p><input type="checkbox"/> Smooth unbroken bark</p> <p><input type="checkbox"/> Scales or papery</p> <p><input type="checkbox"/> Plated</p> <p><input type="checkbox"/> Fibrous</p> <p><input type="checkbox"/> Vertical cracks</p> <p>Leaf Description</p> <p><input type="checkbox"/> Broadleaves</p> <p>Broadleaf shape</p> <p><input type="checkbox"/> Simple</p> <p><input type="checkbox"/> Compound leaf of two</p> <p><input type="checkbox"/> Compound leaf of three</p> <p><input type="checkbox"/> Fan compound leaf</p> <p><input type="checkbox"/> Singly feather compound</p> <p><input type="checkbox"/> Double feather compound</p> <p><input type="checkbox"/> Slender, minute or reduced</p> <p><input type="checkbox"/> Needles or scaly leaves</p> <p>Needle or Scale-like leaves</p> <p><input type="checkbox"/> Single needle on tiny leaf stalks</p> <p><input type="checkbox"/> Single needle on woody pegs</p> <p><input type="checkbox"/> Single needles on suction cups</p> <p><input type="checkbox"/> Long needles/groups of 2s</p> <p><input type="checkbox"/> Long needles/groups of 2 or 4s</p>	<table border="1"><tr><td>Reference No.</td><td>_____</td><td>Date:</td><td>_____</td></tr><tr><td></td><td>Number</td><td>Initial</td><td></td></tr><tr><td>Common Name:</td><td colspan="3">_____</td></tr><tr><td>Scientific Name:</td><td colspan="3">_____</td></tr><tr><td>Location:</td><td colspan="3">_____</td></tr><tr><td>Habitat:</td><td colspan="3">_____</td></tr><tr><td>GPS:</td><td colspan="3">_____</td></tr><tr><td colspan="4">Name of person collecting data (Please print clearly)</td></tr></table> <p><input type="checkbox"/> Long slender needles in 5s</p> <p><input type="checkbox"/> Scale like with flattened sprays</p> <p><input type="checkbox"/> Scale like, rounded or 4 sided</p> <p>Leaf arrangement and buds</p> <p><input type="checkbox"/> Alternate leaves and buds</p> <p><input type="checkbox"/> Opposite leaves and buds</p> <p><input type="checkbox"/> Spiral leaves and buds</p> <p><input type="checkbox"/> Whorled leaves and buds</p> <p>Bud color</p> <p><input type="checkbox"/> White</p> <p><input type="checkbox"/> Red/Pink/Orange</p> <p><input type="checkbox"/> Yellow/Green</p> <p><input type="checkbox"/> Blue/Violet</p>	Reference No.	_____	Date:	_____		Number	Initial		Common Name:	_____			Scientific Name:	_____			Location:	_____			Habitat:	_____			GPS:	_____			Name of person collecting data (Please print clearly)			
Reference No.	_____	Date:	_____																														
	Number	Initial																															
Common Name:	_____																																
Scientific Name:	_____																																
Location:	_____																																
Habitat:	_____																																
GPS:	_____																																
Name of person collecting data (Please print clearly)																																	

Optional Accreditation Comments or Explanations:

SUBMIT APPLICATION

Please attach at least two photos of your arboretum (high resolution JPEG format in landscape orientation) with your application for use in the accreditation press release and on the ArbNet website.

For more information regarding specific accreditation requirements:

Visit: arbnet.org/accreditation

Call: 630-310-7013

Email: arbnet@mortonarb.org

Please submit your completed application via email:

Email: arbnet@mortonarb.org

Data Information:

In compliance with the 2018 EU "General Data Protection Regulations", ArbNet has to ensure that EU residents agree to ArbNet using your information provided for processing and evaluating your accreditation application. By instructing us to process your application, your data will be transferred outside of the European Economic Area to the United States, kept secure, and will not be shared with a third party. You have the right to revoke your consent at any time by contacting us at arbnet@mortonarb.org. If you chose to be reviewed for our reciprocal accreditation program with BGCI (BGCI Botanic Garden Accreditation), ArbNet will share your information with BGCI.

The uses of your information, dependent on the success of your accreditation application, are as follows:

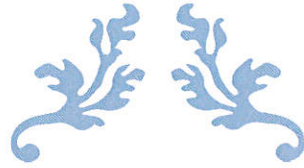
If you are a successful applicant, any personal and institutional data you have provided will be kept by ArbNet for five years, the length of the accreditation period, so that we can contact you in relation to the set up and administration of your accreditation, to provide information useful to maintain and/or upgrade your accreditation (e.g., new resources, opportunities, etc.), and to provide information on the accreditation renewal process as you approach the five year limit of your accreditation. ArbNet will use the institutional data provided in your application to create a website listing in the Morton Register, and potentially to promote your institution on our website, in our newsletter, and through our social media channels.

If you are an unsuccessful applicant, the personal and institutional information you have provided will be kept by ArbNet for five years, so that we can contact you to help you achieve accreditation at a future date.

Data Consent:

I want to be added to ArbNet's mailing list for quarterly newsletters and occasional informational updates.

ArbNet may use the institutional information (not personal data) I provide for populating external datasets for the purpose of research on institutional capacities, networking, and strengthening the garden and arboretum community (e.g., BGCI GardenSearch)



JAMES G. MARCELINE ARBORETUM

At Island Pond Cemetery



DECEMBER 31, 2020

ISLAND POND

15 Island Pond Road
Harwich, MA 02645

I. INTRODUCTION

James G. Marceline Arboretum at Island Pond (“Arboretum”) is comprised of 25 acres (more or less) located in the Harwich Center area of Harwich, Massachusetts off US -6 E/Mid-Cape Highway to Exit 10, Route 134/Pleasant Lake Ave to Main Street to Island Pond Road.

The land comprising the Arboretum was acquired by the Town of Harwich. There are two parcels making up the Arboretum property. The Island Pond Cemetery founded in 1778 consisting of 17 plus acres and 7 plus acres of Harwich Conservation Department land.

General Mission and Goals

The mission of the Arboretum at Island Pond is to engage, educate, improve natural resources, and enrich the lives of our constituents in order to enable them to become better stewards of our local history and environment. The Cemetery Commission is working in collaboration with the Town Conservation Agent, Cape Cod Regional Technical High School Horticultural Students, Monomoy Regional Schools, Bird Watchers of Harwich, Local Historians, AmeriCorps Cape Cod, and the Harwich Garden Club to create the Island Pond Arboretum.

Conservation

To provide stewardship of the Arboretum lands by protecting, sustaining, and enhancing biological diversity. The Arboretum also provides leadership locally and beyond in conservation matters such as the eradication of invasive species, increasing species diversity, water conservation, and the responsible use of chemicals.

Teaching

It will provide an outdoor laboratory for use by Monomoy Regional School District and The Cape Cod Regional Technical High School. The Arboretum a unique and valuable academic resource and support facility.

Research

To support and conduct research in a broad range of subjects including ecology, field biology, horticulture, conservation, and natural history. Island Pond Arboretum will continue to emphasize useful long-term studies.

Collection

To maintain, develop, and interpret well-documented plant specimens for teaching, research, and public education and enjoyment.

Public Education

To provide programs and publications about conservation, horticulture, gardening, botany, and natural history, which work to enhance public understanding of the natural world and foster an appreciation of Island Pond Arboretum mission.

Recreation

To provide a place where people from the community may enjoy passive recreation and where they may come to learn, reflect, and renew themselves through contact with the natural world. With all the elements of the Island Pond Arboretum’s mission, the arboretum enhances the quality of life both for Cape Cod and the residents of the community.

Through volunteer elbow grease, the cemetery department, conservation department and Cape Cod Cooperative Extension, AmeriCorps Cape Cod the vision of Island Pond Arboretum is becoming a reality.

The following are some project goals. Completion of a tree inventory in a limited area of the Arboretum. Development of a Conceptual Master Site Plan that includes: nature trails, elevated boardwalks, educational signage, demonstration gardens, and a parking area. Design and engineering for a parking area with additional phases. Establishment of monthly to weekly volunteer workdays that resulted in the removal of invasive plants. Design and development of printed trail guides. Design and development of color brochures. Construction of a website for the park. Removal of hazardous tree limbs. Remedial work on live oaks and other trees. Removal of invasive plants.

Capital improvements and equipment: Asphalt parking area (20 cars) with water management structure. Overflow parking area (25 cars). ADA accessible trailhead. Educational signage.

Future Objectives and Performance Measures

GOAL 1: Conservation– To provide stewardship of the Arboretum lands by protecting, sustaining, and enhancing biological diversity by removal of invasive plants and planting of natives. Island Pond Arboretum also provides leadership locally and beyond in conservation matters such as the eradication of invasive species, water conservation, and the responsible use of chemicals.

OBJECTIVE 1: Evaluate, restore and maintain the physical aspects of the site.

Performance Measure 1 – Evaluate and ameliorate natural erosion problems. Evaluate and restore sites where human impact has caused erosion (banks of ravine, shortcut trails).

Performance Measure 2 - Remove trash and debris in public areas.

Performance Measure 3 – Write general site best management practices (BMP’s)

OBJECTIVE 2: Identify and eradicate existing exotic invasives following recommended methods and evaluate site for new infestations. Educate neighbors to prevent new infestations.

Performance Measure 1 – Develop early detection and rapid response (EDRR) protocol and follow BMP’s for removal of exotic invasives. EDRR protocol to include mapping, monitoring and weed management plan. BMP’s to include key

prevention actions such as implementation of equipment decontamination protocols.

Performance Measure 2 – Establish and maintain boundaries so that desired plants on the Arboretum property are not inadvertently sprayed. Establish invasive-free buffers between private residences and Arboretum.

Performance Measure 3 – Continue meeting with neighbors to familiarize them with invasive species and their threat to terrestrial ecosystems and to encourage the neighbors to use Cape Cod friendly native species in their landscapes.

OBJECTIVE 3: Protect species of special concern.

Performance Measure 1 – Conduct survey of species of special concern.

Performance Measure 2 – Write management plans for all rare, threatened and endangered species.

Performance Measure 3 - Share data concerning threatened and endangered plant and animal species with appropriate Federal/State entities.

OBJECTIVE 4: Protect health of Island Pond.

Performance Measure 1 – Notify Harwich Conservation Trust and Town Departments with results and recommendations.

Performance Measure 2 – Meet with neighbors to familiarize them with sources of nutrients and their threat to aquatic ecosystems.

Performance Measure 3 – Develop and follow BMP's for jurisdictional wetlands surrounding Island Pond. Obtain Conservation Commission and Mass DEP permits for work in wetland or their buffer zones.

Performance Measure 4 – Remove debris, snags, and earth clogging feeder streams to Island Pond including feeder man-made ravine.

OBJECTIVE 5: Protect and restore areas of “High Conservation Value Native Landscape” - upland mixed forest.

Performance Measure 1 – Determine “ideal” boundary between wetlands and cemetery property.

Performance Measure 3 – Follow restoration goals detailed for above “High Conservation Value Native Landscapes”.

OBJECTIVE 6: Decide what, if any, restoration or preservation needs to be done in freshwater pond or bordering vegetated wetlands.

Performance Measure 1 – Conduct habitat assessment of freshwater wetlands.

Performance Measure 2 – Write restoration goals for freshwater wetlands.

Performance Measure 3 - Obtain Conservation Commission and Mass DEP permits for work in wetland or their buffer zones.

Performance Measure 4 – Complete restoration.

Performance Measure 5 – Management Plan and Implementation of for the lily pond in Island Pond Cemetery.

OBJECTIVE 7: - Implement an adaptive monitoring program to identify and track status of High Conservation Value Native Landscape Areas and other areas proposed for restoration and to prioritize expenditure of resources and funding in these areas.

Performance Measure 1 – Establish baseline ecological data and status.

Performance Measure 2 – Develop metrics to detect positive and negative trends.

Performance Measure 3 – Develop response actions and metrics that trigger them.

Performance Measure 4 – Develop management matrix to prioritize restoration projects.

Performance Measure 5 – Develop and implement program which integrates the above segments with restoration efforts.

OBJECTIVE 8: Re-evaluate conceptual master site plan in 2021 and every five years thereafter.

GOAL 2: Teaching and Research – To provide an outdoor laboratory for use by Cape Cod Technical High School faculty and students in Horticulture, Monomoy Regional School District in Environmental Studies, and other departments.

To support and conduct research in a broad range of subjects including upland and wetland ecology, field biology, horticulture, conservation and natural history.

OBJECTIVE 1: Provide adequate data upon which to base preservation and conservation decisions.

Performance Measure 1 – Prioritize list of desired research projects and find local or regional High School students or faculty, Federal/State agencies, and citizen science groups associated with public agencies to conduct. Reprioritize list based on results of Adaptive Monitoring Plan.

OBJECTIVE 2: Provide adequate data for recreation, public education activities and collection installations.

Performance Measure 1 – Produce list of desired research projects and find local or regional High School and College students or faculty to conduct.

OBJECTIVE 3: Protect arboretum from abuse and Island Pond Arboretum as well as The Town of Harwich from liability associated with research. Provide adequate oversight of projects.

Performance Measure 1 – Produce application, contracts, and report procedures for researchers conducting projects.

GOAL 3: Collection – To maintain, develop and interpret well-documented plant collections for teaching, research, and public education and enjoyment.

OBJECTIVE 1: Re-evaluate collections policy at least every five years.

OBJECTIVE 2: Augment “high conservation value nature landscapes” with carefully chosen and located collection specimens.

Performance Measure 1 – Installation of plants considered native to this habitat on Cape Cod.

OBJECTIVE 3: Augment non-restorable areas with carefully chosen demonstration gardens.

Performance Measure 1 – Gardens within directive of collection policy installed in mixed hardwood and pollinator areas.

OBJECTIVE 4: Generate map of plants in permanent collection and keep up to date.

Performance Measure 1 – Choose initial plants and gardens, identify layers, and add plants to appropriate layer. Update at least annually.

OBJECTIVE 5: Create and keep current a database to accompany map.

Performance Measure 1 – Choose attributes for table to accompany map (include direction and distance from nearest trail).

OBJECTIVE 6: Field identify plants in collection.

Performance Measure 1 – Label each plant or garden with collection tag.

GOAL 4: Public Education – To provide programs and publications about conservation, horticulture, gardening, water quality, botany, and natural history which work to enhance public understanding of the natural world and foster an appreciation of Island Pond Arboretum’s mission.

OBJECTIVE 1: Provide public with identification of selected plants near trails.

Performance Measure 1 – Annually check and correct, existing public plant ID signs and add new signs as necessary.

OBJECTIVE 2: Use public education opportunities to promote conservation and preservation.

Performance Measure 1 – All educational signage, tours, and outreach activities have preservation and/or conservation components.

OBJECTIVE 3: Use public education opportunities to provide information about ecological processes.

Performance Measure 1 – Adapt programs, tours, and temporary signage to include timely information about ecological processes.

OBJECTIVE 4: Offer scheduled small educational activities (tours, seminars, workshops).

Performance Measure 1 – Develop list of education activities that fit within missions and goals of arboretum.

Performance Measure 2 – Poll visitors to determine their interests.

Performance Measure 3 – Develop list of desired activities, identify number of volunteers to adequately “staff” activities, schedule activities, and recruit and maintain volunteer corps.

Performance Measure 4 – Annually evaluate past year’s offerings and revise list for upcoming year.

OBJECTIVE 5: Educate public about past use of site and impact of humans on native habitats.

Performance Measure 1 – Include information about railroad, cranberry bogs in educational signage, tours, and outreach activities.

OBJECTIVE 6: Provide informal education throughout site.

Performance Measure 1 – Install permanent educational signage on all trails.

OBJECTIVE 7 – Evaluate conceptual master site plan.

GOAL 5: Recreation – To provide a place where people from the community may enjoy passive recreation and where they may come to learn, reflect and renew themselves through contact with the natural world.

OBJECTIVE 1: Provide recreational opportunities.

Performance Measure 1 – Maintain trails as determined in conceptual master site plan. Create new trails if it can be done in an environmentally sensitive, permissible manner, in conjunction with the Harwich Conservation Department.

Performance Measure 2 – Provide access to scenic areas and areas of special interest.

Performance Measure 3 – Provide event areas and areas for gatherings and programs.

Performance Measure 4 – Install and maintain interpretive and educational signage in areas of special interest.

Performance Measure 6 – Partner with non-traditional entities to increase awareness of arboretum in new target groups (e.g. medical and fitness community to promote mental and physical health benefits of outdoor exercise).

OBJECTIVE 2: Accessible, safe, and environmentally sensitive trails and facilities.

Performance Measure 1 – Insure that trails are generally free of obstacles except where removal of an obstacle could cause harm to the natural features of the terrain or vegetation or where compliance would otherwise be impractical. Insure that pathways are as hazard-free as possible

Performance Measure 2 – Clearly mark hazardous areas and install safety barriers where indicated.

Performance Measure 3 – Insure that Island Pond Trail and adjoining event areas are as universally accessible as is practical.

Performance Measure 4 – Install benches along trails.

Performance Measure 5 – Endeavor to clear invasive, poisonous, or hazardous plants away from trails.

Performance Measure 6 – Around the trail and pond area, to the extent feasible without causing an adverse environmental impact, prune underbrush to promote visitor comfort and safety. Abide by the Massachusetts Wetlands Protection Act and Harwich Wetlands Bylaw when pruning, and obtain Conservation Commission approval prior to doing work.

Performance Measure 7 – Incorporate Adaptive Monitoring Plan into trail maintenance projects.

OBJECTIVE 3: Provide visitors with adequate space and facilities for enhanced recreational experience.

Performance Measure 1 – Install picnic tables in non-sensitive areas where their use will not compromise the enjoyment of the park by other visitors.

Performance Measure 2 – Construct permanent “green” restroom facility.

OBJECTIVE 4: Provide access to the Arboretum site and adequate paved parking for daily use and surfaces parking special events.

Performance Measure 1 – Identify, design and install on-site parking to support increased daily traffic and special events.

Performance Measure 2 – Partner with neighboring businesses for extra off-site parking during special events.

Performance Measure 3 – Work toward obtaining annual visitor goal for directional signage on State Road 6 (Mid-Cape Highway). How about also on the bike trail?

OBJECTIVE 5 – Reevaluate conceptual master site plan in 2021 and every five years thereafter.

II. ADMINISTRATIVE SECTION

A. Descriptive Information

1. Common Name of Property:

The property itself is the Island Pond Cemetery and Island Pond Conservation Area. However, within these adjoining properties will be the “**James G. Marceline Arboretum at Island Pond**” Throughout the plan, this parcel of real property will be referred to as the “Arboretum.”

2. Location, Boundaries, and Improvements:

The Arboretum is located in Barnstable County in Harwich, Massachusetts and is approximately 25 plus acres in size. The entrance to the Arboretum is located on Island Pond Road which is off of Main Street in Harwich Center. The Arboretum is bordered to the north by the Cape Cod Lavender Farm, to the east by Harwich Congregational Church, to the West by Harwich Conservation Department and Harwich Conservation Trust Trail system. The southerly boundary lies on the Old Colony Rail Trail, aka Cape Cod Bike Trail.

3. Title Interest Fee simple title to the Arboretum is held by the Town.

C. Agency and Public Involvement

1. Responsibilities of the Town.

The Town remain committed that the property is used for passive recreation.

2. Compliance with the Comprehensive Plan

The Arboretum is in compliance with the Town’s Comprehensive Land Use Plan. Also in compliance with the current Harwich Open Space and Recreation Plan. Both call for the enhancement of natural resources and the opportunity for added passive outdoor recreational activities.

D. Volunteer and Staff Involvement

1. Community Service Volunteers

Community Service Volunteers are members of the community who support the goals and mission of the organization and volunteer their time and expertise to help in

their achievement. Community Service Volunteers can generally be divided into two categories:

a. Service Volunteers

Service Volunteers are people who volunteer to help on an “as-needed” basis such as; work days, events, administrative and program support. The need and duties of Service Volunteers don’t change over time and are, therefore, essential throughout all timeframes of organizational development. These volunteers may also include AmeriCorps Cape Cod members.

b. Specialty Volunteers

Specialty Volunteers are people who volunteer their time and expertise to perform a specific function for the organization, i.e.; technology, botanist, ornithology, horticulturist, etc. The needs and duties of Specialty Volunteers change over time and are greatly influenced by the organization’s current needs and ability to hire staff to perform those. The most immediate need is for a volunteer coordinator to help manage, recruit and train the service volunteer corps.

2. Staff

Staff are paid employees whose primary responsibility is management of the day-to-day operations of the organization. Current staff include Cemetery Administrator, Conservation Agent and Cemetery Ground Crews, working under the Town Administrator with full support. Staff positions are dynamic and change over time as the organization grows and we continue to seek funding opportunities to enhance staff support.

- a. AmeriCorps of Cape Cod has a member serving at the Marcelline Arboretum since 2019. A member serves two days a week to create programming, invasive species removal and general maintenance, planning of new gardens and ground improvements, as well as giving tours.

III. NATURAL RESOURCE SECTION

A. Past Uses

The site has an interesting history. The Island Pond Cemetery is a public garden and historic site located in the Town of Harwich, Massachusetts and it is named after a large adjacent pond to the burial grounds. Established in 1872 the Island Pond Cemetery was already a burial site in the town with its earliest known interment of George Weekes in 1770. George was born in Dorchester, Massachusetts in 1683 and came to Harwich where he married Deborah Wing in 1714 and preached to the Native Indians. George Weekes is buried with his family in a wooded lot among an oak and five pitch pines trees across from the Lily Pond. The seven acre conservation piece attached to the cemetery

has been used as a trail system under the care and custody of the Harwich Conservation Department and Harwich Conservation Trust.

B. Natural Resources

1. Soil Types

See report from United States Department of Agriculture Natural Resources Conservation Service. Custom Soil Resource Report for Barnstable County.

Tables—Suitability for Hand Planting

Map unit symbol	Map unit name	Rating	Component name (percent)	Rating reasons (numeric values)	Acres in AOI	Percent of AOI
38A	Pipestone loamy coarse sand, 0 to 3 percent slopes	Well suited	Pipestone (70%)		1.2	5.2%
			Deerfield (10%)			
			Walpole Variant, LOAMY SUBSTRATUM (10%)			
55A	Freetown coarse sand, 0 to 3 percent slopes, sanded surface	Moderately suited	Freetown, sanded surface (85%)	Sandiness (0.50)	1.3	5.7%
			Tihonet (3%)	Sandiness (0.50)		
252B	Carver coarse sand, 3 to 8 percent slopes	Well suited	Carver (80%)		8.0	33.7%
			Merrimac (6%)			
			Hinckley (6%)			
			Eastchop (4%)			
			Enfield (4%)			
252D	Carver coarse sand, 15 to 35 percent slopes	Well suited	Carver (65%)		13.1	55.4%
			Plymouth (10%)			
			Hinckley (10%)			
			Eastchop (10%)			
Totals for Area of Interest					23.7	100.0%

Rating	Acres in AOI	Percent of AOI
Well suited	22.3	94.3%
Moderately suited	1.3	5.7%
Totals for Area of Interest	23.7	100.0%

Rating Options—Suitability for Hand Planting

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

2. Archaeological and Historical Resources

The Island Pond Cemetery has been a burial ground since 1770's and contains thousands of memorials and burials with the grounds.

The Old Colony Rail Trail which in on the southern part of the cemetery and where there were train tracks, has now been converted into a bike trail. Old Colony Railroad (OC) was a major railroad system, mainly covering southeastern Massachusetts, from 1845 to 1893.

3. Water Resources

Island Pond itself is located on the western part of the Arboretum. Located in the middle of the cemetery is the Lily Pond. In the northern part of the property is old abandoned cranberry bogs that have reverted to freshwater marshes.

4. Fish and Wildlife

Management of the Arboretum natural areas will focus on maintaining and enhancing ecological diversity. These goals will be accomplished through proven land management techniques such as removal of invasive species and replanting with native species, restoring appropriate undercover, and, where possible. It is assumed that by augmenting the plant community, the animal community will prosper as well. In an effort to better understand the health and function of the ecosystems Island Pond Arboretum will try to partner with AmeriCorps Cape Cod, Cape Cod Regional Technical High School, Monomoy Regional School District and Cape Cod Community College to conduct ecosystem food chain process, ecological succession, and biogeochemistry studies. During this ten year planning period, we will compile a list of observed species, including fish in Island Pond. There are no current plans to release additional animal species.

5. Species of Concern

At this time we will be compiling only endangered or threatened species known to occur on site. Any of these threatened species will be listed and as such no person can take, pursue, hunt, harass, capture or possess or their burrows, nests, or eggs except by permission of the Massachusetts Division of Fisheries & Wildlife Service

6. Swamps, Marshes and Other Wetlands

In addition to the water resources described above, the Arboretum contains the following types of wetland communities- Perennial stream, freshwater marsh, bordering vegetated wetland, wooded swamp, and freshwater ponds. As soon as possible but definitely before restoration or

landscaping activities, the Island Pond Arboretum should delineate any jurisdictional wetlands and familiarize itself with state regulations. The wetlands on the Arboretum site protect water quality of Town of Harwich, recharge groundwater, protect against pollution, help control flooding in nearby residential areas, and provide a variety of wildlife habitats. In the interest of maintaining these valuable resource functions, Island Pond Arboretum will incorporate wetland restoration into the overall resource management program as opportunities arise, particularly where wetland resources have been impaired or negatively impacted by previous management activities. Wetland restoration objectives on the Arboretum property include erosion control, restoration of hydrology and/or hydro-period and restoration of wetland plant and animal communities. To achieve these objectives, restoration activities may involve road and soil stabilization, water level control structure removal or installation, exotic species control, site preparation and re-vegetation with native wetland species, and project monitoring. These activities will all require Mass Department of Environmental Protection and Harwich Conservation Commission approval, as well as potentially need approval from other environmental agencies.

IV. MANAGEMENT CONCEPTS BY NATURAL COMMUNITIES AND PROPOSED MANAGEMENT ACTIVITIES

A. Existing and Planned Uses: The Arboretum will be managed under the multiple use concept in order to achieve the greatest benefit to the citizens of Harwich and their guests. Activities to occur on the Arboretum include restoration, maintenance and protection of Outstanding Natural areas, installation of gardens focusing on the native species of northeast Massachusetts and Cape Cod and economic and ethnobotanical selections, and creation of open areas for passive recreation (picnicking, concerts, art and eco walks, etc).

1. **Arboretum Boundaries:** Establishment and Preservation Approximately 25% of the Arboretum boundary has been marked with signage. The establishment, marking, and of boundaries.
2. **Soil and Water Protection** The acquisition and management of public land has several objectives including maximizing ecological restoration of outstanding natural areas and facilitating optimum public use. Overriding both these objectives is the responsibility to be exemplary stewards of the natural resources on the Arboretum. This is not limited to protecting soil and water but also to improving them when the opportunity arises. The almost 50 year history of unauthorized and unregulated dumping on the Arboretum gives us endless opportunity for both.

3. **Roads:** Currently Island Pond does not have a parking area. Secondary dirt roads are used for parking but are not passable. We are working on a Master Plan includes a parking area to provide access to hiking trails, though there are no plans in the short term to build this out. There are old roadbeds running roughly the older sections of the cemetery through the center of the Arboretum.
4. **Recreation Management** the demand for resource-based outdoor recreation within Barnstable County will continue to grow as the surrounding area is urbanized. Due to its central location and proximity to Harwich Center and the Old Colony Rail Trail, the Arboretum is perfectly positioned to provide quality outdoor experiences to the citizens of the Town of Harwich and their guests. With increases in population and development, public and private parks will become more important than ever in providing quality outdoor recreational experiences and preserving representative and unique natural areas. The Island Pond Arboretum will attempt to minimize deterioration of the Arboretum through normal use by remaining mindful of the tolerances of various communities' usage. We are concerned with trail usage in excess of 100 hikers/mile/day will result in degradation of the surrounding habitat.
 - a. **Existing Facilities/Infrastructure/Recreational Activities** There are currently no buildings on the Arboretum.

Island Pond Visitor's Center a multiple-use area in the newly acquired 1 acre parcel of land located in the rear of the cemetery and abutting the wetlands, To have a parking area, building, restrooms and boardwalk are conceptual only and thus open to evolve in their shape, function, location and inclusion. These conceptual architectural facilities are designed to provide opportunities for botanical and environmental

Other facilities considered for the future, but not yet in the planning phase, include greenhouses, covered and uncovered decks and platforms for viewing natural areas, and small shelters for rest, observation or small events. Future hardscaped areas within the gardens will include bridges and boardwalks to access natural areas and gardens and an event lawn.

B. Planned Recreational Activities

1. **Public Access/Parking** Public Access to the Arboretum is currently through Island Pond Road. Additional access points, will be developed with input from user groups and other interested members of the general public.
2. **Recreational Trails;** A park the size of the arboretum can accommodate of trails (7 acres). We currently have Land Stewardship Report done by BSC

Group on Conservation Land Management Plan for Island Pond. Island Pond Arboretum should complete a Best Management Practices for Trail Design and Installation. Trails are the Arboretum's opportunity to invite guests to enjoy and learn about their natural environment. Guests may include individuals in wheelchairs, cross country joggers, families with strollers, senior citizens, nature enthusiasts, and even the environmentally-challenged sector of the general public. All of them are part of our target audience. Some trails also serve a double purpose as vehicular access to inner portions of the Arboretum. To whatever extent possible, all trails will follow sustainable trail design criteria. At the Arboretum, there are basically three levels of trails 1) multipurpose, 2) wheelchair/stroller accessible, and 3) hiking trails. Multipurpose trails, such as the new Island Pond Loop, have 10' tread width, 12 ft clearance, and surfaces sturdy enough to support pickup trucks and small tractors.

Wheelchair/stroller accessible trails have 5' tread width, 8' vertical and horizontal clearance, and firm stable surfaces that are not degraded by use. There are currently no wheelchair/stroller trails. Most garden trails that are within the planted area will be of this type. Hiking trails will have

Not only do people prefer the interest this design imparts but it also provides excellent opportunities to manage water on the trail tread. These design elements keep steeper sections of trail restricted to short distances and provide ample opportunities for resting intervals between each "up and down". These are the same key elements of the proposed accessibility guidelines. Our guests are drawn to edges and boundaries and all of our trails should follow whatever edges and boundaries are available.

Finally, our guests like the feeling of privacy but not isolation. All of our hiking trails, even those that wind back on themselves, have planned screens from nearby trails. The wheelchair/stroller accessible trails through future garden installations that require a several year site preparation process will, by necessity, have large open areas. Plant installations will restore the illusion of privacy to these trails. The multipurpose trails are designed so that vehicles are not visible from either accessible or hiking trails. The line between privacy and dangerous isolation varies widely amongst guests. Great care must be taken to keep all guests relatively comfortable. The safety of our guests while on the trails is of utmost importance. Every reasonable attempt will be made to keep trails accessible re-surfacing with mulch and gravel and with permanent and temporary boardwalks and bridges. In the event that trails are flooded, or are not safe, they will be closed until they are safely passable. Habitat preservation is obviously necessary in Outstanding Native Landscapes; without it the trails are worthless. When trails are constructed through Outstanding Native Landscapes ground disturbance

will be minimal and trail clearing will be no more than the tread width and clearance of the appropriate trail class. No multipurpose trails will be constructed through Outstanding Native Landscapes areas. No wheelchair/stroller accessible trails will be constructed through Outstanding Native Landscapes areas if they require importing tread material. Boardwalks may be added to minimize habitat damage. Trails will avoid rare, threatened/endangered, and fragile plants.

C. Gardens/Specimen Collections

A. Objectives Botanical gardens usually contain various distinct collections of plants identified by scientific and common name. It is the possession of these collections that distinguish gardens from similar entities such as parks and nature preserves. Island Pond Arboretum is currently writing the collections policy.

The ultimate purpose of a collection policy is to guide and limit what a garden collects so that collections are meaningful and relevant to the mission of the garden. The purpose of Island Pond Arboretum's collection is to encourage the appreciation, understanding, maintenance and use of trees, woody shrubs, and other plants, in northeast Massachusetts by demonstrating the value of plants in our daily lives. Collection policy anticipates that its signature collections will include native plants with a special emphasis on the plants which are native to Barnstable County.

“Economic plants” include plants with an economic value to people, again with special emphasis on northeast Massachusetts. The term “Ethnobotanical” refers to the study of how people of a particular culture and region make use of indigenous plants. Ethnobotanists explore how plants are used for such things as fuel, food, beverages, shelter, medicine, fibers and clothing, hunting, and religious ceremonies, or simply, plants that people use in daily life. Ethnobotany has its roots in botany, the study of plants. Botany, in turn, originated in part from an interest in finding plants to help fight illness.

The economic and ethnobotanical collections map overlap to a degree and will represent a wide diversity of uses people make of plants, both native and exotic. These collections may include cultivated noninvasive plants that were transported to the Northeast Massachusetts from other parts of the world by early settlers and exotic non-invasive plants that are sources of products used by people in NE Massachusetts and can be grown successfully in this area. .

Other plant acquisitions may be appropriate to the Arboretum but these plants must be screened and selected consistent with the mission of

the Arboretum. By design, it is our mission to demonstrate and promote the use of plants that demand less water, less chemicals, and less maintenance. We will acquire species that are appropriate for the Cape Cod climate, are not exotic pest plants in Massachusetts, were collected legally, support Island Pond Arboretum's mission and goals to minimize effects on natural resources, promote research and education, conservation and preservation, and are compatible with the collection policy. As outlined above, our plant collections should be plants that are sustainable without burden to our natural resources. The use of plants that require excessive water or significant maintenance is strongly discouraged. Non-native plants which do not meet collection guidelines or which are without botanical or conservation value may be selected for temporary highlights, in landscape beds only and may not be planted as a permanent part of the Arboretum's collection.

There will be a GIS file with a map which identifies the location of each plant in the collection. The associated Attribute Table will include:

- 1) Date added to the collection,
- 2) The scientific name of the plant,
- 3) The common name(s),
- 4) Current GPS coordinates,
- 5) Name of nearest trail,
- 6) origin: if purchased/donated how, when and in what form the plant was acquired; if not planted, the approximate size, age, and condition of the tree/plant when identified on the Arboretum; if collected in the wild, its original location, (including original GPS location, if available), and natural growing conditions. Origination data will be different for different plants. Plants will be inventoried and signs checked at least annually to determine the general health and condition of the plant and to be sure that identification signage is still in place at the correct location.

Plants will be inventoried and signs checked at least annually to determine the general health and condition of the plant and to be sure that identification signage is still in place at the correct location.

Landscape amenities considered for the future include: gardens demonstrating indigenous and non-invasive exotic species within guidelines of our mission statement and collection's policy. Bridges and boardwalks will provide access to natural areas and gardens. Priority areas for landscaping include the parking lot, Island Pond, invasive plant

eradication site between Conservation walking trails and Island Pond Cemetery, highly impacted mixed uplands. Other areas which could be designated for gardens are included later in this document under Proposed Management Activities.

6. Access

Plant collections will be accessible to the public during operating hours. Restricted access may be needed to protect certain plants which could be injured by excessive foot traffic or which are located in sensitive areas. Plant records will be available to the Board, staff, and persons granted access to the records.

7. Education

Public Education provides program about conservation, horticulture, gardening, botany, historic tours, and natural history to enhance understanding of the natural world and foster appreciation of the Arboretum's mission.

Currently programs are limited to self-guided tours during COVID but will return to walking tours, talks, and demonstrations during events, those arranged by Cemetery Administrator and Conservation Administrator, and are held on weekend days.

In the future, Island Pond Arboretum plans to develop a core of volunteer guides to offer tours on the weekends and during the week. Island Pond Arboretum also intends to develop a series of weekday and weekend seminars and workshops on topics that further the mission of the Arboretum after polling visitors to determine their interests. Island Pond Arboretum is in the process of writing educational brochures about the communities along each of the trails, checklists for trees and birds and an additional topical brochure on stewardship.

As funds become available and trails are added, we intend to produce educational signage similar to that on existing trails. Plant signs will also be added for all trails. Once Island Pond Arboretum starts to build its specimen collection all plants in the collection, including existing native plants accessed into the collection, will have identification signs.

8. Events

Future Events:

- 1) The Grand Opening and subsequent Anniversary Events - open to the public with guided tours, live music, plants, and educational programs. The Nature Conservancy, and Audubon Society;
- 2) Volunteer workdays, attendees assist with site maintenance, including trail clearing and building, trash removal, and plantings;

9. Research Projects

Research projects and specimen collection may be performed in certain areas of the Arboretum on a temporary or permanent basis for the purpose of obtaining information which furthers the knowledge of habitat ecology, restoration of habitats, appropriateness of species to the collection, and enjoyment of the collection by the public. The Arboretum currently cooperates with local educational institutions (e.g., Cape Cod Cooperative Extension) in the accumulation of this information. In May 2018 a Custom Soil Resource Report was completed by Russell Norton, Agriculture & Horticulture Extension Educator.

10. Non-Native Invasive Species

Island Pond Arboretum will be adhering to Code of Conduct for Botanic Gardens and Arboreta and by doing so has committed to eradicate/control existing exotic invasive populations, screen introductions for exotic invasive species and educate the public about landscape alternatives to exotic invasive.

Over the years, portions of the Arboretum have become infested with invasive plant species. These areas require special attention to prevent their further spread. The Island Pond Arboretum will implement an invasive species eradication plan in those areas and continue to monitor the Arboretum for new infestations. The eradication plan will include a combination of herbicide applications and manual removal.

11. Ground Disturbing Activities

The Arboretum is committed to managing and protecting the sensitive resources on the property. Sensitive resources include wetlands, rare, threatened and endangered species, Outstanding Native Landscapes, and historic sites. It is our goal that these resources will not be adversely impacted by ground disturbing activities. When new activities are considered, such as recreational trails, boardwalks, or construction of roads or buildings, they will be designed and carefully constructed so as to minimize impact to sensitive areas.

12. Restoration

Large portions of the Arboretum have been disturbed directly and indirectly by cranberry activities, dumping of household refuse and colonization by invasive species. Where it is feasible to restore natural areas at the Arboretum, Island Pond Arboretum will focus on restoring species. The management actions to achieve these goals are detailed further in this plan under the desired future conditions and restoration/management section of the community descriptions.



James Godfrey Marceline



1925—2018

James G Marceline was a lifelong resident of Harwich, MA. “Jimmy” was educated in Harwich schools and was a strong advocate for both education and the environment. Jimmy, a decorated WWII Veteran, serving as a Private First-Class in the Army when he was captured by the Nazis in Germany, he was sent to Stalag 4B and was imprisoned for 216 days. He was the recipient of the Purple Heart, European African Middle Eastern Theater Campaign Ribbon w/3 Stars, World War II Victory Medal, Good Conduct Medal and the American Theater Ribbon.

Massachusetts State Senate recognized Jimmy Marceline for his contributions on March 12, 2018. “Mr. Marceline is remembered for his passion for local government, community involvement, and making a true difference for his town and country. He has been described as Harwich’s most revered citizen, and will be missed by many. May he rest in peace, having lived a full life and leaving a remarkable legacy,” stated the Senate Journal entry prepared by Cape and Islands Senator Julian Cyr, D-Truro.



Marceline Arboretum is located at 15 Island Pond Road, Harwich, MA 02645

Take Route 6 to exit 10, Route 124/ Pleasant Lake Avenue until you get to Harwich Center. Right on to Main Street and first left onto Island Pond Road.

Phone: 508-430-7549
 Fax: 508-430-7598
 E-mail: rkelley@town.harwich.ma.us



*Linking the past
to the future.*

James G. Marceline Arboretum at Island Pond Cemetery

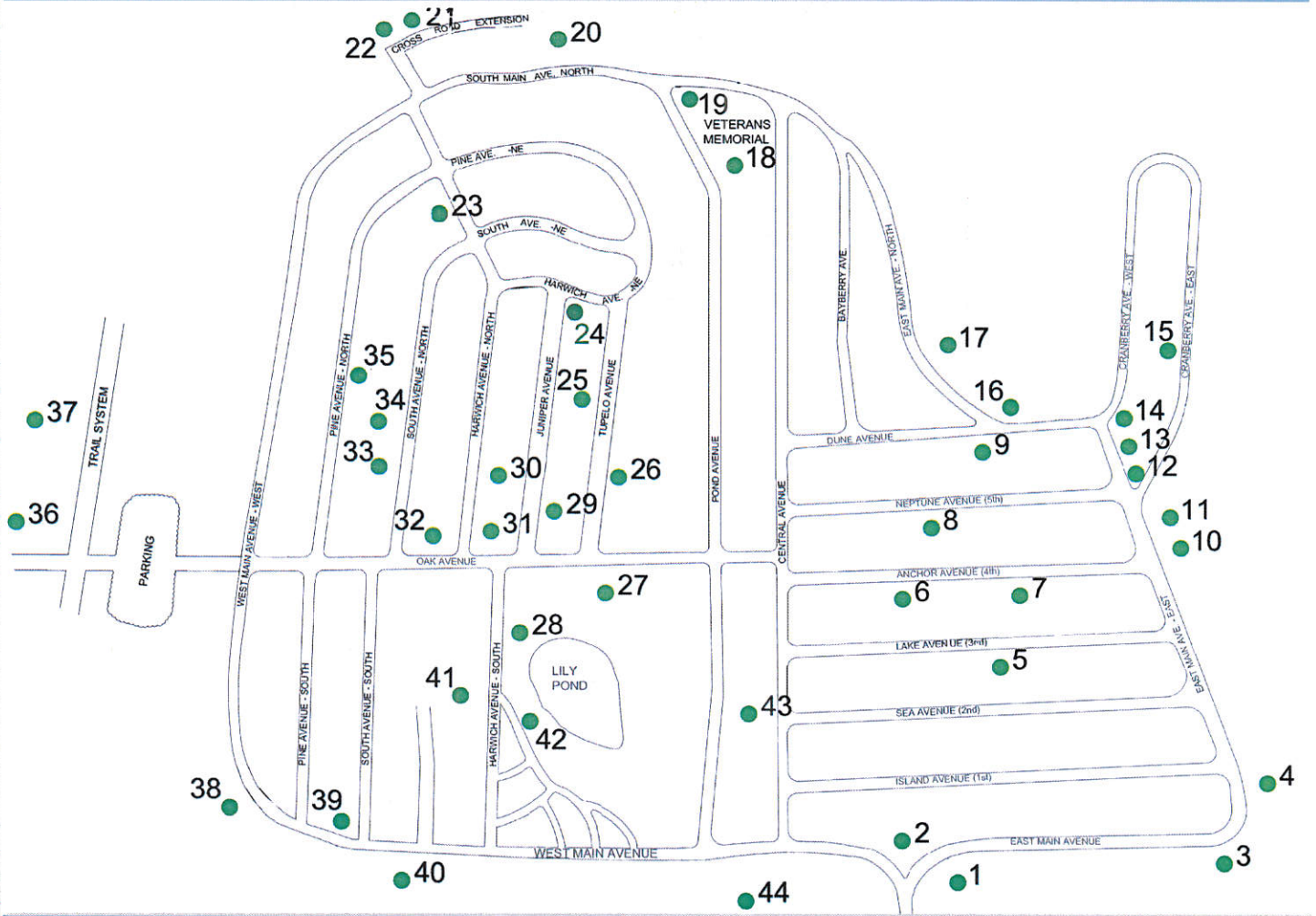
The Island Pond Cemetery is a public garden and historic site located in the Town of Harwich, Massachusetts and named after a large pond adjacent to the burial grounds. Established in 1872, the Island Pond Cemetery was already a burial site in the town with its earliest internment of George Weekes in 1770. The James G. Marceline Arboretum encompass 18 acres of the Island Pond Cemetery and 7 plus acres of the Harwich Conservation land with walking trails. The Cemetery and Conservation land is located in Harwich Center and is connected to Cape Cod Bike Rail Trail. This Arboretum is an invaluable natural and horticultural resource with many species of Plants, Wildlife and Historic Monumentation. The Arboretum was certified as a Wildlife Habitat in 2019. This is the only regional public Arboretum with historic architecture on Cape Cod and is open to the public free of charge.

The mission of the James Marceline Arboretum at Island Pond is to engage, educate, and enrich the lives of our constituents to become better stewards of our local history and environment.



Trees & Wood Plants

1	Black Locust	<i>Robinia pseudoacacia</i>
2	Eastern Redbud	<i>Cercis canadensis</i>
3	Norway Spruce	<i>Picea abies</i>
4	Black Oak	<i>Quercus velutina</i>
5	American Elm	<i>Ulmus americana</i>
6	Norway Mable	<i>Acer platanoides</i>
7	Ginko Maidenhair Tree	<i>Ginkgo biloba</i>
8	Red Cedar	<i>Juniperus virginiana</i>
9	Dawn Redwood	<i>Metasequoia glyptostroboides</i>
10	Leyland Cyprus	<i>Chamaecyparis leylandii</i>
11	Eastern Hemlock	<i>Tsuga canadensis</i>
12	Weeping Cherry	<i>Prunus pendula</i>
13	Red Sunset Maple	<i>Acer rubrum 'Red Sunset'</i>
14	Red Dragon Japanese Maple	<i>Acer palmatum</i>
15	White Oak	<i>Quercus alba</i>
16	Sweet Pepper Bush	<i>Clethra alnifolia</i>
17	Dwarf Hinoki Cyprus	<i>Chamaecyparis obtusa</i>
18	Rhododendron	<i>Rhododendron ferrugineum</i>
19	Hackberry	<i>Celtis occidentalis</i>
20	Dwarf Alberta Spruce	<i>Picea glauca</i>
21	Blue Spruce	<i>Picea pungens</i>
22	Andromeda	<i>Pieris japonica</i>
23	Hedge Maple	<i>Acer campestre</i>
24	Mimosa	<i>Albizia julibrissin</i>
25	Red Norway Maple	<i>Acer platanoides 'Faassen's Black'</i>
26	Kousa Dogwood	<i>Cornus kousa</i>
27	Buttonbush	<i>Cephalanthus occidentalis</i>
28	Sassafras	<i>Odontopus calceatus</i>
29	American holly	<i>Ilex opaca</i>
30	Japanese Flowering Cherry	<i>Prunus serrulata 'Kwanzaan'</i>
31	Black Cherry	<i>Prunus serotina</i>
32	Purple Leaf Plum	<i>Prunus cerasifera</i>
33	Pitch Pine	<i>Pinus rigida</i>
34	PJM Rhododendron	<i>Rhododendron PJM</i>
35	Bayberry	<i>Myrica pennsylvanica</i>
36	Grey Birch	<i>Betula populifolia</i>
37	Atlantic White Cedar	<i>Chamaecyparis thyoides</i>
38	Arborvitae	<i>Thuja occidentalis</i>
39	Golden Rain	<i>Koeleruteria paniculata</i>
40	White Pine	<i>Pinus strobus</i>
41	Callery Pear	<i>Pyrus calleryana</i>
42	Black Gum 'Tupelo'	<i>Nyssa sylvatica</i>
43	Sycamore Maple	<i>Acer pseudoplatanus</i>
44	White Poplar	<i>Populus grandidentata</i>



**James G. Marceline Arboretum
At Island Pond Cemetery Harwich, MA
Tree and Woody Plant
(brief Description for Tree Tags)**

Black Locust: *Robinia pseudoacacia*

A medium-sized deciduous tree with alternate, compound leaves and an often twisted and forking trunk. Showy, dense, drooping clusters of fragrant white pea flowers in spring.

Eastern Redbud: *Cercis canadensis*

A small deciduous tree or large shrub with alternate, simple leaves and one to several short trunks. Showy, light pink to purplish pink pea flower in slender, short-stalked clusters in early spring.

Norway Spruce: *Picea abies*

A large evergreen tree with a broadly conical form and needle-clad branchlets that hang like drapery from larger branches. The cones are long and narrow and have flexible scales.

Black Oak: *Quercus velutina*

A medium-sized deciduous tree with alternate, simple leaves and rough bark that is dark brown to nearly black. Rare in Northern New England but most prevalent along the coast and native to Cape Cod.

American Elm: *Ulmus americana*

A medium-sized to large deciduous tree with alternate, simple leaves and an overall vase-shape. Native to Cape Cod and designated the Massachusetts state tree in 1941.

Norway Maple: *Acer platanoides*

A small to medium-sized deciduous tree with opposite leaves and a dense, rounded crown. Paired samaras make an obtuse angle and the leaf stems ooze a milky sap when cut.

Ginkgo: *Ginkgo biloba*

A medium-sized deciduous tree with simple leaves and a wide-spreading, irregular crown. The fan-shaped leaf is unique and the autumn color is bright yellow to gold.

Eastern Redcedar: *Juniperus virginiana*

A small to medium-sized evergreen tree with a dense, slender, conical crown and peeling bark. Native to Cape Cod and often recognized by their needlelike leaves and berrylike cones.

Dawn Redwood: *Metasequoia glyptostroboides*

A medium-sized to large deciduous tree with a tapering trunk and a symmetrical, conical crown. Branchlets and needles are arranged in featherlike sprays and cones have blunt scales.

Leyland Cypress: *Cupressus x leylandii*

A tall, slender, conical evergreen tree that is a hybrid cross between Monterey cypress and Alaska cedar. Densely foliated from the base with scalelike needles and small, round cones.

Eastern Hemlock: *Tsuga canadensis*

A medium-sized evergreen tree with lacy foliage and a slightly drooping crown. Native to Cape Cod and known for its pyramidal form and very small needles and cones.

Weeping Cherry: *Prunus subhirtella 'Pendula'*

A medium-sized deciduous tree is a cultivar of the Japanese cherry with simple, alternate leaves. Flexible branches droop towards the ground and display showy white to pink flowers in spring.

Red Sunset Maple: *Acer rubrum 'Franksred'*

A medium-sized deciduous tree that is a cultivar of the red maple with simple leaves. Pyramidal to rounded form and striking fall color with leaves turning vibrant shades of red and orange.

Red Dragon Japanese Maple: *Acer palmatum dissectum 'Red Dragon'*

A small deciduous dwarf tree with an upright form and weeping branches. This cultivar of the Japanese maple displays elegant dissected leaves that are reminiscent of the claws of a dragon.

White Oak: *Quercus alba*

A medium-sized deciduous tree with alternate, simple leaves that have deeply divided lobes. Native to Cape Cod and easily distinguished by its loose, scaly, gray to whitish bark.

Sweet Pepperbush: *Clethra alnifolia*

A large deciduous shrub with fragrant white flowers and simple, alternate leaves. Native to Cape Cod and often found near water or in moist woodlands.

Dwarf Hinoki Cypress: *Chamaecyparis obtusa 'Nana Gracilis'*

A small to medium-sized evergreen shrub with a rounded form that becomes conical with age. This compact cultivar of the Hinoki cypress is slow-growing with sprays of dark green foliage.

Rosebay Rhododendron: *Rhododendron maximum*

A small tree or evergreen shrub with alternate, simple leaves and an upright, loose, multi-stemmed form. Showy pink to white flowers often have olive green to orange spots.

Northern Hackberry: *Celtis occidentalis*

A medium-sized deciduous tree with alternate, simple leaves and dark berry-like fruit that hangs on a stalk. The bark is gray and warty leading to a spreading crown of upright-arching branches.

Dwarf Alberta Spruce: *Picea glauca 'Conica'*

A small to medium-sized evergreen shrub that is a cultivar of the white spruce with a dense, cone-shaped form. The needles are fragrant when crushed and display a white waxy coating.

Blue Spruce: *Picea pungens*

A medium-sized to large evergreen tree with a pyramidal shape and branching to the base. The needles are green-blue to silver-blue and prickly but have a pleasant scent when crushed.

Andromeda: *Pieris japonica*

A large shrub or small evergreen tree with a dense, upright, rounded form and simple, alternate leaves. An ornamental that features drooping clusters of showy white or pink flowers.

Hedge Maple: *Acer campestre*

A small deciduous tree with one or more, twisted trunks and a dense, rounded crown. Distinctive leaves have deeply divided, rounded lobes and the leafstalk exudes milky sap when broken.

Mimosa: *Albizia julibrissin*

A small to medium sized deciduous tree with an umbrella-like crown and featherlike leaves. Known for its flat, bean-like seed pods and showy, pink flowers in round clusters.

Crimson King Norway Maple: *Acer platanoides* ‘Crimson King’

A medium-sized deciduous tree with a dense, symmetrical, rounded crown. A cultivar of the Norway maple is noted for its rich maroon leaves and its purple fruits.

Kousa Dogwood: *Cornus kousa*

A small deciduous tree with a broad crown of slender, spreading branches and opposite, simple leaves. Noted for its four-petaled, showy white bracts that blossom profusely in spring.

Buttonbush: *Cephalanthus occidentalis*

A small tree or deciduous shrub with simple leaves and features spherical clusters of fruits and white flowers. Native to Cape Cod and often found in wetlands and along ponds and waterways.

Sassafras: *Sassafras albidum*

A small to medium-sized deciduous tree with deeply furrowed, red-brown bark that has a spicy fragrance when cut. Native to Cape Cod and easily identified by its three shapes of leaves.

American Holly: *Ilex opaca*

A small evergreen tree that features bright red berries and dark green, leathery leaves with prickly points at the tips. Native to Cape Cod and can be found in many woodlands.

Japanese Flowering Cherry: *Prunus serrulata*

A medium-sized deciduous tree that features non-fragrant white or pink flowers and pea-sized blackish fruits. Bark is smooth and shiny and leaves change from green to reddish bronze in fall.

Black Cherry: *Prunus serotina*

A small to large deciduous tree with alternate, simple leaves and dark, scaly bark that flaps on the edges. Native to Cape Cod with showy white flowers followed by dark, pea-sized fruits.

American Beech: *Fagus grandifolia*

A medium-sized deciduous tree with alternate, simple leaves that have veins parallel to each other and a distinctly pointed tip. Native to Cape Cod with bark that is silver gray and smooth.

Pitch Pine: *Pinus rigida*

A small to medium-sized evergreen tree with stiff needles and cones that bear a small prickle. Native to Cape Cod and highly adapted to its sandy soil making it dominate the landscape.

PJM Rhododendron: *Rhododendron* ‘PJM’

A small tree or evergreen shrub that resulted from crosses between *R. carolinianum* and *R. dauricum* var. *Sempervirens*. Features simple, alternate leaves and showy lavender pink flowers.

Bayberry: *Myrica pensylvanica*

A large deciduous shrub with a rounded habit and pleasant aroma. Native to Cape Cod with leathery-like leaves and small waxy, persistent blue-gray fruit.

Gray Birch: *Betula populifolia*

A small deciduous tree often in a multi-trunked form with alternate, simple leaves. Native to Cape Cod with distinct bark that is dull white and becomes rough and gray with age.

Atlantic White-cedar: *Chamaecyparis thyoides*

A medium-sized to large evergreen tree with a narrow, pointed crown. Native to Cape Cod and features scalelike leaves that are a blue-green color.

Arborvitae: *Thuja occidentalis*

A small to medium-sized evergreen tree with a conical form. Native to Cape Cod with foliage that is arranged in flattened, fanlike sprays and cones that look like little roses when they open.

Goldenrain Tree: *Koelreuteria paniculata*

A small deciduous tree with a rounded to vase-shaped crown of spreading branches. Features feathery, compound leaves with irregularly lobed leaflets and sprays of yellow flowers.

Eastern White Pine: *Pinus strobus*

A large evergreen tree that features fine feathery needles in bundles of five and a long, narrow cone. Native to Cape Cod with an open canopy and few, widely spaced branches.

Callery Pear: *Pyrus calleryana*

A small deciduous tree with alternate, simple leaves and an upright-branched form. Single trunk tends to split with age and showy white flowers cover the tree in spring.

Black Tupelo: *Nyssa sylvatica*

A medium-sized deciduous tree with alternate, simple leaves that turn shades of red orange and purple in fall. Native to Cape Cod with distinctive bark that becomes deeply fissured with age.

Sycamore Maple: *Acer pseudoplatanus*

A medium-sized deciduous tree with opposite leaves that have relatively small coarse teeth. Dark gray bark, cracking into pinkish to yellowish squares with curling or peeling edges.

White Poplar: *Populus alba*

A medium-sized deciduous tree with a usually leaning trunk and an open crown. Noted for its dark green, alternate, simple leaves that feature white undersides.

Data Collection Sheet

Where tree or shrub is growing.

- Swamp/wetlands
- Upland

Bark texture

- Deep ridges or furrows
- Peeling in horizontal strips
- Smooth unbroken bark
- Scales or papery
- Plated
- Fibrous
- Vertical cracks

Leaf Description

- Broadleaves

Broadleaf shape

- Simple
- Compound leaf of two
- Compound leaf of three
- Fan compound leaf
- Singly feather compound
- Double feather compound
- Slender, minute or reduced
- Lobes

- Needles or scaly leaves

Needle or Scale-like leaves

- Single needle on tiny leaf stalks
- Single needle on woody pegs
- Single needles on suction cups
- Long needles/groups of 2s
- Long needles/groups of 2 or 4s
- Long slender needles in 5s
- Scale like with flattened sprays
- Scale like, rounded or 4 sided

Reference No. _____ Date: _____

Number Initial

Common Name: _____

Scientific Name: _____

Location: _____

Habitat: _____

GPS: _____

Name of person collecting data (Please print clearly)

Leaf arrangement and buds

- Alternate leaves and buds
- Opposite leaves and buds
- Spiral leaves and buds
- Whorled leaves and buds

Bud color

- White
- Red/Pink/Orange
- Yellow/Green
- Blue/Violet

Berry Color

- Red/Pink/Orange
- Blue/Violet

Nut or Pine Cone

- Nut
- Pine Cone

PHOTOS OF:

Whole Tree

Leaves

Blossoms/buds

Bark

Branches

Nuts

Pine Cones

From: George, Arthur (DCR) <arthur.george@state.ma.us>

Sent: Monday, February 1, 2021 11:01 AM

To: Larry Ballantine

Cc: Michael D. MacAskill; Don Howell; Ed McManus; Stephen Ford; Cashman, Craig R (DCR); Provencher, Shaun (DCR)

Subject: DCR Notice of Proposed Land Acquisition, 301 CMR 51, No. P-000974, Town of Harwich

Dear Chairman Ballantine and members of the Board of Selectmen:

This email serves as a notice to you under 301 CMR 51.00. **Please reply to this email with the information requested below.**

The Commonwealth of Massachusetts, acting through its Department of Conservation and Recreation (DCR) has under consideration the acquisition of an interest in approximately 1.38 acres of land, or other property interest therein, in the Town of Harwich. The property is currently an undeveloped woodland. The proposed use for the property will be protected open space. Attached is a locus map marked "Exhibit A" which shows the property in which DCR is interested.

The applicable regulations require the disclosure of the Commonwealth's reasons for the proposed land acquisition at a public hearing held in the city or town in which such real property is located. To comply with this requirement, we ask that the Board announce that the Commonwealth is considering this acquisition for the above-stated purposes at its next regularly scheduled meeting. The Board does not need to take any formal action on its part. Please document the announcement in the Board's meeting minutes and reply to this email by copying and pasting the statement in the box below filled out appropriately in a reply email to me:

Certificate of Announcement pursuant to 301 CMR 51.08(2)

DCR #P-000974, Town of Harwich

I, Larry G. Ballantine, Chairman of the Board of Selectmen of the Town of Harwich, Massachusetts, do hereby certify that on , _____ 2021, it was announced at a public meeting of the Board of Selectmen that:

The Department of Conservation and Recreation may acquire an interest in a parcel of land located in Harwich as shown on the attached locus map marked as "Exhibit A" for conservation and/or recreation purposes.

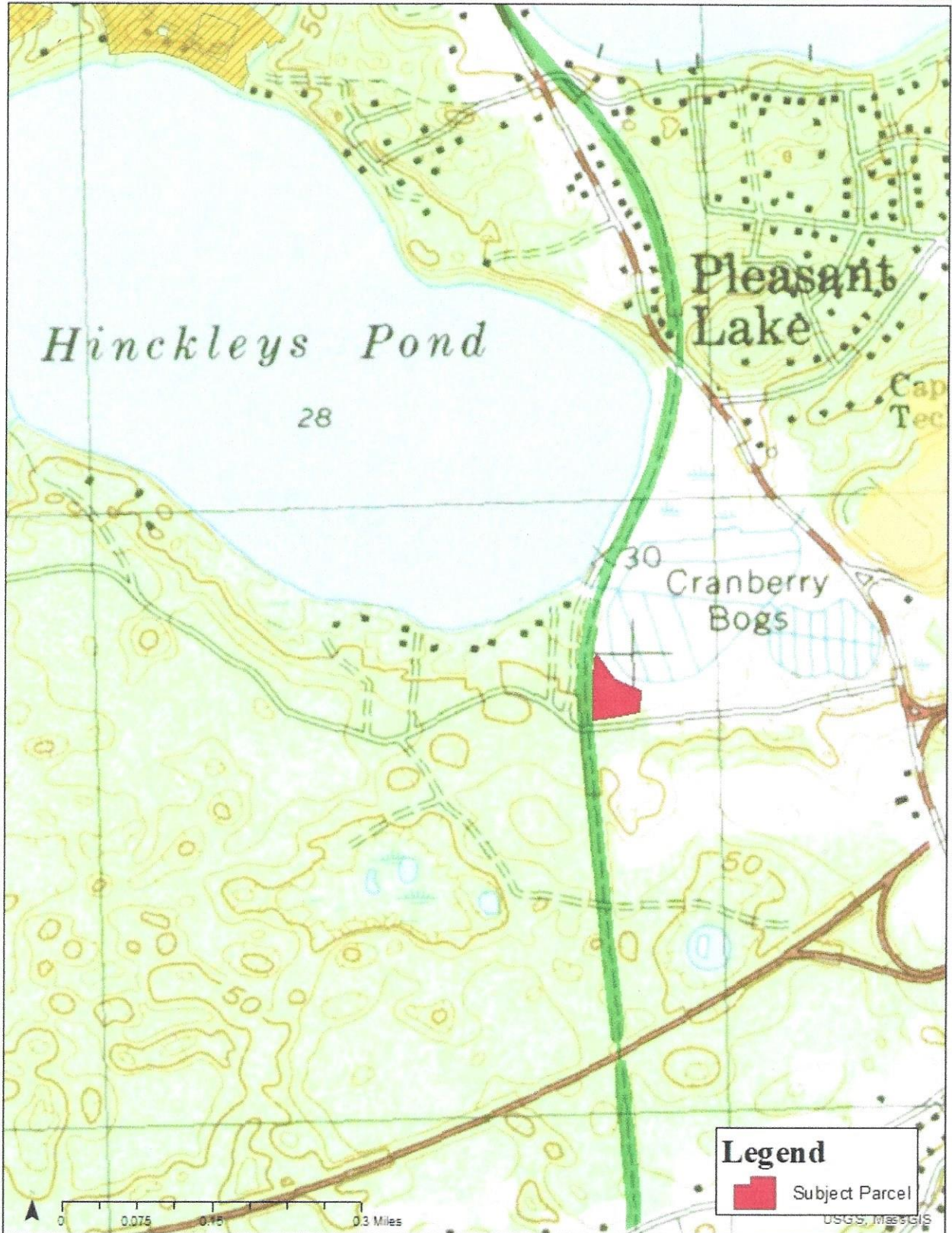
Should DCR decide to pursue this acquisition, it may be necessary to complete the transaction in less than the 120 day notice period otherwise required. We therefore ask that you agree to waive the 120-day notice period, and indicate your waiver by cutting and pasting the statement in the box below filled out appropriately in a reply email to me:


120 DAY WAIVER STATEMENT
DCR #P-000974, Town of Harwich

Pursuant 301 CMR 51.08(1)(b), I, Larry G. Ballantine, Chairman of the Harwich Board of Selectmen, on behalf of the Board, hereby agree to waive the 120 day notice period as required by said section as to a parcel of land of approximately 1.38 acres in the Town of Harwich, shown on Exhibit A attached hereto, in which the Department of Conservation and Recreation is considering acquiring an interest.

Should you have any questions regarding this matter, kindly contact Craig Cashman, Director of Government Affairs at Craig.R.Cashman@mass.gov. For your information, DCR has sent a similar notice to the Barnstable County Commissioners, Cape Cod Commission, Representative Julian Cyr, and Senator Sarah K. Peake. Thank you for your attention to this matter.

Arthur C. George, Assistant General Counsel
Office of the General Counsel
Commonwealth of Massachusetts
Department of Conservation and Recreation
251 Causeway Street, Suite 900
Boston, MA 02114
Hometel: 617- 640-5914
arthur.george@mass.gov



Legend
 Subject Parcel



Harwich, Massachusetts
02645

MEMO

TO: Joseph F. Powers, Town Administrator
FROM: Danielle Delaney, Executive Assistant – Licensing
CC: Board of Selectmen
RE: 2021 Annual Entertainment License Renewals
DATE: February 11, 2021

The licensee below was contacted via email to outline the times and location (inside or outside) of where they are requesting to have entertainment.

All information below was emailed directly to staff. Included below (in italics) is what the Board of Selectmen approved in 2020 along with what has already been approved this year.

400 East

Weekday: Wednesday, Friday, Saturday 5PM – 10PM outside

Recorded or Live Music

Sunday: 2PM – 6PM outside

2021

Weekday: 5PM – 12AM inside

2020

Weekday: 5PM – 1AM



APPLICATION FOR ENTERTAINMENT OFFICE OF THE SELECTMEN

732 MAIN STREET
HARWICH, MA 02645
508-430-7513

Weekday Entertainment (\$75) _____ 1 day
_____ Batters Box (\$50)

_____ Go Carts (\$50)

Annual

_____ Miniature Golf (\$50)

Seasonal _____

_____ Trampolines (\$25)

Opening Date _____

_____ Theater (\$150 per cinema)

Automatic Amusement:

_____ Juke Box (\$100 each)

_____ Video Games (\$100 each)

Other _____

Business Name 400 East Phone 508-432-1800

Business Address 1421 Orleans Rd, Harwich MA 02645

Mailing Address - same -

Owners Name & Address Gail Sluis

Email Address gail@the400east.com

Managers Name & Address Rich Hristov

TIMES AND DAYS OF WEEK FOR ENTERTAINMENT (Please note this application does not cover Sundays. You can obtain a Sunday license application at the Selectmen's Office):

Wed, Fri, Sat 5pm - 10pm

ENTERTAINMENT TYPE: (Check all appropriate boxes)

_____ Concert _____ Dance _____ Exhibition _____ Cabaret _____ Public Show _____ Other

_____ Dancing by Patrons

_____ Dancing by Entertainers or Performers

Recorded or Live Music

_____ Use of Amplification System

_____ Theatrical Exhibit, Play or Moving Picture Show

_____ A Floor Show of Any Description

_____ A Light Show of Any Description

_____ Any Other Dynamic Audio or Visual Show, Whether Live or Recorded

At any time during this concert, dance exhibition, cabaret or public show, will any person(s) be permitted to appear on the premises in any manner or attire as to expose to the public view any portion of the body as described in Mass. General Laws Chapter 140, Section 183A, Para. 3.

___ Yes

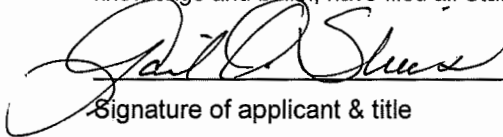
No

If Yes, answer questions 1 through 4 below. Attach a separate sheet and/or exhibits if necessary:

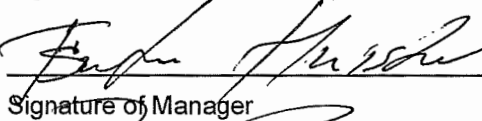
1. Describe in complete detail the extent of exposure during the performance and the nature of the entertainment: _____
2. Furnish additional information concerning the condition of the premises and how they are suitable for the proposed entertainment: _____
3. Fully describe the actions you will take to prevent any adverse effects on public safety, health, or order: _____
4. Identify whether and how you will regulate access by minors to the premises: _____

Days/Hours of Business Operation _____

Pursuant to MGL, Chapter 62C, Section 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all State tax returns, and have paid all State taxes under the law.

 PRES _____
 Signature of applicant & title Federal I.D. # _____

400 East _____
 Signature of individual or corporate name Federal I.D. # _____


 _____
 Signature of Manager Federal I.D. # _____

 _____
 Signature of Partner Federal I.D. # _____

REGULATORY COMPLIANCE FORM

The premises to be licensed as described herein have been inspected and found to be in compliance with applicable local codes & regulations, including zoning ordinances, health regulations & building & fire codes.

 Building Commissioner
 Board of Health
 Fire Department

 _____
 Police Department comments:

Required signatures to be obtained by the applicant prior to submission of new applications.



APPLICATION FOR SUNDAY ENTERTAINMENT

OFFICE OF THE SELECTMEN
732 MAIN STREET
HARWICH, MA 02645
508-430-7513

Music 1PM or After (Municipal Fee \$85/Std)
 Music prior to 1PM (Municipal Fee \$100/Std)

Go Carts (\$50) Annual _____
 Miniature Golf (\$50) Seasonal _____
 Trampolines (\$25) Opening Date _____
 Theater (\$150 per cinema)
 Automatic Amusement (\$100)
 Juke Box (\$100 each)
 Video Games (\$100 each) Other _____

Business Name 400 East Phone 508-432-1800

Business Address 1421 Orleans Rd, Harwich MA 02645

Mailing Address - same -

Owners Name & Address Gail Sluis

Email Address gail@the400east.com

Managers Name & Address Rich Hristov

TIMES OF ENTERTAINMENT (Please specify where music will be located on your property and what type of entertainment such as live, DJ, recorded)

Live music tented area on rt. 137 side

ENTERTAINMENT TYPE: (Check all appropriate boxes)

- Concert
- Dance
- Exhibition
- Cabaret
- Public Show
- Other
- Dancing by Patrons
- Dancing by Entertainers or Performers
- Recorded or Live Music
- Use of Amplification System
- Theatrical Exhibit, Play or Moving Picture Show
- A Floor Show of Any Description
- A Light Show of Any Description
- Any Other Dynamic Audio or Visual Show, Whether Live or Recorded

At any time during this concert, dance exhibition, cabaret or public show, will any person(s) be permitted to appear on the premises in any manner or attire as to expose to the public view any portion of the body as described in Mass. General Laws Chapter 140, Section 183A, Para. 3.

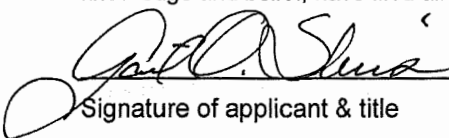
Yes No

If Yes, answer questions 1 through 4 below. Attach a separate sheet and/or exhibits if necessary:

1. Describe in complete detail the extent of exposure during the performance and the nature of the entertainment: _____
2. Furnish additional information concerning the condition of the premises and how they are suitable for the proposed entertainment: _____
3. Fully describe the actions you will take to prevent any adverse effects on public safety, health, or order: _____
4. Identify whether and how you will regulate access by minors to the premises: _____

Days/Hours of Business Operation _____

Pursuant to MGL, Chapter 62C, Section 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all State tax returns, and have paid all State taxes under the law.

 Pres. _____
 Signature of applicant & title Federal I.D. #

400 EAST _____
 Signature of individual or corporate name Federal I.D. #

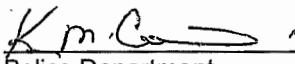
 _____
 Signature of Manager Federal I.D. #

 _____
 Signature of Partner Federal I.D. #

REGULATORY COMPLIANCE FORM

The premises to be licensed as described herein have been inspected and found to be in compliance with applicable local codes & regulations, including zoning ordinances, health regulations & building & fire codes.

 Building Commissioner  Board of Health  Fire Department

 _____
 Police Department comments:

Required signatures to be obtained by the applicant prior to submission of new applications.

OLD BUSINESS

OFFICE OF THE TOWN ADMINISTRATOR

Joseph F. Powers, *Town Administrator*

Phone (508) 430-7513

Fax (508) 432-5039

732 MAIN STREET, HARWICH, MA



February 8, 2021

Harwich Board of Selectmen
Town of Harwich
732 Main Street
Harwich, MA 02645

To the Honorable Members of the Board of Selectmen:

It is my honor to present to you for your review the comprehensive budget for all town functions as proposed for Fiscal Year 2022 in accordance with the requirements of the Harwich Charter as outlined in Chapter 9, Section 2, and subsection 9-2-4.

Additionally, in accordance with those provisions, I hereby offer my budget message for the ensuing Fiscal Year.

Despite the significant headwinds we continue to be buffeted by as we are still in the throes of the Coronavirus Disease 2019 (COVID-19) and the related effects on our local, regional, state and national economy, the message I wish to convey is one of **cautious optimism**.

Optimism because we are presently in the midst of the first phases of vaccination which offer hope that perhaps the worst of physical effects of COVID-19 may soon be behind us.

Cautious because we cannot yet envision what a post-COVID economy and society will reap or bear upon us in the coming months and perhaps years ahead.

The budget which I present to you accomplishes several objectives in synchronization with your budget message and goals for Fiscal Year 2022. Namely:

- You require a budget that is at most 2% higher than FY 2021. You will see that the **total departmental budgets** show a **percentage increase** from FY 2021 to FY 2022 of **0.6%**; and
- Further, your message mandated that "...the starting point will be to develop a level funded budget to provide some relief to Harwich's taxpayers." **More than a majority of departments came in at level-funding**. I will provide more information on level-funding during my presentation to you at your meeting.

Additionally, this comprehensive budget supports your objective of limiting the use of debt exclusions as outlined in your goal of financial leadership and stability. The corresponding documents regarding the Fiscal Year 2022 Capital Budget include only two items relying upon debt exclusions by Town Meeting and the voters at the Town Election.

I will provide greater detail on the comprehensive budget at your meeting in my formal presentation to the Board.

I would be remiss if I did not take this opportunity to thank my colleague, our Finance Director, Carol Coppola for her continued partnership and support in developing this budget.

I look forward to presenting this material to you and more importantly, to working with you in the days, weeks and months ahead as we strive towards our Annual Town Meeting in the spring for the benefit of our community.

Thank you for your time and consideration.

Respectfully submitted,



Joseph F. Powers
Town Administrator

Cc: Carol Coppola, Finance Director
Jon Chorey, Chair, Finance Committee
Richard Larios, Chair, Capital Outlay Committee
David Nixon, Chair, Community Preservation Committee

Town Administrator's Proposed Budget

Town of Harwich BUDGET 2022

Line #	SOURCES OF FUNDS	Budget FY 2021	Budget FY 2022	%
1	Tax Levy Limit (R/E & PP)	53,357,522	55,648,711	4.3%
2	Local Receipts	11,986,520	12,465,198	4.0%
3	<u>State Aid</u>			
4	Cherry Sheet	664,352	667,067	0.4%
5	Overlay Surplus	200,000	200,000	0.0%
6	<u>Transfers:</u>			
7	Total Transfers In from Other Sources:	2,713,239	2,184,137	-19.5%
8	TOTAL SOURCES	68,921,633	71,165,114	3.3%
9	USES OF FUNDS			
10	<u>Charges:</u>			
11	State-Cherry Sheet Charges (CCC & BC Tax)	764,539	778,830	1.9%
12	Overlay (Abatements- Taxes)	400,000	450,000	12.5%
13	<u>TOTAL CHARGES</u>	<u>1,123,358</u>	<u>1,228,830</u>	<u>9.4%</u>
14	<u>NET AVAILABLE Sources</u>	<u>67,798,275</u>	<u>69,936,284</u>	<u>3.2%</u>
15	Town Operating Budget	25,739,671	25,895,226	0.6%
16	<u>Semi-Fixed Cost</u>			
17	Barnstable County Retirement	3,144,894	3,242,673	3.1%
18	Debt Service	4,617,408	5,178,305	12.1%
19	Health Insurance	4,833,551	4,938,071	2.2%
20	OPEB	-	250,000	0.0%
21	Property & Liab. Insurance	874,470	897,726	2.7%
23	Unemployment	20,000	20,000	0.0%
24	Total Fixed Cost	13,490,322	14,526,775	7.7%
25	Cape Cod Tech HS	1,737,789	1,688,437	-2.8%
26	Monomoy Regional School District	26,820,046	27,825,543	3.7%
27	TOTAL USES	68,911,186	71,164,811	3.3%
29	NET SOURCES & USES	\$ 10,447	\$ 302	

REVISED BUDGET

BUDGET FY 2022 REVENUES	Actual FY2018	Actual FY2019	Actual FY2020	Budget FY2021	Town Meeting Budget FY2022	% Change
Real Estate & Personal Property Taxes	\$46,774,148	\$50,127,321	\$51,445,928	\$53,299,729	\$55,648,711	4.4%
Local Receipts:						
Excise Tax	2,372,767	2,407,537	2,294,565	1,925,000	2,025,000	5.2%
Hotel/Motel & Meals	1,098,022	1,124,753	1,350,894	671,000	915,000	36.4%
Ambulance	1,452,109	1,664,188	1,601,026	1,600,000	1,600,000	0.0%
Waste Disposal	3,110,693	3,372,701	3,209,426	3,002,500	3,102,500	3.3%
Beach, Recreation & Youth	413,637	435,548	425,634	330,000	362,500	9.8%
Harbors & Landings	929,773	806,754	1,173,879	1,024,500	1,059,500	3.4%
Golf Operations	1,856,221	1,895,899	1,518,934	1,585,000	1,585,000	0.0%
Other Local Receipts	2,231,851	3,016,935	2,618,408	1,848,520	1,815,698	-1.8%
Total Local Receipts	13,465,072	14,724,316	14,192,766	11,986,520	12,465,198	4.0%
State Aid:						
Cherry Sheet	705,430	676,162	1,792,161	664,352	667,067	0.4%
Other:						
Free Cash	305,244	378,038	639,034	353,943	833,591	135.5%
Stabilization Fund				574,171	-	0.0%
Overlay Surplus	100,000	100,000	200,000	200,000	200,000	0.0%
Harbor Capital Improvement - Wychmere	110,930	62,808	72,227	0	0	0.0%
Cable Fund (Comcast)	143,417	156,450	144,398	210,107	210,100	0.0%
Septic Loan	17,358	17,358	13,574	17,171	6,121	-64.4%
Water Enterprise Indirect Costs	650,178	732,843	720,295	730,290	727,304	-0.4%
Sewer Enterprise Indirect Costs					31,446	0.0%
FEMA	13,508	13,608	13,815	13,855	13,855	0.0%
Road Betterments	49,194	58,277	56,973	51,100	55,166	8.0%
Allan Harbor Betterments	185,550	182,250	29,325	98,508	0	0.0%
Golf Infrastructure Revitalization Fund		139,000	249,000	108,200	104,950	-3.0%
Golf Improvement Fund				100,000	0	0.0%
SAQ Mooring		101,188	136,888	50,000	0	0.0%
SAQ Waterways		136,888	101,188	50,000	0	0.0%
CPA Funds (Land Bank)	608,950	588,750	553,700	341,750	233,050	-31.8%
Dog License Fund				2,144	0	0.0%
Town Clerk State Aid		15,585		12,000	0	0.0%
Total Revenue	\$63,128,979	\$68,210,840	\$70,361,273	\$68,863,840	\$71,196,560	3.4%

TOWN OPERATION BUDGET 2022			Actual	Actual	Actual	Budget	Town Meeting		PCT
			FY2018	FY2019	FY2020	FY2021	Budget	Change	CHANGE
							FY2022		
52	BOARD OF APPEALS - EXP		594	15	124	735	735	-	0.0%
53	Sub-Total		594	15	124	735	735	-	0.0%
54	ALBRO HOUSE - EXP		3,148	2,928	2,177	6,355	6,355	-	0.0%
55	OLD RECR BUILDING - EXP		5,321	4,123	5,001	7,627	7,627	-	0.0%
56	W. HARWICH SCHOOL - EXP		408	404	365	1,424	1,424	-	0.0%
57	Sub-Total		8,876	7,455	7,543	15,405	15,405	-	0.0%
58	COMMUNITY DEVELOPMENT - S&W		218,879	225,761	211,842	242,945	235,150	(7,795)	-3.2%
59	COMMUNITY DEVELOPMENT - EXP		10,834	9,207	6,596	13,113	13,113	-	0.0%
60	Sub-Total		229,713	234,968	218,438	256,058	248,263	(7,795)	-3.0%
61	PUBLIC BUILDINGS REPAIRS		-	-	-	2,133	2,133	-	0.0%
62	TOWN/FIN COM REPORTS		7,658	7,766	5,961	10,000	10,000	-	0.0%
63	ADVERTISING		21,671	22,229	4,788	22,750	22,750	-	0.0%
64	POLICE - S&W		3,384,205	3,716,952	3,554,438	4,041,890	4,135,495	93,605	2.3%
65	POLICE - EXP		544,305	484,541	375,889	506,643	473,037	(33,606)	-6.6%
66	POLICE - CAP OUTLAY		121,482	131,100	85,811	60,000	-	(60,000)	0.0%
67	Sub-Total		4,049,992	4,332,593	4,016,139	4,608,533	4,608,533	(1)	0.0%
68	FIRE - S&W		3,353,682	3,872,857	3,744,052	4,129,052	4,209,768	80,716	2.0%
69	FIRE - EXP		394,875	362,291	356,867	406,192	551,329	145,137	35.7%
71	Sub-Total		3,748,556	4,235,148	4,100,920	4,535,244	4,761,097	225,852	5.0%
72	AMBULANCE - S&W		112,767	137,969	86,233	131,607	-	(131,607)	0.0%
73	EMS - EXP		136,314	118,467	122,332	124,095	-	(124,095)	0.0%
74	Sub-Total		249,081	256,436	208,565	255,702	-	(255,702)	0.0%
75	BUILDING - S&W		246,408	291,192	283,536	337,190	336,170	(1,020)	-0.3%
76	BUILDING - EXP		11,349	13,822	10,568	24,976	26,475	1,499	6.0%
77	Sub-Total		257,757	305,013	294,104	362,166	362,645	479	0.1%
78	EMERG. MGMT - S&W		2,444	1,032	2,300	5,355	5,355	-	0.0%
79	EMERG. MGMT - EXP		3,317	4,562	7,075	8,500	8,500	-	0.0%
80	Sub-Total		5,761	5,593	9,375	13,855	13,855	-	0.0%
81	NATURAL RESOURCES - S&W		96,343	102,223	110,546	113,631	114,714	1,083	1.0%
82	NATURAL RESOURCES - EXP		26,998	27,835	21,525	28,200	27,100	(1,100)	-3.9%
83	Sub-Total		123,341	130,058	132,071	141,831	141,814	(17)	0.0%
84	PLEASANT BAY ALLIANCE		17,343	20,160	23,760	23,760	23,760	-	0.0%
85	TOWN ENGINEER - S&W		174,256	131,618	115,709	114,549	114,549	-	0.0%
86	TOWN ENGINEER - EXP		9,831	22,695	28,677	80,310	30,310	(50,000)	-62.3%
87	Sub-Total		184,088	154,313	144,386	194,859	144,859	(50,000)	-25.7%
88	HIGHWAY - S&W		2,495,639	2,623,322	2,578,958	2,848,196	2,771,009	(77,186)	-2.7%
89	HIGHWAY - EXP		2,501,442	2,805,897	2,690,057	3,226,579	3,303,765	77,186	2.4%
90	Sub-Total		4,997,081	5,429,219	5,269,015	6,074,775	6,074,775	(0)	0.0%
91	SNOW/ICE - S&W		104,576	81,499	25,914	40,000	40,000	-	0.0%
92	SNOW/ICE - EXP		260,924	190,965	66,955	95,000	95,000	-	0.0%
93	Sub-Total		365,500	272,463	92,870	135,000	135,000	-	0.0%
94	STREET LIGHTS		31,372	22,731	30,356	35,000	31,000	(4,000)	-11.4%
95	INTERGOVERNMENTAL TRANS - WW			70,000	125,000	200,000	515,331	315,331	157.7%
96	COUNTY WW SUPPORT FUND				100,000	-	-	-	0.0%
97	CEMETERY ADMIN - S&W		63,203	65,070	70,040	71,434	71,434	-	0.0%
98	CEMETERY ADMIN - EXP		3,164	4,546	4,670	5,075	5,718	643	12.7%
99	Sub-Total		66,367	69,617	74,710	76,509	77,152	643	0.8%
100	BOARD OF HEALTH - S&W		139,795	163,782	183,249	203,881	193,196	(10,685)	-5.2%
101	BOARD OF HEALTH - EXP		16,209	13,241	8,331	16,390	12,560	(3,830)	-23.4%
102	Sub-Total		156,004	177,023	191,579	220,272	205,756	(14,515)	-6.6%

TOWN OPERATION BUDGET 2022		Actual	Actual	Actual	Budget	Town Meeting		PCT
		FY2018	FY2019	FY2020	FY2021	Budget	\$\$ Change	CHANGE
						FY2022		
103	COMMUNITY CENTER S&W	165,498	176,286	185,474	193,389	196,876	3,487	1.8%
104	COMMUNITY CENTER EXP	131,306	117,063	109,175	125,354	121,190	(4,164)	-3.3%
105	Sub-Total	296,804	293,349	294,649	318,743	318,066	(678)	-0.2%
106	COUNCIL ON AGING - S&W	370,042	352,597	361,824	396,169	393,012	(3,157)	-0.8%
107	COUNCIL ON AGING - EXP	63,690	63,932	55,274	79,232	82,326	3,094	3.9%
108	Sub-Total	433,732	416,529	417,099	475,401	475,338	(63)	0.0%
109	YOUTH COUNSELOR - S&W	81,511	85,203	93,443	96,255	95,905	(350)	-0.4%
110	YOUTH COUNSELOR - EXP	4,017	4,604	4,221	3,485	3,485	-	0.0%
111	Sub-Total	85,528	89,807	97,663	99,740	99,390	(350)	-0.4%
112	VETERANS EXPENSE/BENEFITS	99,997	97,461	133,899	128,058	144,277	16,219	12.7%
113	DISABILTY RIGHT - EXP	-	300	-	500	500	-	0.0%
114	HUMAN SERVICES	72,605	78,690	79,450	83,250	83,250	-	0.0%
115	LIBRARY - S&W	630,719	665,422	696,848	730,885	737,977	7,092	1.0%
116	LIBRARY - EXP	269,410	267,370	248,848	274,820	274,820	-	0.0%
117	Sub-Total	900,128	932,792	945,695	1,005,705	1,012,797	7,092	0.7%
118	RECREATION - SEASONAL - S&W	174,725	216,097	208,379	218,026	213,213	(4,813)	-2.2%
119	RECREATION - S&W	228,268	245,726	253,706	272,618	274,076	1,457	0.5%
120	RECREATION - EXP	41,735	46,281	52,966	45,575	45,575	-	0.0%
121	RECREATION - CAP OUTLAY	-	9,029	-	-	-	-	0.0%
122	Sub-Total	444,728	517,133	515,051	536,219	532,864	(3,356)	-0.6%
123	HARBORMASTER -S&W	289,490	311,293	324,299	343,404	342,729	(675)	-0.2%
124	HARBORMASTER - EXP	171,596	203,466	107,197	252,580	253,230	650	0.3%
125	Sub-Total	461,086	514,759	431,496	595,984	595,959	(25)	0.0%
126	BROOKS ACAD MUSEUM COMMISSION	10,754	9,440	7,842	12,894	12,894	-	0.0%
127	HISTORICAL COMMISSION	540	-	-	-	-	-	0.0%
128	HISTORICAL COMMISSION	-	198	-	350	350	-	0.0%
129	Sub-Total	540	198	-	350	350	-	0.0%
130	CELEBRATIONS	1,299	992	-	1,600	1,600	-	0.0%
131	GOLF - S&W	798,628	865,827	795,295	919,180	937,540	18,360	2.0%
132	GOLF - EXP	621,381	614,144	535,217	665,271	639,223	(26,048)	-3.9%
133	GOLF CAP OUTLAY	66,277	66,199	13,829	68,000	68,000	-	0.0%
134	Sub-Total	1,486,286	1,546,170	1,344,341	1,652,451	1,644,763	(7,688)	-0.5%
135	GOLF IMA MRSD	-	82,000	82,000	83,538	83,538	-	0.0%
136	ELECTRICITY - CVEC	66,254	68,140	71,705	73,900	75,750	1,850	2.5%
137	INTERFUND TRANSFERS	-	-	100,558	-	-	-	0.0%
138	Total Departmental Budgets	21,532,254	23,350,924	23,502,145	25,739,671	25,895,226	155,555	0.6%
139	Total Debt Service (Prin & Int)	2,494,459	4,710,046	4,920,069	4,617,408	5,178,305	560,897	12.1%
140	STATE ASSESSMENTS	261,135	269,883	285,138	300,901	308,390	7,489	2.5%
141	BARNS CTY RETIREMENT	2,681,194	2,763,836	3,024,763	3,144,894	3,242,673	97,779	3.1%
142	CAPE COD COMMISSION ASSESSMENT	217,944	223,393	234,056	240,570	246,584	6,014	2.5%
143	BARNSTABLE COUNTY ASSESSMENT	203,280	208,362	218,307	223,101	228,679	5,578	2.5%
144	UNEMPLOYMENT COMPENSATION	5,087	32,401	16,281	20,000	20,000	-	0.0%
145	GROUP HEALTH INSURANCE	4,296,270	4,514,731	4,551,199	4,833,551	4,938,071	104,520	2.2%
146	OPEB	100,000	125,000	150,000	-	250,000	250,000	100.0%
147	GENERAL INSURANCE	656,366	726,142	805,793	854,470	877,726	23,256	2.7%
148	GENERAL INSURANCE DEDUCTIBLE	4,603	7,018	3,696	20,000	20,000	-	0.0%
149	TOTAL TOWN	32,452,592	36,931,737	37,711,447	39,994,565	41,205,654	1,211,089	3.0%
150	OVERLAY (Abatements/Exemptions)	413,262	450,000	437,775	400,000	450,000	50,000	12.5%
151	C C REGIONAL TECH HIGH	1,487,362	1,581,236	2,317,475	1,737,789	1,688,437	(49,352)	-2.8%
152	MONOMOY REG. SCH. DISTRICT							
153	TOTAL MRSD ASSESSMENT	24,759,749	25,609,390	26,643,415	26,820,046	27,825,543	1,005,497	3.7%
154	TOTAL	59,112,965	64,572,363	67,110,112	68,952,400	71,169,634	2,217,234	3.2%

<u>TOWN OPERATION BUDGET 2022</u>	<u>Actual FY2018</u>	<u>Actual FY2019</u>	<u>Actual FY2020</u>	<u>Budget FY2021</u>	<u>Town Meeting Budget FY2022</u>	<u>\$\$ Change</u>	<u>PCT CHANGE</u>
Reconciliation to Article:							
Total from line 154					\$ 71,169,634		
Less:							
State & County Assessments					783,653		
Overlay					450,000		
Wastewater/Sewer					515,331		
Cape Cod Technical High School					1,688,437		
Monomoy Regional School District					27,825,543		
Total Reductions					<u>31,262,964</u>		
Article					<u>\$ 39,906,670</u>		

FISCAL YEAR 2022 CAPITAL OUTLAY PLAN - February 8, 2021

<u>Department</u>	<u>Project</u>	<u>Funding Source</u>	<u>BOS/CPC Approved</u>	<u>FY 2022</u>	<u>NOTES</u>
ADMINISTRATION					
Admin	Harwich Center ADA Sidewalk Project	FC	\$	50,000	
	Harwich Center ADA Sidewalk Pro. ADA/CDBG Grant (\$1 Million)	Grant			No activity underway to acquire grant
Admin	Walkway Design & Construction Rte 28 SAQ to Harwichport	FC	\$	200,000	Rescinded original allocation of \$250K for FY 2021 balance
Admin	Walkway Design & Construction Rte 28 Project - Supplemental Funding	Grant	\$	400,000	CCC TIP Project Eligible
Admin	Green/Fuel Efficient Fleet Replacement Schedule (Need Revisions)	Oper.Budget			Project to be eliminated (\$30,000)
Brooks Academy Museum Comm. (BAMC)	Brooks Academy Structural Improvements Project	CPC - HP4	\$	1,150,000	Revised amount per CPC
Real Estate & Open Space (REOS) Committee	Hinckleys Pond Watershed Preservation Project	CPC - OS8	\$	360,000	
Bikeways Committee	Bikeways crossing lights at Depot Road South project	CPC - R11	\$	15,000	
Bikeways Committee	Old Colony Rail Trail Harwich/Chatham Town Border marker project	CPC - R12	\$	1,000	
ADMIN SUB-TOTAL			\$ -	\$ 2,176,000	
AFFORDABLE HOUSING TRUST (AHT)					
AHT	AHT Funding for Housing and Part Time Coordinator (\$50K PT) [CH7]	CPC Housing	\$	50,000	
AHT SUB-TOTAL			\$ -	\$ 50,000	
CEMETERY					
Cemetery Department	East Harwich Methodist Cemetery Gravestone Project	CPC Historic	\$	112,000	Revised amount per CPC
Cemetery Department	Restoration of fence posts & rails at East Harwich Methodist Cemetery	CPC - HP2			Deferred by CPC; insufficient funds available (\$135,025)
Cemetery Department	Flag Poles project at Veterans Memorial Circle at Evergreen Cemetery	CPC - HP3	\$	48,385	Revised amount per CPC
Cemetery	Island Pond Arboretum Implementation of Master Plan (Construction)	Grant			COC voted 4-1 to move both items to FY '23
Cemetery	Island Pond Arboretum Master Plan (Study)	Grant			\$100k for construction; \$43k for master plan
Cemetery SUB-TOTAL			\$	160,385	
CHANNEL 18					
Channel 18	Production Studio: Cameras/Lighting	PEG Grant	\$	32,784	
Channel 18	Meeting Rooms (5 - various locations)	PEG Grant	\$	66,470	
Channel 18 SUB-TOTAL			\$	99,254	
COMMUNITY CENTER					
COMMUNITY CENTER SUB-TOTAL			\$	-	
CONSERVATION					
Conservation	Harwich Artificial Reef (Additional Project)	GRANT			Will seek grant when sufficient material is available (\$250K)
CONSERVATION SUB-TOTAL			\$ -	\$ -	
ENGINEERING					
Engineering	MS4 Municipal Surface Drainage Plan and Improvements [Per Permit]	FC	\$	200,000	
ENGINEERING SUB-TOTAL			\$	200,000	
Facility Main.-DPW					
Facility Main.-DPW	Brooks Library Roof	FC	\$	148,500	
Facility Main.-DPW	Implement Facilities Wide ADA Compliance Plan Improvements	FC			FY 23 \$11,605 - Priority #2
Facility Main.-DPW	Implement Facilities Wide ADA Compliance Plan Improvements (MOD Grant)	GRANT			Defer grant opportunity until \$350K
Facility Main.-DPW	5 Bells Neck Roof Repair	FC	\$	50,000	Administration working on RFP for lease or ATM sale
Facility Main.-DPW	Cultural Center Systems Generator	FC			FY 23 \$70k per Facilities Maintenance Manager
Facility Main.-DPW	Cultural Center - Boiler Replacement	FC			FY 23 \$160k per Facilities Maintenance Manager
Facility Main.-DPW	Remove and Replace Privacy Fence	FC			FY 23 \$55k per Facilities Maintenance Manager
FACILITY MAINTENANCE SUB-TOTAL			\$	198,500	

FISCAL YEAR 2022 CAPITAL OUTLAY PLAN - February 8, 2021

<u>Department</u>	<u>Project</u>	<u>Funding Source</u>	<u>BOS/CPC Approved</u>	<u>FY 2022</u>	<u>NOTES</u>
FIRE					
Fire	Phased Police and Fire Radio System	FC		\$ 223,204	Fire Dept pursuing FY 22 grant for \$450,000
Fire	Air Pack Replacement Program - (Town Funded Portion)				Full grant amount in FY'21 negates need
Fire	Staff Car				Question if presently needed
Fire	Pumper and Ladder Request converted to Pumper/Ladder called Quint	DE		\$ 1,138,000	Increased by \$138,000 due to delay in purchase
FIRE SUB-TOTAL				\$ 1,361,204	
GOLF					
Golf	Tree Work Front 9 (Final year of 6 Year Project)				
Golf	Design and Feasibility of 3 hole Practice and Putting Course				
Golf	Renovate Cart Path (Following Mungeam Plan) Hole 10 FY21 & Hole 1 FY 22				Golf Committee revising their capital plan and presently focusing on building up balances.
Golf	Various Mowing Equipment per Lease				
Golf	Improvements to Nets at Driving Range (Back FY 22 & Main FY 23)				
Golf	Golf Course Irrigation Update				
GOLF SUB-TOTAL				\$ -	
HARBORMASTER					
Harbormaster	Allen Harbor Jetty Reconstruction (Construction)				Voted 5-0 to push to FY '2024 (\$2M)
HARBORMASTER SUB-TOTAL					
LIBRARY					
Library	Library Interior Modifications/Renovations				Trustees voted to move to FY '24 (\$40,000)
LIBRARY SUB-TOTAL				\$ -	
NATURAL RESOURCES					
NATURAL RESOURCES SUB-TOTAL					
PLANNING					
PLANNING SUB-TOTAL					
POLICE					
Police	Digital Fingerprint Machine (Normal Replacement)	FC		\$ 18,000	Under \$50,000
POLICE SUB-TOTAL				\$ 18,000	
PUBLIC WORKS					
Public Works	5 Year Road Maintenance Plan (Traditionally funded by DE & Chapter 90)	DE		\$ 700,000	
	Harwich portion of State Gas Tax Allocation	Ch. 90		\$ 678,322	Matches Gov. Baker's apportionment for FY 2022
Public Works	Route 39/Pleasant Bay Road Roundabout (If Needed)				Voted 5-0 to remove from plan (\$600k)
Public Works	6 Wheel Dump Truck #7	FC		\$ 175,000	Deferred from FY 2021
Public Works	Ford E-250 Van #28	FC		\$ 35,000	Deferred from FY 2021
Public Works	Vehicle Listing (FY 22 to 27) Summary	FC		\$ 250,000	Volvo Loader \$200k and Ford F-150 (\$50k)
PUBLIC WORKS SUB-TOTAL				\$ 1,838,322	
RECREATION & YOUTH					
Recreation Department	Brooks Park Lighting Project, Phase 5, Part 2	CPC - R13		\$ 125,000	
Recreation Department	Sand Pond Revitalization Project, Phase 2	CPC - R14		\$ 83,500	
Recreation Department	Senior Memorial Field fencing project	CPC - R15		\$ 40,181	
Recreation Department	Whitehouse Field Lighting project, Phase 2	CPC - R16			Withdrawn; funded by Harwich Mariners (\$100K)
RECREATION AND YOUTH SUB-TOTAL				\$ 248,681	
TOWN CLERK					
TOWN CLERK SUB-TOTAL					

FISCAL YEAR 2022 CAPITAL OUTLAY PLAN - February 8, 2021

<u>Department</u>	<u>Project</u>	<u>Funding Source</u>	<u>BOS/CPC Approved</u>	<u>FY 2022</u>	<u>NOTES</u>
WASTEWATER					
Wastewater	DHY Community Partnership - CWMP Revisions				
Wastewater	DHY - CWMP Revisions Phase 3 Harwich Share of Treatment				Hold until at least FY 2023 - per BOS @ 1/26/21 mtg (\$1.5M)
Wastewater	DHY - CWMP Phase 1 Sewers (planning, engineering and legal costs)				Recommend holding until at least FY 2023 (\$1.5M)
Wastewater	CWMP Phase 2 Contract 3 Pleasant Bay South				Hold until at least FY '23; increase to \$10m per BOS 1/26/21
WASTEWATER SUB-TOTAL				\$ -	
WATER					
Water	Hydration stations for outdoor recreational facilities	CPC - R10	\$ -		Project withdrawn from CPC consideration
Water	Acquisition of parcels adjacent to town wellfields	Retained Earnings	\$ 175,000		Reimbursable via CCC DRI Mitigation Funds
Water	New Source Exploration (Planning 2021/Development 2023)	Retained Earnings	\$ 250,000		
Water	Route 28 Water Main Replacement Design [Construction FY 2023 (bond)]	Retained Earnings	\$ 500,000		Design increased from \$100,000 to \$500,000 per WS
Water	Station 8 Generator	Retained Earnings	\$ 50,000		
WATER SUB-TOTAL				\$ 975,000	
SUBTOTALS OF CAPITAL REQUESTS				\$ 7,325,346	
Non-Town/Private CPC Applications					
Community Development Partnership (CDP)	Lower Cape Community Housing Institute	CPC - CH5	\$ 7,500		
Cape & Islands Veterans Outreach Ctr	Veterans Home (to be located in Dennis, MA)	CPC - CH6	\$ 20,000		
Harwich Conservation Trust (HCT)	Harwich Natural Heritage Trail Project (Phase 1)	CPC - R9	\$ 150,000		
Other/Private	TOTAL CPC Requests		\$ 177,500		
GRAND TOTALS (Including Other/Private CPC Listed below)				\$ 7,502,846	

ANTICIPATED FUNDING SOURCES

	<u>Source</u>	<u>Amount</u>	<u>Present balances</u>
1 = Matches Gov. Baker's apportionment for FY 2022	Chapter 90 Funds	\$ 678,322	\$678,322
	Community Preservation Comm.	\$ 2,162,566	
	Debt Exclusions (proposed)	\$ 1,838,000	
4 = Certified for FY 2020	Free Cash	\$ 1,349,704	\$3,915,365
	Potential Grants	\$ 400,000	
6 = Reconciled as of 12/31/2020	Public Education & Gov't Grant	\$ 99,254	\$1,103,951
7 = Certified in FY 2020	Retained Earnings	\$ 975,000	\$1,429,733
		\$ 7,502,846	\$7,127,371

FULL CAPITAL OUTLAY PLAN FOR FISCAL YEARS 2022 THROUGH 2026

Department	Project	Funding Source	BOS/CPC Approved	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	NOTES
ADMINISTRATION									
Admin	Harwich Center ADA Sidewalk Project	FC		\$ 50,000					
Admin	Harwich Center ADA Sidewalk Pro. ADA/CDBG Grant (\$1 Million)	Grant			\$ 1,000,000				No activity underway to acquire grant
Admin	Walkway Design & Construction Rte 28 SAQ to Harwichport	FC		\$ 200,000					Rescinded original allocation of \$250K for FY 2021 balance
Admin	Walkway Design & Construction Rte 28 Project - Supplemental Funding	Grant		\$ 400,000					CCC TIP Project Eligible
Admin	Green/Fuel Efficient Fleet Replacement Schedule (Need Revisions)				\$ 30,000	\$ 32,000	\$ 35,000	\$ 35,000	\$30,000 eliminated in FY'22
Admin	Walkway Reconstruction Bank Street Harwich Center to Rte 28				\$ 450,000				
Brooks Academy Museum Comm. (BAMC)	Brooks Academy Structural Improvements Project	CPC - HP4		\$ 1,150,000					Revised amount per CPC
Real Estate & Open Space (REOS) Committee	Hinckleys Pond Watershed Preservation Project	CPC - OS8		\$ 360,000					
Bikeways Committee	Bikeways crossing lights at Depot Road South project	CPC - R11		\$ 15,000					
Bikeways Committee	Old Colony Rail Trail Harwich/Chatham Town Border marker project	CPC - R12		\$ 1,000					
ADMIN SUB-TOTAL				\$ -	\$ 2,176,000	\$ 1,480,000	\$ 32,000	\$ 35,000	\$ 35,000
AFFORDABLE HOUSING TRUST (AHT)									
AHT	AHT Funding for Housing and Part Time Coordinator (\$50K PT) [CH7]	CPC Housing		\$ 50,000					
AHT SUB-TOTAL				\$ -	\$ 50,000				
CEMETERY									
Cemetery Department	East Harwich Methodist Cemetery Gravestone Project	CPC Historic		\$ 112,000					Revised amount per CPC
Cemetery Department	Restoration of fence posts & rails at East Harwich Methodist Cemetery	CPC - HP2							Deferred by CPC; insufficient funds available (\$135,025)
Cemetery Department	Flag Poles project at Veterans Memorial Circle at Evergreen Cemetery	CPC - HP3		\$ 48,385					Revised amount per CPC
Cemetery	Island Pond Arboretum Implementation of Master Plan (Construction)	Grant				\$ 43,000	\$ 100,000		COC voted 4-1 to move both items to FY '23
Cemetery	Island Pond Arboretum Master Plan (Study)	Grant							\$100k for construction; \$43k for master plan
Cemetery SUB-TOTAL				\$ 160,385	\$ 43,000	\$ -	\$ 100,000	\$ -	
CHANNEL 18									
Channel 18	Main Control (playback, servers)							\$ 17,650	
Channel 18	Field Production Equipment					\$ 4,388		\$ 4,388	
Channel 18	Edit Computers							\$ 2,859	
Channel 18	Production Studio: Cameras/Lighting	PEG Grant		\$ 32,784					
Channel 18	Meeting Rooms (5 - various locations)	PEG Grant		\$ 66,470	\$ 66,470		\$ 47,863		
Channel 18 SUB-TOTAL				\$ 99,254	\$ 66,470	\$ 4,388	\$ 47,863	\$ 24,897	
COMMUNITY CENTER									
COMMUNITY CENTER SUB-TOTAL				\$ -	\$ -	\$ -	\$ -	\$ -	
CONSERVATION									
Conservation	Harwich Artificial Reef (Additional Project)	GRANT							Will seek grant when sufficient material is available (\$250K)
CONSERVATION SUB-TOTAL				\$ -	\$ -	\$ -	\$ -	\$ -	
ENGINEERING									
Engineering	MS4 Municipal Surface Drainage Plan and Improvements [Per Permit]	FC		\$ 200,000	\$ 100,000	\$ 40,000	\$ 40,000	\$ 100,000	
ENGINEERING SUB-TOTAL				\$ 200,000	\$ 100,000	\$ 40,000	\$ 40,000	\$ 100,000	
FACILITY MAINTENANCE									
Facility Main.-DPW	Brooks Library Roof	FC		\$ 148,500					
Facility Main.-DPW	Implement Facilities Wide ADA Compliance Plan Improvements	FC			\$ 86,840				Deferred to FY'23 (\$11,605) as Priority 2 requirements
Facility Main.-DPW	Implement Facilities Wide ADA Compliance Plan Improvements (MOD Grant)	GRANT			\$ 350,000				Deferred until Town can secure grant funding
Facility Main.-DPW	5 Bells Neck Roof Repair			\$ 50,000					Increased to \$50k per TA; seeking sale proposals in Spring '21
Facility Main.-DPW	Cultural Center Systems Generator				\$ 70,000				Deferred to FY'23 pending discussion later in 2021 on reuse
Facility Main.-DPW	Cultural Center - Boiler Replacement				\$ 160,000				Deferred to FY'23 pending discussion later in 2021 on reuse
Facility Main.-DPW	Remove and Replace Privacy Fence	FC			\$ 55,000				Deferred to FY'23
Facility Main.-DPW	Cultural Center - Window Replacement Sash Windows that Failed						\$ 200,000	\$ 200,000	
Facility Main.-DPW	Community Center Roof Replacement					\$ 240,000	\$ -	\$ -	
Facility Main.-DPW	Community Center Boiler Replacement						\$ 120,000	\$ -	
Facility Main.-DPW	Community Center Systems Generator						\$ 115,000	\$ -	
Facility Main.-DPW	DPW Facilities and Mechanic Shop							\$ 1,200,000	
FACILITY MAINTENANCE SUB-TOTAL				\$ 198,500	\$ 721,840	\$ 240,000	\$ 435,000	\$ 1,400,000	

FULL CAPITAL OUTLAY PLAN FOR FISCAL YEARS 2022 THROUGH 2026

Department	Project	Funding Source	BOS/CPC Approved	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	NOTES
FIRE									
Fire	Phased Police and Fire Radio System	FC		\$ 223,204					Fire Dept pursuing FY 22 grant for \$450,000
Fire	Air Pack Replacement Program - (Town Funded Portion)	FC							Full grant amount in FY'21 negates need
Fire	Ambulance Replacement Program				\$ 386,636	\$ 405,969	\$ -		
Fire	Air Pack Replacement Program - (Town Funded Portion)				\$ -				
Fire	Air Pack Replacement Program - (Federal/State Grant Funded Portion)								
Fire	Staff Car								
Fire	Pumper and Ladder Request converted to Pumper/Ladder called Quint	DE		\$ 1,138,000					Increased by \$138,000 due to delay in purchase
FIRE SUB-TOTAL				\$ 1,361,204	\$ 386,636	\$ 405,969	\$ -	\$ -	
GOLF									
Golf	Tree Work Front 9 (Final year of 6 Year Project)								
Golf	Design and Feasibility of 3 hole Practice and Putting Course								
Golf	Renovate Cart Path (Following Mungeam Plan) Hole 10 FY21 & Hole 1 FY 22								
Golf	Various Mowing Equipment per Lease				\$ 87,050	\$ 87,050	\$ 87,050		Golf Committee revising their capital plan and presently focusing on building up balances.
Golf	Improvements to Nets at Driving Range (Back FY 22 & Main FY 23)				\$ 34,800				
Golf	New Tee Box Improvements - Mungeam Plan (Two Year Project)				\$ -		\$ 149,000	\$ 149,000	
Golf	Golf Course Irrigation Update				\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	
GOLF SUB-TOTAL				\$ -	\$ 196,850	\$ 162,050	\$ 311,050	\$ 224,000	
HARBORMASTER									
Harbormaster	Allen Harbor Jetty Reconstruction (Construction)						\$ 2,000,000		Voted 3-2 to push to FY '2025 (\$2M)
Harbormaster	Round Cove Bulkhead Replacement (Study, Design and Construction)				\$ 42,000	\$ 42,000			
Harbormaster	Herring River Ramp Replacement (Study, Design and Construction)					\$ 21,000	\$ 210,000		
Harbormaster	SAQ Harbor North & East Bulkhead (Offloading Area) Reconstruction						\$ 157,500		
Harbormaster	Harbormaster Truck Replacement						\$ 42,000		
HARBORMASTER SUB-TOTAL				\$ -	\$ 42,000	\$ 63,000	\$ 2,409,500	\$ -	
LIBRARY									
Library	Library Interior Modifications/Renovations					\$ 40,000	\$ 150,000		Trustees voted to move to FY '24 (\$40,000)
LIBRARY SUB-TOTAL				\$ -	\$ -	\$ 40,000	\$ 150,000	\$ -	
NATURAL RESOURCES									
PLANNING									
PLANNING SUB-TOTAL									
POLICE									
Police	Digital Fingerprint Machine (Normal Replacement)	FC		\$ 18,000					Under \$50,000
Police	Taser Replacement (5 year Program - 3 of 3 years to Pay)				\$ -	\$ 37,000	\$ 15,000	\$ 15,000	
Police	Replacement of Bullet Resistant Vests (Town Portion (Project 60%))				\$ 24,000	\$ -	\$ -	\$ -	
Police	Replacement of Bullet Resistant Vests (Federal 40% State ? Has been 40%)				\$ 16,000	\$ -	\$ -	\$ -	
Police	Ballistic Helmets				\$ -	\$ -	\$ -	\$ 20,000	
Police	Electronic Sign Board					\$ 24,000			
POLICE SUB-TOTAL				\$ 18,000	\$ 40,000	\$ 61,000	\$ 15,000	\$ 35,000	
PUBLIC WORKS									
Public Works	5 Year Road Maintenance Plan (Traditionally funded by DE & Chapter 90)	DE		\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000	
	Harwich portion of State Gas Tax Allocation	Ch. 90		\$ 678,322	\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000	Matches Gov. Baker's apportionment for FY 2022
Public Works	Route 39/Pleasant Bay Road Roundabout (If Needed)								Voted 5-0 to remove from plan (\$600k)
Public Works	West Harwich Route 28 Design(\$125K in FY 20 & Construction via Fed Funds)					\$ 50,000			Design questions for FY 2023
Public Works	West Harwich Route 28 Design(Construction via Fed Funds)					\$ 5,600,000			
Public Works	6 Wheel Dump Truck #7	FC		\$ 175,000					Deferred from FY 2021
Public Works	Ford E-250 Van #28	FC		\$ 35,000					Deferred from FY 2021
Public Works	Volvo	FC		\$ 200,000					
Public Works	Ford F-150 Pick Up	FC		\$ 50,000					
Public Works	Vehicle Listing (FY 22 to 26) Summary				\$ 320,000	\$ 315,000	\$ 320,000	\$ 355,000	Volvo Loader \$200k and Ford F-150 (\$50k)
PUBLIC WORKS SUB-TOTAL				\$ 1,838,322	\$ 1,720,000	\$ 7,365,000	\$ 1,720,000	\$ 1,755,000	
RECREATION & YOUTH									
Recreation Department	Brooks Park Lighting Project, Phase 5, Part 2	CPC - R13		\$ 125,000					
Recreation Department	Sand Pond Revitalization Project, Phase 2	CPC - R14		\$ 83,500					
Recreation Department	Senior Memorial Field fencing project	CPC - R15		\$ 40,181					
Recreation Department	Whitehouse Field Lighting project, Phase 2	CPC - R16							
Recreation Department	Cahoon Road Beach Restroom					\$ 125,000			Withdrawn; funded by Harwich Mariners (\$100K)
RECREATION AND YOUTH SUB-TOTAL				\$ 248,681	\$ -	\$ 125,000	\$ -	\$ -	
TOWN CLERK									
Town Clerk	Voting Machines - Updates & Enhancements			\$ -	\$ 32,500				
TOWN CLERK SUB-TOTAL				\$ -	\$ 32,500	\$ -	\$ -	\$ -	

FULL CAPITAL OUTLAY PLAN FOR FISCAL YEARS 2022 THROUGH 2026

<u>Department</u>	<u>Project</u>	<u>Funding Source</u>	<u>BOS/CPC Approved</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>NOTES</u>
WASTEWATER									
Wastewater	Evaluate Phosphorus issues in Seymour Pond & Restoration				\$ 75,000		\$ 350,000		
Wastewater	DHY Community Partnership - CWMP Revisions								
Wastewater	DHY - CWMP Revisions Phase 3 Harwich Share of Treatment				\$ 17,400,000				Hold until at least FY 2023 - per BOS @ 1/26/21 mtg (\$1.5M)
Wastewater	DHY - CWMP Phase 1 Sewers (planning, engineering and legal costs)					\$ 11,200,000			Recommend holding until at least FY 2023 (\$1.5M)
Wastewater	CWMP Phase 2 Contract 3 Pleasant Bay South								Hold until at least FY '23; increase to \$10m per BOS 1/26/21
WASTEWATER SUB-TOTAL				\$ -	\$ 17,475,000	\$ 11,200,000	\$ 350,000	\$ -	
WATER									
Water	Hydration stations for outdoor recreational facilities	CPC - R10	\$ -						Project withdrawn from CPC consideration
Water	Acquisition of parcels adjacent to town wellfields	Retained Earnings		\$ 175,000					Reimbursable via CCC DRI Mitigation Funds
Water	New Source Exploration (Planning 2021/Development 2023)	Retained Earnings		\$ 250,000					
Water	Route 28 Water Main Replacement Design [Construction FY 2023 (bond)]	Retained Earnings		\$ 500,000	\$ 7,500,000				Design increased from \$100,000 to \$500,000 per WS
Water	Station 8 Generator	Retained Earnings		\$ 50,000					
WATER SUB-TOTAL				\$ 975,000	\$ 7,500,000	\$ -	\$ -	\$ -	
TOTALS OF CAPITAL REQUESTS				\$ 7,325,346	\$ 29,729,796	\$ 19,675,407	\$ 3,203,913	\$ 3,573,897	

Budget/Warrant Timeline for 2021 Annual Town Meeting (FY 2022)

DATE	DELIVERABLE	GOVERNANCE	TARGET DATE
Monday, October 5, 2020	BOS issues general policy statement on FY '22 budget development (on or before)	Charter, §9-2-2	Monday, October 5, 2020
Thursday, October 1, 2020	ITA presents current financial assessment (on or before)	Charter, §9-2-1	Monday, October 5, 2020
Monday, October 26, 2020	Joint meeting with Cape Cod Tech, Capital Outlay Committee, Finance Committee, Monomoy Regional School District and Board of Selectmen		Monday, October 26, 2020
Tuesday, October 27, 2020	Capital Outlay Committee presents capital plan to ITA		Tuesday, October 27, 2020
Tuesday, October 27, 2020	ITA presents operating budget development instructions to department heads		Tuesday, October 27, 2020
Friday, October 30, 2020	Community Preservation Act (CPA) project applications due by 4:00pm	CPC Policy	Friday, October 30, 2020
Monday, November 2, 2020	Board of Selectmen reviews capital outlay plan and sets priorities		Monday, November 2, 2020
Thursday, December 3, 2020	Finance Committee publishes notice of hearing on capital outlay plan in newspaper	Charter, §9-7-1	Thursday, December 3, 2020
Friday, December 4, 2020	Department heads submit budget requests to ITA (on or before)	Charter, §9-2-3	Friday, December 4, 2020
Friday, December 4, 2020	Department heads submit article requests to ITA (on or before)		Friday, December 4, 2020
Wednesday, December 30, 2020	Supplemental documents for CPA project applications due by 4:00pm	CPC Policy	Wednesday, December 30, 2020
Monday, December 14, 2020	ITA and Capital Outlay Committee present plan to joint BOS/FinCom meeting	Charter, §9-6-3	Thursday, December 31, 2020
Monday, January 11, 2021	Presentation of draft Monomoy Regional School District budget		Monday, January 25, 2021
Monday, January 11, 2021	Presentation of draft Cape Cod Regional Technical High School budget		Monday, February 1, 2021
Tuesday, January 19, 2021	Final review of Capital Outlay Budget for FY 2022 and Plan through FY 2028		Tuesday, January 19, 2021
Friday, January 29, 2021	Bid specifications for related articles must be submitted to Administration by 12:00pm		Friday, January 29, 2021
Monday, February 8, 2021	ITA submits comprehensive budget and budget message to BOS (on or before)	Charter, §9-2-4	Monday, February 8, 2021

Budget/Warrant Timeline for 2021 Annual Town Meeting (FY 2022)

Friday, February 12, 2021	Final form of articles submitted to Board of Selectmen no later than noon on date shown	Code, § 271-1A	Friday, February 12, 2021
Monday, February 22, 2021	BOS shall submit budget to the Finance Committee	Charter, §9-3-2	Monday, February 22, 2021
Friday, February 26, 2021	Board of Selectmen submits articles to Finance Committee not later than 14 days after deadline for submission	Code, § 271-1B	Friday, February 26, 2021
Friday, February 26, 2021	Board of Selectmen submits articles proposing changes to bylaws or charter to Bylaw/Charter Review Committee not later than 14 days after deadline for submission	Code, § 271-1B	Friday, February 26, 2021
Saturday, February 27, 2021	Joint hearing between Board of Selectmen & Finance Committee on budget	Charter, §9-3-3	Saturday, February 27, 2021
Monday, March 8, 2021	Monomoy Regional School District to submit final line item budget to BOS/FinCom		Friday, March 12, 2021
Monday, March 15, 2021	Board of Selectmen votes to establish Special Town Meeting on 5/3/2021 (if necessary)		Monday, March 15, 2021
Monday, March 22, 2021	Board of Selectmen to close and sign Warrant for Special Town Meeting (if necessary)		Monday, March 22, 2021
Monday, March 29, 2021	Board of Selectmen to close and sign Warrants for Town Meeting and Town Election		Monday, March 29, 2021
Monday, March 22, 2021	Finance Committee submits written recommendations on budget/articles	Charter, §9-3-3	Wednesday, March 31, 2021
Tuesday, March 30, 2021	Send warrants to Cape Cod Chronicle and printer		Tuesday, March 30, 2021
Monday, April 19, 2021	Publish warrant in newspaper and every precinct (no later than 14 days before ATM)	Charter, §2-2-1	Thursday, April 15, 2021
Monday, May 3, 2021	2021 Annual Town Meeting (Fiscal Year 2022)	Charter, §2-3-1	

Annual Town Meeting – Monday, May 3, 2021

Annual Town Election – Tuesday, May 18, 2021


Special Town Meeting – Monday, May 3, 2021 (if necessary)

= Further discussion needed



Memo

To: Board of Selectmen
Joseph F. Powers, Town Administrator

From: Meggan Eldredge, Assistant Town Administrator 

RE: Proposed Reorganization Plan for the Planning Department and Community Development Organizational Structure

Date: February 16, 2021

Attached for your consideration is a draft job description for the Director of Planning and Community Development. This job description has been shared with the respective collective bargaining unit and is currently under review.

The job description includes oversight of the Community Development Department by the Town Planner. The Town Planner is also proposed to act as the primary advocate for the community development organizational structure to develop technical solutions to shared problems.

Thank you for your consideration on this matter.

DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

DEFINITION

The Director of Planning and Community Development serving as the Town Planner performs technical and administrative work evaluating information, preparing reports, managing the operations of the Planning Department and oversight of the Community Development organizational structure, and assisting the Planning Board with making land use related decisions; other related work, as required.

ESSENTIAL DUTIES AND RESPONSIBILITIES

The essential functions or duties listed below are illustrations of the type of work performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

Provides information and assistance to the general public regarding planning matters; provides assistance to the Planning Board, as requested; provides assistance to town boards, such as Real Estate and Open Space and Harwich Center Initiative.

Works with the Planning Board to maintain the comprehensive plan and updates plan; helps facilitate and promote implementation of the Local Comprehensive Plan; in conjunction with the Planning Board and other town boards, develops new zoning bylaws and amendments to the zoning bylaw and regulations.

Coordinates department activities with other departments as needed. Acts as the primary advocate for the various departments within the community development organizational structure and works with departments to develop technical solutions to shared problems

Works with local and regional planning agencies to undertake studies to better understand local and regional trends and develop approaches to addressing local and regional concerns; works with the regional planning agency on the review of Developments of Regional Impact.

Represents the town on regional committees; provides assistance to the Zoning Board of Appeals; reviews applications, discusses applications with applicants, and prepares staff reports for the Planning Board; conducts site work to review areas of proposed development.

Performs special projects as directed by the Town Administrator and/or the Assistant Town Administrator

Prepare maps using the GIS system; works with town departments to develop methods to streamline the permit process and share information.

Performs similar or related work as required, or as situation dictates.

SUPERVISION

Works under the administrative direction of the Town Administrator and/or Assistant Town

Administrator; the employee functions independently, consulting with the Planning Board and the Town Administrator when clarification or interpretation of policies or procedures is required.

SUPERVISORY RESPONSIBILITIES

Supervises one employee.

WORK ENVIRONMENT

Work is generally performed in office conditions; some field work is required to perform inspections; the employee is required to attend frequent evening meetings.

The employee operates standard office equipment.

The employee has regular contact with town departments, such as, Building, Engineering, Conservation, Health, and Assessors, as well as state, regional and local agencies; also has frequent contact with the general public and applicants.

The employee has access to department-related legal proceedings.

Errors could result in monetary loss or legal repercussions.

RECOMMENDED MINIMUM QUALIFICATIONS

EDUCATION AND EXPERIENCE

Bachelor's Degree required, Master's Degree in planning preferred; five years of professional planning experience, preferably in local or regional government; or an equivalent combination of education and experience.

KNOWLEDGE, ABILITY, SKILL

Knowledge of Massachusetts zoning law and local zoning practices; knowledge of planning and environmental issues; working knowledge of GIS.

Ability to work independently, conduct independent research and analyze and interpret results; ability to read plans, prepare reports and formulate recommendations; ability to draft bylaw amendments and regulations; ability to establish and maintain effective working relationships with local officials and the general public.

Ability to read and interpret engineering and survey plans (site, subdivision and building.)

Written and oral communication skills; oral presentation skills; planning and organizational skills.

Experience implementing and/or evaluating technology solutions pertaining to planning as well as community development applications including but not limited electronic permitting and/or workflow management software systems.

PHYSICAL REQUIREMENTS

Minimal physical effort is generally required to perform administrative duties; moderate physical effort is required to perform field work. The employee is frequently required to speak and hear and use hands to operate equipment. Vision requirements include the ability to read routine and complex documents, use a computer and operate a motor vehicle.

This job description does not constitute an employment agreement between the employer and employee, and is subject to change by the employer, as the needs of the employer and requirements of the job change.

PROPOSED

CONTRACTS

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Interim Town Administrator*

732 MAIN STREET, HARWICH, MA



MEMO

TO: Board of Selectmen

FROM: Joseph F. Powers, Interim Town Administrator

CC: Megan Eldredge, Assistant Town Administrator
Griffin Ryder, Town Engineer (Procurement)

RE: Contract with GHD for the procurement of Town-Wide SewerCAD Modeling Services (\$150,000.00)

DATE: February 12, 2021

This memorandum corresponds to *Contracts Agenda Item A. Discussion and possible vote for the Board of Selectmen to execute contract with GHD for Town-wide Sewer Modeling for \$150,000.00.*

As you will see from the attached materials, this item is the procurement of Engineering Services which is exempt from MGL, c.30B per MGL 30B § 1(b)(32A).

I recommend the Board's approval and execution of this contract.

PROCUREMENT CHECKLIST & APPROVAL FORM

STAFF LEAD: Pelletier/Ryder **DEPARTMENT:** Water/Engineering

FUNDING SOURCE: 2007 ATM Article 17, FY21 Sewer Operating Budget

Appropriated amount: _____ **Estimated cost:** _____ **Actual cost:** _____
\$150,000.00

PROCUREMENT METHOD:

Engineering Services

PURCHASE DESCRIPTION:

Purchase descriptions should contain the following components (see document on purchase descriptions):
Description of supplies or services required; quantities required; schedule for performance and delivery terms.

See attached scope of services that was developed collaboratively with the Water & Wastewater Superintendent, Town Engineer and the vendor.

PROCUREMENT MAY PROCEED ONLY IF SIGNATURES PROVIDED BELOW

Funds Available: Finance Director: Carol Coppola Account # 04440A8/607017
13304402/530820 \$98,992 & \$51,008

Approved to proceed: Town Administrator or Designee: Joseph F. Powers

This is **EXHIBIT A**, consisting of three pages, referred to in and part of the **Agreement between Town of Harwich and GHD for Professional Services** dated February 2021.

GHD's Services

GHD shall provide Basic Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Specific Project Data

Title: TOWN-WIDE SEWER MODELING OF TOWN OF HARWICH

Description: To develop a SewerCAD model for the proposed and existing sewers within the Town of Harwich (Town). The following tasks outline what is required to develop a SewerCAD Model of the existing sewers recently installed and the future sewer systems proposed as part of the Town's CWMP. Exhibit C identifies areas where the sewer model will be developed. Only shaded areas will be included in the sewer model. Non-shaded (white) parcels will not be included in the sewer model development.

The following scope of services identifies the tasks as part of this Agreement:

Task 1. Internal Chartering. Meet internally with project team members. Develop critical success factors, review past relevant information, develop proposed project schedule, and prepare for Town kick-off meeting.

Task 2. Town Kick Off Meeting. Meet with the Town and discuss the schedule, goals, milestones, and deliverables of the project. Specific modeling-related items that will be discussed at the kick-off meeting will include location of proposed pump stations, design requirements, and development of order-of-magnitude costs for new sewers.

Submittals include: Meeting Minutes.

Task 3. Flow Development. Develop a "per parcel" flow based on water use data provided by the TOWN. GHD will utilize up to the past five (5) years of water use information to develop "per parcel" flows. Flow anomalies will be reviewed on a parcel-by-parcel basis. Actual water use will be used to develop flows per parcel for buildout conditions for applicable residential, commercial, and industrial flow.

Task 4. Drawing Conversion. Develop GIS database that shall be used to import model information based on record drawing information. The database will be imported into the sewer model to populate required information for model completion. GHD will provide developed shapefiles of the existing sewer systems to the Town's Water and Sewer Department for use on the Town's GIS platform.

Task 5. Model Development – Existing System. Develop a sewer model for the existing sewer areas in the Town of Harwich. Modeling software used will be SewerCAD by Bentley. Model input shall be from record drawing information provided by the Town.

The Following Tasks apply only to the proposed sewer areas shown in Exhibit C:

Task 6. Model Development – Proposed System. Develop a sewer model for the proposed sewer areas in Exhibit C using the pump station and design information developed in Tasks 1 and 2 along with water use data from Task 3. Modeling software used will be SewerCAD by Bentley.

Model will focus on maximizing gravity sewers where feasible to a depth of no more than 20-feet below grade. Pump station sites will identify the type of station that may be used at each site based on design parameters

including either submersible, suction lift, or wet pit/dry pit style stations. Pipe sizing, slope, and system design will follow the guidelines of TR-16.

Incorporate previous model that was developed for the four (4) DHY areas—north, central, southeast, and southwest.

Task 7. Draft Cost Estimate. Prepare a draft cost estimate. Cost estimate to include:

- Unit price items at the discretion of GHD, similar to previously provided cost estimates for the four (4) DHY areas.
- 30% contingency and 30% fiscal/engineering/legal placeholder.
- Project estimates for future years based on a percent inflation rate as determined by GHD and the Town.

Task 8. Final Cost Estimate. Prepare a final cost estimate based on written comments from Town. Cost estimate to include:

- Unit price items at the discretion of GHD, similar to previously provided cost estimates for the four (4) DHY areas.
- 30% contingency and 30% fiscal/engineering/legal placeholder.
- Project estimates for future years based on a percent inflation rate as determined by GHD and the Town.

Task 9. Draft Memorandum. Prepare a draft memorandum of findings based on feedback from the above tasks. Memorandum to include:

- Summary of Design Criteria.
- Figure of proposed sewer layout showing limits of gravity mains, low pressure mains, and pump station sites. Manholes to be color-coded based on depth of sewers.
- Quantities of gravity and low pressure sewers based on linear foot.

Submittals include: Draft Memorandum.

Task 10. Final Memorandum. Prepare a final memorandum of findings based on feedback from the above tasks and written comment from the Town. Memorandum to include:

- Summary of Design Criteria.
- Figure of proposed sewer layout showing limits of gravity mains, low pressure mains, and pump station sites. Manholes to be color-coded based on depths of sewers.
- Quantities of gravity and low pressure sewers based on linear foot.

Submittals include: Final Memorandum and SewerCAD Model.

*Included in the above scope of work will be:

- The preparation and presentations of up to two (2) workshops with the Town and representation at requested Town Board Meetings.
- A construction phasing plan (CPP) for all proposed areas of new sewer construction. Up to three (3) plans will be provided including a CPP focusing on construction contracts under \$10M, a CPP focusing on construction contracts under \$20M, and a third CPP based on guidance from the Town. Duration of the CPP will be based on guidance from the Town (either 20-year, 30-year or other duration).

- Assistance with the preparation and drafting of Town Meeting articles associated with funding for new sewer infrastructure.

PART 2 - TOWN RESPONSIBILITIES

A2.01 Services Required by TOWN

- A. Water Flows: Town to provide water use data for parcels within the sewer modeling areas. Data to be provided on a “per parcel” basis with quantity of water use per parcel and parcel identifier in Excel format.
- B. Design Criteria: Town shall provide the preferred maximum depth of sewer installation. Other applicable design criteria identified in TR-16 shall be considered for the model development including minimum pipe sizes, slopes, and minimum cover requirements.
- C. Record Drawings of the existing sewer system.
- D. Comments: Town shall provide comments on submittals within five (5) days of receipt.

PART 3 - OUT OF SCOPE WORK

A3.01 The following is considered out of scope work:

- A. Conceptual, preliminary, or final design plans for sewers within any of the study areas.

PART 4 – PAYMENTS TO GHD FOR SERVICES

TOWN shall pay GHD for Basic Services set forth in Exhibit A as follows:

- A. TOWN shall pay GHD a Lump Sum fee of One Hundred and Fifty Thousand Dollars (150,000.00) for work performed under this Agreement.
- B. GHD may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the TOWN.
- C. The Lump Sum includes compensation for GHD’s services and services of GHD’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and reimbursable expenses.
- D. GHD shall submit invoices on a monthly basis.

PART 5 - PERIOD OF SERVICE

The compensation amount stipulated above for all project tasks is anticipated to be completed within 210 calendar days of authorization.

**AGREEMENT FOR PROFESSIONAL
ENGINEERING SERVICES
BETWEEN
THE TOWN OF HARWICH, MASSACHUSETTS
AND GHD
FOR TOWN-WIDE SEWER MODELING**

THIS AGREEMENT made this ____ day of _____, 2020 between GHD, with a usual place of business at 1545 Iyannough Road, Hyannis, MA 02601, hereinafter called the “ENGINEER,” and the Town of Harwich, MA, acting by its Board of Selectmen, with a usual place of business at Harwich Town Hall, 732 Main Street, Harwich, MA 02645, hereinafter called the “TOWN”.

The ENGINEER and the TOWN, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The ENGINEER shall perform the work set forth in the Scope of Services attached hereto as Exhibit A.

2. Contract Price

The TOWN shall pay the ENGINEER for services rendered in the performance of this Agreement a lump sum of \$150,000, subject to any additions and deductions provided for herein at the hourly rates set forth in Exhibit B. The amount to be paid to the ENGINEER shall not exceed \$150,000 without the prior written consent of the TOWN.

3. Commencement and Completion of Work

A. This Agreement shall commence on _____ and shall expire on _____, unless terminated sooner in accordance with this Agreement.

B. Progress and Completion: ENGINEER shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will insure completion in a timely manner.

4. Performance of the Work

The ENGINEER shall supervise and direct the Work, using his best skills and attention, which shall not be less than such state of skill and attention generally rendered by the engineering/design profession for projects similar to the Project in scope, difficulty and location.

A. Responsibility for the Work:

- (1) The ENGINEER shall be responsible to the TOWN for the acts and omissions of his employees, subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the ENGINEER. Consistent with the standard of care referenced above, the ENGINEER shall be responsible for the professional and technical accuracy for all work or services furnished by him or his consultants and subcontractors. The ENGINEER shall perform his work under this Agreement in such a competent and professional manner that detail checking and reviewing by the TOWN shall not be necessary.
- (2) The ENGINEER shall not employ additional consultants, nor sublet, assign or transfer any part of his services or obligations under this Agreement without the prior approval and written consent of the TOWN. Such written consent shall not in any way relieve the ENGINEER from his responsibility for the professional and technical accuracy for the work or services furnished under this Agreement.
- (3) All consultants must be registered and licensed in their respective disciplines if registration and licensure are required under the applicable provisions of Massachusetts law.
- (4) The ENGINEER and all consultants and subcontractors shall conform their work and services to any guidelines, standards and regulations of any governmental authority applicable to the type of work or services covered by this Agreement.
- (5) The ENGINEER shall not be relieved from its obligations to perform the work in accordance with the requirements of this Agreement either by the activities or duties of the TOWN in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the ENGINEER.
- (6) Neither the TOWN's review, approval or acceptance of, nor payment for any of the work or services performed shall be construed to operate as a waiver of any rights under the Agreement or any cause of action arising out of the performance of the Agreement.

- B. Deliverables, Ownership of Documents: One (1) reproducible copy of all drawings, plans, specifications and other documents prepared by the ENGINEER shall become the property of the TOWN upon payment in full therefor to the ENGINEER. Ownership of stamped drawings and specifications shall not include the ENGINEER's certification or stamp. Any re-use of such documents without the ENGINEER's written verification of suitability for the specific

purpose intended shall be without liability or legal exposure to the ENGINEER or to the ENGINEER's independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as an act in derogation of the ENGINEER's rights under this Agreement.

- C. Compliance With Laws: In the performance of the Work, the ENGINEER shall comply with all applicable federal, state and local laws and regulations, including those relating to workplace and employee safety.

5. Site Information Not Guaranteed; Contractor's Investigation

The TOWN shall furnish to the ENGINEER available surveys, data and documents relating to the area which is the subject of the Scope of Work. All such information, including that relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the TOWN. All such information is furnished only for the information and convenience of the ENGINEER and is not guaranteed. It is agreed and understood that the TOWN does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures will be the same as those indicated in the information furnished, and the ENGINEER must reasonably satisfy himself as to the correctness of such information. If, in the opinion of the ENGINEER, such information is inadequate, the ENGINEER may request the TOWN's approval to verify such information through the use of consultants or additional exploration. In no case shall the ENGINEER commence such work without the TOWN's prior written consent. Such work shall be compensated as agreed upon by TOWN and ENGINEER.

6. Payments to the Contractor

- A. Cost incurred on this project shall be billed monthly on a lump sum basis as outlined in the attached Scope of Services. Payment shall be due 30 days after receipt of an invoice by the TOWN.
- B. If there is a material change in the scope of work, the TOWN and the ENGINEER shall mutually agree to an adjustment in the Contract Price.
- C. If the TOWN authorizes the ENGINEER to perform additional services, the ENGINEER shall be compensated in an amount mutually agreed upon, in advance, in writing. Except in the case of an emergency, the ENGINEER shall not perform any additional services until such compensation has been so established.

7. Reimbursement

Except as otherwise included in the Contract Price or otherwise provided for under this Agreement, the ENGINEER shall be reimbursed by the TOWN: (a) at 1.0 times the actual cost to the ENGINEER of consultants retained to obtain information pursuant to Article 5 hereof or otherwise. No such reimbursement shall be made unless the rates of compensation have been

approved, in advance, by the TOWN; or (b) at 1.0 times the actual cost of additional or specially authorized expense items, as approved by the TOWN.

8. Final Payment, Effect

The acceptance of final payment by the ENGINEER shall constitute a waiver of all payment-related claims by the ENGINEER arising under the Agreement.

9. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

10. Indemnification

- A. General Liability: The ENGINEER shall indemnify and hold harmless the TOWN, to the proportionate extent of its liability, from and against claims, damages, losses, and expenses, including reasonable attorney's fees, to the extent directly related to the performance of this Agreement and to the extent the same relate to matters of general commercial liability, when such claims, damages, losses, and expenses are caused, in whole or in part, by the negligent or wrongful acts or omissions of the ENGINEER or his employees, agents, subcontractors or representatives.
- B. Professional Liability: The ENGINEER shall indemnify and hold harmless the TOWN, to the proportionate extent of its liability, from and against claims, damages, losses, and expenses, including reasonable attorney's fees, directly related to the performance of this Agreement and to the extent the same relate to the professional competence of the ENGINEER's services, when such claims, damages, losses, and expenses are caused, in whole or in part, by the negligent acts, negligent errors or omissions of the ENGINEER or his employees, agents, subcontractors or representatives.

Limitation of Liability: Notwithstanding anything to the contrary in this Agreement, neither party to this Agreement shall be liable to the other for any consequential, special, indirect, incidental or punitive damages arising from this Agreement including but not limited to loss of use, revenue, profits and goodwill. The foregoing disclaimer of liability shall apply regardless of whether such liability is based on breach of contract, tort (including without limitation negligence), strict liability, breach of a fundamental term, fundamental breach, or otherwise.

11. Insurance

- A. The ENGINEER shall at his own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts directly related to the performance of this Agreement in a minimum amount of \$1,000,000.00.

- B. The coverage shall be in force from the time of the agreement to the date when all construction work for the Project is completed and accepted by the TOWN. If, however, the policy is a claims made policy, it shall remain in force for a period of three (3) years after completion.

Since this insurance is normally written on a year-to-year basis, the ENGINEER shall notify the TOWN should coverage become unavailable.

- C. The ENGINEER shall, before commencing performance of this Agreement, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with M.G.L. c.152, as amended, to all its employees and shall continue such insurance in full force and effect during the term of the Agreement.
- D. The ENGINEER shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this Agreement in the event of loss or destruction until the final fee payment is made or all data are turned over to the TOWN.
- E. The ENGINEER shall also maintain public liability insurance, including property damage, bodily injury or death, and personal injury and motor vehicle liability insurance against claims for damages because of bodily injury or death of any person or damage to property.
- F. Evidence of insurance coverage and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance, whether by the insurers or by the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the TOWN at least fifteen days prior to the intended effective date thereof, which date shall be expressed in said notice.
- G. Upon request of the ENGINEER, the TOWN reserves the right to modify any conditions of this Article.
- H. Liability is limited to the proceeds of the applicable insurance policies taken out by ENGINEER under this Agreement, but not to exceed the minimum amounts of those policies specified in this Agreement.

12. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

13. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The TOWN shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the ENGINEER. In the event that the Agreement is terminated pursuant to this subparagraph, the ENGINEER shall be reimbursed in accordance with the Agreement for all work performed up to the termination date.

14. Miscellaneous

- A. Assignment: The ENGINEER shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the TOWN.
- B. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, the TOWN by its authorized representative who, however, incurs no personal liability by reason of the execution hereof or of anything herein contained, as of the day and year first above written.

ENGINEER:

TOWN OF HARWICH:

By: Marc Drainville

By: _____

Name: Marc Drainville, P.E.

Name: Larry G. Ballantine

Title: Vice President

Title: Chairman, Board of Selectmen

TOWN OF HARWICH:

TOWN OF HARWICH:

By: _____

By: _____

Name: Edward J. McManus

Name: Michael D. MacAskill

Title: Board of Selectmen

Title: Board of Selectmen

TOWN OF HARWICH:

TOWN OF HARWICH:

By: _____

By: _____

Name: Donald F. Howell

Name: Stephen P. Ford

Title: Board of Selectmen

Title: Board of Selectmen

TOWN OF HARWICH:

TOWN OF HARWICH:

By: Allin P. Thompson

By: Judith Underwood

Name: Allin P. Thompson

Name: Judith Underwood

Title: Board of Water / Wastewater Commissioners

Title: Board of Water / Wastewater Commissioners

TOWN OF HARWICH:

By: Gary Carreiro

Name: Gary Carreiro

Title: Board of Water / Wastewater Commissioners

Approved as to the Availability of Funds: (\$150,000)
Contract Sum

Funding Source:

DocuSigned by:
Carol Coppola
48C32039D33D434...
Finance Director

Org/Obj: 04440A8/607017

Amount:\$ 98,992

Org/Obj: 13304402/5308

Amount:\$ 51,008

Total:\$ 150,000

This is **EXHIBIT A**, consisting of three pages, referred to in and part of the **Agreement between Town of Harwich and GHD for Professional Services** dated February 2021.

GHD's Services

GHD shall provide Basic Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Specific Project Data

Title: TOWN-WIDE SEWER MODELING OF TOWN OF HARWICH

Description: To develop a SewerCAD model for the proposed and existing sewers within the Town of Harwich (Town). The following tasks outline what is required to develop a SewerCAD Model of the existing sewers recently installed and the future sewer systems proposed as part of the Town's CWMP. Exhibit C identifies areas where the sewer model will be developed. Only shaded areas will be included in the sewer model. Non-shaded (white) parcels will not be included in the sewer model development.

The following scope of services identifies the tasks as part of this Agreement:

Task 1. Internal Chartering. Meet internally with project team members. Develop critical success factors, review past relevant information, develop proposed project schedule, and prepare for Town kick-off meeting.

Task 2. Town Kick Off Meeting. Meet with the Town and discuss the schedule, goals, milestones, and deliverables of the project. Specific modeling-related items that will be discussed at the kick-off meeting will include location of proposed pump stations, design requirements, and development of order-of-magnitude costs for new sewers.

Submittals include: Meeting Minutes.

Task 3. Flow Development. Develop a "per parcel" flow based on water use data provided by the TOWN. GHD will utilize up to the past five (5) years of water use information to develop "per parcel" flows. Flow anomalies will be reviewed on a parcel-by-parcel basis. Actual water use will be used to develop flows per parcel for buildout conditions for applicable residential, commercial, and industrial flow.

Task 4. Drawing Conversion. Develop GIS database that shall be used to import model information based on record drawing information. The database will be imported into the sewer model to populate required information for model completion. GHD will provide developed shapefiles of the existing sewer systems to the Town's Water and Sewer Department for use on the Town's GIS platform.

Task 5. Model Development – Existing System. Develop a sewer model for the existing sewer areas in the Town of Harwich. Modeling software used will be SewerCAD by Bentley. Model input shall be from record drawing information provided by the Town.

The Following Tasks apply only to the proposed sewer areas shown in Exhibit C:

Task 6. Model Development – Proposed System. Develop a sewer model for the proposed sewer areas in Exhibit C using the pump station and design information developed in Tasks 1 and 2 along with water use data from Task 3. Modeling software used will be SewerCAD by Bentley.

Model will focus on maximizing gravity sewers where feasible to a depth of no more than 20-feet below grade. Pump station sites will identify the type of station that may be used at each site based on design parameters

including either submersible, suction lift, or wet pit/dry pit style stations. Pipe sizing, slope, and system design will follow the guidelines of TR-16.

Incorporate previous model that was developed for the four (4) DHY areas—north, central, southeast, and southwest.

Task 7. Draft Cost Estimate. Prepare a draft cost estimate. Cost estimate to include:

- Unit price items at the discretion of GHD, similar to previously provided cost estimates for the four (4) DHY areas.
- 30% contingency and 30% fiscal/engineering/legal placeholder.
- Project estimates for future years based on a percent inflation rate as determined by GHD and the Town.

Task 8. Final Cost Estimate. Prepare a final cost estimate based on written comments from Town. Cost estimate to include:

- Unit price items at the discretion of GHD, similar to previously provided cost estimates for the four (4) DHY areas.
- 30% contingency and 30% fiscal/engineering/legal placeholder.
- Project estimates for future years based on a percent inflation rate as determined by GHD and the Town.

Task 9. Draft Memorandum. Prepare a draft memorandum of findings based on feedback from the above tasks. Memorandum to include:

- Summary of Design Criteria.
- Figure of proposed sewer layout showing limits of gravity mains, low pressure mains, and pump station sites. Manholes to be color-coded based on depth of sewers.
- Quantities of gravity and low pressure sewers based on linear foot.

Submittals include: Draft Memorandum.

Task 10. Final Memorandum. Prepare a final memorandum of findings based on feedback from the above tasks and written comment from the Town. Memorandum to include:

- Summary of Design Criteria.
- Figure of proposed sewer layout showing limits of gravity mains, low pressure mains, and pump station sites. Manholes to be color-coded based on depths of sewers.
- Quantities of gravity and low pressure sewers based on linear foot.

Submittals include: Final Memorandum and SewerCAD Model.

*Included in the above scope of work will be:

- The preparation and presentations of up to two (2) workshops with the Town and representation at requested Town Board Meetings.
- A construction phasing plan (CPP) for all proposed areas of new sewer construction. Up to three (3) plans will be provided including a CPP focusing on construction contracts under \$10M, a CPP focusing on construction contracts under \$20M, and a third CPP based on guidance from the Town. Duration of the CPP will be based on guidance from the Town (either 20-year, 30-year or other duration).

- Assistance with the preparation and drafting of Town Meeting articles associated with funding for new sewer infrastructure.

PART 2 - TOWN RESPONSIBILITIES

A2.01 Services Required by TOWN

- A. Water Flows: Town to provide water use data for parcels within the sewer modeling areas. Data to be provided on a “per parcel” basis with quantity of water use per parcel and parcel identifier in Excel format.
- B. Design Criteria: Town shall provide the preferred maximum depth of sewer installation. Other applicable design criteria identified in TR-16 shall be considered for the model development including minimum pipe sizes, slopes, and minimum cover requirements.
- C. Record Drawings of the existing sewer system.
- D. Comments: Town shall provide comments on submittals within five (5) days of receipt.

PART 3 - OUT OF SCOPE WORK

A3.01 The following is considered out of scope work:

- A. Conceptual, preliminary, or final design plans for sewers within any of the study areas.

PART 4 – PAYMENTS TO GHD FOR SERVICES

TOWN shall pay GHD for Basic Services set forth in Exhibit A as follows:

- A. TOWN shall pay GHD a Lump Sum fee of One Hundred and Fifty Thousand Dollars (150,000.00) for work performed under this Agreement.
- B. GHD may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the TOWN.
- C. The Lump Sum includes compensation for GHD’s services and services of GHD’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and reimbursable expenses.
- D. GHD shall submit invoices on a monthly basis.

PART 5 - PERIOD OF SERVICE

The compensation amount stipulated above for all project tasks is anticipated to be completed within 210 calendar days of authorization.

FY21 Sewer
Operating
Budget

Low Bidder: GHD

Bid Price: \$ \$150,000.00

12/13/18 Revised Procurement Checklist

Please complete checklist below for contracts requiring Selectmen* signature **before Wednesday morning**** in order to get sign-off approval from the Town Administrator or the Assistant Town Administrator.

*Note: contracts (not grants) **below \$25,000** can be signed by Town Administrator.

- 1. Please provide a **separate page titled "Summary of Project"** which includes:
 - a. Provide how many bidders there were, the range of bids, and apparent low bidder. 04440A8/607017
 - b. Identify the funding source, such as article number and amount approved.
 - c. Include what you feel is pertinent, but keep this section to 4 sentences or less. 13304402/530820
- 2. Finance Director has signed that funds are available: Carol Coppola Account # _____
- 3. Please provide a single **copy of the bid packet** along with all supporting documents.
- 4. Please use K-P Law provided standardized contracts.

Buildings and Public Works

- C1. Please show Prevailing Wage was used.
- C2. If construction is **near \$10,000** you also need:
 - a. Written spec sheet.
 - b. Advertised for two weeks on Central Register and COMMBUYS.
 - c. Apparent low bidder posted to Town website.
- C3. If construction **over \$25,000** you need C1, C2, as well as:
 - a. Show project was in the Capital Plan.
 - b. Low bidder provides 50% payment bond after Selectmen's countersignature.
- C4. If construction **over \$50,000** you need C1, C2, C3, as well as:
 - a. Bid Bond of 5% of total value.
 - b. Sealed Bids.
 - c. **End of Public Works construction requirements**
- C5. If **Building** estimated construction costs are over \$300,000 **and** estimated design costs are over \$30,000 you'll need to follow the Designer Selection RFQ process:
 - a. Advertise in Central Register and local newspaper for two weeks.
 - b. Set a designer fee or price ceiling.
 - c. Use Standard Designer Application Form
- C6. If **Building** construction **over \$150,000** you'll need C1, C2, C3, C4, C5, as well as:
 - a. 100% payment bond was in bids.
 - b. 100% performance bond was in bids.
 - c. DCAMM certified bidders.
 - i. DCAMM certified sub-bids if over \$25,000.
- C7. If **Building** construction **over \$10,000,000** you'll need C1, C2, C3, C4, C5, C6, as well as:
 - a. Solicit qualifications prior to sealed bids.

Goods and Services

- GS1. If procured using the **State Bid List**:
 - a. Over \$25,000 please show project was on the Capital Plan.
- GS2. If project is **over \$5,000**:
 - a. Please provide written spec sheet used and who it was sent to.
 - b. Maximum contract length is three years.
- GS3. If project is **over \$50,000**:
 - a. Show project was advertised for two weeks in a newspaper and on COMMBUYS.
 - b. Show project utilized sealed bids.
 - c. Apparent low bidder posted to Town website.
- GS4. If project is **over \$100,000**: N/A
 - a. Show project was advertised for two weeks in COMMBUYS and Goods and Services Bulletin.
 - b. Show project utilized sealed bids.

Note 1: If lowest bidder was found to be either not responsive or not responsible, the Town may begin negotiations with next lowest bidder.

Note 2: Bids may be negotiated downwards but never higher than original quote.

Note 3: Municipalities shall not provide a down payment, deposit, or provide funding before possession of purchased item.

Engineering Services Exempt from Procurement

Original for Accounting Original for Procurement Original for Vendor Contract to Treasurer's Signature of Town Administrator or Assistant Town Administrator: Joseph F. Powers

Note: Failure to gain sign-off **before Wednesday at noon results in the contract being delayed to the next meeting.

SUMMARY OF PROJECT

Project Name: Town-wide Sewer Modeling

The Town-wide CWMP sewer modeling contract will provide the Town with a model for proposed and existing sewers per the CWMP. The project will be funded by Article 17 of the 2007 Annual Town Meeting and the FY21 Sewer Operating Budget which will cover the cost of \$150,000.00.

TOWN
ADMINISTRATOR'S
REPORT

TOWN OF HARWICH, MASSACHUSETTS
SEWERAGE WORKS IMPROVEMENTS PHASE 2 – CONTRACT #2

CONSTRUCTION SCHEDULE – WEEKLY UPDATE

One Week Look Ahead (02/08-02/12)

- Pump Station Crew #1
 - Continue work on Church Street South pump station (CD-2)
 - Continue work on Church Street North pump station (CD-3)

Two Week Look Ahead (02/15-02/19)

- Sewer Crew #1
 - Demobilization

Three Week Look Ahead (02/22-02/26)

- Sewer Crew #1
 - Demobilization

Please note that this is a projected schedule and will be adjusted accordingly based on the Contractor's actual progress and the weather. On an as needed basis auxiliary crews will be performing testing, installing inverts, raising castings, paving , and performing general cleanup at various locations throughout the project area.

TOWN OF HARWICH, MASSACHUSETTS
SEWERAGE WORKS IMPROVEMENTS PHASE 2 – CONTRACT #1
ROBERT B. OUR COMPANY
SEWER PROJECT

CONSTRUCTION SCHEDULE – WEEKLY UPDATE

Date Submitted: February 8, 2021

One Week Look Ahead (02/08/21-02/12/21)

- Pump Station Crew # 1
 - Continue Working on Spence’s Trace & RT 137 Pump Station Site
 - Continue Working on the Parshall Flume

Two Week Look Ahead (02/15/21-02/19/21)

- Pump Station Crew # 1
 - Continue Working on Spence’s Trace & RT 137 Pump Station Site
 - Continue Working on the Parshall Flume

Three Week Look Ahead (02/22/21-02/26/21)

- Pump Station Crew # 1
 - Continue Working on Spence’s Trace & RT 137 Pump Station Site
 - Continue Working on the Parshall Flume

Please note that this is a projected schedule and will be adjusted accordingly based on the Contractor’s actual progress and the weather. On an as needed basis auxiliary crews will be performing testing, installing inverts, raising castings, paving , and performing general cleanup at various locations throughout the project area.