

SELECTMEN'S MEETING AGENDA\*

Donn B. Griffin Room, Town Hall

732 Main Street, Harwich, MA

Public Hearings 4:00 P.M.

Tuesday, December 14, 2021

I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **PUBLIC COMMENTS/ANNOUNCEMENTS**

IV. **PUBLIC HEARINGS (NO EARLIER THAN 4:00 P.M.)**

- A. Brax Restaurant Management, Inc. d/b/a Brax Landing, 705 Main Street - Public hearing on alleged violations of the Annual, All Alcoholic Beverages License; discussion and possible vote to order discipline based on Town Administrator's December 10, 2021 findings and recommendations.
- B. Port Restaurant and Bar, Inc., 541 Route 28 - Public hearing on alleged violations of the Seasonal, All Alcoholic Beverages License; discussion and possible vote to order discipline based on Town Administrator's December 10, 2021 findings and recommendations.
- C. Wychmere Harbor Functions Lp d/b/a Wychmere Harbor Beach and Tennis Club, 23 Snow Inn Road - Public hearing on alleged violations of the Seasonal, All Alcoholic Beverages License; discussion and possible vote to order discipline based on Town Administrator's December 10, 2021 findings and recommendations.
- D. Lucky Labrador, Inc. d/b/a Perks, 545 Route 28 - Public hearing on alleged violations of the Seasonal, All Alcoholic Beverages License; discussion and possible vote to order discipline based on Town Administrator's December 10, 2021 findings and recommendations.
- E. Beachlight LLC d/b/a Seal Pub, 703 Main Street - Public hearing on alleged violations of the Annual, All Alcoholic Beverages License; discussion and possible vote to order discipline based on Town Administrator's December 10, 2021 findings and recommendations.

V. **NEW BUSINESS**

- A. Summation of the Show Cause Hearing process and discussion on the future hearing process going forward presented by the Town Administrator

VI. **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:**

\_\_\_\_\_  
Danielle Delaney, Executive Assistant

**Posted by:** \_\_\_\_\_  
Town Clerk

**Date:** \_\_\_\_\_  
December 10, 2021

**HARWICH BOARD OF SELECTMEN  
NOTICE OF HEARING**

**ALLEGED VIOLATIONS OF CONDITIONS OF LIQUOR LICENSE  
DECEMBER 14, 2021**

The Board of Selectmen will hold a hearing on Tuesday, December 14, 2021 at 4:00 P.M., for the purpose of consideration of alleged liquor license violations by Brax Restaurant Management Inc. d/b/a Brax Landing, located at 705 Main Street, Harwich Port. The Board of Selectmen will consider possible penalties including modifications, suspension, revocation or cancellation of said license. All members of the public having an interest in the topic are cordially invited to attend the Public Hearing which will be held in the Griffin Room at the Harwich Town Hall, 732 Main Street, Harwich MA 02645.

Board of Selectmen  
Local Licensing Authority

Cape Cod Times  
November 30, 2021

# 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 F. Powers, Town Administrator 

CC: Meggan M. Eldredge, Assistant Town Administrator  
Jeffrey T. Blake, Esq. KP Law

RE: Brax Restaurant Management, Inc. DBA Brax Landing, 705 Main Street  
Public hearing on alleged violations of the Annual, All Alcoholic Beverages  
License

DATE: December 10, 2021

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The Board of Selectmen as Local Licensing Authority (LLA) for the town received a memorandum from Chief David Guillemette of the Harwich Police Department on August 30, 2021 (see attached) outlining a violation alleged to have occurred on August 16, 2021 at the licensed establishment known as Brax Landing operating at 705 Main Street in Harwich Port.

On September 7, 2021 the Board of Selectmen voted to remand the allegation to me, as Town Administrator, to conduct a show cause hearing for the purpose of determining whether there is cause for the LLA to hold a hearing to determine whether the facts support a finding of allegation(s) and to recommend to the LLA any potential discipline if the facts so warrant.

Based on the Board's vote, a show cause hearing was convened on October 26, 2021 at 1:00pm in the Griffin Room at Harwich Town Hall. **Please note:** there were no representatives present at the hearing from the establishment. As such, the establishment has not presented any facts yet related to this matter.

### **Allegation(s) of violations:**

The Town, acting through Attorney Jeffrey T. Blake, presented witnesses and exhibits supporting the claim of violation. Specifically, that the establishment failed to prevent the consumption of alcoholic beverages purchased at the establishment outside the licensed premises of the establishment.

### **Finding(s)/Determination(s):**

I find that the Town provided sufficient evidence and testimony to confirm the allegation of violation and determine that the establishment did cause an illegality to occur; namely consumption of alcoholic beverages outside of the licensed premises.

**Recommendation of discipline (if any):**

Whereas the licensed establishment *does not* have any violations on record with the town having occurred within two (2) years of this violation, this violation constitutes a “first offense”.

The regulations of the LLA outline a range of potential disciplinary actions including “warning to seven day suspension” for a “first offense”.

I recommend that the LLA issue a disciplinary action of **warning** to the licensed establishment.

**In The Matter Of:**

*Brax Restaurant Management, Inc., d/b/a Brax Landing*

---

*Show Cause Hearing  
October 26, 2021*

---

*Beacon Court Reporting Services  
100 Independence Drive, Suite 7  
Hyannis, Massachusetts 02601  
www.beaconcourtreporting.com  
(774) 678-4255*



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IN RE:

BRAX RESTAURANT MANAGEMENT, INC.,  
d/b/a BRAX LANDING

\*\*\*\*\*x

SHOW CAUSE HEARING  
BEFORE JOSEPH F. POWERS, TOWN ADMINISTRATOR  
Harwich Town Hall  
732 Main Street  
Griffin Room  
Harwich, Massachusetts  
1:08 p.m. - 1:36 p.m.

Reported by: Janet L. Wynne, CSR No. 131793  
Registered Professional Reporter

Beacon Court Reporting Services  
100 Independence Drive, Suite 7  
Hyannis, Massachusetts 02601  
[www.beaconcourtreporting.com](http://www.beaconcourtreporting.com)

APPEARANCES:

Jeffrey T. Blake, Esq.  
KP Law  
101 Arch Street  
Boston, Massachusetts 02110  
(617) 556-0007  
jblake@k-plaw.com  
for the Town of Harwich

Present:

Ellen Powell, Executive Assistant to the Town  
Administrator and Board of Selectmen  
Town of Harwich

Caleb Ladue, Videographer  
Town of Harwich Channel 18

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## 1 P R O C E E D I N G S

2 (Hearing called to order Tuesday, October 26, 2021, at  
3 1:08 p.m.)

4 THE HEARING OFFICER: Good afternoon,  
5 folks, I will now call to order the show cause hearing  
6 relative to alleged violations of conditions of a liquor  
7 license. I am Joe Powers, Town Administrator. I'm  
8 going to read this notice to kick off the hearing, and  
9 then we'll go through some administrative actions and  
10 then get into the matter at hand. It's now 1:08 p.m. on  
11 Tuesday, October 26, 2021.

12 "The Harwich Board of Selectmen Notice of  
13 Show Cause Hearing, Alleged Violations of Conditions of  
14 Liquor License, October 26, 2021: The Town  
15 Administrator, acting as the Hearing officer for the  
16 Board of Selectmen, will hold a Show Cause Hearing on  
17 Tuesday, October 26, 2021, at 1:00 p.m., for the purpose  
18 of consideration of alleged liquor license violations by  
19 Brax Restaurant Management, Incorporated, doing business  
20 as Brax Landing, located at 705 Main Street,  
21 Harwich Port.

22 "The Hearing Officer will consider  
23 possible penalties, including modifications, suspension,  
24 revocation, or cancellation of said license. All

1 members of the public having an interest in the topic  
2 are cordially invited to attend the public hearing,  
3 which will be held in the Griffin Room at Harwich Town  
4 Hall, 732 Main Street, Harwich, Mass 02645," under my  
5 name, Joseph F. Powers, my title, Town Administrator, as  
6 published in the Cape Cod Times on September 27, 2021.

7 At this point I will ask those of you  
8 that are present to my right to please come forward, and  
9 we would ask that you print your name and email  
10 information into the record. And that's a dual purpose.  
11 As you're doing that, I'll read the second purpose for  
12 it.

13 "The Town of Harwich Board of Health has  
14 issued a face covering order indicating that, due to the  
15 current resurgence in COVID-19 cases and the number of  
16 breakthrough cases of vaccinated individuals in the  
17 town, the Board of Health hereby orders, effective  
18 immediately, that face coverings shall be worn by anyone  
19 ages 2 years or older attending an indoor public meeting  
20 of a town board, commission, or committee, including  
21 town meeting, except as provided below.

22 "The Chair may excuse, upon advance  
23 request and for good cause shown, any individual  
24 attendee's face covering requirement for medical

1 reasons. The Chair may allow attendees to remove face  
2 coverings temporarily to speak for the meeting, or  
3 entirely, provided attendees shall maintain social  
4 distancing of 6 feet or greater throughout the meeting.

5 "As used here, an attendee shall include  
6 members of the town board, commission, or committee.  
7 All attendees shall be required to provide either an  
8 email address or phone number to the Town at the meeting  
9 for contact tracing purposes.

10 "This order shall remain in effect until  
11 further notice. The Chair has the authority to ask for  
12 either masks to be put on or do not take part in the  
13 meeting."

14 That was adopted September 10, 2021.  
15 It's in effect immediately, and it is still in place by  
16 the Board of Health.

17 Having said all that, you folks are  
18 giving us contact information for a dual purpose, first  
19 for the record for the benefit of both our executive  
20 assistant and our stenographer but also -- hopefully  
21 unnecessary but if we need to contact folks based on  
22 COVID-19.

23 Having said that, everybody here at the  
24 table is properly distanced; and, therefore, we do not

1 need to be masked. And it looks like you folks are  
2 taking the same measures to be properly distanced;  
3 therefore, masks at this point are unnecessary.

4           Going around the table, from my left I  
5 would introduce for the record Ellen Powell,  
6 P-O-W-E-L-L. Ellen is here on behalf of Administration  
7 and capably filling in for our executive assistant for  
8 Licensing. Ellen is the executive assistant to the Town  
9 Administrator and the Board of Selectmen. To her  
10 immediate left is Jeffrey Blake, KP Law.

11           Attorney Blake, I'll let you introduce  
12 yourself purposefully for the record, and then I'll  
13 continue.

14           MR. BLAKE: Jeffrey Blake from KP Law.  
15 I'm Town counsel and I will be presenting the Town's  
16 case today.

17           THE HEARING OFFICER: And then to his  
18 immediate left we have Janet -- I apologize, I forgot  
19 the last name already.

20           THE STENOGRAPHER: Wynne.

21           THE HEARING OFFICER: Thank you.

22           -- Janet Wynne providing stenography  
23 services on behalf of the Town for the Town. And she is  
24 with Beacon Court Reporting Services. We thank her for

1 her presence today.

2           Beyond that, we have Caleb Ladue on the  
3 other side of the monitors there on behalf of the Town  
4 for Channel 18. That is to indicate that these  
5 proceedings are being video-recorded. It is not being  
6 broadcast, but the video recording will be used later on  
7 by the Town, and any other interested party can have  
8 access if they so choose. And, furthermore, Ms. Wynne's  
9 services as our stenographer, stenography transcripts  
10 will be available as well.

11           Having said that, at this point, Attorney  
12 Blake, I would turn it over to you to begin the  
13 proceedings on behalf of the Town.

14           MR. BLAKE: All right. Thank you,  
15 Mr. Hearing Officer.

16           Administratively, I would like to have a  
17 couple of exhibits entered into the record. The first  
18 one would be the notification that you read into the  
19 record, the Harwich Board of Selectmen Notice of Show  
20 Cause Hearing dated October -- for the date of October  
21 26th. I would like that as Exhibit A.

22           THE HEARING OFFICER: Thank you. So  
23 noted.

24           (Exhibit A, Notice of Show Cause Hearing,

1 so marked.)

2 MR. BLAKE: A letter to the -- to Jeffrey  
3 Gomes, Manager of Record at the Brax Restaurant  
4 Management, Inc., doing business as Brax Landing, dated  
5 September 15, 2021, regarding a notice of a disciplinary  
6 hearing, Brax Restaurant Management, Inc., d/b/a Brax  
7 Landing. I would like that as Exhibit B.

8 THE HEARING OFFICER: B, as in "boy."  
9 Thank you. So noted.

10 MR. BLAKE: B, as in "boy."

11 THE HEARING OFFICER: Yeah.

12 (Exhibit B, letter dated September 15,  
13 2021, re notice of disciplinary hearing,  
14 so marked.)

15 MR. BLAKE: The Harwich Board of  
16 Selectmen Liquor License Regulations Adopted at a Public  
17 Hearing on June 13, 2011; Amended at a Public Hearing on  
18 January 9, 2017; and Effective July 1, 2011, I would  
19 like that as Exhibit number -- Exhibit C.

20 THE HEARING OFFICER: Thank you. If I  
21 may, Attorney Blake, that is understood to be a 21-page  
22 document?

23 MR. BLAKE: That is correct.

24 THE HEARING OFFICER: Thank you.

1 (Exhibit C, Harwich Board of Selectmen  
2 Liquor License Regulations, so marked.)

3 MR. BLAKE: I will also have read into  
4 the record -- and it will be the start of the testimony  
5 that I will elicit -- but to begin with, I'd like a  
6 memorandum to the Board of Selectmen and the Town  
7 Administrator from the Chief of Police, dated August 30,  
8 2021, for potential violations at Brax.

9 The memorandum says "Mr. Powers and  
10 Members of the Board: Attached please find a police  
11 report regarding a potential liquor license violation at  
12 Brax on August 16, 2021. Please do not hesitate to  
13 contact me should you have any questions."

14 I would like this marked as D1.

15 THE HEARING OFFICER: Thank you. So  
16 entered.

17 (Exhibit D-1, memorandum dated August 30,  
18 2021, re potential violation at Brax, so  
19 marked.)

20 MR. BLAKE: And with that, I will  
21 start -- I would like to call some witnesses. And with  
22 that, I will also have some of the police reports  
23 entered into evidence, but first I'd like to call --  
24 well, actually, why don't we do this: I'd also like to



1 put in as D -- number D2 a so-called call log for call  
2 number 21-10396. And the narrative for Patrol  
3 Supervisor Derek Dutra in reference to 21-10396-OF, that  
4 would be D3.

5 THE HEARING OFFICER: So D2 would be  
6 21-10396, the call number, which we refer to as the call  
7 log, as D2.

8 MR. BLAKE: Yes.

9 THE HEARING OFFICER: And then Patrol  
10 Supervisor Derek J. Dutra narrative referencing  
11 21-10396-OF D3.

12 MR. BLAKE: That is correct.

13 THE HEARING OFFICER: So noted.

14 (Exhibit D-2, call log 21-10396 dated  
15 08/16/2021, so marked.)

16 (Exhibit D-3, narrative for Patrol  
17 Supervisor Derek J. Dutra,  
18 Ref. 21-10396-OF, so marked.)

19 THE HEARING OFFICER: Counsel, before you  
20 call your witness, I would ask -- the time is 1:16 p.m.  
21 on October 26th -- is there anybody present here who  
22 wishes to present themselves on behalf of the licensed  
23 establishment?

24 The record will show that no person came

1 forward and identified themselves in that manner; so I  
2 will note for the record that at present there is no  
3 representation from the licensed establishment.

4 At this point, Attorney Blake, it's your  
5 right to call a witness.

6 MR. BLAKE: Thank you. I would like to  
7 call for my first witness the assistant harbormaster.

8 THE HEARING OFFICER: Thank you.

9 Good afternoon. Thank you for joining  
10 us.

11 MR. SPRINGER: Good afternoon.

12 THE HEARING OFFICER: Would you raise  
13 your right hand, please.

14 BARRY S. SPRINGER, sworn.

15 THE HEARING OFFICER: Attorney Blake, the  
16 witness is yours, please.

17 MR. BLAKE: Thank you.

18 EXAMINATION

19 BY MR. BLAKE:

20 Q. Sir, could you state your name, please, for  
21 the record.

22 A. Yes. The name is Barry Springer, and I'm  
23 one of the assistant harbormasters.

24 Q. Okay. And, sir, do you know why you're here

1 today?

2 A. Yes, I do.

3 Q. What's your understanding of why you're here  
4 today?

5 A. It's in regards to an incident that I had  
6 witnessed in August regarding Brax Landing Restaurant  
7 and patrons of that restaurant on Town property.

8 Q. Okay. And was that August 16, 2021, if you  
9 recall?

10 A. Yes. I believe it was a Friday.

11 Q. Okay. And did you make a report to the  
12 police station?

13 A. Yes, I did.

14 Q. Okay. And I am going to read into the  
15 record -- I'm looking at what has been marked as  
16 Exhibit D-2. "Assistant Harbormaster Springer reporting  
17 that patrons waiting for tables at Brax Landing,  
18 left-hand side of the building when facing it, are  
19 spilling into the harbor parking lot and walking around  
20 with alcoholic beverages. RP states he spoke with the  
21 patrons to tell them that they could not be in the  
22 municipal lot with open containers from Brax to no  
23 avail."

24 Does that sound like the complaint that

1 you made?

2 A. Yes, sir.

3 Q. Okay. And so did you observe people walking  
4 around on Town property with alcoholic beverages?

5 A. Yes. I was advised by several people that  
6 there was a situation outside in the parking lot next to  
7 Brax; so I left the Harbormaster's Office and went out  
8 to investigate.

9 Q. Okay. And when you say you investigated, so  
10 what did you find when you investigated?

11 A. Well, as you know, the parking lot adjacent  
12 to Brax Landing, there's also a driveway there that goes  
13 down in front of the harbor right by the bulkhead. And  
14 we have vehicles that drive through there towing  
15 trailers --

16 Q. Mm-hmm.

17 A. -- with boats on them.

18 And as I walked over to that area of the  
19 parking lot and the beginning of the driveway, I saw a  
20 group of five or six young women, teenage type girls,  
21 that age, sitting in the driveway in a circle, blocking  
22 the driveway. So I asked them what they were doing, and  
23 they said they were sitting there, waiting to be called  
24 for a table at Brax.

1                   And I informed them that that was a  
2 public safety issue, that they couldn't be there. I  
3 advised them about traffic going through that driveway,  
4 and I told them that they needed to move and go onto the  
5 property of Brax Landing and wait there.

6                   Q. Okay. Did you see any alcoholic beverages  
7 in those teenage girls' hands?

8                   A. No --

9                   Q. Oh.

10                  A. -- not there.

11                  Q. So let's talk -- so did you ever observe  
12 somebody coming from Brax's property onto Town property  
13 with an alcoholic beverage in their hand?

14                  A. They were already off of Brax's property  
15 onto the harbor property.

16                  Q. How do you know that they came from Brax,  
17 then?

18                  A. Well, they were holding drinks in their hand  
19 in tall glasses. I figured they didn't bring them from  
20 home.

21                  Q. Okay. But did you ever see them go back  
22 onto Brax's property?

23                  A. Well, I advised these folks that had the  
24 drinks that they were not allowed to be there with open

1 containers or drinks, that they needed to go back onto  
2 Brax's property --

3 Q. Yeah.

4 A. -- and wait there. And a couple of them  
5 looked at me like I had three heads and didn't move or  
6 acknowledge me. A couple of people walked back towards  
7 the restaurant, but a fair number of people continued to  
8 stay where they were.

9 Q. Is that why you said "to no avail"?

10 A. Correct.

11 Q. So they ignored your --

12 A. Yes.

13 Q. -- your orders?

14 A. Yes.

15 Q. Okay. So what did you do after they ignored  
16 your orders? Is that --

17 A. That's when I went back into the office and  
18 called Harwich Police.

19 Q. Okay.

20 MR. BLAKE: All right. I have no further  
21 questions for Mr. Springer.

22 THE HEARING OFFICER: Thank you. Before  
23 we proceed, I'll ask again -- it's 1:21 p.m. -- is there  
24 anybody present today at the hearing on behalf of the

1 establishment?

2 Let the record show that again there is  
3 no one here from the establishment.

4 Mr. Springer, thank you for your  
5 testimony. Please sit down, but --

6 THE WITNESS: Thank you.

7 THE HEARING OFFICER: -- please remain.

8 Thank you.

9 Attorney Blake?

10 MR. BLAKE: Do we have an Officer  
11 Vermette?

12 OFFICER VERMETTE: Yes.

13 MR. BLAKE: Is that you?

14 OFFICER VERMETTE: Yes.

15 MR. BLAKE: Did I say it right?

16 OFFICER VERMETTE: You did.

17 MR. BLAKE: Oh, great, great.

18 Officer Vermette, could you get up to the  
19 podium. You probably need to be sworn in.

20 PATROL OFFICER TYLER J. VERMETTE, sworn.

21 THE HEARING OFFICER: Attorney Blake, the  
22 witness is yours.

23 MR. BLAKE: Thank you.

24 ///

EXAMINATION

BY MR. BLAKE:

Q. So I'm looking at what we've marked as D-2 and D-3. There is a call log, and then there is a narrative. The narrative is by Dutra, but he -- in his report he talks about Officer Vermette. I think you arrived at the scene first; correct?

A. Correct.

Q. And is that -- you came as a result of the complaint filed -- or, phoned in by the harbormaster?

A. Correct.

Q. Okay. And can you just tell the hearing officer what you -- well, I'm assuming this is on August 16, 2021; correct?

A. Correct.

Q. Okay. And can you tell the hearing officer what you saw when you arrived and what you did.

A. So I was the first officer to arrive on-scene. When I pulled into the parking lot, I parked near the waiting area for Brax Landing, the grass area towards the rear of the restaurant by the harbor, which was near where the driveway starts that the assistant harbormaster referred to. And I saw one gentleman with a toddler-age daughter. He was following -- he was just



1 into the roadway just outside where Brax Landing is,  
2 just off the grass into the roadway. He had about a  
3 half full glass beer in his hand, and he was kind of  
4 chasing behind his daughter, kind of walking around with  
5 her. And I almost got the impression that he was kind  
6 of chasing after her like she might have just been --  
7 they were waiting for a table, and she was kind of just  
8 wandering around while they were waiting for a table.

9 Q. Was that on Town property?

10 A. Yes, correct. But it's just into the  
11 driveway paved area --

12 Q. Okay.

13 A. -- to Saquatucket Harbor, off the grass.

14 Q. And did he then go back into the Brax's  
15 property once he corralled his daughter?

16 A. Yeah. So I -- I'm sorry, I left that out.  
17 So I spoke with the gentleman. I explained the  
18 complaint we had. And he was very polite and  
19 cooperative, and he just immediately grabbed his  
20 daughter and he went back onto the Brax' property.

21 Q. Okay. And did you have any further  
22 interactions with him?

23 A. I did not. He went back and -- with -- to  
24 what, I assume, was the rest of his family. That's the

1 last I saw him.

2 Q. Okay. Did you see any other people  
3 wandering off Brax's property onto Town --

4 A. No.

5 Q. -- property with drinks?

6 Okay. Did you -- I know that -- I think  
7 Supervisor Dutra actually had contact with the  
8 restaurant manager, but did you say any -- did you have  
9 any contact with the restaurant manager?

10 A. No.

11 Q. Okay.

12 A. Officer Dutra arrived right about after I  
13 had sent the gentleman back to Brax. And so I was kind  
14 of waiting there to see if anything else was going on,  
15 and Officer Dutra went in to get restaurant management.  
16 I didn't have any other conversation with them other  
17 than, I guess you would call it, small talk.

18 Q. Okay.

19 A. -- while Officer Dutra went to speak with  
20 the harbormaster.

21 MR. BLAKE: All right. I have nothing  
22 further for this witness.

23 THE HEARING OFFICER: Thank you.

24 Officer Vermette, before I offer you to

1 sit down and remain -- it is 1:25 -- I will state again,  
2 is there anybody here who wishes to represent the  
3 establishment or present any information on behalf of  
4 the establishment?

5 The record will show that there is still  
6 no one present from the establishment.

7 At this point, Officer Vermette, you can  
8 be seated --

9 A. Okay.

10 Q. -- but we would ask you to remain. Thank  
11 you.

12 Attorney Blake?

13 MR. BLAKE: I have one more witness, and  
14 that would be Supervisor Dutra.

15 Q. Sir, could you state your name for the  
16 record.

17 A. Derek Dutra.

18 Q. And, sir, do you know why you're here today?

19 A. Yes.

20 Q. What's your understanding of why you're here  
21 today?

22 THE HEARING OFFICER: Attorney Blake --

23 MR. BLAKE: Oh, I apologize.

24 THE HEARING OFFICER: That's all right.

1                   Good afternoon, Officer. Nice to see you  
2 again. Thank you for raising your right hand.

3                   PATROL SUPERVISOR OFFICER DEREK J. DUTRA, sworn

4                   THE HEARING OFFICER: Attorney Blake, the  
5 witness is yours.

6                   MR. BLAKE: Thank you.

7   EXAMINATION

8 BY MR. BLAKE:

9                   Q. Could you state your name for the record.

10                  A. Sure. Derek Dutra.

11                  Q. Can you spell your last name for the  
12 stenographer.

13                  A. D-U-T-R-A.

14                  Q. And do you know why you're here?

15                  A. Yes, sir.

16                  Q. What's your understanding of why you're  
17 here?

18                  A. For the incident that occurred on August 16,  
19 2021, at Brax Landing.

20                  Q. Okay. You authored a report regarding that;  
21 is that correct?

22                  A. Correct.

23                  Q. And it's called a narrative report?

24                  A. Yes, sir.

1 Q. And do you have that in front of you?

2 A. I do.

3 Q. And you've reviewed it before you came here  
4 today?

5 A. Yes, sir.

6 Q. Okay.

7 Can you tell the hearing officer -- as  
8 you heard, Officer Vermette gave us his rendition of  
9 what happened. So after he told the gentleman  
10 corralling his daughter he had to stay on Brax's  
11 property, he said you showed up. So let's take it from  
12 where you showed up.

13 A. Sure. Well, as Officer Vermette said, he  
14 arrived on-scene. I was there maybe three or four  
15 minutes after he arrived. We had talked, and I asked  
16 him if he saw any violations. And he explained the  
17 situation that he explained to you guys regarding the  
18 one father trying to corral his child.

19 We were there for a few more minutes to  
20 see if we saw any other violations. We didn't. So I  
21 left the parking lot area, went up to Brax Landing and  
22 spoke with one of the waitresses to see if I could get  
23 in touch with Mr. Gomes or another manager. They were  
24 both on -- working that night; so I spoke to both of

1 them.

2 I advised them of the complaint, and I  
3 wanted to show them the area of which the complaint was.  
4 So Mr. Gomes and the manager came down with me to the  
5 Town property right adjacent to his property as well,  
6 and I explained the violation -- well, concerning the  
7 violation.

8 Q. Okay. And did he -- what was his demeanor  
9 when you were telling him that you believed there was a  
10 violation?

11 A. He was very receptive. He was, like, "Oh,  
12 this is not one of the things we want to have happen  
13 here." He does have some section of fencing up there,  
14 and he said at one point he had signage up there to try  
15 to remind patrons to stay on their property, not to go  
16 onto Town property.

17 Q. Is his property fenced off such that it  
18 would prevent that from happening?

19 A. He does have some fencing, but there are  
20 some open areas so people could walk through that open  
21 area to the parking lot, yes.

22 Q. Were there any -- if you recall, was there  
23 anybody on duty -- probably "bouncer" is not the right  
24 word in this case but somebody there to prevent that

1 from happening?

2 A. Honestly, I can't recall if there was or  
3 not. I know it was a very busy night there; so there  
4 was a lot of staff, but I don't know if he had somebody  
5 specifically designed to stay in that position.

6 Q. All right.

7 Have you been called to Brax for any  
8 other violations that you know?

9 A. Not that I'm aware of at all.

10 Q. This was August 16th. Have you been called  
11 since?

12 A. We have not, to my knowledge.

13 Q. Okay.

14 MR. BLAKE: I have nothing further.

15 THE HEARING OFFICER: Thank you.

16 Again, before the officer stands down --  
17 it's 1:29 p.m. -- in an effort to be consistent, I ask  
18 if there is anybody here on behalf of the establishment  
19 that wishes to offer questions or testimony on behalf of  
20 the establishment.

21 The record will reflect that no one has  
22 come forward at this time.

23 Officer Dutra, we thank you for your  
24 testimony, and we ask you to please have a seat but

1 remain.

2 Attorney Blake, do you have any other  
3 witnesses to bring before this hearing?

4 MR. BLAKE: I have no further witnesses.

5 THE HEARING OFFICER: All right. So  
6 before I do one more effort, at least, regarding the  
7 establishment, I am going to add what I am referring to  
8 as an administrative exhibit to the record. This will  
9 be labeled Administrative Exhibit No. 1. It is a United  
10 States Postal Service Domestic Return Receipt, PS  
11 Form 3811, and it indicates that an article was  
12 addressed to Jeffrey Gomes, Brax Landing, 705 Main  
13 Street, Harwich Port, Mass 02646.

14 It indicates under Section A that a  
15 signature was presented. Under item B it indicates what  
16 appears to be the printed name of Jeff Gomes. Under  
17 number 3 it indicates the service type of Certified  
18 Mail/Signature Confirmation. The Certified Mail number  
19 is also referenced on Exhibit B in the footer as  
20 Certified Mail number 70022030000409334388. On the  
21 face, what I would consider to be the front side of this  
22 card, is a stamp from the postal service indicating  
23 Providence, RI, 028, with a date of 22 September 2021,  
24 p.m. 3L. And this was returned to the Selectmen's



1 Office, Town of Harwich, 705 Main Street.

2 I offer that as Administrative Exhibit  
3 No. 1 and proof positive that the Town's letter to the  
4 establishment was sent and, further, was received.

5 (Exhibit 1, United States Postal Service  
6 Domestic Return Receipt, PS Form 3811,  
7 so marked.)

8 THE HEARING OFFICER: Attorney Blake,  
9 before I recognize you for summation -- it's 1:31 -- is  
10 there anyone here who is present who wishes to speak on  
11 behalf of the establishment and/or offer testimony,  
12 witnesses, or exhibits?

13 The record will show that no one has come  
14 forward.

15 Attorney Blake, I would now turn it back  
16 over to you for your summation.

17 MR. BLAKE: Sure. Thank you.

18 SUMMATION

19 MR. BLAKE: Without cross-examination,  
20 you have heard from the officers of the law, sworn, that  
21 there was, in fact, numerous instances where somebody  
22 from the Brax Restaurant had an alcoholic beverage in  
23 their hand and went from Brax's property onto Town  
24 property.

1           As you know, Mr. Hearing Officer, as part  
2 of any license application, the premises -- so-called  
3 premises need to be defined and there needs to be some  
4 type of barrier to prevent just that from happening.

5           You heard testimony that there are,  
6 quote/unquote, holes in those barriers and that clearly  
7 people are able to walk off. Whether they knew they  
8 were walking off onto Town property, whether they knew  
9 it was a violation, I think, is irrelevant. The  
10 establishment should know that those are violations.  
11 They should know that they have to keep those people on  
12 their premises, and they didn't.

13           Whether or not -- after our officers came  
14 and warned them, whether or not they did, we don't know.  
15 It may just be that we didn't see other people wandering  
16 off. But the simple fact of the matter is there was a  
17 violation. You're not supposed to allow patrons with  
18 alcoholic beverages in their hand to wander off your  
19 property and outside of a designated, quote/unquote,  
20 premises, as that term is used for licensing.

21           THE HEARING OFFICER: Thank you, Attorney  
22 Blake. Does that conclude your summation?

23           MR. BLAKE: That concludes my summation  
24 and my case.

1 THE HEARING OFFICER: Thank you.

2 Before I move to closing statements by  
3 me, and adjournment, I just want to make sure -- Ellen,  
4 I'm going to put it on the record that I was the one  
5 that messed up Danielle's packet; so when she finds  
6 that, she can take that out on me, not on you.

7 I want to make sure that I have the  
8 exhibits correct in front of me. Exhibit A is  
9 understood to be the notice of show cause hearing that I  
10 read into the record at the top of the hearing.  
11 Exhibit B is a letter dated September 15, 2021, to  
12 Jeffrey Gomes, Manager of Record, that was signed under  
13 my name and signature.

14 Attorney Blake, these are confirmed so  
15 far?

16 MR. BLAKE: Yes.

17 THE HEARING OFFICER: Thank you.

18 Exhibit C is known to be the Harwich  
19 Board of Regulations as they existed, as most recently  
20 amended January 9, 2017, which is -- consists of  
21 21 pages. That's Exhibit C. Exhibit D-1 is a  
22 memorandum from our Chief of Police, David J.  
23 Guillemette, to both the Board of Selectmen and to me,  
24 as Administrator. D-2 is call log 21-10396. That is

1 D-2. And D-3 is the companion narrative from Patrol  
2 Supervisor Derek J. Dutra.

3 Did I capture those correctly?

4 MR. BLAKE: That is correct.

5 THE HEARING OFFICER: And again I will  
6 state that I have entered into the record what I refer  
7 to as Administrative Exhibit No. 1 which is a Certified  
8 Mail Signature Confirmation Return Receipt that the Town  
9 received.

10 I will tell you that I'm a little bit off  
11 my game because I'm not used to being stood up, and it  
12 appears that that is the case. However, I'm going to  
13 carry on as though we have the appropriate full audience  
14 and just remind everybody that the purpose of this  
15 hearing was for any and all parties to present  
16 themselves today and offer whatever they considered to  
17 be the facts and for me then to rely upon those facts as  
18 evidenced by the video recording, as evidenced by our  
19 stenographer's transcript and my notes, as well as the  
20 exhibits, to then make determinations on behalf of the  
21 Board of Selectmen.

22 So this matter in a moment will be  
23 adjourned and that the matter will be taken under  
24 advisement by me to come back to the Board of Selectmen

1 with a finding of facts by me and potential  
2 recommendations, if any, on discipline regarding this  
3 matter.

4                   Having said that, first I want to thank  
5 you, Barry -- Mr. Springer. I know that your role as  
6 one of our assistant harbormasters brings you here  
7 today. I also know that this is not in your job  
8 description; so I thank you very much for taking your  
9 time today and offering yourself as a witness who could  
10 have been -- who was examined but also could have been  
11 cross-examined. So on behalf of the Town, as the chief  
12 personnel, Administrator, thank you for that.

13                   And, as always, thank you to the officers  
14 of the Harwich Police Department.

15                   And last, but by no means least, Ellen,  
16 Attorney Blake, Janet, and, Caleb, thank you for your  
17 efforts.

18                   Having said that, it is 1:36 p.m.,  
19 October 26, 2021, and I hereby adjourn this hearing.

20                   (Whereupon the hearing was adjourned at  
21                   1:36 p.m.)  
22  
23  
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

I, Janet L. Wynne, CSR No. 131793, Registered Professional Reporter, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript, pages 5 through 32, is a complete and accurate transcript of my stenographic notes.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of November, 2021.

/s/ Janet L. Wynne

\_\_\_\_\_  
Janet L. Wynne, Notary Public  
My Commission Expires:  
February 15, 2024

# **EXHIBITS**

A

**HARWICH BOARD OF SELECTMEN  
NOTICE OF SHOW CAUSE HEARING**

**ALLEGED VIOLATIONS OF CONDITIONS OF LIQUOR LICENSE  
OCTOBER 26, 2021**

The Town Administrator, acting as the Hearing Officer for the Board of Selectmen, will hold a Show Cause Hearing on Tuesday, October 26, 2021 at 1:00 P.M., for the purpose of consideration of alleged liquor license violations by Brax Restaurant Management Inc. d/b/a Brax Landing, located at 705 Main Street, Harwich Port. The Hearing Officer will consider possible penalties including modifications, suspension, revocation or cancellation of said license. All members of the public having an interest in the topic are cordially invited to attend the Public Hearing which will be held in the Griffin Room at the Harwich Town Hall, 732 Main Street, Harwich MA 02645.

Joseph F. Powers  
Town Administrator

Cape Cod Times  
September 27, 2021



B



Phone (508) 430-7513

Fax (508) 432-5039

## OFFICE OF THE TOWN ADMINISTRATOR

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

732 MAIN STREET, HARWICH, MA 02645

September 15, 2021

VIA CERTIFIED MAIL AND EMAIL

Jeffrey Gomes, Manager of Record  
Brax Restaurant Management Inc.  
d/b/a Brax Landing  
705 Main Street  
Harwich Port, MA 02646

Re: Notice of Disciplinary Hearing  
Brax Restaurant Management Inc. d/b/a Brax Landing

Dear Mr. Gomes:

On Tuesday, October 26, 2021 at 1:00 pm at the Harwich Town Hall, 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 Liquor License for Brax Restaurant Management Inc. d/b/a Brax Landing.

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 Town reserves the right to consider and/or levy additional charges that may arise during the hearing process.

The facts underlying these allegations arise from an incidents occurring on or about August 16, 2021, as described in detail in the Harwich Police Incident Report attached hereto. Also, attached are the Town of Harwich Liquor License regulations.

Purpose of said hearing is to review the findings of Chief of Police and Officers as well as to determine if any additional facts may warrant additional allegations of violations, to that end, you are directed to provide copies of any material documentation, CCTV video within establishment, records of any and all receipts of tabs, credit card transactions and any other such material which the town may rely upon to determine if added violations are contemplated.

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](mailto:ddelaney@town.harwich.ma.us) by the close of business on Tuesday, October 19, 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.

Sincerely,

Joseph F. Powers  
Town Administrator

CC: Board of Selectmen  
Licensing File  
Certified mail #7002 2030 0004 0933 4388

C

**HARWICH BOARD OF SELECTMEN  
LIQUOR LICENSE REGULATIONS  
Adopted at a Public Hearing on June 13, 2011  
Amended at a Public Hearing on January 9, 2017  
Effective July 1, 2011**

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**HARWICH BOARD OF SELECTMEN  
LIQUOR LICENSE REGULATIONS  
Adopted at a Public Hearing on June 13, 2011  
Amended at a Public Hearing on January 9, 2017  
Effective July 1, 2011**

**INTRODUCTION**

In issuing regulations, the Board of Selectmen, as the liquor licensing authority of the Town of Harwich, is setting forth the expectations of the citizens of Harwich as to the conduct of the Town's liquor license holders. A significant objective of the regulations is the prevention of violations. In familiarizing themselves with these regulations, license holders will realize that much is expected of them. The Board of Selectmen believes that violations will be prevented because these regulations will require liquor license holders to operate in accordance with a clearly defined, higher standard.

**1. Identification of the Town of Harwich Licensing Authority**

1. The Licensing Authority for the Town of Harwich shall consist of the Board of Selectmen. This authority is granted to the Board of Selectmen pursuant to G.L. c.138.

**2. Scope of and Statutory Basis for Promulgation of Rules**

1. The statutory basis for the promulgation of these rules is set forth within the applicable sections of G.L. c.138. Each reference to a statute shall include any amendment thereto.
2. These rules are supplementary to any statutory requirements and to the rules of the Alcoholic Beverages Control Commission.

**3. Definitions**

1. Whenever the word "**Applicant**" is used herein it shall mean an individual applicant; each member of a partnership applicant; each officer, director, manager, and stockholder of a corporate applicant; and any agent of an applicant.
2. Whenever the word "**Licensee**" is used herein it shall mean an individual licensee and each member of a partnership licensee and each officer, director, manager, and stockholder of a corporate licensee and any agent of a licensee including those employees who work in the public areas of the premises.
3. Whenever the word "**License**" is used herein it shall mean a revocable privilege granted by a licensing authority.

4. Whenever the words “**Licensing Authority**” or “**Authority**” are used herein it shall mean those groups having legal authority to grant licenses and/or regulate the operation of the licensed premises. The specific licensing authority for the Town of Harwich shall be the Board of Selectmen.
5. Whenever the word “**Patron**” is used herein it shall mean a customer who is legally on the licensed premises.
6. Whenever the word “**Premises**” is used herein it shall mean all land and buildings associated with the operation of the license.
7. Whenever the word “**Rules and Regulations**” is used herein it shall mean a compilation of regulations and laws set up by a licensing authority to regulate the manner in which businesses under its authority shall operate.

## **SECTION ONE: GENERAL LICENSING RULES FOR LICENSEES**

### **1.00 Applicability of Rules and Regulations**

- a. This section shall apply to all Town licensees, unless specifically provided otherwise.

### **1.01 Availability of Rules and Regulations**

- a. All licensees of the Licensing Authority for the Town of Harwich shall ensure that a copy of these Rules and Regulations is kept on the premises at all times and is available for inspection upon request by a member of the public or an agent of the Authority. These Rules and Regulations are to be kept in the office of the Manager or at the main cash register.
- b. The licensee is responsible for ensuring that all employees who work in the public areas of the premises read the Rules and Regulations of the Licensing Authority and comply with all rules and laws.

### **1.02 Liquor License Filing Procedures and Responsibility of Applicant**

- a. New applications and applications for license modifications must be filed in the Town Administrator’s Office in accordance with the Alcoholic Beverages Control Commission’s Matrix for Retail Transactions along with the local filing fee and abutters list fee (when applicable). Applicant is responsible for advertising costs as well as abutter notification and associated mailing costs.
- b. Copies of applications will be submitted to the Chief of Police for appropriate background investigations.

- c. The Town Administrator will require at least 2 business days to review an application to determine whether the filing is complete. Once it is determined that the application is complete as presented, the Town Administrator will place the Advertisement and at the same time distribute copies of the filing to each member of the Authority for review.
- d. The Authority may require additional information from the applicant prior to the public hearing (i.e. lease agreements, financing information, and/or additional background information).
- e. The hearing shall not be held sooner than ten days after advertising.
- f. The Authority may, with the consent of the applicant, continue the hearing to a future date in order to allow the applicant to provide additional information, or the Authority to investigate and consider whether the application is in the best interest of the Town.
- g. The Authority reserves the right to obtain updated information about a renewal applicant/manager/owner at the time of renewal.

### **1.03 Posting and Signs**

- a. Licenses issued by the Authority shall be posted in a conspicuous place easily seen by the public where they can read without difficulty and without the assistance of employees at the premises.
- b. All other licenses, permits, and certificates affecting the licensed premises shall be posted conspicuously; provided, however, that no such document shall be posted in such a way as to cover over any part of the license issued by the Authority.
- c. No dress code or preferred customer program or cover charge or other admissions policy shall be put into effect at the premises except upon proper posting pursuant to Section 1.04 below.
- d. The posting or presentation of any photographs, signs, posters, drawings or other matter that is of an improper or objectionable nature in the public areas of the licensed premises is prohibited. The material presented must be suitable for view by members of the general public in the same manner as if it were located in other public areas such as public ways, public parks, common carrier stations, other government offices, and business offices.

### **1.04 Admissions to the Premises**

- a. No licensee shall permit any rule, policy, or action, express or implied, which makes any distinction, discrimination, or restriction on account of race, color,

religious creed, national origin, sex, or ancestry, physical or mental disability, relative to the admission or treatment of persons from the general public or employees at the licensed premises; provided, however, that premises licensed pursuant to G.L. c.138, §12 may make rules regulating the admission of minors to the premises when such rules are not inconsistent with other rules and regulations stated herein; provided further that private club licensees shall not discriminate, as aforesaid, with regard to guests at the licensed premises or with regard to who may be invited to the premises as a guest.

- b. No licensee shall institute dress requirements of any kind except according to the following rules:
  - 1. A sign shall be posted at the entrance stating dress requirements or dress restrictions with specificity which may also include restrictions as to footwear. (Examples: “Jackets required”; “Ties and jackets required”; “Shirts with collars required, no sneakers”).
  - 2. No signs shall be posted which state, “Proper dress required,” or which otherwise announce a dress policy without stating specifically, item by item, what dress is required or what dress is prohibited.
- c. No licensee shall institute privileged entrance requirements of any kind except according to the following rules:
  - 1. A licensee may issue special passes.
  - 2. The special passes shall state the calendar year on the face of the pass.
  - 3. The special pass shall not entitle the passholder to free drinks or to a discount on drinks.
  - 4. The licensee shall keep a list of the names and addresses of all passholders and must have such list available if requested by the Authority.
  - 5. The licensee is responsible for ensuring that persons are picked to be passholders on a rational basis and not on any basis that is discriminatory in violation of law or these regulations.
- d. No licensee shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one (1) inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such licensee shall require a person under thirteen (13) years of age to pay a minimum charge or cover charge. Such cover charge shall not be collected in advance of gaining entrance to the

licensed premises, and can only be charged upon a written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers. Records of such receipts shall be kept by the licensee for a period not less than two (2) years. Cover charge shall mean all admission fees or admission charges. Such charges must also be posted on the outside of the licensed premises. Nothing in this regulation shall be construed to prohibit advance ticket sales.

- e. No minimum charge for the purpose of alcoholic beverages or minimum alcoholic beverage drinking requirement shall be imposed upon any customer of a G.L. c.138, §12 licensee.
- f. A licensee who charges a minimum charge for the purchase of food and/or non-alcoholic beverages shall include a specific statement in a posting stating that there is no minimum charge for alcoholic beverages. Such minimum charge for food and/or non-alcoholic beverages shall not be collected in advance of gaining entrance to the premises. No licensee shall impose a minimum charge for food and/or non-alcoholic beverages upon any customer who incurs charges for alcoholic beverages equal to or greater than the posted minimum charge for food and/or non-alcoholic beverages.
- g. Licensees shall refuse entrance to the premises to a person who appears to be intoxicated or unruly; and shall evict such a patron, except that in such a case the licensee should call the police and should offer assistance to an intoxicated person when possible.
- h. Licensees shall not permit entrance to the premises by more persons than the maximum occupancy limit established by the Building Department.
- i. Licensees who permit persons to wait in line for a table or a seat or for entrance to the premises shall obey the following rules:
  - 1. Persons who wait inside the premises shall be kept in an orderly line and must not be permitted to block fire aisles or exits. The number of such persons waiting inside the premises shall not exceed the number of persons allowed as standees.
  - 2. Persons who are permitted to wait in line outside the premises shall be supervised by an employee of the licensed premises. Such employee shall stand outside with the line during all times when the line exceeds ten (10) persons and shall announce no further admissions to the premises if persons in the line are being loud or disorderly or if the line is blocking the sidewalk or is of a size that could reasonably be expected to cause noise or other problems for residents of the area or for passersby. To the extent that lines in front of a licensed premises become the subject of public

complaints the licensee shall have been deemed to be inviting a public nuisance and shall be subject to disciplinary proceedings for same. It is recommended that licensees in residential areas discourage lines of more than ten persons.

- j. Licensees shall not lock the front door of the premises until the last patron has exited from the premises.
- k. Licensees shall not allow any patron or any guest or any employee who is not working that shift to enter the premises after the closing hour posted on the license or prior to the opening hour posted on the license.

#### **1.05 Hours of Operation**

- a. The hours of operation shall be restricted to those set by the Licensing Authority and stated on the face of the license. No patrons shall be on the premises before the official opening hours nor fifteen (15) minutes after the official closing hours. Customers must be up and on the way out once the closing hour of the licensed premises has been reached. No drink consumption time.
- b. The rules for employees on premises after closing hours are as follows: employees must be off the premises no later than sixty (60) minutes after the "Official Closing Hour," provided however, that such employees or other hired personnel may be on the premises at any time for the purpose of cleaning, making emergency repairs, providing security for the premises, or preparing food for the next day's business or opening or closing the business on an orderly manner. No other persons, friends or relatives may be on the premises with the owners, managers or employees of the licensed premises during the hours when the public is excluded from the premises.
- c. Licensees shall ensure that their patrons leave the premises in an orderly manner. Licensees who have a clientele that regularly fails to leave the area in a quiet and orderly manner should hire security personnel to police the leave-taking of the patrons at closing time.

#### **1.06 Physical Premises**

- a. No license shall be issued or shall be considered in good standing unless the licensed premises comply with all statutory requirements, including all applicable building codes and fire, health, safety, trash and other government regulations and laws.
- b. The licensed premises shall conform to the floor plan approved by the Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, bar stools, dance floors or areas, railing



partitions, and other barriers at the premises. Any changes in the floor plan or any renovations of any kind shall not be made without notification to the Authority and the approval of the Authority. This includes substantial changes in the arrangement of moveable furniture.

- c.. All premises covered by the license shall be kept in a clean and sanitary condition, with specific reference to fruit flies contaminating open liquor bottles.
- d. No outside area shall be used as a gathering place for patrons unless approved by the Authority and the Alcoholic Beverages Control Commission if alcohol is consumed.
- e. The premises shall be lighted in all public areas in a manner sufficient for the safety of the patrons and in a manner sufficient for the agents of the Authority to make observations at the premises without the need to identify themselves or the need to seek assistance.
- f. The actual capacity of the licensed premises will be established by the Licensing Authority and shall be the lowest set by septic or building capacity. That capacity shall be stated on the license.
- g. Licensees shall not invite the members of the general public to private areas of the premises which are approved by the Authority for storage or for an office or for a kitchen or for a music or video projection room or for any similar non-public use. Only owners and employees of the licensed premises shall be in these areas.
- h. No advertising matter, screen, curtain or other obstruction, which in the opinion of the Licensing Authority or its Agents, prevents a clear view of the interior of the premises shall be maintained in or on any window or door thereof after the Authority has ordered the removal of such obstruction.
- i. The interior of the premises shall be sufficiently lighted at all times and all exits shall be properly designated by lighted signs, "Exit," as same may be mandated by the Building Inspector of the Town of Harwich or by the Fire Department of the Town of Harwich.

#### **1.07 Business Arrangements of Licensees**

- a. No person or entity shall obtain or renew a license unless the applicant for such license or for renewal of such license can demonstrate proof of a legal right to the licensed premises for the term of the license. Such proof shall include ownership papers or a tenancy document or a management contract; provided, however, that all parties to such ownership or leasehold interest or management contract shall be known to the Authority and the terms of such agreements or contracts shall be made known to the Authority.

- b. No licensee shall hire any employee or contract for goods or services in any name other than that of the licensee, nor shall the licensee pay for any such employment, goods, or services by any means other than its own cash or bank accounts in its own name. Cash transactions shall be recorded in a manner suitable for review by the Authority. Such records shall be kept for a period of three (3) years.
- c. No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons properly approved of by the Authority and the salaried employees of such persons.
- d. No licensee shall permit any person to work at the licensed premises or to hold themselves out as a person in a position of authority at the premises except for those persons who are owners and officers or who are salaried employees for whom payroll records are available. No licensee shall pay an employee any percentage of the profits of the business or pay an employee in any manner other than by salary or hourly rate except upon approval of the Authority.
- e. No licensee shall pay a landlord or creditor of any kind a percentage of the profits of the business except upon complete disclosure to the Authority and the receipt of the Authority's approval.
- f. No licensee shall lease out any part of the premises or any part of the business without the approval of the Authority. No licensee shall lease out the food or beverage service without the approval of the Authority.
- g. No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Authority.
- h. No licensee shall pledge the stock in the licensed business or the license itself without the approval of the Authority pursuant to G.L. c.138 §15A. No licensee shall pledge a license without obtaining the approval of the Authority pursuant to G.L. c.138, §15A and the Board of Selectmen's Policy on Pledging of Alcoholic Beverages Licenses.
- i. No licensee shall take a loan secured by any equipment at the premises or secured by any direct or indirect interest in the licensed business without the approval of the Authority. This includes kitchen equipment, video or audio equipment, lighting equipment, furniture, or any other type of equipment.
- j. No licensee shall contract bills for its licensed premises under any corporation or trade name other than that under which it is licensed.

- k. Managers in licensed premises shall not be changed until the Authority and the Alcoholic Beverages Control Commission have approved such change.
- l. Any licensee intending to close its place of business shall notify the Authority in writing before such closing and state the reason for such closing.
- m. Assignment of the stock of corporate licensees for purposes of collateralizing loans or notes, etc., gives no right to the assignee to conduct the business of the licensee. Licensees shall immediately notify the Authority when the assignee forecloses under such assignment of stock or when other proceedings are brought which affect the economic and financial rights and abilities of the licensee.
- n. Licensees shall enter into no agreement or understanding which sets a minimum requirement for gross sales of food and beverages at the premises.
- o. Licensees shall not use any trade name, assumed name, or abbreviated name in connection with the licensed business unless the same appears on the license certificate issued by the Authority or unless written permission is first obtained from the Authority. The use of any unauthorized name on the books, records, stationery, or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first obtained from the Authority.
- p. Licensees are responsible for maintaining a legal right to access to and control of the premises which is covered by the license. Failure to have a legal right to the named licensed premises shall result in the revocation or non-renewal of the license.

#### **1.08 Alcoholic Beverages Sales and Laws**

- a. No alcoholic beverages shall be sold for less than the actual cost of the beverage to the licensee. An admission charge shall not be credited towards the purchase price of any alcoholic beverage.
- b. All licensees shall maintain a schedule of the prices charged for all drinks to be served and drunk on the licensed premises or in any room or part thereof. Such prices shall be effective for not less than one calendar week.
- c. No licensee or employee or agent or a licensee shall:
  - 1. offer or deliver any free drinks to any person or group of persons;
  - 2. deliver more than two (2) drinks to one person at one time;

3. sell, offer to sell or deliver to any person or group of persons any drinks at a price less than the price regularly charged for such drinks during the same calendar week, except at private functions not open to the general public;
  4. sell, offer to sell, or deliver to any person an unlimited number of drinks during a set period of time for a fixed price, except at private functions not open to the general public;
  5. sell, offer to sell or deliver drinks to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;
  6. sell, offer to sell or deliver malt beverages or mixed drinks by the pitcher except to two (2) or more persons at any one time;
  7. increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price regularly charged for such drink during the same calendar week;
  8. encourage or permit, on the licensed premises, any game or contest which involves drinking or the awarding of drinks as prizes;
  9. advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this section.
- b. Nothing contained in the preceding section shall be construed to prohibit licensees from offering free food at any time; or to prohibit licensees from including a drink as part of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one persons; or to prohibit those licensed under G.L. c.138, §15 from offering free wine tastings; or to prohibit those licensed under G.L. c.138, §12 from offering room services to registered guests.
- c. Licensees shall not permit alcoholic beverages to be brought on the licensed premises by patrons or employees.
- d. Licensees shall be responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by another patron. Licensees who do not have the ability to keep track of the drinking activity of minors at the premises shall exclude minors from coming onto the premises in order to meet the burden of ensuring that there is no underage drinking at the premises. Licensees who choose to permit minors on the premises shall be accountable if minors are found to be drinking alcoholic beverages on the

premises, whether or not the Authority's agents are able to prove that the licensee actually served the drink directly to the minor. Sufficient security personnel shall be employed to monitor the premises to ensure that patrons do not pass alcoholic beverages to minors.

- e. Any establishment licensed to sell alcoholic beverages to be drunk on the premises shall post a copy of the penalties for driving under the influence set forth in section G.L. c.90, §24. Establishments licensed to sell alcoholic beverages not to be drunk on the premises shall post a copy of the penalties for operating a motor vehicle while drinking from an open container. Said copies shall be posted conspicuously in said establishments. Said copies are available from the Alcoholic Beverages Control Commission.
- f. Food service shall be available in all areas of the licensed premises where alcoholic beverages are served, this to include dining areas and lounge areas. This does not include any area approved as a waiting area by the Licensing Authority.

#### **1.09 Entertainment at Licensed Premises**

- a. No licensee may provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to G.L. c.140, §183A. Such license must be held in the same name, by the same owners, and with the same manager as the food or beverage license; provided, however, that in cases where entertainment on the premises is to be conducted by a person or entity who is an independent contractor at the premises, the food or beverage licensee may seek the approval of the Licensing Authority for an exemption from this rule based upon a written contract with the independent contractor which gives control of the premises to the food or beverage licensee while allowing the independent contractor to book and/or to produce the entertainment.
- b. The food or beverage licensee shall be responsible for the actions of any independent contractor on the premises providing entertainment in addition to the responsibility held by the independent contractor pursuant to the entertainment license.
- c. The food or beverage licensee shall pay the independent contractor a fee according to the written contract, said fee to be commensurate with the market value of the services, and the independent contractor shall not be given any direct or indirect interest in the licensed premises other than the fee set out in the contract. Said fee shall not be based upon the number of patrons attending an entertainment event.
- d. Any food or beverage licensee who permits entertainment at the licensed premises pursuant to a license held by a person in violation of this rule will be subject to disciplinary action by the Authority.

- e. Inside Entertainment - No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment is creating a nuisance and can be heard outside the boundaries of the premises.  
  
Outside Entertainment – Noise from entertainment must be at reasonable sound levels which are not plainly audible at a distance of 150 feet from boundary line or source of sound amplification system whichever is further.
- f. No dancing by patrons is permitted except upon proper licensing pursuant to G.L. c.140, §183A, and confined to a particular dance floor area which has been approved by the Authority and which is not inconsistent with the entertainment license requirements.
- g. Entertainment shall not be conducted on the premises prior to the opening or subsequent to the closing hour set by the Authority for the exercise of the food or beverage license or during any period when the food or beverage license has been suspended.
- h. No licensee may have upon the premises any automatic amusement devices unless such machines have been approved and separately licensed by the Authority pursuant to G.L. c.140, §177A. Types of machines and location of machines upon the premises must be approved. The licensee must make application, not the distributor.
- i. Licensees shall not permit any games to be played at the premises for money, alcoholic beverages, or for any other prize. Games may be played for money at certain fundraising activities which have been approved by the Authority and for which the licensee holds other appropriate licenses.
- j. Licensees who hold licenses under G.L. c.138, §12 to serve alcoholic beverages for on premises consumption may petition the Authority for approval to allow dancing on Sundays between the hours of twelve midnight and one o'clock A.M. or two o'clock A.M. for the same hours for which the licensee is authorized to sell alcoholic beverages. (G.L. c.138, §33).

#### **1.10 Environs of Licensed Premises**

- a. It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee shall be accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.

- b. Licensees shall act reasonably and diligently to disperse loiterers or patrons who attempt to congregate in front of or at the licensed premises. Failure of the licensee to keep persons from congregating at the licensed premises may lead to disciplinary action against the licensee for allowing a public nuisance. Action to be taken by the licensee shall include: (1) maintaining the front door in a closed position; (2) asking loiterers to disperse; (3) promptly notifying the police if loiterers refuse to disperse; (4) hiring a security guard or stationing a security employee at the front door to disperse loiterers; (5) refusing to allow patrons to walk in and out of the premises at short intervals; (6) maintaining order in lines of patrons waiting outside to get in; (7) announcing that no further patrons will be allowed into the premises if lines become too long or disorderly or loud.
- c. Licensees shall take such steps as are necessary to ensure that patrons or employees do not leave the premises with alcoholic beverages. Such steps shall include having an employee stationed at the door to watch patrons as they leave. When patrons are observed leaving the premises with beer bottles, beer cans, or cups or glasses filled with liquids that smell like alcoholic beverages to the Authority's agents, it shall be presumed that the vessels contain alcoholic beverages.
- d. When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Authority adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for police attention, the licensee shall be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.

### **1.11 Inspections and Investigations**

- a. The licensed premises shall be subject to inspection by the members of the Licensing Authority and its duly authorized agents. Any hindrance or delay of such inspection caused by an employee of the licensee shall be cause for action against the licensee. It shall be the responsibility of the licensee to ensure that procedures are in place, be it posting a doorman or otherwise, to allow police and authorized agents of the Authority immediate entrance into the premises at any time employees are on the premises. Any delay in providing such access shall be cause for action against the license.
- b. Any person who hinders or delays any authorized investigator of the Alcoholic Beverages Control Commission or any investigator, inspector or any other authorized agent of the Licensing Authority in the performance of his duties, or who refuses to admit to or locks out any such investigator, inspector or agent from any place which such investigator, inspector or agent is authorized to inspect, or

who refuses to give to such investigator, inspector or agent such information as may be required for the proper enforcement of G.L. c.138, shall be punished by penalties as outlined in G.L. c.138.

- c. Licensees shall maintain a current list of all of their employees and shall have it available at all times for inspection upon the request of an authorized agent of the Authority. Licensees who contract with entertainment entities to provide entertainers must maintain a current list of the names of such entertainers and said entertainers shall be held to the same rules as other employees at the premises.
- d. No device or electronic equipment shall be utilized by a licensed premises for the purpose of signaling employees that agents of the Licensing Authority are present.
- e. All complaints and reports shall continue in force until they have been reviewed and disposed of by the Licensing Authority.

#### **1.12 Standards of Conduct on the Premises**

- a. It is forbidden to permit any employee or person in or on the licensed premises to promise, offer, suggest, or accept sexual acts or favors in exchange for money or for the purchase of any alcoholic beverages or other commodities.
- b. It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks or genitals of any other person.
- c. No alcoholic beverages shall be sold to anyone under twenty-one (21) years of age. No service of alcoholic, wine/malt beverages shall be made to anyone under twenty-one (21) years of age.
- d. No manager or employee shall consume any alcoholic beverages while on the licensed premises while on duty or after the official closing hour.
- e. There shall be no disorder, prostitution, illegal gambling, illegal drug use or sales or possession, or other illegal activity on the licensed premises or any premises connected therewith by an interior communication.
- f. All other acts defined as criminal behavior by the Massachusetts General Laws are also prohibited on the premises.

#### **1.13 Requirement to Monitor and Prevent Illegal Activity on the Licensed Premises**

Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts shall include:

- a. Frequent monitoring of restrooms and other nonpublic areas of the premises for



signs of drug activity or other illegalities;

- b. Paying attention to activities on the premises of known drug users or drug dealers or prostitutes or others who are known to have been convicted of crimes which may be conducted at a licensed premises;
- c. Monitoring of activities of persons who talk about weapons or who appear to be hiding a weapon;
- d. Calling for police assistance as necessary to protect patrons against injury or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information;
- e. Hiring security personnel to deal with chronic unlawful activity at the premises such as prostitution or gambling or larceny from patrons or assaults and batteries or other problems associated with the premises.

#### **1.14 Injuries to Persons at the Premises**

- a. Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows from an unruly patron. In all other circumstances, employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.
- b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons or persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee.

#### **1.15 Other Causes for Revocation, Suspension, and Modification**

- a. Any license issued pursuant to G.L. c.138 may be modified, suspended, or revoked for any of the following causes:
  - 1. Violation by the licensee of any provision of the relevant General Laws of the Commonwealth, of the regulations of the Alcoholic Beverages Control Commission or of the regulations of the Licensing Authority;
  - 2. Fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof, or in connection with an application for the removal of the licensed premises or the alteration of the premises, or in connection with any other petition affecting the rights of

- the licensee, or in any interview or hearing held by the Authority in connection with such petition, request, or application affecting the rights of the licensee;
3. Failure to operate the premises covered by the license without prior approval of the Licensing Authority;
  4. Failure or refusal of the licensee to furnish or disclose any information required by any provision of the General Laws, or by any rule or regulation of the Alcoholic Beverages Control Commission, or by any rule or regulation of the Licensing Authority;
  5. Licensees shall not give or offer any money or any article of value or pay for or reimburse or forgive the debt for services provided to any employee or agent of the Authority either as a gratuity or for any service;
  6. Licensees may not fail to comply with any condition, stipulation or agreement upon which any license was issued or renewed by the Authority or upon which any application or petition relating to the premises was granted by the Authority. It shall be the duty of the licensee to ensure that all appropriate personnel at the licensed premises are familiar with the rules and regulations of the Authority and with any conditions on the license.
  7. A license may be suspended or modified or revoked for the refusal by any licensee and, if a corporation, by a manager, officer, or director thereof to appear at an inquiry or hearing held by the Authority with respect to any application or matter bearing upon the conduct of the licensed business or bearing upon the character and fitness of such person to continue to hold a license.
  8. Licensees shall properly serve suspension and modification orders.

#### **1.16 Violations; Hearing Procedure**

- a. Upon written notice from the Chief of Police or other source that an illegality has allegedly occurred at a licensed establishment or other matters that the Chief of Police deems should be brought to the attention of the Licensing Authority, the Authority will consider in open session whether or not a public hearing should be held.
- b. If it is determined that a public hearing will be held by vote of the Authority, the Town Administrator shall send written notice to the licensee by Certified Mail, Return Receipt Requested.

- c. At the hearing the Authority will first hear evidence from the Police Chief and his agents and/or witnesses or from other complaining parties, as may be appropriate. Then the licensee and the licensee's counsel will have an opportunity to present their response and evidence.
- d. After all testimony has been given, the Authority reserves the right to question all witnesses and parties and, if necessary, take under advisement all facts and vote either to render their decision or continue the hearing to a subsequent meeting of the Authority.

### **1.17 Disciplinary Guidelines**

- a. Licensees in violation of the applicable laws of the Commonwealth, regulations of the Alcoholic Beverage Control Commission and/or these regulations may be subject to the following range of discipline:
  - 1. First offense: warning to seven day suspension.
  - 2. Second offense: warning to thirty day suspension.
  - 3. Third offense: warning to revocation.
- b. Only offenses which have occurred within the two (2) years preceding the date of violation shall be used in calculating the number of offenses for purposes of the disciplinary guidelines.
- c. The disciplinary guidelines are only a guide. The Licensing Authority may use its discretion in determining whether the facts surrounding a violation warrant a penalty which is more lenient or severe than that suggested by the guidelines.
- d. The disciplinary guidelines shall not be construed so as to limit the Licensing Authority's authority to consider alternative dispositions, or further conditions on a license, or even alternate penalties (e.g. roll back of operating hours).

### **1.18 Service of Suspension Orders**

- a. When the Authority suspends the license or licenses of any licensee, it shall provide the licensee with an order of suspension for public display that must contain the words, "No alcohol served per order of the Board of Selectmen for the Town of Harwich." Such order shall be publicly displayed by the licensee in the following manner. If there is a door opening from the street into the licensed premises and a window facing the street upon which such door opens, such order shall be displayed in such window so that it may readily be seen from the street. If the licensed premises are otherwise located, such order shall be affixed to the

door of the entrance to the premises and displayed in such a way that it may be readily seen from the street.

- b. Suspension orders of the Authority, as above, shall remain affixed throughout the entire period of suspension. The removal, covering, defacement, or obliteration of the order of suspension or the failure to maintain the order of suspension in the manner and place required prior to the expiration of the suspension period shall be deemed the act of the licensee and shall be cause for further suspension, modification or revocation of the license.
- c. Suspension periods shall not be used as a time to do renovations at the licensed premises unless such renovations have previously been approved by the Authority.
- d. No members of the public may be on the premises at any time during suspension periods, with the exception that restaurants may be able to continue to service patrons without serving alcohol, with the approval of the Licensing Authority.

#### **1.19 Permission to Close Premises Required; Non-use of Licenses**

- a. Licenses are granted to serve the public need and, to that end, licensees are expected to operate the license for a substantial number of hours on all days when the premises are permitted to be open under the terms of the license. In the case of alcoholic beverages licenses, the number of which are limited according to statute, no licensee may close its place of business for any reason other than the following:
  - 1. Upon approval of a request to the Licensing Authority for closing in order to do renovations for a reasonable time;
  - 2. For all holidays and religious days;
  - 3. A closing of one (1) or more days per week upon approval of a request to the Authority and a showing by the licensee that it does not have adequate business upon such days.
  - 4. A closing due to an act of God, natural disaster, illness or some other business problem for which request has been made to the Authority and approval granted.
- b. Any licensee intending to close a place of business, whether on a temporary or permanent basis, must notify the Licensing Authority in writing before such closing stating the reason and length of such closing and obtain approval. Failure to provide such notice may result in the suspension or revocation of the license.

- c. If the Licensing Authority becomes aware of a license not being exercised, it may conduct a hearing to obtain a status update.
- d. The Authority reserves the right to require that the licensee appear before the Authority every three (3) months from that point until the business has commenced or resumed operations or the license has been transferred or turned back to the Town.
- e. The Authority reserves the right to revoke the license at any time if it deems that the public good is not being served.

#### **1.20 Bankruptcy and Court Proceedings**

- a. The licensee shall immediately notify, in writing, the Licensing Authority of any proceedings brought by or against the licensee under the bankruptcy laws or of any other court proceedings which may affect the status of the license.

#### **1.21 Management**

- a. Each corporate licensee must appoint a manager by a properly authorized and executed delegation.
- b. The responsibilities of every license holder and any manager shall be as follows:
  - 1. To obey all statutes of the Commonwealth, rules of the Alcoholic Beverages Control Commission, Rules and Regulations of the Licensing Authority;
  - 2. To promptly notify the police of any disturbances or illegal activity on the licenses premises of which he becomes aware;
  - 3. As to corporate licensees, to sign the annual application for renewal of license, unless unavailable;
  - 4. To cooperate with authorized agents of the Licensing Authority, including but not necessarily limited to, any police officer, in their investigation or inspection of the licenses premises.
- c. Any such notice sent to the manager as named in the records of the Licensing Authority or the owner at the address of the licensed premises shall constitute valid legal notice to the licensee.
- d. The licensee shall not change managers, change corporate officers, sell or transfer corporate stock, pledge corporate stock or liquor license as security, or accept a loan or credit from another licensee, without first obtaining the approval of the

Authority. No person may have a direct or indirect beneficial interest in a license without first obtaining the approval of the Authority.

## **1.22 Service Training**

- a. An employee training program on the proper procedures for verifying that patrons are at least twenty-one (21) years of age and not intoxicated shall be provided by the licensee. A written description of such program, along with a written policy outlining the employees' responsibilities and the disciplinary measures which will be taken against any employee for violating said policy, shall be provided to the Authority as part of the original or renewal application materials and maintained on the premises at all times.
- b. A signed certification of each employee who handles alcohol, indicating that the employee has received the described training and has reviewed and understands the written policy describing his or her responsibilities and the disciplinary action which will be taken for violations, shall be maintained on the premises at all times. Copies of all such documents and certifications shall be available to the licensing authority, or any authorized agent thereof, upon demand.
- c. Each new employee who handles alcohol shall obtain server training within thirty (30) days of commencing employment.
- d. Upon a finding by the Authority of a violation of the laws or regulations concerning service of alcohol to a minor or intoxicated person, the employees involved in the violation who continue to be employed by the licensee shall be retrained forthwith and receive a new server training certification.
- e. The training and certification referenced in Section 1.22 shall be pursuant to a training program approved by the Authority (e.g. TIPS or equivalent).



**HARWICH**Police  
DEPARTMENT

183 Sisson Road, Harwich, MA 02645

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

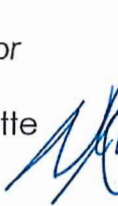


DAVID J. GUILLEMETTE  
Chief of Police

KEVIN M. CONSIDINE  
Deputy Chief

**Memorandum**

**TO:** Board of Selectmen  
Joseph Powers  
Town Administrator

**FROM:** David J. Guillemette  
Chief of Police 

**DATE:** August 30, 2021

**SUBJECT:** Potential Violation at Brax

Mr. Powers and members of the Board:

Attached please find a police report regarding a potential liquor regulation violation at Brax on August 16, 2021.

Please do not hesitate to contact me should you have any questions.

D-2

For Date: 08/16/2021 - Monday

<u>Call Number</u>	<u>Time</u>	<u>Call Reason</u>	<u>Action</u>
21-10396	1916	SUSPICIOUS ACTIVITY	Investigated
Call Taker:		4006 - PSD Telecommunicator Kyleigh Sears	
Primary Id:		135 - Patrol Supervisor Derek J Dutra	
Location/Address:		[HAR 96] BRAX LANDING - 705 RT 28	
Calling Party:		ASSISTANT HARBOR MASTER	
Involved Party:		***UNKNOWN** @ ***UNKNOWN*** - HARWICH, MA 0264 - HARWICH, MA 0264	
ID:		135 - Patrol Supervisor Derek J Dutra	
		Disp-19:21:41 Enrt-19:24:14 Arvd-19:48:01 Clrd-20:00:11	
ID:		190 - Patrol Tyler J Vermette	
		Disp-19:34:43 Enrt-19:34:45 Arvd-19:45:26 Clrd-20:00:11	
Narrative:		08/16/2021 1919 PSD Telecommunicator Kyleigh Sears Assistant Harbor Master , reporting that patrons waiting for tables at Brax Landing (left-hand side of the building when facing it) are spilling into the Harbor parking lot, and walking around with alcoholic beverages. RP states he spoke with patrons to tell them that they cannot be in the municipal lot with open containers from Brax to no avail.	
Narrative:		08/16/2021 2000 PSD Telecommunicator Kyleigh Sears No issues seen upon arrive, units spoke with Brax's owner as well as the assistant harbor master, they will be handling the issue going forward. clear.	

Refer To Incident: 21-10396-OF



D-3

This report is submitted by Officer Dutra regarding a complaint called in by the Assistant Harbor Master regarding a few patrons from Brax Landing leaving the property and walking in the Town parking lot area with alcoholic beverages.

While assigned to the 4-12 shift on August 16, 2021 Officer Vermette and I were dispatched to Saquatucket Harbor to check on restaurant patrons from Brax Landing possibly leaving the restaurant property with drinks in their hands and walking around the parking lot and near the harbor. The call was placed by Assist Harbor Master \_\_\_\_\_, who was on duty that evening.

Officer Vermette was the first officer to arrive in the area. Officer Vermette said in the time he was there before I arrived he only saw one male patrol briefly leave the restaurant property with a drink in his hand and that was only for the purpose of corralling his young child who wandered into the parking lot. During my observation I did not see anyone from the restaurant wander into the parking lot.

For the purpose of this report Brax Landing has a waiting area on the lower area of their property near the parking lot. The area has a few adirondack chairs and tables for the patrons. The area also has few sections of fencing.

I spoke with Assist Harbor Master \_\_\_\_\_ about the matter. One of his concerns had to do with a group of younger girls sitting around and talking on the small road in front of the harbor area (no drinks on their persons). When he spoke to them he learned they were with their parents, who were waiting for a table at Brax. He told them to move along. The second issue he had from Brax had to do with a small group of adult patrons from Brax hanging near the harbor, not too far from the restaurant property but on Town property, with drinks in their hands. He advised them they could not drink on Town property and asked them to head back to the restaurant.

I advised the restaurant owner, J \_\_\_\_\_, and the Manager of the complaints. Both were very concerned and said they will address the matter. N' \_\_\_\_\_ s said he did have a few signs up advising people not to leave the property with drinks but it appeared someone had removed them.

This is the first complaint I believe this department has ever received against Brax especially regarding this concern.