

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/ANOUNCEMENTS**

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 Beachlight LLC, d/b/a Seal Pub, located at 703 Main Street, Harwich. 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



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 *JF*

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

RE: Beachlight LLC DBA Seal Pub, 703 Main Street - Public hearing on alleged violations of the Annual, All Alcoholic Beverages License

DATE: December 10, 2021

The Board of Selectmen as Local Licensing Authority (LLA) for the town received several memoranda from Chief David Guillemette of the Harwich Police Department dated May 25, 2021, June 2, 2021, June 7, 2021, June 28, 2021 and August 30, 2021 (attached). The memoranda detailed alleged violations to have occurred on May 22, 2021, May 29, 2021, June 5, 2021, June 26, 2021 and August 25, 2021 detailing alleged violations to have occurred at Seal Pub at 703 Main Street in Harwich Center.

The Board of Selectmen voted to remand the allegations 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.

The table below attempts to account for the dates of the Chief’s memos related to the dates of alleged violations (and the violations alleged to have occurred) and the corresponding vote of the Board to remand the matters to me:

| Chief’s Memo   | Allegation Date | Allegation(s) Cited               | Vote of Board to remand |
|--|-----------------|-----------------------------------|-------------------------|
| May 25, 2021   | May 22, 2021    | Over-serving; serving after hours | June 1, 2021            |
| June 2, 2021   | May 29, 2021    | Over-serving                      | June 7, 2021            |
| June 7, 2021   | June 5, 2021    | Over-serving; noise               | June 15, 2021           |
| <i>The hearing for the above matters began on July 8, 2021</i>       |                 |                                   |                         |
| June 28, 2021  | June 26, 2021   | Noise                             | July 12, 2021           |
| <i>The hearing for the above matter was held on July 27, 2021</i>    |                 |                                   |                         |
| August 30, 2021  | August 25, 2021 | Noise – outdoor entertainment     | September 7, 2021       |
| <i>The hearing for the above matter was held on October 21, 2021</i> |                 |                                   |                         |

**Allegation(s) of violations:**

The Town, acting through Attorney Jeffrey T. Blake, presented witnesses and exhibits supporting the claims of violations.

The establishment, acting as their own counsel, represented by Mr. Robert Young and Mr. Josh Winston, presented witnesses and testimony refuting the alleged violations.

**Events of May 22, 2021:**

The allegations relating to the events of May 22, 2021 are that a patron was allegedly over-served and that staff members were present after hours in the establishment drinking alcohol.

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

I find that the Town *did not* provide evidence sufficient on the allegation of over-serving a patron for the Town to succeed on appeal to the Alcoholic Beverages Control Commission (ABCC) as would be the licensee's right of appeal.

However, I *do find* that the Town *did* provide sufficient evidence, namely sworn testimony by a Harwich Police Department Sergeant and corroborated by testimony of a witness from the establishment that employees were drinking within the establishment after hours.

**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".

Whereas I do find that there is a violation of the licensed establishment's liquor license which constitutes a first offense, I will offer my recommendation on discipline at the conclusion of this report pending additional allegations and potential findings.

**Events of May 29, 2021:**

The allegations relating to the events of May 29, 2021 are that a patron was allegedly over-served.

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

I find that the Town *did not* provide evidence sufficient on the allegation of over-serving a patron for the Town to succeed on appeal to the Alcoholic Beverages Control Commission (ABCC) as would be the licensee's right of appeal.

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

Whereas I do not find that the Town demonstrated that the establishment was in violation of their liquor license, I find that there are no grounds for discipline.

**Events of June 5, 2021:**

The allegations relating to the events of June 5, 2021 are that a patron was allegedly over-served and there was noise emanating from establishment after 10:00pm.

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

I find that the Town *did not* provide evidence sufficient on the allegation of over-serving a patron for the Town to succeed on appeal to the Alcoholic Beverages Control Commission (ABCC) as would be the licensee's right of appeal.

I find that the Town *did* provide sufficient evidence, namely sworn testimony from a Harwich Police Detective Sergeant, that there was noise emanating from the establishment and the parking lot adjacent to the establishment, plainly audible to the Detective Sergeant at a distance of more than one hundred fifty (150) feet after 10:00pm.

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

Whereas I do find that there is a violation of the licensed establishment's liquor license which constitutes a second offense, I will offer my recommendation on discipline at the conclusion of this report pending additional allegations and potential findings.

**Events of June 26, 2021:**

The allegation relating to the events of June 26, 2021 is that noise was emanating from establishment after 10:00pm

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

I find that the Town *did* provide sufficient evidence, namely sworn testimony from a Harwich Police Detective Sergeant, that there was noise emanating from the establishment and the parking lot adjacent to the establishment, plainly audible to the Detective Sergeant at a distance of more than one hundred fifty (150) after 10:00pm.

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

Whereas I do find that there is a violation of the licensed establishment's liquor license which constitutes a third offense, I will offer my recommendation on discipline at the conclusion of this report pending additional allegations and potential findings.

**Events of August 25 2021:**

The allegation relating to the events of August 25, 2021 is that noise was emanating from establishment after 10:00pm

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

I find that the Town *did* provide sufficient evidence, namely sworn testimony from a Harwich Police Officer, that there was noise emanating from the establishment and the parking lot adjacent to the establishment, plainly audible to the Police Officer at a distance of more than one hundred fifty (150) feet after 10:00pm.

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

Whereas I do find that there is a violation of the licensed establishment's liquor license which constitutes a fourth offense, I recommend that the Town discontinue permitting outdoor entertainment at any establishment within the Town of Harwich for the 2022 calendar year and licensing period. Additionally, I recommend a warning related to the first offense of drinking in the establishment after hours.

This concludes my findings, determinations and recommendations regarding alleged violations to have occurred at Seal Pub during the timeframe referenced within.

**Show Cause Hearing Summary**  
**July 8, 2021**  
**Beachlight LLC d/b/a Seal Pub**

**Attendees**

Joseph F. Powers  
Attorney Jeffrey Blake  
Danielle Delaney  
Jamie Goodwin  
Bob Young  
Mike Scott  
Josh Winston  
Ian Doe  
Amy R. Walinski  
Adam F. Hutton  
Chris Arrigo  
Bill Galvin  
Ed McManus

The Hearing Officer opened the Show Cause Hearing at 10:00 a.m. and read the Hearing Notice that was published in the Cape Cod Times and proceeded to introduce Town of Harwich staff and gave a brief overview of the hearing process. The Hearing Officer announced that the hearing is being recorded in order to complete the permanent record which is the minutes and will not be broadcasted. He asks all present to sign in and stated for the record William Galvin, Reporter for the Cape Cod Chronicle, is present. The Hearing Officer ask all parties that will offer testimony to rise to be sworn in.

Bob Young and Josh Winston, partners of Beachlight LLC d/b/a Seal Pub state their name and affiliation for the record. Mr. Winston stated for the record they are not represented by council. Michael Scott, General Manager and Ian Doe, Head Bartender state their name and affiliation for the record.

Attorney Jeffrey Blake, Town Counsel, introduced himself and stated he will start with going over administrative matters. He proceeded to go through the packet that was provided to the licensee and stated all of the material will be entered into the record as Exhibits. Attorney Blake confirmed the establishment received all letters that will be a part of the exhibit list and summarizes the letters for all present. First Exhibits to be entered: Exhibit A – Hearing Notice, Exhibit B – Letters sent to establishment, Exhibit C - Seal Pub’s Liquor License.

At 10:13 a.m., Attorney Blake stated he will start with the Police Reports and asks the Chief of Police to come to the podium. Attorney Blake said he is starting with the Memorandum dated May 25, 2021 from Chief Guillemette to the Board of Selectmen. Chief Guillemette went over the details of the Memorandum. Attorney Blake confirms with Chief Guillemette that all alcohol service and consumption is to be stopped at 1:00 a.m. and the buffer time is to 1:15 a.m. Attorney Blake confirmed these rules apply to employees of an establishment.

At 10:16 a.m., Attorney Blake asked Sergeant Walinski to come to the podium to go over her police report. The Hearing Officer confirmed Sergeant Walinski had been sworn in. Attorney Blake goes over the details of the Police Chief’s Memorandum and the police reports with Sergeant Walinski. Sergeant Walinski confirmed what is written in the reports is what she observed and proceeded to go over the log entry she

wrote. Officer Walinski confirmed she could see beer bottles and individuals drinking. Sergeant Walinski stated she and another Officer went back to the establishment at 1:51 a.m. to speak with the Manager about the upcoming summer season and about getting patrons out of the bar earlier. She also stated that she observed people drinking in the establishment and that Mr. Winston, the manager, stated they were only workers.

The Hearing Officer confirmed with Attorney Blake that if the establishment wants to question Sergeant Walinski they are able to as they are not represented by Counsel. Josh Winston, Manager of Seal Pub stated Sergeant Walinski is correct in her assessment and goes on to explain what happened that evening. Mr. Winston states they were closing up and it was the first night with their new security team. The Hearing Officer stated that Mr. Winston will have time to present his case, but this time is for questions for the witness. Mr. Winston responded he has no questions at this time.

Attorney Blake stated he would like to submit the Chief's Memorandum as Exhibit D along with the Harwich Call Summary and the Harwich Police Department Narrative as Exhibit E. The Hearing Officer asked for clarification on some of the language used and details in the police reports.

At 10:28 a.m., Bob Young, Co-Owner of Seal Pub and Café, states he has questions. Mr. Young asked Sergeant Walinski where the bartender was standing when she looked through the window and she stated the bartender was behind the bar. Mr. Young then asked if the Sergeant knew what position the bartender was standing and the Hearing Officer asked what the relevance was to the question. Mr. Young stated at that hour the bartender has to input all of the closed tabs in the POS system and the other bartenders are waiting for their tips. The Hearing Officer stated he would rather the Owners or Manager testify to that. Mr. Young goes on to state that he has sent letters to the Board of Selectmen explaining issues and he would like to ask that they become part of the record. Mr. Young does not have copies therefore the Hearing Officer states they can take that up later this morning.

At 10:31 a.m., Attorney Blake calls Officer Arrigo to the podium and confirms he was sworn in. Attorney Blake proceeds to go over the Chief's Memorandum and Police Reports provided by Officer Arrigo. The Hearing Officer notes that there are two copies of the report and there is a redaction of an offensive statement made on one page. Officer Arrigo shares the details of that evening and states the person he drove home said he was drinking at the Seal Pub. Officer Arrigo confirmed he picked the person up a quarter of a mile from Seal Pub. Officer Arrigo confirmed he brought him to his house and was approximately 30 years old. Officer Arrigo stated no breath test was administered. He stated he could smell alcohol from the person's breath and he was slurring his words, he could not stand or walk on his own and eyes were glassy. Mr. Young asks if Officer Arrigo came to the Seal Pub to inquire about the individual after and he responded he did not. The Hearing Officer asks Officer Arrigo how much credibility he put into the person's statement that he was at the Seal Pub. Officer Arrigo states he has no reason to lie. Hearing Officer asked Officer Arrigo how he came into contact with the person's family and the Officer explained that he knocked on the door and the father opened a bedroom window and Officer Arrigo stated he had the individual with him.

Attorney Blake added the Police Report into the record as Exhibit F. Chief confirms residential addresses, date of birth, name of complainants are redacted when sent to the Board of Selectmen. The Hearing Officer goes on to explain why staff made a redaction, however the un-redacted report will be used for the record.

At 10:39 a.m. Attorney Blake asks Chief Guillemette to return to the podium. Attorney Blake goes over the Chief's Memorandum dated June 2, 2021. The Chief then explains what the Memorandum pertains to. Attorney Blake adds the Chief's Memorandum into the record as Exhibit G.

Attorney Blake calls Patrol Supervisor Kannally to the podium and confirms he has been sworn in. Patrol Supervisor Kanally goes over the night in question and explains what he observed on May 29, 2021. Officer stated nothing this evening took place at the Seal Pub, all events took place in the parking lot of Harwich Police Department. Officer Kanally stated he was alerted by dispatch that there was an individual in the lobby stating that an individual entered their vehicle and was passed out in their vehicle. The individual stated this took place in Harwich Center at the Seal Pub. Officer Kannally stated he woke the person in the vehicle and put him in protective custody. Officer Kannally stated the individual was intoxicated and his sentences did not make sense, however, in the booking room the individual confirmed he was at the Seal Pub with friends. Attorney Blake asked Officer Kannally how he knew the individual was intoxicated and he responded from training and experience; odor of alcohol, glassy eyes and the individual vomited in the person's vehicle and in the booking room. Attorney Blake confirms with Officer Kannally that he feels the individual is credible.

At 10:45 a.m., Mr. Young asks Officer Kannally if he talked to management about this individual and he responded he did not because it takes a long time to book someone that is intoxicated. Mr. Young asks how the individual's friends were contacted and Officer Kannally states by the individual's cell phone. Mr. Young confirms with the Officer that the friends did not say they were at the Seal Pub. Mr. Young asks if there was a lot of activity and complaints this weekend with other bars and the Hearing Officer asks what the relevance is. Mr. Young states he will get into it later. The Hearing Officer confirms the details of that evening with Officer Kannally. Officer states the individual was released 08 in the a.m. Attorney Blake enters the Officer's call summary and narrative report as Exhibit H.

At 10:50 a.m., Attorney Blake calls Officer Lincoln to the podium and confirms he has been sworn in. Attorney Blake asks Officer Lincoln to go over the details of what happened on May 29, 2021. Officer Lincoln states that he drove to the Seal Pub while Officer Kannally dealt with the intoxicated individual. Officer Lincoln states he spoke with two gentlemen who were door men and explained that the Police had someone in protective custody. One of the doormen asked if the person was wearing red and stated the persons friends were inside the establishment. Officer Kannally confirmed the individual was wearing red. Attorney Blake reads a portion of the report where the doorman was quoted. Officer Lincoln confirms the statements to be accurate. Officer Lincoln stated he gave the doormen advice because when letting an intoxicated person out free in the neighborhood a number of things could go wrong. Officer Lincoln states he does not know if the doormen made contact with the individual's friends. Attorney Blake confirms with Officer Lincoln that he is clear that the doormen said the individual was drunk and that they had kicked the individual out.

At 10:55 a.m., Mr. Young asks Officer Lincoln if he only talked to one door man and officer confirmed that to be true. Mr. Young inquired if the Officer went inside to look for the friends and the Officer stated he asked the doorman to do that. Mr. Young stated so no management was contacted and Officer Lincoln responded that as far as he is concerned that it's the doorman's job as security. Mr. Young asks if the individual said he had been at other bars. Officer Lincoln stated no, that he never spoke with the individual, he only spoke with the doorman to find the individual's friends. Mr. Young asks if the doorman said the individual was causing problems and touching women. Officer Lincoln stated someone brought that to his attention and then a staff member spoke with him about the individual.

The Hearing Officer asked Officer Lincoln if he went to Seal Pub on his own or if it was a directive and Officer Lincoln answered that he went on his own. He stated he has 22 years of experience and overheard the conversation that the individual's friends were still at the pub. The Hearing Officer asks Officer Lincoln if he would be able to identify the doorman and if he is present at the hearing. Officer Lincoln confirmed



he could and that the doorman is present. Attorney Blake states he would like to have the patrolman's supplemental narrative be added as Exhibit I.

Attorney Blake asks to recall Patrol Supervisor Kannally. Attorney Blake asks Officer Kannally if the individual in protective custody was wearing red and Officer Kannally confirms that to be true.

At 11:00 a.m., Attorney Blake calls Ian Doe, doorman at Seal Pub, to the podium. Mr. Young states that Mr. Doe is the head bartender, not a doorman. The Hearing Officer proceeds to swear in the witness. Attorney Blake confirms Mr. Doe's employment at Seal Pub and Cafe and that he has been the head bartender since last September. Mr. Doe confirms he was the head bartender on May 29, 2021 into Sunday, May 30, 2021. Attorney Blake asks if Mr. Doe reviewed any notes prior to coming to the hearing and Mr. Doe stated that they talked about it. Attorney Blake states that the Seal Pub received a letter from the town with information regarding the alleged violations and asked if Mr. Doe spoke with the owners as a result of that letter. Mr. Doe stated he does not recall. Attorney Blake confirms Mr. Doe remembers there was a drunk person that was thrown out of the establishment that was dressed in red.

Attorney Blake goes through details of the night in question and asks if Mr. Doe was the person that spoke with police. Mr. Doe stated he was not the staff member that spoke with Police. Mr. Doe stated he vaguely remembered the individual in red. Mr. Doe stated he believes the individual was drunk, but does not remember serving him. Mr. Doe stated the individual was in the establishment for 15 to 20 minutes. Attorney Blake reminds Mr. Doe that he is under oath and confirms he is saying the individual was only there for 15 minutes and then kicked out for being intoxicated. Mr. Doe confirms he remembers that there was an incident where the individual made a group of women feel uncomfortable. Mr. Doe confirms he asked the individual to leave and does not recall serving him. Attorney Blake asks how he knew the individual was only there for 15 minutes and Mr. Doe stated it just seemed that way and it was a really busy night so it's a bit of a blur. Attorney Blake asks if the friends of the individual were intoxicated and got thrown out. Mr. Doe stated no and does not recall.

Mr. Young asks Mr. Doe if the individual in red and friends came from another bar and Mr. Doe answered that it was unclear. Mr. Doe confirmed this was Memorial Day Weekend and the restaurant was very busy. Mr. Young confirmed with Mr. Doe that the establishment has an incident log, however, Mr. Doe cannot recall if this incident was mentioned on the log.

Attorney Blake confirmed with Mr. Doe that he was present when the Police Chief and Officers testified. Attorney Blake references a memo dated May 25<sup>th</sup> about an individual at the Seal Pub. Mr. Doe confirms he does remember this. Attorney Blake asks if Mr. Doe was made aware of serving intoxicated individuals after the pub was notified and Mr. Doe stated I believe so. Attorney Blake asks if they took any action to combat over drinking and Mr. Doe shared all employees are tips certified and they would watch the crowd as the night progresses. Mr. Doe stated they started these efforts Memorial Day Weekend. Attorney Blake asks if Mr. Doe serves people and staff after hours and Mr. Doe says no. Attorney Blake states that Mr. Winston told the police that there were staff at the bar drinking on the night in question. Mr. Doe confirms that staff was at the bar, but cleaning up. Attorney Blake continues to question Ian if the staff was drinking. Mr. Doe then confirms that the staff was drinking after hours, but it is not something they typically do and was unaware that was a violation of the liquor law. Attorney Blake asks Mr. Doe if he has reviewed the Harwich Liquor Regulations and Mr. Doe stated he has not. Attorney Blake continues to ask questions pertaining to serving staff or patrons after 1:00 a.m. Attorney Blake states if the Officer looked through the window and saw drinking was the Officer wrong and Mr. Doe responded that it was just staff.

At 11:08 a.m. Mr. Young asks Mr. Doe to talk about how he has been trained and how they have discussed not overserving people. Mr. Doe states they have all cracked down to slow the process and all staff is TIPS certified. Mr. Doe states they work together with the doormen. Mr. Young confirmed with Mr. Doe that the letters from the town and police logs were left behind the bar for staff to review. Mr. Young asks if Mr. Doe was ever pressured to serve staff or patrons after hours and he answered no.

The Hearing Officer asks Mr. Doe to explain the hierarchy or the chain of command at Seal Pub. Mr. Doe states there are three owners and he has become the head bartender as he has been at the establishment the longest. The Hearing Officer asks if that is a management role where he can make decisions and Mr. Doe answers yes and no, he always checks with management. Mr. Doe confirms there is always a Manager on Duty. Mr. Winston was the Manager on Duty on the nights in question. Mr. Doe confirms on the weekend there are two or three bouncers and during the week just one bouncer. Mr. Doe states he believes Aiden and Josh were working as bouncers on the night in question. The Hearing Officer asks if Mr. Doe and any of the bouncers get mistaken for each other and he confirms he and Aiden get mistaken for each other. The Hearing Officer states that Officer Lincoln testified that he spoke with Ian on the night in question and Mr. Doe stated he did not speak with the Officer and does not recall seeing the Officer that night. The Hearing Officer asks what it means to be TIPS certified. Mr. Doe explains. Mr. Doe states that the Seal Pub is the first licensed establishment he has worked for. The Hearing Officer confirms Mr. Doe has not seen or read the Harwich Liquor Regulations, but believes they are behind the bar on the wall. The Hearing Officer confirmed that Mr. Doe had testified earlier that illegalities have occurred. Mr. Doe re-explains what illegalities took place. The Hearing Officer confirmed that Mr. Doe testified that he came into contact with a person who was intoxicated and wearing red. Mr. Doe explains how he has been trained to handle intoxicated persons. Mr. Doe confirmed he is the person who kicked the individual out because of complaints and goes over the exchange. Mr. Doe stated he does not remember the individual being at the establishment long. Mr. Doe confirmed he did not serve the individual and does not remember if any other bartenders did. The Hearing Officer confirms that Mr. Doe sent an intoxicated individual outside of the establishment. Mr. Doe confirms that is consistent with the Seal Pub's procedures and that being overserved is in illegality.

At 11:19 a.m., Attorney Blake calls the Chief of Police to the podium. The Hearing Officer states he has one more question for Mr. Doe, he asks why he is present today. Mr. Doe explains this is a learning experience and wanted to see the process. He was also directed by his managers to be present.

The Chief of Police goes over his Memorandum dated June 7, 2021. Attorney Blake confirms that this is the third week in a row police have responded to incidents at the Seal Pub. The Chief explained that after this incident Mr. Young met with the Chief and shared he would be closing the establishment early at 11:00 p.m. The Chief confirmed that closing early did work. The Chief states, unfortunately, they have gone back to the 1:00 a.m. closing time. Attorney Blake enters the Chief's Memorandum as Exhibit J. Mr. Young clarified that the individual was swinging at people in the parking lot, not the bar, and that he was present at the establishment that evening.

At 11:23 a.m., Attorney Blake calls Sergeant Robert Brackett to the podium. Sergeant Brackett proceeds to go over the events of the night in question. He states the Police Department received a call from someone residing on Parallel Street that there were loud and intoxicated people in the parking lot of Seal Pub. He states he parked his cruiser 300 feet away from the establishment and could clearly hear a large group of people. Attorney Blake confirms that Sergeant Brackett could hear, but not observe. Sergeant Brackett confirmed that when he walked to the parking lot he observed various groups of people. Attorney Blake asked what time this was and Sergeant Brackett stated 12:49 a.m. Sergeant Brackett explained where all of the people were standing in the parking lot and that he could hear loud music coming from inside the Seal

Pub as he got closer to the building. He shared he was closer than 150 feet. Sergeant Bracket states he spoke with Aiden who was very cooperative. He said he assisted Aiden in walking through the parking lot to move people along. Sergeant Bracket stated the parking lot was a mess where every spot was full and people were parked where they should not have been parked. Sergeant Brackett stated one of the contributing factors to the noise was people on the patio and the windows and doors to the patio were open. Attorney Blake confirms he could hear crowd noise beyond 150 feet, but not the music. Sergeant Brackett shared that they received an emergency call while they were at Seal Pub for a women screaming for help on Chatham Road and it was problematic because they had trouble navigating the parking lot the way the cars were parked along with the people in the lot. Sergeant Brackett stated he did return and speak with staff again and staff was very cooperative. Sergeant Brackett stated that nobody seemed incessantly intoxicated.

The Hearing Officer states that after reading the Sergeants narrative he identifies several violations that relate to noise. The Hearing Officer asks the Sergeant if he is influenced by the noise by-law when he was writing his report and he responds that he was. The Hearing Officer confirms the Sergeant is familiar with the liquor license regulations. The Hearing Officer goes into detail and reads Section 1.10 of the regulations and asks the Sergeant how this section relates to the evening in question. The Hearing Officer asks for Aiden's last name for the record which is O'Laughlin. The Hearing Officer confirms Mr. O'Laughlin is the individual the Sergeant interacted with and that his role is security. The Hearing Officer asks if Mr. O'Laughlin was cooperative and helped on his own volition or because the police arrived. Sergeant Brackett stated he did these things at his suggestion and should have been initiated prior to the police arriving. The Hearing Officer reads Item D of the Regulations for the record and states one thing that he may have to contemplate if additional charges are warranted. He proceeds to say that after reading the Police Narrative he can see instances where it can be argued that there were violations of noise at an establishment licensed for entertainment as well as violations of noise as it relates to the environs of the premises. Attorney Blake enters the Police Narrative as Exhibit K.

At 11:37 a.m., Attorney Blake calls Sergeant Boorack to testify. The Sergeant is sworn in by the Hearing Officer. Attorney Blake states the Chief summarized a memorandum that outlined an incident that happened at Seal Pub on June 5, 2021. Sergeant states he does recall this incident and goes over the details of the evening in question. He further explains that staff at the Seal Pub was holding down an intoxicated male in the parking lot. Sergeant Boorack stated the individual had a strong alcoholic odor and was swaying. The individual actively resisted when the Sergeant tried to put him in handcuffs. When speaking with staff they said the individual was intoxicated and started swinging at people and punched someone in the face. The Victim stated he was punched in the left eye and it started to swell. The Victim declined rescue services and did not want to press charges. Sergeant Boorack stated he spoke with a bartender, who shared that he and the intoxicated individual were good friends. The Bartender stated that the individual just broke up with his girlfriend and just lost it tonight. Sergeant Boorack stated attempts were made to make contact with the individual's family to come get him, but were unsuccessful therefore he brought the individual back to the station in protective custody. Attorney Blake confirms with the Officer that the individual had a blood alcohol content of .244 and the legal limit to operate a motor vehicle is .08. Attorney Blake states the individual is three times the legal limit. Officer Boorack states the person was less than cooperative, however after cooling off the individual did answer standard booking questions. Officer Boorack states the Manger did approach him and voiced concerns over the issues that had taken place over the past few weeks. Officer Boorack confirms that he did not find out how long the individual was at Seal Pub.

The Hearing Officer confirms the names of the staff members at Seal Pub (Stephen Iovanna, Aiden O'Loughlin, and Jason Heflay). The Hearing Officer states Exhibit K consists of three documents which is the call summary and two page narrative. Mr. Young states he has no questions for the Sergeant.

The Hearing Officer states he has questions for anyone on behalf of the establishment. He shares this is not meant to be testimony. The Hearing Officer states the names of staff that have come up in testimony and asks if they are present. Mr. Winston stated they are not due to scheduling conflicts. The Hearing Officer asks Mr. Winston if he thinks the staff that is not present would refute anything that was presented today. Mr. Winston stated he did not think so. Attorney Blake states he would like the narrative by Sergeant Boorack and call summary entered as Exhibit L.

At 11:47 a.m., Mr. Young starts his presentation and comments that this has been an unusual year with the Governor lifting orders and masks being removed. He says that the establishment has been busier than normal with a younger crowd. He also adds that he met with Lt. Hutton after the alleged violation of serving after hours. Mr. Young shares that he was surprised by Mr. Doe's testimony as the establishment has a rule of no drinking after hours. He adds that it does take a while to clean up and sanitize after a busy night. Mr. Young states when he spoke with Lt. Hutton he asked for the police to drive through the parking lot at night because it settles the crowd down. He continues to describe the type of crowds that were coming into the establishment and shares that staff would be overwhelmed.

Mr. Young shares the evening of the fight he was sitting next to the individual and stated he was upset, but did not seem intoxicated and he was drinking water. The Hearing Officer comments that this is the time for statements and what Mr. Young is saying could be considered testimony. The Hearing Officer confirms that the night in question Mr. Young was there and could be considered the Manager of Record. Mr. Young proceeded to go over the details of the night in question and stated he felt the individual just snapped. Mr. Young stated when the police came he tried to help. Mr. Young stated he does not believe he was served at Seal Pub. Mr. Winston asked to make a general statement and proceeded to thank everyone and stated he appreciated the support of the police department and that they have been incredible. He stated that they do not want to be dealing with these issues and it's a nuisance. He goes over the measures the Seal Pub has taken to mitigate the issues. He shares most of the customers self-police, however, this summer kicked off with a bang and staff was caught off guard. He continues to state that they have hired a security team and staff has been trained. He explains that windows and doors per the Health Department were to be open due to Covid, but now they have started closing them to mitigate noise. He shares that they cut music at last call so by 12:30 a.m. everything should be quieted down for exiting. He shares how and where the security team patrols. Mr. Young stated after he met with the Chief they closed at 11:00 p.m. for a week and watched Bud Light sales drop and that is not what they want to sell as they have craft beer and want to be a little higher quality. Mr. Young states he has one witness, former Selectmen McManus, who witnessed a large rush of people and if he could testify that would be helpful. The Hearing Officer responds that it's possible and asks if Mr. Scott has anything to add.

At 11:57 a.m., Mr. Scott is sworn in by the Hearing Officer and states his name and affiliation for the record. Mr. Scott states one thing that was not mentioned was that their attempt to get people out of the establishment and they have last call at 12:20 a.m. He shares they have purchased more equipment to push credit card sales faster. He states he has been in this business for well over 30 years and has never seen the amount of credit card transactions. He states in past it was always cash and with a bartender slinging drinks and trying to close out credit cards it can well over a two hour process. He shares they have purchased \$500 - \$600 worth of equipment that one person uses just to close out credit cards. He states with the new system it goes smoother and faster. He comments that if not moving people along they will hang out and this is another step they have taken to push people out the door. Mr. Young states with this POS system if

someone is accused of being over served he can pull that tab up from the name on their credit card. Attorney Blake stated in the Town's letter to the establishment they asked for those documents and confirmed they did not bring them due to not knowing the names of the patrons. Attorney Blake confirmed they did not have video. The Hearing Officer asks Attorney Blake to refrain and asks Mr. Young and Mr. Scott if they have any more statements. Mr. Young states one last thing is they do not have a lease on that parking lot and others use that parking lot and it seems to be a catch all for everyone in the neighborhood. Mr. Scott states he gets to work at 4:30 a.m. and can tell who is parking in the lot which he believes to be neighbors. He states he has no security system in the lot.

At 12:02 p.m., Mr. Winston steps to the podium to answer questions as they are representing themselves. The Hearing Officer asks Mr. Winston that after hearing testimony related to incidents on May 25, 2021, June 2, 2021, May 22, 2021, May 29, 2021 and June 5, 2021, his question to him is if this was a court case how would he plead. Mr. Winston stated the best way to describe it is that it is not inaccurate and what was outlined are instances that occurred. He also stated he would not contradict the police or anyone who responded. He shared it's their position to be upstanding members of the community and be good neighbors. Mr. Winston confirms that he would not contradict statements that were made and the business has put measures into place to stop what was happening. Mr. Young interrupts and starts to speak (not audible) and the Hearing Officer states he will give the owners a moment to decide who will be speaking on behalf of the establishment. The Hearing Officer states he wants to hear from the establishment and is contemplating recessing until 1:05 p.m. He states he is looking to get a sense if the establishment plans to mount a defense to counter the alleged violations and to offer their case. He shares his responsibility in reporting to the local licensing authority, known as the Board of Selectmen, as to whether the allegations presented were either upheld or denied and if there are additional charges the board wants to contemplate.

At 12:06 p.m., Mr. Young states he denies the allegations. The Hearing Officer states they will be going into recess and will come back at 1:05 p.m. and the establishment will be given the opportunity to present their case. The Hearing Officer tells Seal Pub to bring documents they wish to add to the record and bring five copies. He comments that he did ask an individual from the establishment and they did not contest the charges.

At 12:07 p.m., the Hearing Officer states we will be in recess until 1:05 p.m.

At 1:05 p.m., on July 8, 2021, the Hearing Officer resumes the Show Cause Hearing for Seal Pub.

Mr. Young presents a document to Council. Attorney Blake stated the document will be entered as Exhibit 1(One).

The Hearing Officer asks if Mr. Young intends to proceed countering the Town's presentation. Mr. Young stated yes and that he will be the representative for the establishment. The Hearing Officer states the hearing will be continued to July 27<sup>th</sup> at 10:00 a.m. The Hearing Officer advised the establishment to make witnesses available and proceeded to list names. He states failure to do so can be construed as failure to cooperate. Mr. Young asks for clarification and that if they are asked to produce records will they be given the names of the individuals. Attorney Blake confirms that to be accurate.

At 1:08 p.m. the Hearing Officer states this hearing will stand in recess.

# **EXHIBITS**

A

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

**ALLEGED VIOLATIONS OF CONDITIONS OF LIQUOR LICENSE  
JULY 8, 2021**

The Town Administrator, acting as the Hearing Officer for the Board of Selectmen, will hold a Show Cause Hearing on Thursday, July 8, 2021 at 10:00 A.M., for the purpose of consideration of alleged liquor license violations by Beachlight LLC, d/b/a Seal Pub, located at 703 Main Street, Harwich. 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  
June 19, 2021

A

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

**ALLEGED VIOLATIONS OF CONDITIONS OF LIQUOR LICENSE  
JUNE 22, 2021**

The Town Administrator, acting as the Hearing Officer for the Board of Selectmen, will hold a Show Cause Hearing on Tuesday, June 22, 2021 at 10:00 A.M., for the purpose of consideration of alleged liquor license violations by Beachlight LLC, d/b/a Seal Pub, located at 703 Main Street, Harwich. 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  
June 7, 2021



B

**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 02645



June 7, 2021

VIA CERTIFIED MAIL AND EMAIL

Michael Scott, Manager of Record  
Beachlight LLC  
d/b/a Seal Pub  
703 Main street  
Harwich, MA 02645

Re: Notice of Liquor License Disciplinary Hearing  
Beachlight LLC d/b/a Seal Pub

Dear Mr. Scott:

On Tuesday, June 22, 2021 at 10:00 am 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 Alcoholic Beverages License for Beachlight LLC d/b/a Seal Pub.

The specific charges are as follows: Violation of 204 CMR 2.05 (2): Permitting a disorder, disturbance or illegality to take place on the licensed premises.

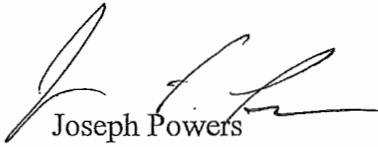
The facts underlying these allegations arise from an incident occurring on or about May 25, 2021 and June 2, 2021 as described in detail in the Harwich Police Incident Report attached hereto. Also attached are the Town of Harwich Liquor License regulations.

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 Thursday, June 17, 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,

A handwritten signature in black ink, appearing to read 'Joseph Powers', written over a horizontal line.

Joseph Powers  
Town Administrator

CC: Board of Selectmen  
Licensing File  
Certified mail #  
Regular mail

B

**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 02645



June 17, 2021

VIA CERTIFIED MAIL AND EMAIL

Michael Scott, Manager of Record  
Beachlight LLC  
d/b/a Seal Pub  
703 Main street  
Harwich, MA 02645

Re: Notice of Liquor License Disciplinary Hearing  
Beachlight LLC d/b/a Seal Pub

Dear Mr. Scott:

On Thursday, July 8, 2021 at 10:00 am 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 Alcoholic Beverages License for Beachlight LLC d/b/a Seal Pub. Please note the Public Hearing scheduled for June 22, 2021 at 10:00 A.M. *will be continued* until July 8, 2021.

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.

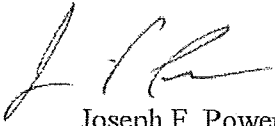
The facts underlying these allegations arise from an incidents occurring on or about May 22, 2021, May 29, 2021 and June 5, 2021, as described in detail in the Harwich Police Incident Report attached hereto. Also, attached are the Town of Harwich Liquor License regulations.

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 Thursday, July 1, 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,

A handwritten signature in black ink, appearing to read 'J. Powers', written in a cursive style.

Joseph F. Powers  
Town Administrator

CC: Board of Selectmen  
Licensing File  
Certified mail #7008 1830 0002 5217 1320

B

**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 02645



June 25, 2021

VIA CERTIFIED MAIL AND EMAIL

Michael Scott, Manager of Record  
Beachlight LLC  
d/b/a Seal Pub  
703 Main street  
Harwich, MA 02645

Re: Notice of Liquor License Disciplinary Hearing Continuation  
Beachlight LLC d/b/a Seal Pub

Dear Mr. Scott:

On Tuesday, June 22, 2021 at 10:00 a.m. at the Harwich Town Hall, acting on behalf of the Harwich Board of Selectmen as local licensing authority, I opened the Show Cause Hearing for Beachlight LLC d/b/a Seal Pub in order to continue the hearing until July 8, 2021 at 10:00 a.m.

At that time, a representative from Seal Pub confirmed that they would forgo legal counsel at the scheduled Show Cause Hearing. I ask that if you wish to proceed with counsel that you notify Danielle Delaney in my office via email ([ddelaney@town.harwich.ma.us](mailto:ddelaney@town.harwich.ma.us)) as soon as practicable.

Sincerely,

Joseph F. Powers  
Town Administrator

CC: Board of Selectmen  
Town Counsel  
Licensing File  
Certified mail #

No.: 05411-RS-0506

C

**LICENSE**  
**ALCOHOLIC BEVERAGES**  
**THE LICENSING BOARD, TOWN OF HARWICH, MASSACHUSETTS**  
**HEREBY GRANTS A**  
**COMMON VICTUALER**

**License to Expose, Keep for Sales, and to Sell**  
**All Kinds of Alcoholic Beverages**

.....  
**To Be Drunk On The Premises**  
 .....

**To: Beachlight LLC**

Date: 12/07/2020

**DBA: Seal Pub**

Capacity: 21

License Duration Type: Annual All Alcohol

Manager: Michael Scott

**License Conditions (description of premise)**

703 Main Street, Harwich

Two dining rooms, bar room, patio seating, kitchen, prep room, office, two bathrooms. Two means of ingress/egress.

**On the following described premises:**

This license is granted and accepted upon the express condition that the licensee shall in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made expires **December 31, 2021**, unless earlier suspended, cancelled or revoked.

IN TESTIMONY WHEREOF, the undersigned have thereunto affixed their official signatures.

**The Hours during which Alcoholic Beverages  
may be sold are From:**

**8:00AM – 1:00AM WEEKDAYS**  
**10:00AM – 1:00 AM SUNDAYS & HOLIDAYS**

LICENSE  
granted by:

*Z. Ballantyne*  
 \_\_\_\_\_  
 \_\_\_\_\_  
*D. H. [unclear]*  
 \_\_\_\_\_  
 \_\_\_\_\_

This License Shall be Displayed on the Premises in a conspicuous position where it can be easily read

LICENSING AUTHORITIES



# HARWICH Police

DEPARTMENT

183 Sisson Road, Harwich, MA 02645

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

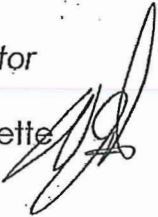


DAVID J. GUILLEMETTE  
Chief of Police

KEVIN M. CONSIDINE  
Deputy Chief

## Memorandum

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

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

**DATE:** May 25, 2021

**SUBJECT:** Incidents at Seal Pub and Wychmere Harbor Club

In accordance with Town of Harwich Liquor License Regulations section 1.16 I would like to bring to the board's attention (3) incidents which could be deemed to be alleged violations of entertainment or liquor licenses. The incident reports are attached for the following:

- 5/16/21 2223 hours - noise from live band at Wychmere Harbor Club
- 5/22/21 0051 hours - extremely intoxicated individual located in Harwich Center who stated he had just left the Seal Pub
- 5/22/21 0132 hours - people observed inside the Seal Pub drinking after closing time

The attached incident reports are for your consideration as to whether to hold a public hearing on the matter. Officers who were involved in the incidents and documented their findings will be made available for testimony if a hearing is deemed necessary.

E

For Date: 05/22/2021 - Saturday

| <u>Call Number</u> | <u>Time</u> | <u>Call Reason</u> | <u>Action</u>      |
|--------------------|-------------|--------------------|--------------------|
| 21-5703            | 0132        | BUILDING CHECK     | No Action Required |

Call Taker: 180 - Sergeant Amy R Walinski  
Primary Id: 180 - Sergeant Amy R Walinski  
Location/Address: THE SEAL PUB - 703 MAIN ST  
ID: 180 - Sergeant Amy R Walinski

Arvd-01:36:24 Clrd-01:36:27

Narrative: 05/22/2021 0136 Sergeant Amy R Walinski  
Modified By: Sergeant Amy R Walinski

People outside the bar and also inside the bar. People still sitting at the bar drinking and bartender still behind the bar.

Documentation purposes



E

For Date: 05/22/2021 - Saturday

| <u>Call Number</u> | <u>Time</u>  | <u>Call Reason</u> | <u>Action</u> |
|--------------------|--|--------------------|---------------|
| 21-5706            | 0151   | GENERAL SERVICES   | Investigated  |
| Call Taker:        | 4005 - PSD Telecommunicator JADE ROSS                                  |                    |               |
| Primary Id:        | 180 - Sergeant Amy R Walinski  |                    |               |
| Location/Address:  | [HAR 2686] SEAL PUB AND CAFE - 703 MAIN ST                             |                    |               |
| Involved Party:    | WINSTON, JOSHUA G @  |                    |               |
|                    | SSN:   | DOB:               |               |
| ID:                | 180 - Sergeant Amy R Walinski  |                    |               |
|                    |  | Arvd-01:51:00      | Clrd-02:07:09 |
| ID:                | 193 - Patrol John J Larivee  |                    |               |
|                    |  | Arvd-01:51:43      | Clrd-02:07:09 |
| Narrative:         | 05/22/2021 0207 PSD Telecommunicator JADE ROSS<br>Clear, investigated. |                    |               |

Narrative: 05/22/2021 0220 Patrol John J Larivee  
There were several people visible inside the establishment and several more in the parking lot. Sergeant Walinski and I made contact with Josh Winston, the Manager on Duty. Mr. Winston indicated that the people inside (5 people plus him) were all staff. People outside dispersed on their own upon our arrival.

We advised him that as we come into summer he may want to start moving patrons along sooner so they are not still hanging around the parking lot/area at 2am. He indicated that he has 2 doorman and we advised him that they may want to monitor patrons outside after closing so there are no safety concerns and no issues with neighbors.

Mr. Winston was cooperative and seemed receptive of our advice.

Refer To Incident: 21-5706-OF

E

The following is a report of Sergeant Amy R. Walinski regarding our interaction at The Seal Pub and Cafe, 703 Main St.

On Saturday, May 22, 2021 at approximately 1:50 am Officer Larivee and I went to The Seal Pub to make contact with the manager. I went by the establishment earlier, at approximately 1:30 am and there was a lot of people still in the restaurant, sitting at the bar, drinking, and the bartender was still behind the bar. There were also people gathered outside the establishment.

When Officer Larivee and I went back at 1:50 am there were several people visible inside the establishment and several more in the parking lot. Officer Larivee and I made contact with Josh Winston, the manager on duty. Mr. Winston indicated that the people inside (5 people plus him) were all staff. People outside dispersed on their own upon our arrival.

We advised him that as we come into the summer season he may want to start moving patrons along sooner so they are not still hanging around the parking lot/area at 2:00 am. He indicated that he has two doorman and we advised him that they may want to monitor patrons outside after closing so there are no safety concerns and no issues with neighbors.

Mr. Winston was cooperative and seemed receptive of our advice.

Respectfully submitted,

Sergeant Amy R. Walinski

#180

F

or Date: 05/22/2021 - Saturday

| Call Number     | Time | Call Reason  | Action   |
|-----------------|------|--|--|
| 1-5701          | 0051 | Suspicious Person  | Services Rendered                                      |
| Call Taker:     | 4005 | PSD Telecommunicator JADE ROSS   |  |
| Primary Id:     | 205  | Patrol Christopher R Arrigo  |  |
| Vicinity of:    |      | ORLEANS RD @ CHATHAM RD  |  |
| Involved Party: |      |  |  |
| Calling Party:  |      | ***UNKNOWN*** - HARWICH, MA 026  |  |
| ID:             | 205  | Patrol Christopher R Arrigo  | Arvd-00:51:00 Cld-01:04:04                             |
| ID:             | 116  | Patrol Robert D Hadfield   | Disp-00:52:29 Enrt-00:52:33 Arvd-00:55:54 Cld-01:04:04 |
| Narrative:      |      | 05/22/2021 0053 PSD Telecommunicator JADE ROSS   |  |
| Modified By:    |      | PSD Telecommunicator JADE ROSS   |  |
|                 |      | Unit flagged down by some rps and notified there is a ip man in the woods. Dispatch received a 911 call for the same incident:   |  |
| Narrative:      |      | 05/22/2021 0053 PSD Telecommunicator JADE ROSS   |  |
| Modified By:    |      | PSD Telecommunicator JADE ROSS   |  |
|                 |      | G19 is off with the male party,  |  |
| Narrative:      |      | 05/22/2021 0056 PSD Telecommunicator JADE ROSS   |  |
|                 |      | G19 is escorting party out of the woods and will be transporting him home to   |  |
| Narrative:      |      | 05/22/2021 0057 PSD Telecommunicator JADE ROSS   |  |
|                 |      | G19 has party on board and is enroute to his home, starting mileage 19581.1  |  |
| Narrative:      |      | 05/22/2021 0101 PSD Telecommunicator JADE ROSS   |  |
|                 |      | G19 is off at the residence and is attempting to make contact with someone there.  |  |
| Narrative:      |      | 05/22/2021 0104 PSD Telecommunicator JADE ROSS   |  |
|                 |      | Clear, party has been dropped off.   |  |
| Narrative:      |      | 05/22/2021 0107 Patrol Christopher R Arrigo  |  |
| Modified By:    |      | Patrol Christopher R Arrigo  |  |
|                 |      | was extremely IP and could not walk. He had just concluded a night of drinking at the Seal Pub. I brought him home to . . . l. While in transport, he became displeased with my services. When he got out of the cruiser, he yelled and swore at me calling me a "faggot ass bitch" and spit. His father took custody of him |  |



# HARWICH Police

DEPARTMENT

183 Sisson Road, Harwich, MA 02645

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



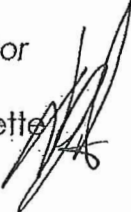
G

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: June 2, 2021

SUBJECT: Possible Over Service Incident at Seal Pub

In accordance with Town of Harwich Liquor License Regulations section 1.16 I would like to bring to the board's attention an incident of possible overserving at the Seal Pub. This is the second incident of a highly intoxicated individual stating they had been drinking at the Seal Pub. The two incidents occurred 7 days apart.

The attached incident report is for your consideration as to whether to hold a public hearing on the matter. Officers who were involved in the incidents and documented their findings will be made available for testimony if a hearing is deemed necessary.

41

For Date: 05/29/2021 - Saturday

| <u>Call Number</u> | <u>Time</u>   | <u>Call Reason</u> | <u>Action</u> |
|--------------------|---|--------------------|---------------|
| 21-6090            | 2326  | Suspicious Person  | Investigated  |
| Call Taker:        | 4005 - PSD Telecommunicator JADE ROSS   |                    |               |
| Primary Id:        | 181 - Patrol Supervisor Keith T Kannally  |                    |               |
| Location/Address:  | [HAR 2686] SEAL PUB AND CAFE - 703 MAIN ST  |                    |               |
| Calling Party:     |   |                    |               |
| Involved Party:    |   |                    |               |
| ID:                | 181 - Patrol Supervisor Keith T Kannally  |                    |               |
|                    | Disp-23:29:12 Enrt-23:29:14 Arvd-23:33:22 Clrd-23:44:36   |                    |               |
| Cleared By:        | 134 - Patrol Richard E Buttrick Jr  |                    |               |
| ID:                | 120 - Patrol Supervisor Michael E Porter JR   |                    |               |
|                    | Arvd-23:37:59 Clrd-23:44:39   |                    |               |
| Cleared By:        | 134 - Patrol Richard E Buttrick Jr  |                    |               |
| Narrative:         | 05/29/2021 2329 PSD Telecommunicator JADE ROSS  |                    |               |
| Modified By:       | PSD Telecommunicator JADE ROSS  |                    |               |
|                    | Walk in was at the seal pub and when he left there was an ip individual in his truck. Rp thinks he got into the wrong vehicle and was unable to figure out which one they meant to get into and they were also unable to give an address for the RP to give them a ride home. |                    |               |
| Narrative:         | 05/30/2021 0010 PSD Telecommunicator Kyleigh Sears  |                    |               |
|                    | G19 spoke with staff at the Seal Pub, male party was thrown out of the establishment earlier in the night. Staff to try and make contact with his friends.  |                    |               |
| Refer To P/C:      | <u>21-6090-AR</u>   |                    |               |
| Refer To Incident: | <u>21-6090-OF</u>   |                    |               |

71

This report submitted by Officer Keith T. Kannally regarding the placing of \_\_\_\_\_ into Protective Custody.

On Saturday May 29, 2021 at approximately 2326 hours I was dispatched to the lobby of the Harwich Police Station for the report of an intoxicated male in a vehicle parked in the department front lot. I arrived to the parking lot and spoke with the reporting party \_\_\_\_\_ who told me he and a friend were just at the Seal Pub in Harwich Center, when they returned to \_\_\_\_\_ vehicle they found and unknown male passed out in the back seat, \_\_\_\_\_ then drove to the Harwich Police Station. I was able to wake the male and place him in protective custody. The male, later identified as \_\_\_\_\_ was handcuffed (Properly sized and double locked) and escorted to the booking room, during the booking process \_\_\_\_\_ was able to call several friends who were unable to pick him up \_\_\_\_\_ was placed in male cell #1. During the booking process I asked where he had been drinking, he stated the Seal Pub, \_\_\_\_\_ was extremely intoxicated vomiting twice, once while in the reporting parties truck and again in booking.

Respectfully Submitted

\_\_\_\_\_  
#181  
Officer Keith T. Kannally

## SUPPLEMENTAL NARRATIVE FOR PATROL KEITH E LINCOLN

Ref: 21-6090-OF

I

This supplemental narrative is by Officer Keith Lincoln regarding an attempt to locate friends of a male party, was last known to be with friends at the Seal Pub prior to being placed in Protective Custody.

On the morning of Sunday May 30, 2021 at 0010hrs, I made contact with a staff member at the Seal Pub out in the front driveway entrance. There were two door staff out speaking with another patron, that they were trying to have leave the property. The tall thin male party that approached my cruiser stated, he was a bouncer for the Seal Pub. I told him we were trying to locate friends of another patron who was in protective custody at the station. The doorman stated, "is that the guy in red? We kicked him out earlier for being so drunk. I can go in and try to find his friends for you." I advised the doorman, we did need to speak to the friends and have them contact the station.

I also advised the doorman, it would be better to assist their intoxicated patrons to find a safe ride home versus sending them on their way unattended into the neighborhood. I explained to him, how his patron in red ended up in a strangers car vomiting and the dangers of him being alone intoxicated and vomiting.

This report is respectfully submitted by;

Officer Keith Lincoln #156  
Harwich Police Department



# 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:** June 7, 2021

**SUBJECT:** Incidents at licensed establishments 6/4/21 – 6/7/21

In accordance with Town of Harwich Liquor License Regulations section 1.16 I would like to bring to the board's attention a number of incidents at licensed establishments this past weekend. For the third weekend in a row police have responded to The Seal Pub. The Seal Pub incidents involved the following:

1. On 6/5/21 at 12:49 AM a 911 caller reported loud and intoxicated patrons in the parking lot. This was confirmed as a valid noise complaint by Det. Sgt. Brackett (see attached report).
2. On 6/5/21 at 10:37 PM a staff member at the Seal reported an intoxicated individual swinging at people in the parking lot. Responding officers placed a highly intoxicated 23 year old male into protective custody as a result of the call. The individual had actually assaulted someone but the victim did not wish to pursue charges (see attached report).

The remaining two incidents involved the Port and Perks.

3. On 6/5/21 at 11:11 PM police responded to a report of vandalism at the Port during their investigation it was alleged by the Port's management that Perks was playing outside music. We are awaiting a follow up report to determine if the officer on scene can confirm this (see attached preliminary report).



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4. On 6/6/21 at 1:12 AM Det. Sgt. Brackett was observing closing time in the area of Perks and Port in Harwich Port. He observed a large noisy crowd spill out onto route 28. Det. Sgt. Brackett recorded a brief video of the situation (see attached report – video to be provided once downloaded onto external drive).

The attached information is for your consideration as to whether to hold a public hearing on the matter. Officers who were involved in the incidents and documented their findings will be made available for testimony if a hearing is deemed necessary.

K

For Date: 06/05/2021 - Saturday

| <u>Call Number</u> | <u>Time</u> | <u>Call Reason</u>   | <u>Action</u> |
|--------------------|-------------|--|---------------|
| 21-6365            | 0049        | Noise Complaint  | Investigated  |
| Call Taker:        |             | 4004 - PSD Telecommunicator Theodore Monteiro  |               |
| Primary Id:        |             | 118 - Detective Sergeant Robert C Brackett   |               |
| Location/Address:  |             | [HAR 2686] SEAL PUB AND CAFE - 703 MAIN ST   |               |
| Calling Party:     |             | ***UNKNOWN*** @ PARALLEL ST - HARWICH, MA 02645-0000   |               |
| ID:                |             | 196 - Patrol Ryan J Fazzino  |               |
|                    |             | Disp-00:52:11 Enrt-00:52:19 Arvd-00:55:53 Clrd-01:01:27  |               |
| ID:                |             | 118 - Detective Sergeant Robert C Brackett   |               |
|                    |             | Disp-00:52:11 Enrt-00:52:19 Arvd-00:53:03 Clrd-01:02:34  |               |
| Narrative:         |             | 06/05/2021 0052 PSD Telecommunicator Theodore Monteiro   |               |
| Modified By:       |             | PSD Telecommunicator Theodore Monteiro   |               |
|                    |             | 911 for loud and Intoxicated patrons in the parking lot,<br>sounds like 6 individuals. RP wishes to remain anonymous as<br>she claims the Seal is threatening her. |               |
| Narrative:         |             | 06/05/2021 0104 PSD Telecommunicator Theodore Monteiro   |               |
|                    |             | Investigated.  |               |
| Narrative:         |             | 06/07/2021 0333 Detective Sergeant Robert C Brackett   |               |
|                    |             | Violation founded. Please see formal report.   |               |
| Refer To Incident: |             | <u>21-6365-OF</u>  |               |

K

To: Town of Harwich Board of Selectmen

From: Detective Sergeant Bob Brackett

Date: June 6, 2021

Subject: Noise Complaint and Violation at Seal Pub Located at #703 Main Street Harwich, Ma.

1. On Saturday June 5, 2021 at approximately 12:49am, Officers of the Harwich Police Department were dispatched to the Seal Pub located at #703 Main Street in Harwich, Ma for a noise complaint. The reporting party wished to remain anonymous but were identified as calling from Parallel Street. The reporting party was calling in regards to loud and intoxicated patrons in the parking lot.
2. Detective Sergeant Brackett arrived in the area and parked on Parallel Street in front of the Brooks Academy Museum located at #80 Parallel Street. Detective Sergeant Brackett stood at the south east corner of the Brooks Academy building and could clearly hear yelling and loud boisterous talking coming from the direction of the Seal Pub and the parking lot of the Congregational Church thrift shop located at the corner of Main Street and Sisson Road. It should be noted that Detective Sergeant Brackett subsequently paced off the distance from this location to the corner of the building of the Seal Pub at #703 Main Street. The distance was approximately 300 feet.
3. Detective Sergeant Brackett walked through the parking lot to the rear of the Seal Pub and found a large congregation of Seal Pub patrons loitering in the parking lot that were being very loud and boisterous. There were also a large number of Seal Pub patrons on the outside patio and the front sidewalk of the establishment that were also being very loud and boisterous. Detective Sergeant Brackett concluded that this was the basis of the noise complaint that was made to the Harwich Police Department and that there was, in fact, a noise violation.
4. Detective Sergeant Brackett made contact with employees of the Seal Pub and advised them of the violation. Employees of the Seal Pub then assisted Harwich Police officers in clearing out the parking lot of the loitering patrons. Employees of the Seal Pub also cleared patrons from the outside patio. It should be noted that the exterior doors to the establishment were all open which was additionally contributing to the noise. The noise and background music from inside of the establishment was clearly audible outside causing those patrons outside to talk loudly to be heard.
5. The patrons from the Seal Pub are utilizing the parking lot of the Congregational Church Thrift Shop for parking. The parking lot was filled to capacity with additional vehicles parked in unmarked parking spaces. There were vehicles parked along the driveway that enters off of Main Street. With the parking lot over

K

capacity and the number of patrons outside of the patio area in the driveway it is extremely difficult for vehicles to navigate the parking lot. Officers received an emergency call while at the Seal Pub and had difficulty exiting the parking lot due to the amount of people in the driveway along the patio area and the vehicles parked in the driveway entrance.

6. It should also be noted that there are several residential homes that are direct abutter's to this parking lot with the houses only a matter of 20 feet or less from the parking lot.
7. Detective Sergeant Brackett additionally checked the rest of the area around Parallel Street and Harwich Center and found no other sources of any noise other than that which was coming from the Seal Pub located at #703 Main Street.

*Respectfully Submitted by,*

*Detective Sergeant Robert Brackett  
Harwich Police Detective Division*



For Date: 06/05/2021 - Saturday

| <u>Call Number</u> | <u>Time</u> | <u>Call Reason</u> | <u>Action</u>      |
|--------------------|-------------|--------------------|--------------------|
| 21-6412            | 2237        | DISTURBANCE        | Protective Custody |

Call Taker: 4005 - PSD Telecommunicator JADE ROSS  
Primary Id: 130 - Sergeant Paul P Boorack  
Location/Address: [HAR 2686] SEAL PUB AND CAFE - 703 MAIN ST  
Calling Party:

Involved Party: .....

Involved Party: )

Involved Party:

Involved Party:

ID: 130 - Sergeant Paul P Boorack  
Disp-22:38:23 Enrt-22:38:25 Arvd-22:40:06 Clrd-22:58:40  
ID: 134 - Patrol Richard E Buttrick Jr  
Disp-22:38:37 Enrt-22:38:40 Arvd-22:41:06 Clrd-22:55:00  
ID: 189 - Patrol Brendan R Brickley  
Arvd-22:45:47 Clrd-22:55:04

Narrative: 06/05/2021 2240 PSD Telecommunicator JADE ROSS  
Bartender from the seal pub is reporting an intoxicated party swinging at people in the parking lot and now other people are stating to get involved.

Narrative: 06/05/2021 2242 PSD Telecommunicator JADE ROSS  
Rp stated bouncer now have party pinned to the ground and the crowd is dispersing.

Narrative: 06/05/2021 2254 PSD Telecommunicator JADE ROSS  
G16 enroute to the station with 1 male P/C

Narrative: 06/05/2021 2255 PSD Telecommunicator JADE ROSS  
G16 is off at the station.

Refer To Arrest: 21-6412-AR

Harwich Police Department  
NARRATIVE FOR SERGEANT PAUL P BOORACK

Page: 1

Ref: 21-6412-AR

L

Reporting Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

The following is the report of Sergeant Boorack regarding \_\_\_\_\_ being placed into protective custody due to his threatening behavior while being under the influence of alcohol.

On 06/05/21, at approximately 22:35 hours, Officer Buttrick and I were dispatched to the Seal Pub for an intoxicated subject who was swinging at people. While enroute, we were advised the bouncers were holding the intoxicated subject on the ground.

Upon arrival, I was directed to the side of the building where I could see a white male being held on the ground by 2 individuals who were employees of the Seal Pub. The 2 employees were identified \_\_\_\_\_ . The involved party was positively identified through his MA license as \_\_\_\_\_

As I exited my cruiser, they stood \_\_\_\_\_ up. I could see from the way \_\_\_\_\_ was swaying while being held up, he was intoxicated. \_\_\_\_\_ had a strong odor of an alcoholic beverage coming from his person and his speech was slurred when he was talking to the bouncers. Due to the fact \_\_\_\_\_ had already assaulted someone, needed to be held down by the bouncers due to his aggressive behavior and the fact he was intoxicated, I decided to place \_\_\_\_\_ in handcuffs. As I went to grab \_\_\_\_\_ wrist, he actively resisted by attempts to put his hand behind his back. \_\_\_\_\_ stiffened up his arm and kept saying no. With the assistance of \_\_\_\_\_ and \_\_\_\_\_, they got his hands behind his back and I secured him in handcuffs.

Officer Buttrick arrived on scene and I went to place \_\_\_\_\_ in the rear of Officer Buttrick's cruiser. \_\_\_\_\_ complained the handcuffs were too tight so I loosened them up and then double-locked them.

I asked \_\_\_\_\_ and \_\_\_\_\_ what happened. They stated \_\_\_\_\_ was intoxicated and then for no reason took a swing at someone and ended up punching him in the face. At this point, they were trying to remove him from the bar and he got more combative so they took him to the ground for everyone's safety. I asked them where the victim of the assault was they pointed him out to me.

The victim was identified as \_\_\_\_\_ stated he got punched in the left eye and it was starting to swell. I asked \_\_\_\_\_ if he wanted me to have rescue come take a look at his injuries and he said no. I asked \_\_\_\_\_ if he wanted to pursue charges for the assault and battery and \_\_\_\_\_ said no. \_\_\_\_\_ stated the guy was just drunk and he felt back for him.

Next, I was approached by J \_\_\_\_\_; who identified himself as a bartender at the Seal Pub. \_\_\_\_\_ stated \_\_\_\_\_ was a good friend of his. \_\_\_\_\_ stated \_\_\_\_\_ girlfriend had broken up with him 2 days ago and \_\_\_\_\_ just lost it tonight. \_\_\_\_\_ stated he told \_\_\_\_\_ he was either going to call for an Uber or call the police. When J \_\_\_\_\_ heard this, he got mad at \_\_\_\_\_. I asked \_\_\_\_\_ if J \_\_\_\_\_ had anyone sober we could call who would be willing to take care of him. \_\_\_\_\_ tried to call \_\_\_\_\_ mother and brother with no luck. \_\_\_\_\_ offered to get him an Uber but I advised \_\_\_\_\_ due to his level of intoxication and his threatening behavior that was not going to be an option. I advised that \_\_\_\_\_ was being transported back to the station where he was going to be held in protective custody.

\_\_\_\_\_ was brought back to the station where we attempted to start booking him but \_\_\_\_\_ was being

Harwich Police Department  
NARRATIVE FOR SERGEANT PAUL P BOORACK

Page: 2

Ref: 21-6412-AR

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Reporting Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

uncooperative so he was placed in cell #3. After cooling off in a cell for a little while, \_\_\_\_\_ stated he would cooperate.

\_\_\_\_\_ was booked and photographed. While photographing \_\_\_\_\_, I noticed he had an abrasion on his forehead and left elbow. \_\_\_\_\_ did not know how he got those injuries. I asked him if he wanted rescue to respond to look at his injuries and he stated he did not. I believe \_\_\_\_\_ got the injuries while at the Seal Pub when he had the encounter. At no time did we use any force other than handcuffing him. \_\_\_\_\_ used his cell phone to try to arrange for a ride home but it didn't seem like he was having much luck.

While in booking, I was advised \_\_\_\_\_ mother was on the phone. I spoke to \_\_\_\_\_ mother \_\_\_\_\_; and advised \_\_\_\_\_ was in protective custody because he was severely intoxicated. I advised \_\_\_\_\_ if she was willing to come pick him up, he'd be free to leave. \_\_\_\_\_ agreed to come get him.

\_\_\_\_\_ consented to take a PBT. \_\_\_\_\_ gave a valid sample and the result was a .244%

This report is being submitted by Sergeant \_\_\_\_\_ #130.

Sgt Paul Boorack

#1



**From:** Bob Young bobyoungmas@icloud.com  
**Subject:** Request for hearing for The Seal Pub and Cafe  
**Date:** June 3, 2021 at 10:51 AM  
**To:** Joe Powers jpowers@town.harwich.ma.us, mmacaskill@townofharwich.us  
**Cc:** Josh Winston joshwinston321@gmail.com, Mike Scott Mikescott@thesealpubandcafe.com

Gentlemen-

My partners Josh Winston and Mike Scott called and emailed the Town Administrator yesterday regarding a hearing on our liquor license as soon as possible.

We met with Lt Hutton of the Harwich Police on May 26 or 27 and explained the incident in the Chief's report. Our doors were locked at the time of the incident and there were only employees in the Pub doing closing procedures. Any beer bottles visible were empty and staff was doing cleanup. I ask that Lt Hutton be contacted by the Town Administrator to verify.

We asked Lt Hutton about ID scanners as well, (they have no recommendations) explained our closing procedures and asked if it was possible for a patrol to cruise through the parking lot around midnight for crowd and noise control. We discussed that our windows are visible at night and it can look like there are people inside after hours but the doors are locked. We had this problem with mask complaints too. We sensed a pent up atmosphere in town of people wanting to go out due to the mask restrictions being lifted.

He told us that the Police Chief had plans for a meeting with restaurants and bars but it had been delayed due to the lifting of the Covid restrictions. We asked that he update the Chief that we met with him. We await the meeting with the Chief for guidance and input. We are not aware of any Town rules regarding employees working after closing, however we are bound by Health Department rules for cleaning and sanitizing that do require employees to take the time to clean up after the legal closing time of 1am.

We have a policy and procedure list of closing duties we can provide. We call last call at 12:15am and stop serving at 12:30, well before 1am.

My bartending staff and doorman want to be involved in the hearing as well as myself and my partners. We'd like Lt Hutton to attend as well. We are not aware of any Town regulations regarding closing and staff cleanup.

I contacted Jamie Binienda an ABCC Investigator who has investigated complaints in Harwich. He directed me to ABCC rule-

From MGL 138 Section 12:

The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of two and eight o'clock antemeridian and that, except as provided in section thirty-three, no such licensee shall be barred from making such sales on any such day after eleven o'clock antemeridian and before eleven o'clock postmeridian, and no tavern shall be kept open on any such day between one o'clock antemeridian and eight o'clock antemeridian; provided, further, that

**any such licensee or his manager shall not be prohibited from being on the licensed premises at any time; provided, further, that the employees, contractors or subcontractors shall not be prohibited from being upon such premises at any time for the purpose of cleaning, making renovations, making emergency repairs to or providing security for, such premises or preparing food for the day's business or opening or closing the business in an orderly manner.**

The licensing authority shall not decrease the hours during which sales of such alcohol beverages may be made by a licensee until after a public hearing concerning the public need for such decrease; provided, however, that a licensee affected by any such change shall be given 2 weeks notice of the public hearing

Please let us know asap when we can have this hearing to answer any questions about our closing procedures and go over what criteria or explanations the Board of Selectmen are looking for.

Best-

Bob Young  
Reachlight LLC



#2

● **BREAKING**

AIR QUALITY ALERT ISSUED FOR PARTS OF MASS. AS SMOKE FROM WILDFIRES HOVERS OVER REGION

BREAKING: AIR QUALITY ALERT ISSUED FOR PARTS OF MASS. AS SMOKE FROM WILDFIRES HOVERS OVER REGION

# F-bombs, tantrums in front of children, making staff cry: Mass. restaurant owners describe unruly customer behavior

By [Amanda Kaufman](#) Globe Staff, Updated July 15, 2021, 4:46 p.m.



Brandi and Regina Felt-Castellano (at center, left and right), co-owners of Apt Cape Cod in Brewster, recently gave employees a mental health day because of the abuse they've taken. BARRY CHIN/GLOBE STAFF

At The Rail restaurant in Orleans, a family who came in to eat decided to take their food to go after their order took a while, owner Cam Hadfield said. To apologize for the delay, the restaurant didn't charge them for their meal. But 15 minutes after the family left, they drove back to the restaurant, pulled into the parking lot, and dumped the free food out of the car window.

In Brewster, the owners of Apt Cape Cod recently gave their wait staff a "mental health day" after a series of incidents in which customers verbally abused young employees, dropped "a lot of f-bombs," and called them "stupid." One person told an employee they hoped the employee got hit by a car when leaving work, said chef and co-owner Regina Felt-Castellano, 39.

“This is the worst [customer behavior] that I’ve encountered in 20 years,” said her wife, co-owner Brandi Felt-Castellano. “It’s not one a day or one a week, it’s one every 30 minutes. When we commiserate with our other friends in the industry, it’s not little things, it’s more like, ‘I was physically afraid for my staff, I was physically afraid for myself.’ It went from stuff we could laugh about to stuff that is scary.”

Since the state lifted virtually all remaining COVID-19 restrictions on May 29, restaurants have been working to return to full speed while contending with staff shortages and supply issues. At the same time, customers emerging from months inside are eager to enjoy restaurant dining again with the arrival of warmer temperatures.

ADVERTISING

That has turned out to be a combustible combination. Some restaurant owners describe unruly customers who are lashing out at employees when they can’t be seated right away or endure longer wait times for their food.

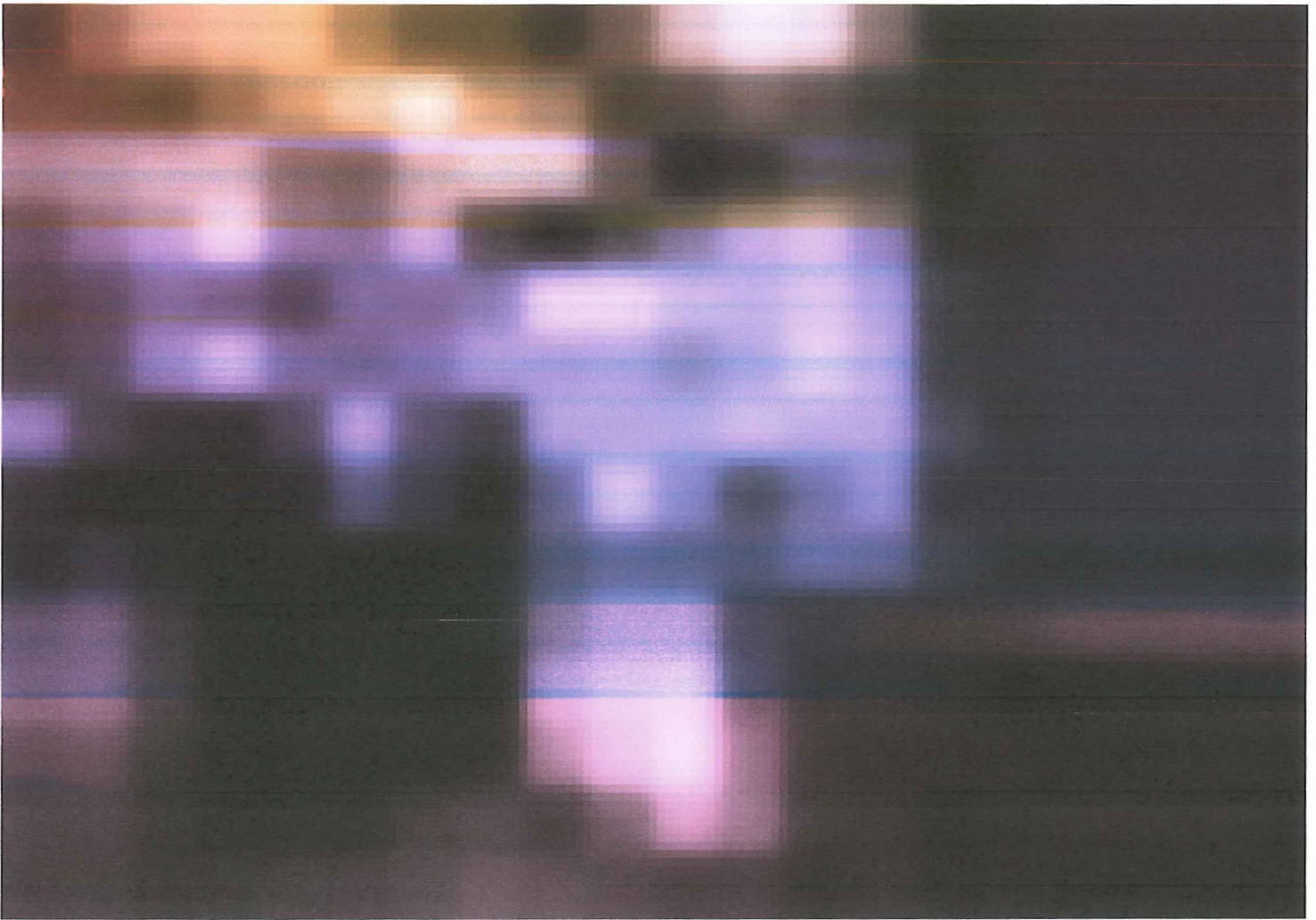
“People were coming in and demanding that they get what they want right then, right there, and not understanding that we’ve been through this pandemic, and we haven’t had this many people here in 18 months,” Regina Felt-Castellano said. “And all of a sudden people started being abusive and using foul language to our wait staff and throwing tantrums in front of other people’s children.”

The recent string of events prompted Apt Cape Cod to take to its [Facebook page](#) last week to announce the restaurant would be closing for breakfast to treat staff to “a day of kindness.”

“We wanted to take a day to stop and tell our staff that we value you as employees and humans and you don’t deserve to be treated this way,” Regina Felt-Castellano said.

“We wanted to fill the day with kindness and say: ‘You don’t have to worry about anyone saying anything to you because you’re worth whatever money we would have brought in that day.’ ”

The response from the community has been overwhelming, she said. The restaurant has received messages from as far away as Washington and California. A woman from New York wanted to send \$100 on Venmo to be split among the wait staff. Others in the service industry have reached out to thank the restaurant for standing up for them.



Brandi Felt-Castellano, co-owner of Apt Cape Cod recently closed for a "day of kindness" after a series of events in which customers became unruly and made staff cry. BARRY CHIN/GLOBE STAFF

"I feel 100 percent better that we did what we did," Regina Felt-Castellano said. "There's a weight lifted off my shoulders and a feeling that maybe now that there's awareness, customers will be kind and understand. And it's held true. I haven't had an issue since we've put up the post."

Bob Luz, president of the Massachusetts Restaurant Association, said that recent incidents are exceptions, and that for the most part, guests have been gracious and understanding. Many businesses across the country are dealing with staffing shortages and supply chain issues, Luz said, but it's exacerbated in the restaurant industry because it's very labor intensive.

“[Restaurants] went from having limited capacity, limited employees, limited product, to open fully, inside and outside,” Luz said. “And having a public that had huge pent-up desire. And so the result is that it’s caused disruption.”

Since the beginning of June, the restaurant association has put up two billboards in the state urging diners to be patient and understanding.

In [Rhode Island](#), the hospitality association went so far as to create a “Please Be Kind” tool kit to ask patrons to be nice to servers and staff, complete with fliers offering mental health resources for workers confronted by demanding customers.

“Welcome back,” one of the posters reads. “We are experiencing a staff shortage. We ask that you please be kind and patient with the staff that are working. Thank you!”

But some customers are not only refusing to be patient, they’re getting downright aggressive.

At the Cleat & Anchor in Dennis Port, a group of young people were drinking mini bottles of alcohol and whiskey as they waited in line to get into the restaurant over July Fourth weekend. When Felicia Pons, the co-owner and general manager, asked them to leave, a woman tried to physically assault her, she said, prompting another staff member to intervene.

Later that night, after the restaurant was closed, the group came back and started banging on the front door. The kitchen door was open, and they charged inside and threw a number of pantry items on the floor before they ran out, leaving the kitchen staff to clean up multiple tubs of mustard, Pons said.

“It’s been a rough summer when it comes to guest interactions,” she said. “It’s just

crazy how some people are acting. I feel like everyone's been cooped up for so long that they just feel entitled and privileged to the sense where the restaurant workers are below them. It's definitely really disappointing the way our society is behaving in this post-pandemic world.”

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*Brian Amaral of the Globe staff contributed to this report.*

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Amanda Kaufman can be reached at [amanda.kaufman@globe.com](mailto:amanda.kaufman@globe.com). Follow her on Twitter [@amandakauf1](https://twitter.com/amandakauf1).

[Show 352 comments](#)

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#3



THE SEAL PUB & CAFE

FOLLOW

703 MAIN STREET  
HARWICH, MA 02645  
+1 954-551-7515

[mikescott@thesealpubandcafe.com](mailto:mikescott@thesealpubandcafe.com)

Jameson \$10.50


Moscow Mule \$10.00

Subtotal \$20.50

Total Taxes \$1.44

Tip \$3.29

**Total \$ 25 23**

 DEBIT CARD \$25.23  
1289  
Cashier: Caroline L.

May 21, 2021 • 9:18 pm  
Payment ID: BYCJDVDZ43CJR  
Order ID: MRV2W2ZYQB4EY  
Order Employee: Caroline L.

[Hide Details](#)

Card: Debit Card 1289  
May 21, 2021, 9:19 PM  
Method: EMV  
Auth ID: 001724  
Reference ID: 114200693857  
Authorizing Network: STAR  
AID: A0000000980840



#80

# the event of contact tracing



01/11  
 2/11  
 04/11  
 11/11  
 18/11

10/11  
 17/11

24/11  
 01/12

08/12  
 15/12  
 22/12  
 29/12

05/01  
 12/01  
 19/01  
 26/01  
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 09/02  
 16/02  
 23/02  
 01/03  
 08/03  
 15/03  
 22/03  
 29/03



## THE SEAL PUB & CAFE

FOLLOW

703 MAIN STREET  
HARWICH, MA 02645  
+1 954-551-7515


[mikescott@thesealpubandcafe.com](mailto:mikescott@thesealpubandcafe.com)

|             |         |
|-------------|---------|
| Jameson     | \$10.50 |
| <hr/>       |         |
| Subtotal    | \$10.50 |
| Total Taxes | \$0.74  |
| Order total | \$11.24 |

**Total paid**      \$ 12<sup>93</sup>

May 21, 2021 9:54 pm  
Payment ID: VRHT77W8AAAYEC  
Order ID: XV3NEQWF4QHWM  
Order Employee: Caroline L.

### Payment

|   |         |
|---|---------|
|  DEBIT CARD 1289 | \$12.93 |
| Order amount  | \$11.24 |
| Tip   | \$1.69  |
| Cashier: Caroline L.  |         |

[Show Details](#)

View the Privacy Policies for  
[Clover](#)

The Harwich Health Department  
requests a contact number or email in

CVM: PIN VERIFIED

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View the Privacy Policies for  
[Clover](#)

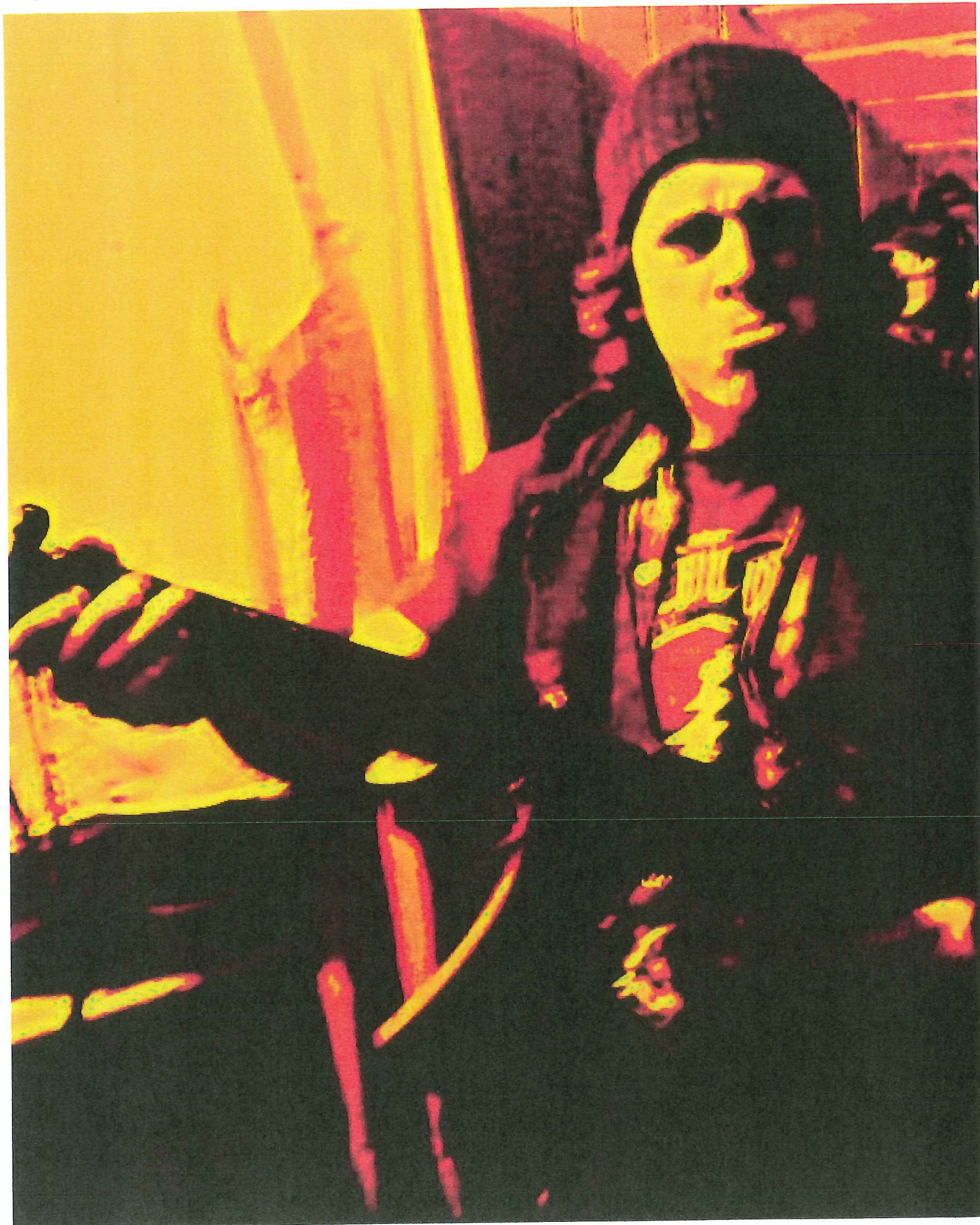
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The Harwich Health Department  
requests a contact number or email in  
the event of contact tracing

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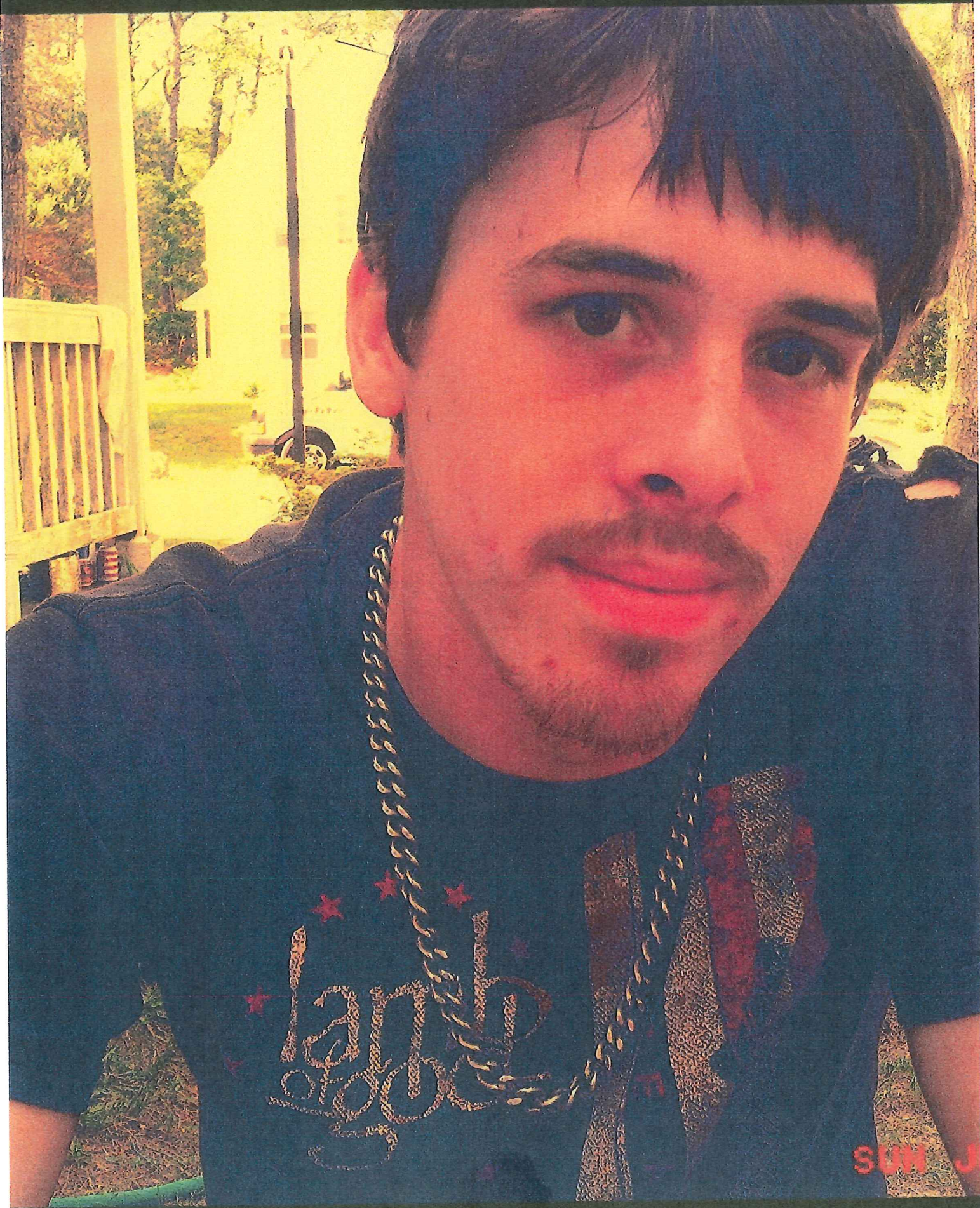


#4



#4

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SUN J

**Show Cause Hearing Summary**  
**July 27, 2021**  
**Beachlight LLC d/b/a Seal Pub**

**Attendees**

Joseph F. Powers  
Attorney Jeffrey Blake  
Danielle Delaney  
Jamie Goodwin  
Bob Young  
Aiden O'Laughlin  
Indecipherable  
Indecipherable  
Ed McManus  
Indecipherable  
Indecipherable  
Adam Hutton  
Josh Winston  
Robert Brackett  
Bill Galvin  
Amy R. Walinski  
Chris Arrigo  
Paul Boorack  
Robert Brackett  
Indecipherable  
Ian Doe  
Mike Scott

The Hearing Officer opened the hearing at 10:00 a.m. and stated that Channel 18 is recording, not for broadcasting, only for administrative purposes. The Hearing Officer introduced himself and stated he is resuming a hearing from July 8, 2021. He proceeded to read the Hearing Notice into the record, asked all parties to sign in and stand to be sworn in. Mr. Young confirmed he is the representative for the establishment. The Hearing Officer starts with going through Exhibits from the original hearing on July 8, 2021 and tells Mr. Young that if he has additional Exhibits he would need to produce those at this time. Mr. Young stated he would like to question Mr. Powers, Hearing Officer and Town Administrator, and Mr. Powers responded that he will not be able to do that. Mr. Young stated he will object to that later. Mr. Young referenced an outline that the Hearing Officer was using in the last hearing and stated he would have to go on his own. The Hearing Officer responded that he and staff were relying upon a document, not counsel, and for the record it is Mass Municipal Association Handbook for Selectmen, Fourth Edition, and section on how to conduct an error free hearing.

Mr. Young starts by entering a news article into the record which will be Exhibit 2. He goes on to outline what the article is about. The Hearing Officer states this is a Boston Globe Article written by Amanda Koffman and recites a short blurb. Mr. Young asks for Michael Scott to come to the podium. The Hearing Officer confirmed he was going to be entering exhibits into the record. Mr. Scott stated they have letters of support and disputing the noise violation. The Hearing Officer states those relate to the next hearing and

this portion is for finishing the July 8<sup>th</sup> hearing. Mr. Scott enters two receipts that will be Exhibit 3 and a photo as Exhibit 4. Staff leaves to make copies of Exhibit 4.

Mr. Young calls Ian Doe to provide testimony. The Hearing Officer confirms Mr. Doe has been sworn in. Mr. Young asks Mr. Doe to explain the layout of the bar, which he does. Mr. Doe shares that if someone looked through the window they would see bottles on the bar because they are put there when closing up. He states this includes both liquor and beer bottles. Mr. Young asks Mr. Doe what his duties are at that time and he explains the steps at closing time. Mr. Doe confirms he works at the POS system at the end of the night and also other bartenders and staff would be present because they have a lot of responsibilities at the end of a shift. The Hearing Officer asks for clarification on a question pertaining to tipping. Mr. Doe explains how the tipping process works at the end of the night and Mr. Young reiterates the same information. Mr. Doe continues to go over what staff does to help when he is closing out at the POS system. Mr. Young stated that on May 22<sup>nd</sup> the allegation was people were drinking after hours, however, the last ring up was 12:57 a.m. Mr. Doe stated he did not serve anyone after hours and did not see anyone drinking. Mr. Doe stated he did not have any interaction with the Officer that came to the door.

Attorney Blake stated Mr. Doe testified at the last hearing that he did not know that it was a violation for employees to be drinking. Mr. Doe responded yes. Attorney Blake commented that Mr. Doe's testimony is different today and Mr. Doe responded that he wanted to clarify his comments as he was not aware of the laws in that regard. Attorney Blake stated Mr. Doe previously testified that employees were drinking after hours and now he is saying they were not. Mr. Doe stated he did not pour any drinks after 1:00 a.m. Attorney Blake stated what testimony are people supposed to believe, the one previously or today. Mr. Doe stated he is trying to recall to the best of his abilities. Mr. Young asked to object to something and the Hearing Officer answered that he will have a chance to redirect after this exchange is done. Attorney Blake stated Mr. Doe testified before that employees were drinking at the bar, which he did not know that was not right and admitted to the violation. Mr. Doe responded that he was not aware that that was the law. Attorney Blake asked Mr. Doe if he agrees that people were drinking at the bar after 1:00 a.m. and Mr. Doe responded that it's happened and, in that regard, I was not aware.

Mr. Young asks Mr. Doe if he served beer and he responded no and he did not recall seeing anyone drinking beer. Mr. Young stated this incident was 8 weeks ago and can't he be sure he recalls properly. Mr. Doe responded that a lot of nights blur together. Mr. Doe confirmed he wanted to go home after a busy night, not drink.

At 10:25 a.m., Mr. Young calls Aiden O'laughlin to provide testimony. Mr. O'laughlin confirmed he has been sworn in. Mr. O'laughlin confirmed he works as a security guard and was in training on the night in question. He stated he saw no drinking after hours as he stays to the end of the evening to break down the bar and get tipped out. Mr. O'laughlin stated at closing there are cleaning supplies and beer bottles on the bar. He proceeded to go over closing duties per the Health Department. Mr. O'laughlin confirmed he did not see Mr. Doe serve anyone after hours or see him drink.

Attorney Blake confirmed Mr. O'laughlin did not see anyone be served after hours and did not see anyone drinking after hours. Attorney Blake asked if he is prepared to say, under oath, that he has never had a beer after hours. Mr. O'laughlin responded no and that he did not know when the Officer came in. Mr. O'laughlin said he was not in the room when the Officer came in, but was on the property.

The Hearing Officer asked to go back to the question of if Mr. O'laughlin has ever drank in the establishment after hours. Mr. O'laughlin stated no, not to his knowledge. Attorney Blake stated he would know if he drank after hours and Mr. O'laughlin responded that he has drank in the bar, but not after hours.

Mr. O'loughlin stated he did not recall seeing the Officer, but knew the Officer was there and shared that he was in and out of the bar at that time.

Mr. Young called Josh Winston to provide testimony. Mr. Young confirmed Mr. Winston will offer testimony. Mr. Winston went over details of the evening when the Officers came into the establishment. He stated he spoke with the Officers and explained that they were cleaning up. Mr. Winston states his feeling after was pleasant and that they acknowledged they were trying to wrap up as the bar was a mess from a busy night. Mr. Young stated that the Officers came back at 1:50 a.m. and asked Mr. Winston to explain why people were still in the establishment and milling around. Mr. Winston answered that at 1:50 a.m. people are waiting for rides and people are inside cleaning and finishing their professional duties. He confirmed the Officer gave advice and was very helpful. He shared they discussed the security team monitoring the back parking lot for people loitering. Mr. Winston confirmed that people are at the mercy of their Uber to show up and if police show up they gradually move away. Mr. Winston confirmed he does not allow drinking after hours and that night everyone was wiped out. He shared that they have received complaints from people looking in the windows as it pertained to the mask guidance.

Attorney Blake reiterated that Mr. Winston is under oath and was under oath at the last hearing. Attorney Blake continued that Mr. Winston agreed with testimony at the first hearing provided by Sergeant Walinski. Mr. Winston stated he did not disagree with what Sergeant Walinski saw, however, people may have been drinking water or Gatorade.

The Hearing Officer confirmed Mr. Winston is familiar with the Liquor License Regulations and cites Section 1.05 which talks about Hours of Operation. The Hearing Officer asked Mr. Winston to go over how many people were outside at the night in question. Mr. Winston responded there were about 5 people outside who were somewhat loud and they had asked them to quiet down. Mr. Winston proceeded to go over the details of telling the group to quiet down. Mr. Winston shared that the last patron left at 12:57 a.m. and they do last call at 12:15 a.m. The last 5 people were outside for about 40 minutes. Mr. Winston stated it can be a regular occurrence on busy nights and staff does go outside when people are dispersing. The Hearing Officer read Section 1.05 of the regulations and explains why he is reading it and the conclusions he will need to come to. Mr. Young stated he hopes the Hearing Officer has not made a decision.

Mr. Young called Lieutenant Hutton to provide testimony. Mr. Young asked Lt. Hutton if he recalls a meeting at the station with himself and Mr. Winston. Lt. Hutton stated yes and that the meeting was to discuss how to control issues that may come up such as loud music, security, drinking and crowds. Lt. Hutton confirmed Mr. Young and Mr. Winston stated they were nervous because they were seeing a surge prior to the mask mandate lifting. Lt. Hutton stated they discussed security and license readers. Mr. Young asked how the Lieutenant memorialized the meeting and Lt. Hutton answered he discussed it with Deputy Chief Considine, but did not put it in writing. Mr. Young asked if he knew if the information got to the Chief and Lt. Hutton answered that he did not know. Mr. Young started to speak about not understanding the chain of command and the Hearing Officer asked Mr. Young to yield and asked to get to the relevance of his statement. Mr. Young stated the relevance is that he is a business owner and reached out for guidance.

Mr. Young called Sergeant Walinski to provide testimony. The Hearing Officer confirmed the Sergeant had been sworn in and that she testified at the previous hearing on July 8, 2021. Mr. Young asked what drinks Sergeant Walinski saw on the evening in question and she confirmed she saw beer bottles and actual drinking. She confirmed she could not see who the people were through the window. Sergeant Walinski confirmed she previously testified that she was not familiar with the liquor license regulations and reiterated she saw through the window someone consuming a beer.



Mr. Young called Officer Arrigo to provide testimony. Mr. Young confirmed with Officer Arrigo that they found someone in the woods, who was drunk and claimed to have been at the Seal Pub. Mr. Young stated they have submitted an exhibit of two receipts that show the person ordered two drinks at 9:18 p.m. and again at 9:54 p.m. Mr. Young asked if it is possible if he consumed anything after he left the establishment after 9:54 p.m. Officer Arrigo stated he would assume that it is possible. Officer Arrigo confirmed he knows who the individual is. Mr. Young inquired if the individual has past records and Officer Arrigo answered that he does not have specifics. The Hearing Officer asked Mr. Young what the relevance is and Mr. Young answered that he feels the individual was given preferential treatment. Officer Arrigo stated he was given leeway considering the language that was used and from past encounters he knew this individual would have been a major problem if he didn't get him home. Mr. Young stated he was going to be antagonistic and repeated the language that the individual said to Officer Arrigo that night and stated that he and his partner are gay men and are used to these types of slurs. Mr. Young questions how the Seal Pub is a part of the police report. Officer Arrigo stated he documents what happens and it has nothing to do with the Seal Pub. He continues on that this individual has called other Officers things, but he is not here to testify to that. Mr. Young starts to question the Officers action and the Hearing Officer asks what the relevance is to the allegations. Mr. Young stated he is trying to show the individual got preferential treatment and the pub does not. Officer Arrigo carried on to explain why he made those decisions and stated there is no crime in being drunk. Mr. Young continued to ask if the individual has any prior records and the Hearing Officer asked again what the relevance is. Mr. Young stated he is trying to show the individual may have been arrested and had a record. Mr. Young confirmed with Officer Arrigo that he could not place the individual at Seal Pub after 10:00 p.m. Officer Arrigo confirmed he did not go to Seal Pub after encountering this individual and stated it did not matter to him at the time when the individual said where he was.

At 10:56 a.m., Mr. Young called Mr. O'Laughlin to provide testimony. Mr. Young asks Mr. O'Laughlin to go through the events from May 29, 2021. Mr. O'Laughlin shared that the individual came in to meet friends. When he entered, two bartenders said he was problematic and was then walked outside. Mr. O'Laughlin saw him in the parking lot throwing up next to a vehicle and made sure he was not planning to drive as he was under the influence. He proceeded to walk him to the front where he sat down to wait for an Uber. Mr. O'Laughlin reported that something was happening at the front door, so he had to leave the individual sitting. After he was done dealing with the issues at the door, he reported he did not see the individual again that evening. Mr. Young confirmed with Mr. O'Laughlin that he disputed the police officers report. Mr. O'Laughlin proceeded to go through his discussion with the Police Officer. He shared that he offered to find his friends in the bar to let them know the individual was at the station. He was not able to locate the friends. Mr. O'Laughlin confirmed he made sure the patron was not driving. He proceed to explain that he is disputing the report because he did not get advice on how to handle the situation. Mr. O'Laughlin shared that he called Harwich Police Department and left a message on the Officers phone regarding his discrepancies. Mr. O'Laughlin detailed the things he did to keep the individual safe. Mr. Young confirmed the interaction with the Officer was brief.

Attorney Blake confirmed Mr. O'Laughlin was at the door checking ID's and did not see the gentlemen come through the door, but believes he came in intoxicated. He shared other patrons said he walked in and became physical and appeared to be very intoxicated. Mr. O'Laughlin confirmed they did not serve the individual. Mr. O'Laughlin confirmed they do not let intoxicated people into the bar. Attorney Blake stated someone let a very drunk person in the bar. Mr. O'Laughlin responded he may have snuck in and Attorney Blake questions that someone can sneak into the establishment. Mr. O'Laughlin responded not really, but he definitely made it into the bar. Mr. O'Laughlin confirmed he did not serve him nor did anyone at the establishment.

Mr. Young asked Mr. O’laughlin if people can sneak into the bar and he responded in theory it’s possible and proceeded to explain where the entrances and exits are. Mr. O’laughlin confirmed they have zero tolerance for drunk people and that is why they are taken outside. Mr. O’laughlin confirmed he took every precaution to handle this individual and described what he did to handle the situation. Mr. O’laughlin shared he did not hear back from Harwich Police Department. Mr. O’laughlin shared again where he found a discrepancy in the report where it stated he was advised by the Officer.

The Hearing Officer stated he will be making reference from the Harwich Board of Selectmen Liquor License Regulations. He proceeded to ask Aiden if he is familiar with the regulations and Mr. O’laughlin answered, not particularly, he has seen a copy, but does not have a copy. He confirmed there is a copy behind the bar. The Hearing Officer confirmed he is testifying that he is not familiar with the liquor license regulations and he responded, not deeply no. The Hearing Officer questioned Mr. O’laughlin on how someone could sneak into the establishment. Mr. O’laughlin stated in theory it’s possible for people to sneak in. The Hearing Officer and Mr. O’laughlin go back and forth on the term sneaking in and/or out and what that means. The Hearing Officer asked who the other door people were, which was Stephen Iovannagh and Josh Miner. The Hearing Officer confirmed with Mr. Young that these individuals were not present to testify. The Hearing Officer read a portion of the Harwich Board of Selectmen Liquor License Regulations Section 1.04 Item G.

Mr. Young calls on Mr. O’laughlin to go over the evening of June 5, 2021. Exhibits being referenced are J through L. Mr. Young asked Mr. O’laughlin to go over the details of the night in question. Mr. O’laughlin states a customer threw a punch at a random customer. Mr. O’laughlin and a fellow doorman restrained the customer who was intoxicated and staff called Police because the individual became violent. Mr. Young confirmed that this individual was a friend of the bartender. Mr. Young stated he is a witness for the events of this evening as well.

Attorney Blake confirmed the patron was outside around 9:30 p.m. when Mr. O’laughlin arrived at work and the individual was drunk. He shared he did not know how long he was at the bar and restrained him until police arrived. Mr. O’laughlin confirmed there is no way that patrons can get in any back door.

Mr. Young calls himself to provide testimony. Mr. Young stated this was an unfortunate situation and he goes through the events of that evening. He shared that he recalled the individual coming in and the bartender giving him water. He shared he did not recall him being intoxicated. Mr. Young continued to say that he was outside taking the trash out and saw the individual outside in the parking lot with his water. He proceeded to state that he saw no red flags and the individual seemed mild mannered. On his way back to the establishment, he noticed the scuffle where security had to hold the individual down. Mr. Young stated that he found out the individual’s girlfriend had broken up with him.

Mr. Young called Ed McManus to provide testimony. Mr. McManus stated that he was a patron at Seal Pub and was sitting at table 2 on the night in question. The Hearing Officer confirmed they will be talking about June 5, 2021. Mr. McManus stated he ordered a Gin and Tonic, was drinking it and there was a person named Omar who tried to get into the establishment and was rejected by the doorman due to his condition. This individual also tried to get into the establishment at the front door as well. Mr. Young explained the relevance that he is trying to show the level of intoxication that has been seen this year. Mr. McManus stated his purpose for this testimony is that the clientele was quiet and as soon as mask mandate was lifted the entire scene had changed, which was an assault on the regular clientele. He shared on the night in question he witnessed a chaotic night with people arguing and swearing at each other. The staff asked the parties to leave and saw them get into a truck with an American flag and a “T” flag on it and played the song America the Beautiful at 100 decibels. Mr. MacManus stated he is trying to share that he

witnessed a chaotic situation and the staff trying to gain control. He shared he was gone before the scuffle and he was not overserved. The Hearing Officer asked Mr. McManus to share what hours he was at the establishment and he answered somewhat after 8:00 p.m. he arrived and was gone before the scuffle. Mr. Young confirmed the scuffle was at 10:37 p.m.

Attorney Blake confirmed Mr. McManus was gone before 10:37 p.m. and had no personal knowledge of what went on. Mr. McManus confirmed at the time he was not aware of the 911 call, now he knows because he read the reports. Attorney Blake stated Mr. McManus's testimony has nothing to do with the specific events. Mr. McManus stated his testimony is that there was surge of individuals of not their normal clientele. Attorney Blake stated to Mr. McManus that he has been on the Board of Selectmen and can see there have been at least three complaints on this establishment. Mr. McManus and Attorney Blake continue on discussing the details of the complaints and actions of the establishment.

Mr. McManus stated in his experience as a Selectmen establishments have had problems, dealt with the police, but never was referred to the board. Attorney Blake asked if Mr. McManus knows that the Chief holds a meeting with all liquor establishments and 12 hours after that meeting there was an alleged violation. Mr. McManus confirmed he knew about the meeting.

Mr. Young called the Chief of Police David Guillemette to provide testimony. The Hearing Officer confirmed that the Chief had been sworn in. Mr. Young confirmed that he reached out to the Chief after the night of the scuffle. The Chief confirmed Mr. Young planned to take proactive steps by closing early at 11:00 p.m. The Chief confirmed closing at 11:00 p.m. only happened for a week and wished it continued because it made a big difference. Mr. Young shared they took it upon themselves to close early and took a \$14,000 loss. The Hearing Officer stated given the hour what the relevance is to this line of questioning. Mr. Young responded that he would like to ask the Chief if he has been cooperative and came up with solutions and the Chief responded yes that closing early worked. The Chief shared they also discussed the level of training of staff because it seemed to be the common denominator was intoxicated people.

Mr. Young called Mike Scott to provide witness testimony. The Hearing Officer confirmed Mr. Scott is one of the owners of the establishment and had been sworn. Mr. Scott confirmed he attended the Chief's liquor license meeting and the ABCC was not there. Mr. Scott confirmed he received the liquor license regulations at that meeting and had not received them before. Mr. Scott stated owners of Perks stated "you are setting us up to fail" pertaining to the noise by-law. The Hearing Officer asked what the relevance is and what point is trying to be made. Mr. Young responded that he wanted to know how the Chief responded to that statement. Mr. Scott stated he came to the conclusion after the meeting that it made him question whether he wanted to call the police at all. He shared the Chief said you have to thread the needle as it pertains to the noise bylaw. Mr. Scott carried on explaining how he felt about protocol and the bylaw.

Attorney Blake confirmed Mr. Scott is aware of the alleged violations. Mr. Scott responded with statements as it pertained to the alleged violations. Attorney Blake stated that Mr. Scott is blaming the Police Department and he responded that he is not and that their hands are tied. Attorney Blake and Mr. Scott continue to go back and forth with statements.

The Hearing Officer confirmed that Mr. Scott had not received liquor regulations from the Town of Harwich. Mr. Scott confirmed they have been operating for just over a year as Seal Pub. The Hearing Officer read Seal Pub's liquor license which is part of the exhibits. Mr. Scott confirmed he is familiar with the license. The Hearing Officer asked if Mr. Scott inquired about the regulations when the license was granted and he answered that he received them from the previous owner of the establishment. Mr. Scott stated he had them on the premise, but did not receive them from the town. The Hearing Officer stated the licensee bears the responsibility to be aware of, to understand and to acknowledge the license regulations.

Mr. Young stated he would like to summarize. Mr. Young stated he objects to the hearing proceedings. The Hearing Officer asked Mr. Young to yield. Mr. Young stated his objection is that they do not get to respond to the allegations in a timely fashion and his objection is he did not get to do an ample defense. He stated that the hearing is not fair. For the record, the objection is noted and objection is denied at 11:56 a.m. The Hearing Officer reads exhibit B.

Mr. Young stated in summary, they did their best, they opened a restaurant 34 days before pandemic hit. When the mask mandate was lifted it sent a surge of people. He proceeded to speak about the proactive steps he took and states contradictory information received from staff. He stated that he does not feel the allegations have been proven. Mr. Young shared he feels the town needs to direct business in a conversational manner not confrontational.

Attorney Blake stated he feels the case is straightforward. He goes through his thoughts on each night an alleged violation occurred. Attorney Blake stated we have a Sergeant who observed people drinking from a beer bottle, which was the same testimony as the hearing prior to this. Attorney Blake reiterate we have a police report that states there was an extremely intoxicated person who was swinging. Attorney Blake continues to go over the evenings in question, testimony that was provided and stated that there is circumstantial evidence to make these findings. Attorney Blake stated that he would suggest there are five separate incidents and have enough testimony to find all five valid.

The Hearing Officer thanks all parties for being present and stated what his role is at Hearing Officer. He reiterates that Attorney Blake is Town Counsel, not the Hearing Officer's Attorney and proceeded to explain next steps.

The Hearing Officer closed the hearing at 12:11 p.m.

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The Hearing Officer opened the hearing at 1:15 p.m. and swore all parties in. Attorney Blake adds the Hearing Notice into the record as Exhibit A, letter dated July 13, 2021 sent to the establishment notifying them of the hearing as Exhibit B and the liquor license for Seal Pub & Café as Exhibit C.

Attorney Blake calls Sergeant Robert Brackett to provide testimony. Sergeant Brackett stated his name for the record and confirmed he had reviewed his narrative and has it with him today. The Hearing Officer confirmed that the establishment has copies of the exhibits. Sergeant Brackett proceeded to go over the events of the night in question that occurred around 12:19 a.m. Sergeant Brackett shared he saw individuals in front of the pub on the sidewalk and could hear loud voices and music from where he was parked in the Chapman Funeral Home parking lot. He also heard voices calling last call repeatedly. Sergeant Brackett stated he paced the distance and found it to be roughly 450 feet away. He then drove to the area of the church which is roughly 150 feet away. He shared he does this frequently because of the wind direction and sometimes you can hear it from one way and not another. He proceeded to explain why he parked by the Seal Pub and Mr. O'Laughlin was standing outside with 4 or 5 individuals. There were roughly 20 people out on sidewalk and 10 or 12 people in driveway by patio area. Sergeant Brackett stated he spoke with Mr. O'Laughlin who turned music off immediately. He spoke with Mr. Winston next who apologized. Sergeant Brackett confirmed doors and windows were open and Mr. Winston stated they wanted to keep them open due to Covid. Attorney Blake asked for Sergeant Brackett to explain how he paced off 450 feet. Sergeant Brackett explained where he stood and went from one area to the corner of the patio in a straight line. Sergeant Brackett confirmed he could hear crowd noise and music from 450 feet away. Attorney

Blake enters the narrative into the record as Exhibit D. Mr. Winston confirmed he had no questions for Sergeant Brackett. The Hearing Officer stated he would like the Chief's Memorandum to go along with the narrative as Exhibit D. Attorney Blake enters the Harwich Liquor License Regulations as Exhibit E.

Mr. Winston stated he has no witnesses, but has done measurements with an iPhone and supplies a chart with measurements which will be entered as Exhibit 1. Staff makes copies of the map as some are cut off. Mr. Winston goes over where staff measured from on the map and shared that they get more noise on the south west side. The Hearing Officer proceeded to go over the exact measurements with Mr. Winston. Mr. Winston stated he measures the sound on nights the establishment is busy and reported he can hear light, faint noises. He shared that on the night in question there was a fundraiser for Cape and Island Gay Alliance which was a fun, younger crowd and respectful crowd. He stated that many of the patrons were not from Harwich and were using ride sharing so there was congregating. He shared that they were exiting people out the front so they did not disturb neighbors by the parking lot. He shared that doorman circulated the parking lot to make sure nobody is hanging around or being loud. Mr. Winston stated that evening last call was being yelled repeatedly to clear people out and he thought certain orders like that could be loud to conduct business and stated he will find where he read it and provide documentation. Mr. Winston confirmed that doors were opened and since then they have been closing them. The Hearing Officer stated he had a question about Exhibit 1 and wants to know how Mr. Winston determined distance. Mr. Winston stated on iPhone there is a measuring tool that was used. The Hearing Officer and Mr. Winston go over measurements again.

At 1:38 p.m., Sergeant Brackett goes back to the podium to look at the map measurements and states the area he was in is not on the map, but does indicate around where he was when he took his measurements. He confirmed he paced it by walking and his gate is 1 yard which translated to 450 feet. The Hearing Officer continues to go over the mapping and measurements with Mr. Winston and Sergeant Brackett.

Mr. Winston stated he would like to submit three letters for the record. Two of the letters are from neighbors, the third is a letter of general support and they will be entered as Exhibits 2, 3 and 4. The Hearing was recessed for 2 minutes to allow for staff to make copies of the letters.

At 1:45 p.m., the hearing is resumed. Mr. Winston goes through the three letters that are Exhibits. The first document is Exhibit 2 and dated July 21<sup>st</sup> from resident of 682 Main Street who stated she could not hear noise on the night in question. The second document is Exhibit 3 and from a resident at 107 Parallel Street who stated she could not hear noise on the night in question. The third document is Exhibit 4 and from a resident at 681 Main Street who stated general support for the business. Attorney Blake stated he has no questions related to the Exhibits. The Hearing Officer asks why these folks are not here to be cross examined and Mr. Winston responded that he is sure they would be if they felt it necessary. The Hearing Officer stated he is not sure how much weight he would give to Exhibits 2 and 3. He stated that Exhibit 4 is more of a character reference. He shared he does not object to them, but expects establishments to present as many people as possible.

In closing, Mr. Winston stated this is an extremely challenging time and they are trying very hard to be good neighbors and community members. He shared in this instance it was a celebratory night and a great gay pride event. Part of the design is to target a different audience since prior to when the mask mandate was lifted. The establishment did closed early at 11:00 p.m. for a week which hit their bottom line significantly. He stated he does not want to be here before the Town and has no interest in headaches. Mr. Winston comments that as far as this night goes he feels hairs are being split and did not think this incident needed to lead to a hearing.

Attorney Blake stated the allegation was excessive noise and the Sergeant completed an extensive investigation. He reiterated that he reported it was plainly audible, the Sergeant paced it off and the standard is 150 feet plainly audible. Attorney Blake stated in his opinion there was a noise violation.

The Hearing Officer stated he appreciated the establishments participate, especially Mr. Young, who was the primary representative at the hearing as he understands the stress that can cause a person to make the case for their establishment. He shared he understands the effort you go through to represent yourself and appreciates that. He stated his next step is to take this under advisement and report to the Board of Selectmen.

The Hearing Officer adjourned the hearing at 1:55 p.m.

12:11 opened

Hearing officer reads hearing notice into the record.

Hearing continued until 1:15PM.

# **EXHIBITS**

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

**ALLEGED VIOLATIONS OF CONDITIONS OF LIQUOR LICENSE  
JULY 27, 2021**

The Town Administrator, acting as the Hearing Officer for the Board of Selectmen, will hold a Show Cause Hearing on Tuesday, July 27, 2021 at 10:00 A.M., for the purpose of consideration of alleged liquor license violations by Beachlight LLC, d/b/a Seal Pub, located at 703 Main Street, Harwich. 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  
July 16, 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 02645



July 13, 2021

VIA CERTIFIED MAIL AND EMAIL

Michael Scott, Manager of Record  
Beachlight LLC  
d/b/a Seal Pub  
703 Main street  
Harwich, MA 02645

Re: Notice of Liquor License Disciplinary Hearing  
Beachlight LLC d/b/a Seal Pub

Dear Mr. Scott:

On Tuesday, July 27, 2021 at 10:00 am 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 Alcoholic Beverages License for Beachlight LLC d/b/a Seal Pub.

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.

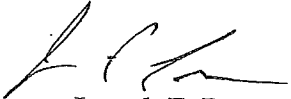
The facts underlying these allegations arise from an incidents occurring on or about June 26, 2021, as described in detail in the Harwich Police Incident Report attached hereto. Also, attached are the Town of Harwich Liquor License regulations.

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, July 20, 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 #7014 1820 0001 9486 2458

C

No.: 05411-RS-0506

**LICENSE**  
**ALCOHOLIC BEVERAGES**  
**THE LICENSING BOARD, TOWN OF HARWICH, MASSACHUSETTS**  
**HEREBY GRANTS A**  
**COMMON VICTUALER**  
**License to Expose, Keep for Sales, and to Sell**  
**All Kinds of Alcoholic Beverages**

.....  
**To Be Drunk On The Premises**  
 .....

**To: Beachlight LLC**

Date: 12/07/2020

**DBA: Seal Pub**

Capacity: 21

License Duration Type: Annual All Alcohol

Manager: Michael Scott

**License Conditions (description of premise)**

703 Main Street, Harwich

Two dining rooms, bar room, patio seating, kitchen, prep room, office, two bathrooms. Two means of ingress/egress.

**On the following described premises:**

This license is granted and accepted upon the express condition that the licensee shall in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made expires **December 31, 2021**, unless earlier suspended, cancelled or revoked.

IN TESTIMONY WHEREOF, the undersigned have thereunto affixed their official signatures.

**The Hours during which Alcoholic Beverages may be sold are From:**

**8:00AM – 1:00AM WEEKDAYS**

**10:00AM – 1:00 AM SUNDAYS & HOLIDAYS**

LICENSE  
granted by:

*Z. Ballantyne*  
 \_\_\_\_\_  
*[Signature]*  
 \_\_\_\_\_  
*[Signature]*  
 \_\_\_\_\_

This License Shall be Displayed on the Premises in a conspicuous position where it can be easily read

LICENSING AUTHORITIES



# HARWICH Police

DEPARTMENT

183 Sisson Road, Harwich, MA 02645

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

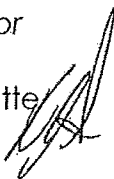


DAVID J. GUILLEMETTE  
Chief of Police

KEVIN M. CONSIDINE  
Deputy Chief

## Memorandum

TO: Board of Selectmen  
Joseph Powers  
Town Administrator

FROM: David J. Guillemette  
Chief of Police 

DATE: June 28, 2021

SUBJECT: Alleged Noise Violation at the Seal Pub

In accordance with Town of Harwich Liquor License Regulations section 1.16 I would like to bring to the board's attention an alleged noise violation at the Seal Pub documented by Det. Sgt. Brackett on June 26, 2021.

The attached incident report is for your consideration as to whether to hold a public hearing on the matter. Officers who were involved in the incidents and documented their findings will be made available for testimony if a hearing is deemed necessary.

To: Town of Harwich Board of Selectmen

From: Detective Sergeant Bob Brackett

Date: June 26, 2021

Subject: Noise Violation at Seal Pub and Cafe located at #703 Main Street Harwich, Ma.

1. On Saturday June 26, 2021, at approximately 12:19am, Detective Sergeant Brackett was travelling East on Main Street in Harwich Center in the vicinity of Chapman Funeral Home located at #678 Main Street in Harwich, Ma. Detective Sergeant Brackett could observe in the distance a large number of people gathered in front of the Seal Pub and Cafe on the sidewalk. The Seal Pub and Cafe is located at #703 Main Street in Harwich, Ma.
2. Detective Sergeant Brackett pulled to the side of the road at the intersection of Forest St and Main St. Detective Sergeant Brackett was able to clearly hear *loud music* and *excessive yelling* coming from the Seal Pub and Cafe. Detective Sergeant Brackett also was able to hear voices yelling "last call" repeatedly. Detective Sergeant Brackett subsequently paced off the distance from the intersection of Forest St to the Seal Pub and Cafe and found it to be approximately +/- 450 feet.
3. Detective Sergeant Brackett proceeded to the Seal Pub and Cafe and observed approximately 20 people to be standing in front of the establishment on the sidewalk on Main Street as well as approximately 12 people to be standing in the driveway along the side of the building leading to the rear parking lot. The outside patio was also full of patrons. The interior was extremely full of patrons bringing into question capacity concerns. The music was found to be very loud emanating from the inside of the establishment. All of the external doors were open allowing the music to be heard outside. Due to the loud music the crowds outside needed to talk/yell over the music.
4. Upon the arrival of Detective Sergeant Brackett the music was shut off by personnel. Detective Sergeant Brackett spoke with Josh Winston and advised him of the noise violation. Josh was very apologetic and cooperative. It was again explained to Mr Winston the issues with having the external doors opened and the music coming from the interior. Mr Winston was also advised that having the front doors open along the sidewalk is inviting his patrons to congregate on the sidewalk adding to the noise. Mr Winston stated that they are trying to encourage people to leave via the front doors so as to limit the amount of people exiting to the rear parking lot. Mr Winston was encouraged to attempt to control the outside crowds and to keep the doors and windows closed when interior music is playing to help mitigate the noise. Mr Winston again apologized and stated that he would attempt to correct it.

Respectfully Submitted by,



Detective Sergeant Robert Brackett

**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).



#2

July 21, 2021

To Whom it May Concern,

I am writing this letter to inform you know that neither myself, nor the occupants of my home, we reside at 682 Main Street in Harwich Center, heard any noise or disturbances come from the Seal Pt Cafe on the evening of June 26<sup>th</sup> or the early morning hours of June 27<sup>th</sup>. To be honest the only noise ever hear is the traffic and emergency vehicle sirens occasionally. Neither of which I would call a disturbance. Feel free to reach out to me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin Eldredge', with a long horizontal flourish extending to the right.

Erin Eldredge

682 Main Street

Harwich, Ma 02645

508.685.9944

**From:** Suzanne Rector  
**Sent:** Monday, July 26, 2021 11:34 PM  
**To:** Mike Scott  
**Subject:** Town meeting

To the Harwich Board of Selectmen

I am writing this in reference to published complaints of noise coming from The Seal on June 27, 2021. I live at 107 Parallel Street and was home all evening on that night. I didn't hear any noise coming from The Seal that night. The same holds true for any other night. In my opinion, The Seal are excellent neighbors. They have added a lot to Harwich center and I hope that they are here for years to come.  
Suzanne Rector

Sent from Yahoo Mail on Android

#4

**From:** murdarone@aol.com  
**Sent:** Thursday, July 22, 2021 1:48 PM  
**To:** Mike Scott  
**Subject:** tweeked

Brian M. Murphy  
687 Main St.  
Harwich Center, Mass. 02645

July 22, 2021

To whom it may concern,

On behalf of The Seal Pub and Cafe I would like to voice my support for all the positive changes made to Harwich Center. The 'visual' impact upon entering the town center is a stunning new improvement and a needed welcome mat, to towns people, as well as visitors. It's exciting to know that a well run Cafe' can breath an energy and life into a part of town that seemed to need it so badly. I commend anyone who could not only survive but thrive in a pandemic economy. Congratulations to their fortitude and adventure.

As a neighbor(24 years) and abutter to the property of The Seal Pub and Cafe, I would like to submit my support in all manners, to the Town of Harwich.

I would also like to commend the owners for maintaining respect and courtesy to those of us who live so close to the Cafe.

There has never been an incident of either noise or any other disruption that has affected my personal space. Especially on the night in question, June 27th. I drove by earlier in the evening and was amazed at how popular a spot it was to celebrate Gay Pride. I wasn't aware of any disturbances coming from the Pub. Believe me for someone who sleeps with an open window both summer and winter, I would be the first person 'banging' on their door in the morning.

Finally, having a destination place of interest in our Town center, we should all be proud.

Sincerely,  
Brian Murphy

4

**In The Matter Of:**  
*Beachlight LLC, d/b/a Seal Pub*

---

*Show Cause Hearing*  
*October 21, 2021*

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



Original File 2021-1021\_Seal.txt

**Min-U-Script®**

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\*\*\*\*\*x

IN RE:

BEACHLIGHT LLC, d/b/a SEAL PUB

\*\*\*\*\*x

SHOW CAUSE HEARING  
BEFORE JOSEPH F. POWERS, TOWN ADMINISTRATOR  
Harwich Town Hall  
Griffin Room  
732 Main Street  
Harwich, Massachusetts  
Thursday, October 21, 2021  
10:00 a.m. - 10:36 a.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:

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Boston, Massachusetts 02110  
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jblake@k-plaw.com  
for the Town of Harwich

Josh Winston, Pro Se  
The Seal Pub & Cafe  
703 Main Street  
Harwich, Massachusetts 02645  
(508) 432-7298  
mikescott@thesealpubandcafe.com  
for Seal Pub

Present:

Danielle Delaney, Executive Assistant  
Town of Harwich Licensing

Caleb Ladue, Videographer  
Town of Harwich Channel 18

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TOWN'S EXHIBITS

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| B       | Letter dated September 15, 2021, re<br>notice of liquor license disciplinary<br>hearing..... | 9    |
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## 1 P R O C E E D I N G S

2 (Hearing called to order Thursday, October 21, 2021, at  
3 10:00 a.m.)

4 THE HEARING OFFICER: With that, I will  
5 now call this disciplinary hearing to order for  
6 October 21, 2021, at 10:00 a.m. First I will read the  
7 notice, and then we will go around the room and enter  
8 names into the record.

9 "Harwich Board of Selectmen Notice of  
10 Show Cause Hearing, Alleged Violations of Conditions of  
11 Liquor License, October 21, 2021.

12 "The Town Administrator, acting as the  
13 Hearing Officer for the Board of Selectmen, will hold a  
14 Show Cause Hearing on Thursday, October 21, 2021, at  
15 10:00 a.m., for the purpose of consideration of alleged  
16 liquor license violations brought by Beachlight LLC,  
17 doing business as Seal Pub, located at 703 Main Street  
18 in Harwich. The Hearing Officer will consider possible  
19 penalties, including modifications, suspension,  
20 revocation, or cancellation of said license. All  
21 members of the public having an interest in the topic  
22 are cordially invited to attend the public hearing,  
23 which will be held in the Griffin Room at the Harwich  
24 Town Hall, 732 Main Street, Harwich, Mass 02645," under

1 my name, Joseph F. Powers, and my title, Town  
2 Administrator, published in the Cape Cod Times on  
3 September 27, 2021.

4 So I have said for the record that I am  
5 Joe Powers. I have been designated by the Harwich Board  
6 of Selectmen to serve here today for the purposes of a  
7 hearing officer. The purpose of this show cause  
8 hearing, quite simply for everybody, is for me to be  
9 able to collect any and all facts that should be brought  
10 to bear for me to make recommendations and  
11 determinations to then go to the Board of Selectmen.

12 We're going to do that this morning by a  
13 presentation by Attorney Jeff Blake from KP Law, who  
14 will introduce himself formally for the record in a  
15 moment, and for Josh Winston, one of the managers and  
16 operators and owners of the Seal Pub. And so we'll do  
17 that by the introduction of exhibits and the  
18 introduction of testimony from witnesses.

19 Having said that, I will identify for the  
20 Town of Harwich Administration we have Danielle Delaney,  
21 Executive Assistant for Licensing; we have Janet Wynne  
22 from Beacon Court Reporting Services, stenographer  
23 services for the Town; and we have Caleb Ladue behind  
24 the screens there for Channel 18. Caleb is here to

1 create the video record. This is being videotaped for  
2 recordkeeping purposes. This is not for broadcast  
3 purposes. And along with the stenography record, the  
4 video record will also be available and provided to all  
5 parties present here today.

6 I know you folks have signed in, and  
7 that's a dual purpose, as you heard me say, about the  
8 distancing but also for Ms. Delaney to have information  
9 of anyone present here who is not identified on the  
10 record for either counsel or establishment.

11 Having said that, Jeff, if you could just  
12 introduce your name -- yourself for the record and your  
13 role here today.

14 MR. BLAKE: Sure. I'm Jeffrey Blake.  
15 I'm with KP Law, Town counsel, and I will be prosecuting  
16 this case against the Seal Pub.

17 THE HEARING OFFICER: Thank you.

18 Josh, if you could do the same for the  
19 record.

20 MR. WINSTON: Sure. Josh Winston, owner  
21 of the Seal Pub & Cafe. I'll be in the defense role, I  
22 suppose, for the Seal Pub.

23 THE HEARING OFFICER: Thank you.

24 And then for the audience, Deputy Chief,

1 if you could start, please.

2 SPEAKER: Good morning. Deputy Chief  
3 Considine -- Kevin Considine, Harwich Police.

4 THE HEARING OFFICER: Lieutenant?

5 SPEAKER: Lieutenant Adam Hutton, Harwich  
6 Police Department.

7 THE HEARING OFFICER: Thank you.

8 And last, but by no means least...

9 SPEAKER: Thomas Griffiths, also known as  
10 TJ, patrolman for the Harwich PD.

11 THE HEARING OFFICER: Well said. Thank  
12 you for saying that for the record. I appreciate that.

13 All right. Having said that, Attorney  
14 Blake, I think I would be right to say I'm going to  
15 start with you to go through any documents that you  
16 would like to enter into the record as exhibits.

17 But again, folks, before we get underway,  
18 the purpose of this is for all of you here present to  
19 provide what you determine to be facts, and those facts  
20 will be what I rely upon to determine my findings to  
21 then bring to the Board of Selectmen for any and all  
22 action and potential discipline if necessary and  
23 determined.

24 Attorney Blake, the floor is yours.

1 MR. BLAKE: Thank you. As for an  
2 administrative matter, you read a notice of show cause  
3 hearing into the record, but I would like to have that  
4 document admitted as Exhibit A.

5 THE HEARING OFFICER: All right.

6 And, Mr. Winston, I understand you have  
7 these materials present as well.

8 MR. WINSTON: I do.

9 THE HEARING OFFICER: Okay. Thank you.  
10 So we'll mark that as Exhibit A.

11 (Exhibit A, Notice of Show Cause Hearing,  
12 so marked.)

13 THE HEARING OFFICER: Attorney Blake,  
14 please proceed.

15 MR. BLAKE: I would also like a letter  
16 dated September 15, 2021, to Michael Scott, Manager of  
17 Record for Beachlight LLC, d/b/a Seal Pub, as Exhibit B.  
18 This is a notification notice of a liquor license  
19 disciplinary hearing for Beachlight LLC, d/b/a Seal Pub.

20 THE HEARING OFFICER: Thank you. That is  
21 now introduced as Exhibit B.

22 (Exhibit B, letter dated September 15,  
23 2021, re notice of liquor license  
24 disciplinary hearing, so marked.)



1 THE HEARING OFFICER: Please continue.

2 MR. BLAKE: I next would like to  
3 introduce into the record the all-alcohol license dated  
4 12/7/2020 to the Beachlight LLC, d/b/a Seal Pub.

5 THE HEARING OFFICER: And, Counsel, if I  
6 may, upper left-hand corner, No. 0544-RS-0506?

7 MR. BLAKE: That is correct.

8 THE HEARING OFFICER: And that will be  
9 Exhibit C. Thank you.

10 (Exhibit C, Common Victualer License, so  
11 marked.)

12 MR. BLAKE: I would next like to have  
13 admitted into evidence the updated Harwich Board of  
14 Selectmen Harwich Liquor License Regulations, their last  
15 amendment date August 23, 2021.

16 THE HEARING OFFICER: All right. For  
17 those of us that are in the packet, that is the back  
18 part of the packet; correct?

19 MR. BLAKE: Correct. I skipped over --  
20 for your edification, I skipped over the police memo and  
21 report because I am going to have an officer testify as  
22 to those reports and I will admit them at that time.

23 THE HEARING OFFICER: Thank you. And  
24 just to be clear what we're introducing as Exhibit D, as

1 in "dog," is Harwich Board of Selectmen Liquor License  
2 Regulations Adopted at a Public Hearing on June 13,  
3 2011; Amended at a Public Hearing on January 9, 2017;  
4 Amended at a Public Meeting on August 23, 2021; and  
5 Effective July 21, 2011. And the page numbering goes  
6 from page 1 through 20. So Exhibit D is understood to  
7 be a 20-page document. Thank you, Counsel.

8 MR. BLAKE: Thank you.

9 (Exhibit D, Harwich Board of Selectmen  
10 Liquor License Regulations, so marked.)

11 MR. BLAKE: I would next like to -- and I  
12 do apologize. My pen just ran out; so I'm getting  
13 another one. So now we're going to start with the  
14 testimonial part of this hearing; however, at the very  
15 first I want to admit as Exhibit E a memorandum to the  
16 Board of Selectmen and the Town Administrator from the  
17 Chief of Police, dated August 30, 2021, regarding the  
18 potential violation at Seal Pub.

19 The memorandum says "Mr. Powers and  
20 Members of the Board: Attached please find a police  
21 report regarding a potential noise violation at the Seal  
22 Pub on August 25, 2021. Please do not hesitate to  
23 contact me with any other questions."

24 I would like to have this marked as

1 Exhibit E.

2 THE HEARING OFFICER: Thank you. That --

3 MR. BLAKE: Well, actually, you know, I  
4 might do -- and I apologize for interrupting.

5 THE HEARING OFFICER: Go ahead.

6 MR. BLAKE: Why don't we do that E1 --

7 THE HEARING OFFICER: E-1, yeah.

8 MR. BLAKE: -- going off of what we did  
9 yesterday. So that would be E1. And then E2 would be  
10 the call log dated August 25, 2021, and the call number  
11 being 21-10883.

12 THE HEARING OFFICER: That is E-3.

13 MR. BLAKE: 2. And then E3 --

14 THE HEARING OFFICER: Sorry, I jumped  
15 ahead. Thank you.

16 MR. BLAKE: Yeah. E3 will be the  
17 narrative for Patrol Thomas Griffiths, Jr., and that  
18 would be referencing 21-10883-OF.

19 THE HEARING OFFICER: Thank you. Those  
20 exhibits are entered now as E-1, E-2, and E-3.

21 (Exhibit E-1, memorandum dated August 30,  
22 3021, re potential violation at Seal, so  
23 marked.)

24 (Exhibit E-2, call log 21-10883 dated

1                   08/25/2021, so marked.)

2                   (Exhibit E-3, narrative for Patrol

3                   Thomas G. Griffiths, Jr.,

4                   Ref. 21-10883-OF, so marked.)

5                   THE HEARING OFFICER: Before we continue  
6 I want to correct a misstatement that I made. I just  
7 discovered that Exhibit D actually is 21 pages. I was  
8 reading from the page numbered 1, but prior to that  
9 there is a page that appears to be a table of contents.  
10 So that is -- Exhibit D is 21 pages, a table of contents  
11 and then the subsequent 20 pages numbered in numerical  
12 order.

13                   MR. BLAKE: With that, Mr. Hearing  
14 Officer, I'd like to call my first, and likely only,  
15 witness, and that will be Patrol Thomas Griffiths.

16                   THE HEARING OFFICER: Good morning,  
17 Officer.

18                   OFFICER GRIFFITHS: Good morning.

19                   THE HEARING OFFICER: Thank you for  
20 coming back. Would you raise your right hand, please.

21                   PATROL OFFICER THOMAS G. GRIFFITHS, JR., sworn.

22                   THE HEARING OFFICER: Thank you. You've  
23 been sworn. Please be seated.

24                   Counsel, he's your witness.

1 MR. BLAKE: Thank you.

2 EXAMINATION

3 BY MR. BLAKE:

4 Q. Good morning, Officer Griffiths.

5 A. Good morning.

6 Q. How are you this morning?

7 A. Good. How are you?

8 Q. Good.

9 Could you state your name for the record.

10 A. Thomas Griffiths, Jr.

11 Q. Okay. And can you spell your last name.

12 A. G-R-I-F-F-I-T-H-S.

13 Q. Okay. Thank you, sir.

14 Do you know why you're here today, sir?

15 A. I do.

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

18 A. The noise violation from the Seal Pub.

19 Q. Okay. And do you recall what date that was?

20 A. I do.

21 Q. What date?

22 A. Wednesday, August 25, 2021.

23 Q. You authored what is known as a narrative  
24 report; correct?

1 A. Correct.

2 Q. Did you have an opportunity to review that  
3 narrative --

4 A. I did.

5 Q. -- before you came? Okay.

6 So you are familiar with the event?

7 A. I am.

8 Q. And you've got a good recollection of those  
9 events?

10 A. I do.

11 Q. Okay. Can you just kind of walk us through  
12 what happened that night.

13 A. I was working patrol. I received a call in  
14 regards to a noise violation. They said that there was  
15 loud voices in the parking lot of the Seal Pub.

16 When I arrived, I entered from Sisson  
17 Road into the back parking lot with my windows down. I  
18 could hear people singing. When I exited my vehicle, I  
19 walked up and saw a gentleman playing guitar. It did  
20 not appear to be amplified at all. The patrons were  
21 singing along with the guitarist, which kind of  
22 amplified the noise.

23 I made contact with the security guard  
24 and advised him of the noise complaint and advised him

1 of the time. It was 2228 hours at that point. And he  
2 advised me that he believed that it was only 2130. The  
3 guitarist stopped playing, went inside, and some of the  
4 patrons left.

5 Q. Okay. So the guitarist was actually -- as  
6 far as you know, was retained by the establishment?

7 A. That's what it appeared. I'm not sure.

8 Q. It wasn't a spontaneous thing out in the  
9 parking lot?

10 A. No. It was on the deck -- the outside deck  
11 of the Seal Pub.

12 Q. And did you have an opportunity to try to  
13 listen for the loud voices not just in the parking lot  
14 but away from the parking lot?

15 A. I didn't. The entrance from, like, Sisson  
16 Road, it's a little bit of a distance with a building in  
17 between it. I was on Sisson when I had the windows down  
18 and could hear --

19 Q. Okay.

20 A. -- some voices.

21 Q. About how far? Give me your estimate.

22 A. That's probably maybe 200 feet.

23 Q. Okay. All right. But you could hear it  
24 clearly with your windows down?

1 A. Yeah, the voices, I could.

2 Q. Was it above ambient noise? -- meaning, if a  
3 truck, or something, or cars went by, could you still  
4 hear it?

5 A. Vehicles are something I don't know if you  
6 could. You could hear it from where I was. I didn't go  
7 out to the front of the building at all.

8 MR. BLAKE: All right. I have nothing  
9 further for this witness.

10 THE HEARING OFFICER: Thank you, Counsel.

11 So, Mr. Winston, you have the opportunity  
12 to redirect and ask any questions you want of the  
13 witness.

14 MR. WINSTON: Sure.

15 EXAMINATION

16 BY MR. WINSTON:

17 Q. I just would only say, do you recall  
18 approximately how many people may have been on the deck  
19 when you arrived?

20 A. I don't. It could have been maybe 15 people  
21 out on the deck.

22 Q. Were there anyone -- was there anybody in  
23 the parking lot when you pulled in?

24 A. There wasn't anyone in the parking lot. It



1 was all on the deck.

2 MR. WINSTON: Okay. That's all I have.

3 THE HEARING OFFICER: No further?

4 MR. WINSTON: No further.

5 THE HEARING OFFICER: Thank you.

6 Counsel, any redirect? I will tell you I  
7 have several questions of my own, but go ahead.

8 FURTHER EXAMINATION

9 BY MR. BLAKE:

10 Q. When you say you could hear it at 200 feet,  
11 I think we've established that, if there were cars going  
12 by, you're not sure you could have heard it. Can you  
13 characterize the noise? Was it excessive? Was it loud?

14 A. When I entered into the parking lot, I could  
15 hear -- it was a group of people singing along, like,  
16 singing a specific song, a sing-along song.

17 Q. Okay.

18 A. So it was amplified.

19 Q. Yeah, but when -- I'm talking about when you  
20 were at -- and I forgot the street you were on to begin  
21 with.

22 A. Sisson Road.

23 Q. How would you characterize the noise on  
24 Sisson Road?

1           A. I can't tell you. It was more of when I  
2 pulled into that actual driveway when I recognized that  
3 I could hear the voices.

4           Q. Okay. From the road could you actually  
5 discern what the song was, what they were singing?

6           A. I could not.

7           Q. It was just you could hear noise in the  
8 background?

9           A. Yes.

10          Q. Okay.

11                   MR. BLAKE: I have nothing further.

12                   THE HEARING OFFICER: Thank you.

13                   Any follow-up, Josh?

14                   MR. WINSTON: No. I think he's answered  
15 most of the questions; so I'm good.

16                   THE HEARING OFFICER: All right. Thank  
17 you.

18                   I'd like to ask a few of my own if I  
19 could.

20                   TJ, you had mentioned in your first -- in  
21 Attorney Blake's first line of questioning you were  
22 traveling on Sisson, heading towards the establishment.  
23 Were you coming from the station, did you say?

24                   THE WITNESS: From that direction.

1 THE HEARING OFFICER: Yeah. Thank you.  
2 So that's away from the police station, going towards  
3 the establishment?

4 THE WITNESS: Yes, sir.

5 THE HEARING OFFICER: And you had said  
6 that it was approximately 200 feet when you could hear  
7 noise?

8 THE WITNESS: Roughly. I believe that  
9 from the entrance to the rear parking lot on Sisson to  
10 where the sound would be coming from is approximately  
11 200 feet.

12 THE HEARING OFFICER: Sure.

13 THE WITNESS: I do not --

14 THE HEARING OFFICER: Thank you.

15 THE WITNESS: -- know the exact  
16 measurement.

17 THE HEARING OFFICER: My question isn't  
18 so much for the distance. It's more for did you have  
19 your window down? was the radio on? When I say "radio,"  
20 I mean police radio or anything like that. Can you  
21 describe the vehicle as you were driving it, as you were  
22 approaching the noise.

23 THE WITNESS: When I was approaching the  
24 rear parking lot to take that right, I lowered both

1 windows in the front of the vehicle and turned down the  
2 AM/FM radio. I still had my police radio on. I don't  
3 recall if there was anything -- any traffic coming over  
4 the radio.

5 THE HEARING OFFICER: So you had  
6 broadcast radio -- and obviously your police radio is  
7 always on -- as you were driving?

8 THE WITNESS: Correct.

9 THE HEARING OFFICER: So were the windows  
10 closed when you were in that what you considered to be  
11 approximately 200 feet of distance?

12 THE WITNESS: I would say they came down  
13 at that 200 feet. I rolled them down as I was  
14 approaching that 200 feet.

15 THE HEARING OFFICER: Thank you. I  
16 appreciate that.

17 In an exhibit, what we have as E-2, which  
18 we have been referring to as a call log, it says in the  
19 narrative -- let me just read here -- a narrative of  
20 8/25/2021 at 2228 hours from the dispatcher -- the  
21 statement is "Loud kids in parking lot." So was that  
22 your understanding that's what you were expecting to  
23 come upon?

24 THE WITNESS: I believe that -- yeah, as

1 I was approaching, I figured I would find a group of  
2 individuals in the parking lot by the vehicles, and that  
3 was not the case. They were all still on the outside  
4 deck area of the Seal Pub.

5 THE HEARING OFFICER: All right. Thank  
6 you for that. I appreciate the clarification.

7 And then, last but not least, it says  
8 within the narrative -- and I recognize that you're not  
9 responsible for this narrative; correct? This is,  
10 rather, from Dispatch?

11 THE WITNESS: I believe, yeah, that is  
12 what Dispatch entered into the narrative.

13 THE HEARING OFFICER: And so, when they  
14 say "RP," I understand that to be reporting party.

15 THE WITNESS: Reporting party.

16 THE HEARING OFFICER: "RP requested to be  
17 anonymous." Does that mean we don't know who the  
18 reporting party is or that we didn't advance their name?

19 THE WITNESS: I believe they didn't  
20 report their name to Dispatch.

21 THE HEARING OFFICER: And are they -- are  
22 people required to --

23 THE WITNESS: No.

24 THE HEARING OFFICER: -- when they call

1 Dispatch?

2 THE WITNESS: They're not.

3 THE HEARING OFFICER: Not that there's a  
4 lot of control over that, because someone can call in  
5 and say their thing and hang up; correct?

6 THE WITNESS: Correct.

7 THE HEARING OFFICER: All right. Thank  
8 you.

9 I don't think I have any further  
10 questions in that regard, so Attorney Blake?

11 MR. BLAKE: I have nothing further.

12 THE HEARING OFFICER: All right.

13 Mr. Winston? -- as for the witness.

14 MR. WINSTON: As the witness, right.

15 So I was driving our dishwashers home  
16 that night. Do you want my account --

17 THE HEARING OFFICER: No, no.

18 MR. WINSTON: -- at this point?

19 THE HEARING OFFICER: No, no.

20 MR. WINSTON: I have nothing further.

21 THE HEARING OFFICER: Thank you so much.

22 So thank you, TJ. You are dismissed, but  
23 we would ask you to remain for a moment.

24 OFFICER GRIFFITHS: Sure.

1 THE HEARING OFFICER: So we're still  
2 working with the Town's case; so, Attorney Blake, do you  
3 have any other witnesses?

4 MR. BLAKE: I have nothing further.

5 THE HEARING OFFICER: And to Mr. Winston,  
6 do you have any witnesses or exhibits that you want to  
7 provide?

8 MR. WINSTON: I can provide some  
9 testimony of my own from that night.

10 THE HEARING OFFICER: Sure. So you can  
11 also -- you'll be looking -- give me a second,  
12 everybody. I'm going to look in the direction of the  
13 person I know to be an attorney and ask general  
14 questions. While Attorney Blake is here presenting the  
15 Town's case, my question is, is there any objection or  
16 reason why Mr. Winston, who is here to provide  
17 representation of the establishment and has the  
18 opportunity to question witnesses as he's done -- is  
19 there any reason why he shouldn't be allowed to also now  
20 offer --

21 MR. BLAKE: No.

22 THE HEARING OFFICER: -- information?  
23 Great. So there's no objection?

24 MR. BLAKE: No.

1 THE HEARING OFFICER: Thank you.

2 Mr. Winston, the floor is yours.

3 MR. WINSTON: Sure. Thank you very much.

4 I would just say the night of the 25th at  
5 the alleged time, which was ten -- ten-something on  
6 here -- I'll say 10:40 perhaps -- I had taken our  
7 dishwashers home. They have to have rides back to their  
8 houses, which are not close, unfortunately, to where  
9 we -- where our business is.

10 THE HEARING OFFICER: I apologize, I  
11 realize one other thing. However, should he be sworn as  
12 a witness?

13 MR. BLAKE: Ah, he should.

14 JOSH WINSTON, sworn.

15 EXAMINATION

16 MR. WINSTON: So as I mentioned before, I  
17 had left shortly before this incident occurred to go and  
18 take our dishwashers home as they had finished their  
19 shift.

20 Mr. Griffin, who is our guitar player,  
21 was on the deck with a couple that had just recently  
22 gotten married. And he had ceased playing because he --  
23 he was only paid until 10:00, and that's when our  
24 agreement ends to end the music outdoors.



1                   And at some point during that -- during  
2 the course of my leaving and the couple on the deck and  
3 a couple of other people that were out there egging him  
4 on, I think, to play one more song for them -- they had  
5 just gotten married, and he played "Rich Girl" by Hall  
6 and Oates, which matches their --

7                   THE HEARING OFFICER: We're going to make  
8 sure that that's added to the record.

9                   MR. WINSTON: Yes, make sure. That's  
10 very important. It gives you the vibe and energy of  
11 what was happening out there. It was very soft rock.

12                   But there was nobody in the parking lot  
13 when I left, and that would match with TJ's account of  
14 what he saw when he arrived. So there were people on  
15 the deck, there was no one in the parking lot.

16                   So the caller may have heard something --  
17 you know, maybe they had gone too far, you know, "I'm a  
18 Rich Girl," but they did not probably hear anything in  
19 the parking lot, is my estimation, because it was pretty  
20 empty at that point. There were some cars parked out  
21 front, and there were -- the people who were on the deck  
22 were migrating there as I re-arrived back and had  
23 discovered that we had had a visit from the police.

24                   So that's my account. I don't think

1 there's much more to it. John, you know, ceased  
2 operations when he was asked, as noted, and I reminded  
3 him that, you know, after ten, you know, no more singing  
4 on the deck, even it's of the '80s -- early '80s.

5 THE HEARING OFFICER: Thank you. In a  
6 moment I'm going to ask Attorney Blake to cross-examine.  
7 Is there anything else you wish to add at this time of  
8 questioning?

9 MR. WINSTON: I would add that, as -- you  
10 know, a couple of notes here. You know, I mentioned  
11 John Griffin, our guitarist, you know, complied with the  
12 request. He apologized for it going past the time.

13 THE HEARING OFFICER: Can you hold for a  
14 minute, please.

15 MR. WINSTON: Yeah.

16 THE HEARING OFFICER: Can you just say  
17 his -- or, spell his name for the record.

18 MR. WINSTON: Sure. John Griffin,  
19 G-R-I-F-F-I-N.

20 THE HEARING OFFICER: And is it J-O-H-N?

21 MR. WINSTON: J-O-H-N.

22 THE HEARING OFFICER: And he's the guitar  
23 player?

24 MR. WINSTON: Yeah. He's also an

1 employee. He's a bartender for us as well. He's one of  
2 our longest-serving employees there; so he knows the  
3 operations really well. He's, you know, in his 30's; so  
4 he's pretty mature and a good guy.

5           The other thing I would note is that  
6 afterwards Bob Young, my partner, made a call to the  
7 First -- the pastor at First Congregational Church,  
8 which actually owns the parking lot behind us, and  
9 offered for us to mitigate the sound by planting, you  
10 know, Leyland cypresses along the back fence.

11           That seems to be the only point where we  
12 ever get any kind of originating calls from that  
13 would -- that I can remember a call. Most of the other  
14 businesses that are to our front and to our sides are  
15 empty and vacant at night and are zoned commercial. And  
16 so that would be the only -- the only choke point where  
17 we tend to get some complaints from the abutters.

18           So the church has recommended -- he  
19 thanked him for that, and he then said that they would  
20 recommend it to their board so that they could come back  
21 to him with an answer on if they can get that arranged.  
22 If they want to allow us to do that, we volunteered to  
23 do it.

24           And so we're waiting on a response, and

1 we have not heard back. But we're happy to do it at any  
2 time they would like. It's on their property; so we  
3 volunteered to pay for the trees.

4 The only other thing I would mention is  
5 that in the reviews of the records the parallel street  
6 is zoned commercial; so those residences that are back  
7 there are technically commercial property. So I just  
8 wanted to mention that as well.

9 That's it.

10 THE HEARING OFFICER: Thank you.

11 I'm going to jot a note, and then,  
12 Attorney Blake, I'll recognize you.

13 Attorney Blake, do you have any  
14 cross-examination of the witness?

15 MR. BLAKE: I have a couple of questions.

16 EXAMINATION

17 BY MR. BLAKE:

18 Q. Sir, so you admit that your guitar player  
19 was playing after 10:00 out on the deck.

20 A. Mm-hmm.

21 Q. Have you instituted any policies since then?  
22 Do you have somebody maybe walk around outside after  
23 10:00?

24 A. Sure. So we, as I mentioned before, spoke

1 to our guitar player and told him, "Even in a  
2 spontaneous way, you can't restart playing, even at the  
3 request of patrons."

4           However, at that point in the summer, as  
5 we're winding down, we had started to scale back on  
6 staff. A lot of our staff on August 25th had already  
7 left and gone back to school; so we're down to a pretty  
8 thin crew. However, we do ask, especially when we have  
9 multiple people on at a time, two or more, that somebody  
10 make a stroll through the parking lot, you know, make  
11 sure that there's nobody hanging out back there. We  
12 realize that that is the -- you know, if there is going  
13 to be some kind of --

14           Q. Conflict?

15           A. -- problem or something like that, that's  
16 typically where it is. Again, it is not technically our  
17 parking lot, although people have used it before and we  
18 have an agreement with the church to share septic and  
19 parking since they're mutual with both of us.

20           So we do check it fairly frequently. And  
21 as I mentioned before, when I left, I had to drive out  
22 through the parking lot and there wasn't anybody there.  
23 It doesn't mean that somebody couldn't have come through  
24 in the, you know, 30 minutes that I was gone or so. But

1 there wasn't anybody there. It was a pretty quiet night  
2 overall, and most of our patrons were parked up front  
3 and were on the deck front earlier at night.

4 Q. Are you still doing entertainment, or is it  
5 seasonal?

6 A. It was, really, seasonal. We will do it  
7 occasionally for a Friday or a Saturday, but for the  
8 most part, John, who is our entertainer, is back in  
9 Boston; so he's, you know -- he will be there full time.  
10 So if we can snag him in the winter sometime for a week,  
11 we might get him to do indoors, but for now no.

12 MR. BLAKE: Okay. I have nothing  
13 further.

14 THE HEARING OFFICER: Thank you.

15 Mr. Winston, a couple of questions, and  
16 then I will advise everybody -- I'm going to ask Officer  
17 Griffiths to come back in a moment.

18 In the narrative provided by Officer  
19 Griffiths, the -- it identifies in the last two  
20 sentences that he advised security at the door. Would  
21 you be able to identify for the record who that person  
22 would be by name?

23 MR. WINSTON: That would have been Steve  
24 Iovanna, I-O-V-A-N-N-A.

1 THE HEARING OFFICER: I-O-V-A-N-N-A?

2 MR. WINSTON: Mm-hmm.

3 THE HEARING OFFICER: Thank you.

4 And then the guitarist, we now understand  
5 that to be Mr. John Griffin. And then -- well, that was  
6 my only question.

7 Without objection, I would like to ask  
8 Officer Griffiths to come back very quickly, and then I  
9 might have a follow-up for you, Mr. Winston.

10 Are you aware of your narrative? Do you  
11 have it, and do you need to reference it?

12 OFFICER GRIFFITHS: I do have it.

13 THE HEARING OFFICER: All right. Thank  
14 you.

15 I just remind the witness that you've  
16 been sworn and you're still under oath.

17 PATROL OFFICER THOMAS G. GRIFFITHS, JR., resumed.

18 THE HEARING OFFICER: In your last  
19 sentence you say "The employee stated that he believed  
20 it was approximately 2130 hours."

21 THE WITNESS: Correct.

22 THE HEARING OFFICER: Who do you mean by  
23 "the employee"? The security personnel?

24 THE WITNESS: Yes.

1 THE HEARING OFFICER: Thank you. I don't  
2 have any further questions.

3 I don't have any further questions of  
4 Mr. Winston.

5 You may be seated -- or, you may return.  
6 Attorney Blake, anything based on my  
7 questions?

8 MR. BLAKE: I have nothing.

9 THE HEARING OFFICER: Thank you.  
10 Mr. Winston, anything based on my  
11 questions?

12 MR. WINSTON: I don't.

13 THE HEARING OFFICER: So at this point,  
14 then, Attorney Blake, do you have any further witnesses  
15 or exhibits --

16 MR. BLAKE: I do not.

17 THE HEARING OFFICER: -- to bring before  
18 this hearing?

19 Are you prepared to make your summation,  
20 then?

21 MR. BLAKE: I am.

22 THE HEARING OFFICER: Thank you.

23 SUMMATION

24 MR. BLAKE: As you know, this case was



1 for noise. Number one, the establishment was not  
2 allowed under its license to have entertainment after  
3 10:00 a.m. -- after 10:00 p.m. The establishment has  
4 admitted -- albeit, there were some circumstances -- but  
5 it has admitted that they, in fact, had entertainment  
6 outside after 10:00 p.m. You heard the officer, an  
7 officer of the law under testimony, under oath, testify  
8 that at about 200 feet he could hear the singing and the  
9 noise.

10 As you know, the Town's bylaws require  
11 not-audible noise at 150 feet. It's clearly a violation  
12 of the license and of the Town's bylaws.

13 THE HEARING OFFICER: Thank you, Attorney  
14 Blake. Anything further?

15 MR. BLAKE: Nothing further.

16 THE HEARING OFFICER: Thank you.

17 Mr. Winston, you have the opportunity to  
18 offer your summation.

19 MR. WINSTON: Yeah.

20 SUMMATION

21 MR. WINSTON: So I will say a couple of  
22 things. So we did do measurements of our grounds in --  
23 earlier in the summer in regards to a previous noise  
24 complaint. So the measurements are 150 feet to the

1 corner of -- the corner of Sisson Road and -- well, it  
2 would be Great Western Road and 39, which is Sisson  
3 Road, which is well beyond the driveway. And that is  
4 what we're -- 150 feet is, I believe, the proximity at  
5 which we're not allowed to go beyond as far as noise is  
6 concerned. And so hearing the noise in the driveway is  
7 pretty much within our bounds to be able to do.

8                   So 200 feet is well beyond where our  
9 driveway is located. It would have been -- it would  
10 have had to have been audible all the way back beyond  
11 the entry point at the back parking lot almost opposite  
12 the street where the Historic Society is in order for it  
13 to be heard at 200 -- 200 feet is a fairly good  
14 distance. So I would just make that notation because I  
15 think it's important for the record.

16                   THE HEARING OFFICER: Thank you. Does  
17 that conclude your summation?

18                   MR. WINSTON: It does.

19                   THE HEARING OFFICER: All right. I  
20 appreciate that.

21                   Given that there are no further witnesses  
22 to provide testimony, nor are there any other exhibits  
23 to be presented in this matter, in a moment I will  
24 adjourn. Before I do I will just remind everybody --

1 and, first of all, I thank our witness for your  
2 participation today and everyone else for their  
3 appearance today in whatever form it brings you here.

4 Just a reminder to all parties that we  
5 will have a video, a stenography report for the record.  
6 I will be relying upon those, my notes, and everything  
7 else presented here today to develop a finding of facts  
8 that will eventually be presented to the Board of  
9 Selectmen. And that finding of facts may cause me to  
10 say that there was a violation and, if I think that  
11 there was a violation, may cause me to offer a  
12 recommendation on discipline, or not.

13 My point on this is that this matter will  
14 be taken under advisement; it will be brought forward to  
15 the Board of Selectmen; and the parties presented here  
16 today will be notified when that occurs.

17 Having said all that, it is 10:36 a.m.  
18 and I hereby adjourn this hearing. Thank you all very  
19 much.

20 MR. BLAKE: Thank you.

21 (Whereupon the hearing was adjourned at  
22 10:36 a.m.)  
23  
24

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

I, Janet L. Wynne, CSR 131796, Registered Professional Reporter, a Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the foregoing transcript, pages 5 through 36, 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 3rd 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 21, 2021**

The Town Administrator, acting as the Hearing Officer for the Board of Selectmen, will hold a Show Cause Hearing on Thursday, October 21, 2021 at 10:00 A.M., for the purpose of consideration of alleged liquor license violations by Beachlight LLC, d/b/a Seal Pub, located at 703 Main Street, Harwich. 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

OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039



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

732 MAIN STREET, HARWICH, MA 02645

September 15, 2021

VIA CERTIFIED MAIL AND EMAIL

Michael Scott, Manager of Record  
Beachlight LLC  
d/b/a Seal Pub  
703 Main street  
Harwich, MA 02645

Re: Notice of Liquor License Disciplinary Hearing  
Beachlight LLC d/b/a Seal Pub

Dear Mr. Scott:

On Thursday, October 21, 2021 at 10:00 am 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 Alcoholic Beverages License for Beachlight LLC d/b/a Seal Pub.

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 25, 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, July 20, 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 4401

No.: 05411-RS-0506

C

**LICENSE**  
**ALCOHOLIC BEVERAGES**  
**THE LICENSING BOARD, TOWN OF HARWICH, MASSACHUSETTS**  
**HEREBY GRANTS A**  
**COMMON VICTUALER**  
**License to Expose, Keep for Sales, and to Sell**  
**All Kinds of Alcoholic Beverages**

-----  
**To Be Drunk On The Premises**  
 -----

**To: Beachlight LLC**  
**DBA: Seal Pub**

Date: 12/07/2020

License Duration Type: Annual All Alcohol

Capacity: 21

Manager: Michael Scott

**License Conditions (description of premise)**

703 Main Street, Harwich

Two dining rooms, bar room, patio seating, kitchen, prep room, office, two bathrooms. Two means of ingress/egress.

**On the following described premises:**

This license is granted and accepted upon the express condition that the licensee shall in all respects, conform to all the provisions of the Liquor Control Act, Chapter 138 of the General Laws, as amended, and any rules or regulations made expires **December 31, 2021**, unless earlier suspended, cancelled or revoked.

IN TESTIMONY WHEREOF, the undersigned have thereunto affixed their official signatures.

**The Hours during which Alcoholic Beverages may be sold are From:**

8:00AM – 1:00AM WEEKDAYS  
 10:00AM – 1:00 AM SUNDAYS & HOLIDAYS

LICENSE  
 granted by:

*F. Ballantrae*  
 \_\_\_\_\_  
*[Signature]*  
 \_\_\_\_\_  
*[Signature]*  
 \_\_\_\_\_

This License Shall be Displayed on the Premises in a conspicuous position where it can be easily read

LICENSING AUTHORITIES



D

**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  
Amended at a Public Meeting on August 23, 2021  
Effective July 1, 2011**

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**HARWICH BOARD OF SELECTMEN  
LIQUOR LICENSE REGULATIONS  
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**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 and subsequent offenses: 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 Seal

Mr. Powers and members of the Board:

Attached please find a police report regarding a potential noise violation at The Seal Pub on August 25, 2021.

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

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Harwich Police Department

Selective Search From: 08/25/2021 Thru: 08/25/2021 2228 - 2229 Printed: 08/26/2021

For Date: 08/25/2021 - Wednesday

| <u>Time</u> | <u>Name(s)</u>      | <u>Duty</u>       | <u>Unit</u> | <u>Post</u>     |
|-------------|---------------------|-------------------|-------------|-----------------|
| 1554        | Buttrick , Richard  | Patrol            | G14         | R - ROVING      |
| 1554        | Dutra , Derek       | Patrol Supervisor | G11         | S - SUPERVISOR  |
| 1554        | Vermette , Tyler    | Patrol            | G16         | E - EAST        |
| 1554        | Griffiths , Thomas  | Patrol            | G19         | W - WEST        |
| 1554        | Monteiro , Theodore | Dispatcher        |             | DP - Dispatcher |

| <u>Call Number</u>  | <u>Time</u> | <u>Call Reason</u> | <u>Action</u> |
|---|-------------|--------------------|---------------|
| 21-10883  | 2228        | Noise Complaint    | Investigated  |
| Call Taker: 4004 - PSD Telecommunicator Theodore Monteiro           |             |                    |               |
| Primary Id: 191 - Patrol Thomas G Griffiths Jr                      |             |                    |               |
| Call Modified By: 191 - Patrol Thomas G Griffiths Jr                |             |                    |               |
| Location/Address: [HAR 2686] SEAL PUB AND CAFE - 703 MAIN ST        |             |                    |               |
| Involved Party: : - HARWICH, MA 026                                 |             |                    |               |
| ID: 191 - Patrol Thomas G Griffiths Jr                              |             |                    |               |
| Disp-22:37:25 Arvd-22:37:31 Clrd-22:43:50                           |             |                    |               |
| ID: 134 - Patrol Richard E Buttrick Jr                              |             |                    |               |
| Disp-22:37:33 Enrt-22:37:37 Arvd-22:41:29 Clrd-22:43:50             |             |                    |               |
| ID: 135 - Patrol Supervisor Derek J Dutra                           |             |                    |               |
| Disp-22:37:40 Clrd-22:37:55   |             |                    |               |
| Narrative: 08/25/2021 2228 PSD Telecommunicator Theodore Monteiro   |             |                    |               |
| Modified By: 08/25/2021 2239 PSD Telecommunicator Theodore Monteiro |             |                    |               |
| Louds kids in parking lot. RP requested to be anonymous             |             |                    |               |
| Narrative: 08/25/2021 2244 PSD Telecommunicator Theodore Monteiro   |             |                    |               |
| Confirmed violation   |             |                    |               |
| Refer To Incident: <u>21-10883-OF</u>                               |             |                    |               |

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Harwich Police Department

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NARRATIVE FOR PATROL THOMAS G GRIFFITHS JR

Ref: 21-10883-OF

This is the formal report of Officer Thomas G. Griffiths Jr. regarding the noise violation at the Seal Pub and Café.

On Wednesday, August 25, 2021, at approximately 2228 hours, I was dispatched to the Seal Pub and Café for a noise complaint saying there were loud kids in the parking lot. Upon arrival I entered the rear lot with my windows down and could hear patrons singing. I then exited my vehicle and saw a male party playing music with a guitar on the deck outside. The guitar was not amplified but the patrons were singing which increased the volume. I advised the security at the door and the guitarist discontinued play. The employee stated that he believed that it was approximately 2130.

Respectfully submitted,

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Officer Thomas G. Griffiths Jr.