

SELECTMEN'S MEETING AGENDA\*

Executive Session 5:00 P.M.

Public Hearing 5:30 P.M.

Tuesday, May 4, 2021

**REMOTE PARTICIPATION ONLY**  
**HEARING WILL BE BROADCASTED LIVE ON CHANNEL 18**  
**OPEN PUBLIC FORUM – PLEASE READ**

1. First, send an email to: [comment@town.harwich.ma.us](mailto:comment@town.harwich.ma.us) (send emails at any time after the meeting agenda has been officially posted)
  - a. In the subject line enter “request to speak, your name”
  - b. In the body of the email please indicate which specific agenda item you wish to speak on.  
No further detail is necessary.
2. After the Chairman has opened the floor to those wishing to speak callers will be taken in the order the emails are received.  
**Use \*6 to mute and unmute your phone**  
When you join the meeting by phone you should turn off Channel 18 or your computer if streaming the meeting.

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

<https://global.gotomeeting.com/join/247110125>

**You can also dial in using your phone.**

United States: [+1 \(571\) 317-3122](tel:+15713173122)

**Access Code:** 247-110-125

I. **CALL TO ORDER**

II. **EXECUTIVE SESSION**

- A. Executive Session pursuant to G.L. c. 30A, §21(a) (3) to discuss litigation strategy with respect to the case of [3137, LLC, et al. \(Ember and Port\) v. Town of Harwich, et al.](#), United States District Court, C.A. No. 1:21-CV-10473, if discussing the matter in open session will have a detrimental effect on the Town’s litigating position and the chair so declares.

III. **PUBLIC HEARING (NO EARLIER THAN 5:30 P.M.)**

- A. Port Restaurant and Bar, 541 Rt. 28 - Public hearing on applications for renewal of the Seasonal All Alcoholic Beverages License and the Seasonal Entertainment License; discussion and possible vote to order discipline based on Town Administrator’s February 8, 2021 findings and recommendations.

IV. **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:** \_\_\_\_\_  
April 30, 2021

# **LICENSE APPLICATIONS**



Jean M. Lorizio, Esq.  
Commission Chairman

**Commonwealth Of Massachusetts**  
**Alcoholic Beverages Control Commission**  
**95 Fourth Street, Suite 3**  
**Chelsea, MA 02150-2358**

**2021**  
**Retail License Renewal**

License Number: 00074-RS-0506

Municipality: HARWICH

License Name : Port Restaurant And Bar Inc

License Class: Seasonal

DBA :

License Type: Restaurant

Premise Address: 541 Route 28 Harwich, MA 02646

License Category: All Alcoholic Beverages

Manager: Justin R Brackett

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I hereby certify and swear under penalties of perjury that:

1. I am authorized to sign this renewal pursuant to M.G.L. Chapter 138;
2. The renewed license is of the same class, type, category as listed above;
3. The licensee has complied with all laws of the Commonwealth relating to taxes; and
4. The premises are now open for business (if not, explain below).

  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Printed Name

03-02-2021  
\_\_\_\_\_  
Date  
President  
\_\_\_\_\_  
Title

Please sign this form only in the month of March and return to your Local Licensing Authority.

Additional Information:

**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

**MEMO**

TO: Board of Selectmen

FROM: Danielle Delaney, Executive Assistant – Licensing

CC: Joseph F. Powers, Town Administrator  
Meggan M. Eldredge, Assistant Town Administrator

RE: 2021 Seasonal Entertainment License Renewals

DATE: March 22, 2021

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The licensee below was contacted via email to outline the times and location (inside or outside) of where they are requesting to have entertainment.  
All information below was emailed directly to staff. Included below is what the Board of Selectmen approved in 2020.

**Port Restaurant & Bar**  
**541 Route 28, Harwich Port**

**Requesting:** Weekday 10AM – 10PM Outside & 10AM – 12AM Inside  
Sunday 10AM – 10PM Outside & 10AM – 12AM Inside

Recorded or Live Music with amplification

**Approved in 2020 by the Board of Selectmen**  
***Weekday: 6PM – 10PM Outside***  
***Sunday: 10AM-12AM Inside & 10AM-10PM Outside***



# 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

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

**DATE:** March 17, 2021

**SUBJECT:** Application for renewal of Entertainment Licenses for weekday and Sunday entertainment both inside and outside at The Port.

Mr. Chairman and members of the Board. I have major concerns about issuing the above requested entertainment licenses to The Port. During last spring and summer The Port was allowed to extend into their back parking area with a large tent. This resulted in increased complaints of noise from crowds inside the tent, increased traffic on Sea Street because of the limited parking, ongoing reports of COVID violations and reports of intoxicated individuals causing disturbances at closing time. People living in the area described it as a "night club atmosphere" that was extremely disturbing.

Through my correspondence with neighbors in the area and my review of calls for service from last season, it is readily apparent that steps need to be taken to reduce the impact of this establishment on the neighborhood.

I will make myself available for any questions regarding my concerns.



OFFICE OF THE SELECTMEN  
732 MAIN STREET  
HARWICH, MA 02645  
508-430-7513

### APPLICATION FOR ENTERTAINMENT LICENSE

- Weekday Entertainment (\$75) \_\_\_\_\_ 1 day (\$25) \_\_\_\_\_  
\_\_\_\_\_ Batters Box (\$50)  
\_\_\_\_\_ Go Carts (\$50)  
\_\_\_\_\_ Miniature Golf (\$50)  
\_\_\_\_\_ Trampolines (\$25)  
\_\_\_\_\_ Theater (\$150 per cinema)  
\_\_\_\_\_ Automatic Amusement:  
\_\_\_\_\_ Juke Box (\$100 each)  
\_\_\_\_\_ Video Games (\$100 each) \_\_\_\_\_ Other \_\_\_\_\_
- New application \_\_\_\_\_  
Renewal   
Annual \_\_\_\_\_  
Seasonal   
Opening Date April 1, 2021

Business Name THE PORT Phone 508-430-5410

Business Address 541 ROUTE 28

Mailing Address HARWICH, MA 02646

Owners Name & Address JARED BRACKETT

Email Address Jgbrackett@aol.com

Managers Name & Address \_\_\_\_\_

**TIMES AND DAYS OF WEEK FOR ENTERTAINMENT (Please note this application does not cover Sundays. You can obtain a Sunday license application at the Selectmen's Office):**

#### ENTERTAINMENT TYPE: (Check all appropriate boxes)

- \_\_\_\_\_ Concert \_\_\_\_\_ Dance \_\_\_\_\_ Exhibition \_\_\_\_\_ Cabaret \_\_\_\_\_ Public Show \_\_\_\_\_ Other  
\_\_\_\_\_ Dancing by Patrons  
\_\_\_\_\_ Dancing by Entertainers or Performers  
 Recorded or Live Music  
 Use of Amplification System  
\_\_\_\_\_ Theatrical Exhibit, Play or Moving Picture Show  
\_\_\_\_\_ A Floor Show of Any Description  
\_\_\_\_\_ A Light Show of Any Description  
\_\_\_\_\_ Any Other Dynamic Audio or Visual Show, Whether Live or Recorded

At any time during this concert, dance exhibition, cabaret or public show, will any person(s) be permitted to appear on the premises in any manner or attire as to expose to the public view any portion of the body as described in Mass. General Laws Chapter 140, Section 183A, Para. 3.


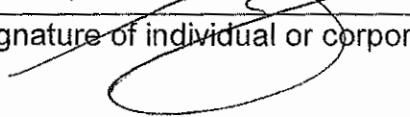
\_\_\_ Yes       No

If Yes, answer questions 1 through 4 below. Attach a separate sheet and/or exhibits if necessary:

1. Describe in complete detail the extent of exposure during the performance and the nature of the entertainment: \_\_\_\_\_  
\_\_\_\_\_
2. Furnish additional information concerning the condition of the premises and how they are suitable for the proposed entertainment: \_\_\_\_\_  
\_\_\_\_\_
3. Fully describe the actions you will take to prevent any adverse effects on public safety, health, or order: \_\_\_\_\_  
\_\_\_\_\_
4. Identify whether and how you will regulate access by minors to the premises: \_\_\_\_\_  
\_\_\_\_\_

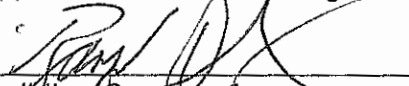
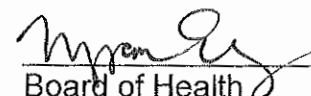
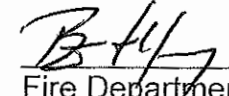
Days/Hours of Business Operation \_\_\_\_\_

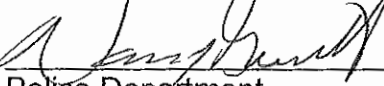
Pursuant to MGL, Chapter 62C, Section 49A, I certify under the penalties of perjury that I, to the best of my knowledge and belief, have filed all State tax returns, and have paid all State taxes under the law.

Signature of applicant & title 	Federal I.D. #
Signature of individual or corporate name 	Federal I.D. #
Signature of Manager	Federal I.D. #
Signature of Partner	Federal I.D. #

**REGULATORY COMPLIANCE FORM**

The premises to be licensed as described herein have been inspected and found to be in compliance with applicable local codes & regulations, including zoning ordinances, health regulations & building & fire codes.

 Building Commissioner	 Board of Health	 Fire Department
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Police Department

comments: *See attached Memo*

Required signatures to be obtained by the applicant prior to submission of new applications.



OFFICE OF THE SELECTMEN  
732 MAIN STREET  
HARWICH, MA 02645  
508-430-7513

### APPLICATION FOR SUNDAY ENTERTAINMENT LICENSE

- |  |  |
|--|--|
| <input type="checkbox"/> Music 1PM or After (Municipal Fee \$85/State \$50)              | New application <input type="checkbox"/>     |
| <input checked="" type="checkbox"/> Music prior to 1PM (Municipal Fee \$175/State \$100) | Renewal <input checked="" type="checkbox"/>  |
| <input type="checkbox"/> Go Carts (\$50)   | Annual <input type="checkbox"/>              |
| <input type="checkbox"/> Miniature Golf (\$50)   | Seasonal <input checked="" type="checkbox"/> |
| <input type="checkbox"/> Trampolines (\$25)  | Opening Date <u>April 1, 2008</u>            |
| <input type="checkbox"/> Theater (\$150 per cinema)                                      |  |
| <input type="checkbox"/> Automatic Amusement (\$100)                                     |  |
| <input type="checkbox"/> Juke Box (\$100 each)   |  |
| <input type="checkbox"/> Video Games (\$100 each)  | Other _____                                  |

Business Name THE PORT Phone 508-430-5410

Business Address 541 ROUTE 28

Mailing Address HARWICH, MA 02646

Owners Name & Address JARED Brackett

Email Address Jbrackett@aol.com

Managers Name & Address \_\_\_\_\_

**TIMES OF ENTERTAINMENT (Please specify where music will be located on your property and what type of entertainment such as live, DJ, recorded)**

#### **ENTERTAINMENT TYPE: (Check all appropriate boxes)**

- Concert     Dance     Exhibition     Cabaret     Public Show     Other
- Dancing by Patrons
- Dancing by Entertainers or Performers
- Recorded or Live Music
- Use of Amplification System
- Theatrical Exhibit, Play or Moving Picture Show
- A Floor Show of Any Description
- A Light Show of Any Description
- Any Other Dynamic Audio or Visual Show, Whether Live or Recorded



At any time during this concert, dance exhibition, cabaret or public show, will any person(s) be permitted to appear on the premises in any manner or attire as to expose to the public view any portion of the body as described in Mass. General Laws Chapter 140, Section 183A, Para. 3.

\_\_\_ Yes       No

If Yes, answer questions 1 through 4 below. Attach a separate sheet and/or exhibits if necessary:

1. Describe in complete detail the extent of exposure during the performance and the nature of the entertainment: \_\_\_\_\_  
\_\_\_\_\_
2. Furnish additional information concerning the condition of the premises and how they are suitable for the proposed entertainment: \_\_\_\_\_  
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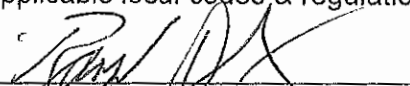
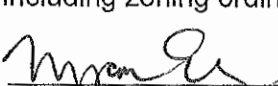
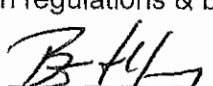
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Signature of applicant & title	_____	Federal I.D. #	_____
Signature of individual or corporate name	_____	Federal I.D. #	_____
Signature of Manager	_____	Federal I.D. #	_____
Signature of Partner	_____	Federal I.D. #	_____

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The premises to be licensed as described herein have been inspected and found to be in compliance with applicable local codes & regulations, including zoning ordinances, health regulations & building & fire codes.

 Building Commissioner	 Board of Health	 Fire Department
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Police Department

comments: See attached  
MEMO

Required signatures to be obtained by the applicant prior to submission of new applications.

2021

**Request for continued Expansion of Outdoor Table Service**

Establishment name: THE PORT

Establishment address: 541 ROUTE 28

If your establishment would like to continue expanded outdoor table service, please fill out below.

**Please note this form is only for establishments that have completed the Board of Selectmen's application process.**

Indicate that you are requesting to continue with expanded outdoor table service. YES

Indicate that you are continuing with what was previously approved by the town. If you would like to further expand your outdoor seating area, please contact staff for an application. SAME

Indicate if you will or will not be serving alcohol on the expanded outdoor premise. WILL

Indicate the dates from start to end of season when you will be utilizing the expanded outdoor area. May 28 - Oct 11

Manager: 

Date: 3-2-2021

**MEMO'S**  
**FROM**  
**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

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

**DATE:** March 17, 2021

**SUBJECT:** Application for renewal of Entertainment Licenses for weekday and Sunday entertainment both inside and outside at The Port.

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Through my correspondence with neighbors in the area and my review of calls for service from last season, it is readily apparent that steps need to be taken to reduce the impact of this establishment on the neighborhood.

I will make myself available for any questions regarding my concerns.



# 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:** Joseph Powers  
Town Administrator

Meggan Eldredge  
Assistant Town Administrator

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

**DATE:** February 25, 2021

**SUBJECT:** 2021 Seasonal Liquor License Renewals

In response to your memo dated February 23, 2021 regarding seasonal liquor license renewals, the Police Department has identified issues with the following establishments from the provided list.

Ember  
500 route 28, Harwich Port

Perks  
545 Route 28, Harwich Port

Port Restaurant and Bar  
541 route 28, Harwich Port

**EMAILS**  
**AND**  
**LETTERS**

## Raymond Tomlinson

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**From:** Jake Domos [REDACTED]  
**Sent:** Friday, April 30, 2021 2:14 PM  
**To:** Raymond Tomlinson  
**Subject:** Fwd: Port and Ember

----- Forwarded message -----

**From:** Jake Domos [REDACTED]  
**Date:** Wed, Feb 24, 2021 at 12:47 PM  
**Subject:** Fwd: Port and Ember  
**To:** <[letters@capecodonline.com](mailto:letters@capecodonline.com)>

----- Forwarded message -----

**From:** Nancy [REDACTED]  
**Date:** Sat, Feb 20, 2021 at 3:23 PM  
**Subject:** Port and Ember  
**To:** [REDACTED]

I have recently become aware of some misinformation regarding The Port Restaurant and Ember Coal-fired Pizza and Wings in Harwich Port. As an employee and manager, I can confirm that at both establishments we were always diligent to be actively following the most up-to-date COVID-19 protocols as advised by the state. This includes closely following Governor Charlie Baker's COVID-19 updates through press statements, the Mass.gov COVID-19 updates and information webpage, Baker's and the Department of Health's Twitter accounts, and staying in close contact with the town for local mandates. Locally Meggan Eldredge was a huge help in keeping us actively informed as to how we could best be running in a safe environment for both employees and guests as all summer long she was the Town of Harwich's Health Director.

In compliance with the COVID-19 safety precautions, both establishments at all times had signs at all entrances stating that masks covering the nose and mouth were required at all times unless seated and actively dining. We also had clear signs and arrows on the floor of Ember in the spring while Take-out was the only restaurant practice allowed to aid customers in spacing safely apart to come to pick up their take-out. At both establishments, there were always hand sanitizer pumps at every entrance and exit and our host/hostess actively encouraged guests to use them upon entry. To reduce contact at both restaurants hosts also instructed guests to use our online menu, either by scanning our QRcode or pulling up our website on their smartphone. All tables were at all times six feet apart or more in accordance with the state and town's COVID-19 protocol, and as all restaurants were required to do so before being allowed to seat patrons for service the town had to approve our seating plan.

While I cannot think of one instance where a patron chose to not dine with us because they thought us lacking in safety measures; I can think of multiple occasions where patrons chose to leave us because they felt we were too strict. At no time were patrons allowed to stand without a mask on, stand with a drink in hand, or really stand at all unless actively seeking the restroom as throughout the 2020 year we were solely operating as a dining establishment. At no time could a customer behave like they were in a bar, something that many people were often upset with us about even when we explained that our safety precautions were as much for their benefit as for our staff. Large families on vacation together refused to eat with us if they could not all dine together and in accordance with the state and town for a majority of summer and fall 2020 only 6 people could dine to a table.

As a manager, I made sure my staff was following the rules at all times. If there was ever a mask slip by an employee it was immediately addressed. Should someone forget a mask or more often than not if it broke from wear and tear as masks were often worn over 10 hours for a shift, they were given a new one by management immediately. This was not a huge issue for our staff as we all wanted to be at work and be open. This went for patrons as well, and most guests welcomed the gentle reminders as we all made efforts to settle into what is now our new normal. Those that did not after repeated reminders were asked to leave as the safety of our guests and staff always came first.

Anyone saying that the Port or Ember did not abide by these rules must recheck their information. It is now the end of February, both the Port and Ember have been closed for almost two months. The Port as it has traditionally been a seasonal establishment, and Ember because it simply could not stay open with the 25% capacity. So both establishments have been closed for almost two months and yet, I STILL have severe anxiety dreams about having people yell, scream and threaten me for having the audacity to follow the COVID-19 rules. I had people spit on me this summer for not allowing them to sit at a table that had not yet been sanitized. I had a mother and daughter tell me I was the worst server they had ever had because I reminded them they had 20 minutes left if they wanted to order dessert due to the 90-minute dining rule, also I was a manager and not their server but not the point. A man I asked to leave for not wearing a mask and continually trying to order at a service bar instead of being waited on by a server at a table told me I would never make it in the real world for being a vulgar term I cannot repeat. And yet, there are those of you out there that dare say the Port and Ember ignored COVID-19 protocol?

I was berated for doing my job which was not made easy as the rules to stay open and more importantly keep those around me that I care about safe, continued to change as we learned more about the virus. Had it not been for the owners and Meggan Eldredge constantly keeping us up-to-date and new ways to implement protocols that challenge would have been almost impossible.

I would like to end this by simply saying thank you to all of those of you who also actively are trying to curb COVID-19 numbers while keeping small businesses open. It is an impossible task and small communities like ours should be trying to help one another instead of tearing each other down.

And to those of you spreading misinformation without checking facts yourself, the library is now open so maybe read a book.

Regards,

Nancy Spalt

--

Best,

Jake Domos

personal phone- [REDACTED]



----- Forwarded message -----

From: **Jake Domos** [REDACTED]  
Date: Sat, Feb 20, 2021 at 3:48 PM  
Subject: The Port 2020  
To: <[REDACTED]>

“Our feeling is this was very flagrant. They ignored the whole of Covid-19 regulations.” -referring to The Port and Ember Restaurants in Harwich Port

Waking up and reading the above statement from a Selectman in my hometown the other morning, sure did strike a nerve. I have worked for the owners of these restaurants for 10 years. We are a family, and I felt my family was under attack. I needed a couple of days to really give it some thought before I put my feelings down on paper. An article so misleading, written to destroy two businesses that have sparked the growth of little old Harwich Port, surely required a response. May thru December, I was there everyday-100 hours a week- absolutely grinding. My wife was there with me. It's our livelihood! The Port and Ember employ many people I love and care about...I NEEDED to respond. I would like to give you my account of what it was like to work in a restaurant last year, specifically The Port Restaurant.

We usually open up in early April, however this year we had to adjust to the new take-out only regulations the state enforced. We delayed opening until we were totally ready to follow all guidelines. The planning and adjustments needed were extensive. We needed to basically open a whole new restaurant outdoors. We needed to create an environment that made all of our customers feel safe and comfortable. We needed our staff to feel safe and comfortable as well. The owners primary concern from day 1- Safety. As the manager, my job turned from bartender, to Host/Covid rules officer overnight.

“Please pull your mask up.”

“I'm sorry no you can't just go see your friend at another table they already have 6 people”

“I understand you all live together but unfortunately you can't all sit at the same table”

“Buddy for the last time PLEASE sit down or I'm gonna have to ask you to leave”

If you dined at The Port this summer, there's a good chance I greeted you at our hostess stand. Every customer I greeted was immediately given my spiel, “Masks must be worn unless you are eating and drinking ,We have a 90 minute limit” and anything else the state and town were advising restaurants to do at that time. Our owners and managers were constantly shifting gears as the state and town directives changed. This is not something we “ignored.” This was our main priority. Our livelihood depended on making it all work! As a team, we tried so hard. I watched as our staff gave it all they had. Enforcing these rules all summer took a toll on all of us, emotionally and physically.

On a positive note- our restaurant was clean, busy, and a happy place to visit. Not one customer left because they felt unsafe. Not one patron got sick. When we had a part time employee test positive for Covid, our whole staff was tested. I remember being in the office with the owners as all staff negative tests kept pouring in. Our efforts were paying off. I was so proud of our team.

The article written in the Cape Cod Times did NOT describe the place I worked at. Mr. Ballentine, I wish you had dined with us to see first hand how we were dealing with Covid regulations. Your statement was irresponsible, untrue and hurtful to so many hard working people in your town.

Jake Domos

## Raymond Tomlinson

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**From:** Jake Domos [REDACTED] >  
**Sent:** Friday, April 30, 2021 2:15 PM  
**To:** Raymond Tomlinson  
**Subject:** Fwd: The port

----- Forwarded message -----

**From:** Jake Domos [REDACTED]  
**Date:** Mon, Feb 22, 2021 at 3:47 PM  
**Subject:** Fwd: The port  
**To:** [REDACTED]

----- Forwarded message -----

**From:** [REDACTED] (Nita Diverio)  
**Date:** Sun, Feb 21, 2021 at 5:24 PM  
**Subject:** The port  
**To:** [REDACTED]

Hey jake! I wanted to answer some of your questions since I also saw the article recently.

You guys were very quick in providing all of the staff masks, and I felt safe working there all summer. There were signs posted everywhere, and I, along with the rest of the staff always told people to put masks on when they got up from their table or use the bathroom.

Honestly, the issues that arose were usually in regards to customers not wanting to follow the rules regarding social distancing at tables or forgetting their masks, and I saw the managers constantly trying to speak with those people and remind them of the rules.

From my point of view, you guys told us (staff) of any government changes in rules and we all adjusted and worked to follow those rules as the summer went along.

It is also definitely of note that there was never any direct bar service (as I saw an article mention), and the outdoor bars were simply used as a seating area / table for 1 party.

I hope things work out okay with the port and ember!!

Best,  
Nita

--  
Best,

Jake Domos  
personal phone- [REDACTED]

--  
Best,

Jake Domos

personal phone- 774-722-2509

February 22, 2021

To whom it may concern,

I am writing today on behalf of The Port Restaurant and the managerial team. I am a server who has had the pleasure to work closely with both owner and manager for four seasons. I feel confident in expressing my full support of both in regards to the allegations of non-compliance during covid-19 2020.

As an immune compromised server it was extremely important to me that all guidelines set in place by the CDC were adhered to not only for my personal safety, but my co-workers and of course our clientele. During my shifts I experienced a level of care and seriousness that put my mind at ease knowing that I would feel safe coming to work. The owner graciously provided masks for the staff and our manager set into place all the guidelines required by the CDC. That in itself was no easy task as the guidelines were constantly changing. But, he happily kept us informed and updated daily. Tables were immediately removed, signs regarding mask wearing were posted, personal spacing fulfilled, drinking with food only implemented, etc. etc. Day in and day out our manager worked tirelessly to ensure the safety of us all. It was also the responsibility of the staff to work with the manager in keeping everyone safe and informed. At no time did I personally witness any non-compliant behavior.

I am deeply saddened of not only the accusations that have been set into place, but of the possibility of losing such an iconic and community minded establishment of Harwich Port. Locals and tourists alike consider the Port their home away from home, as do I. I hope all support for the Port Restaurant is taken into consideration.

With gratitude,

Rebecca Scanlan

## Raymond Tomlinson

---

**From:** Jake Domos [REDACTED]  
**Sent:** Friday, April 30, 2021 2:14 PM  
**To:** Raymond Tomlinson  
**Subject:** Fwd: port/ember misinformation  
**Attachments:** chronicle response.docx

----- Forwarded message -----

**From:** Jake Domos [REDACTED]  
**Date:** Wed, Feb 24, 2021 at 1:35 PM  
**Subject:** port/ember misinformation  
**To:** <[info@capecodchronicle.com](mailto:info@capecodchronicle.com)>

To the Cape Cod Chronicle,

see attached file in response to your article this week.

--  
Best,

Jake Domos  
lifelong harwich resident  
personal phone- [REDACTED]

--  
Best,

Jake Domos  
personal phone- [REDACTED]

In response to your article this week on The Port and Ember, I would like to give a first hand account of how we responded to COVID rules and regulations this year.

I have worked at The Port/Ember for the past 10 years, and both restaurants operate as a family. We care about one another and work hard year-round to provide locals with safe, welcoming places to go enjoy themselves. These allegations saying we did not follow, even ignored regulations from the state are completely untrue.

Normally a manager/bartender- this year I was a host. I was the guy greeting every single person at our entrance. I would immediately give our speech about needing to wear mask at all times, be seated 6 feet apart etc. We could not have been more adamant about enforcing these safety protocols. Signs were posted everywhere, and staff was very clearly instructed on all safety measures that needed to be taken. It is not easy providing an enjoyable dining experience while also being a COVID rules enforcement officer, but I am so proud of our staff because I know we were successful at it.

Every day the managers at both places were in contact with owners regarding any new guidelines. This is our livelihood and we went above and beyond to be as safe and cautious as possible. Not one patron all season complained, left, or even mentioned safety concerns to us.

In summary, I am so proud of our team.

Best,

Jake Domos

## Raymond Tomlinson

---

**From:** Jake Domos [REDACTED]  
**Sent:** Friday, April 30, 2021 2:13 PM  
**To:** Raymond Tomlinson  
**Subject:** Fwd: Paula's Statement  
**Attachments:** paula statement.docx

----- Forwarded message -----

**From:** Paula Ribeiro [REDACTED]  
**Date:** Mon, Mar 1, 2021 at 9:40 PM  
**Subject:** Paula's Statement  
**To:** [REDACTED]

--  
Best,

Jake Domos  
personal phone- [REDACTED]

My name is Paula Ribeiro, and I am writing in support of myself, employers, and co-workers at The Port and Ember Restaurants. I have been a restaurant worker for 20 years on Cape Cod, in Vail Colorado, and Aspen Colorado. I have worked for the Brackett family for almost nine years now.

This past summer of 2020 was the most challenging time I have ever experienced as a waitress and bartender. After being out of work for months following restaurant closures in March of 2020, I was both nervous and eager about returning to service. As an asthmatic single mother, the fears I had regarding possible exposure to COVID19 were very real. Conversely, being out of work and not being able to support my daughter was terrifying as well. After meetings held with the restaurant owners, managers, and staff prior to re-opening for in-person service I felt confident all steps were being taken to provide a safe working environment. My managers, Jake and Molly Domos had worked closely with Griffin and Judd Brackett to put innumerable safety measures in place. We had signs posted everywhere regarding mask rules etc, there were designated entrances and exits, hand cleaning stations everywhere, masks were provided for staff if they did not have their own, non-latex gloves provided to staff, table spacing had been measured and marked, digital menu stickers on the tables, disposable flatware, and all staff were clearly advised of the guidelines to be followed in accordance with the CDC. We began the season unsure of what to expect for business volume, but feeling safe and ready to provide safe service.

We were busy! My co-workers and I ran our tails off in extreme heat, never taking our masks down. The kitchen staff smoldered in a 100 plus degree kitchen in long pants, long sleeves, gloves, and face masks. We had to make changes constantly to accommodate unforeseen obstacles in service and ever-changing guidelines implemented along the way by the state. My manager, Jake, served as a host all summer and fall and into the winter months, 7 days a week, open to close, in order to have his eyes on the restaurant at all times. All of this while navigating the usual difficulties that accompany being a busy hot-spot bordering a residential area on Cape Cod. We have noise complaints called in on us constantly- often not because of music but because of joyous patrons. This season it seemed to be far more constant and erroneous! People were especially happy to be out this past summer after a long quarantine, and we were forced to utilize outside seating to survive! This created more noise than usual perhaps? Jake had policemen arriving telling him to ask paying customers to be quiet while enjoying dinner, which is not an easy task to accomplish gracefully. He did it! We had no live entertainment. Speaker music was off by 10pm. There were NO drinks served without food. Ever! We had accusations made to the contrary. Clearly by people who do not understand that food and drinks come from separate areas, so often drinks arrive to a table before the food- creating the appearance people were sitting just to drink. Or food may be cleared before drinks are finished and while a bill is being paid- again creating the appearance to a non-restaurant person that drinks are being had without food service. We offered food prepared in our kitchen from open to close every day, and not one table was served unless there was food ordered. Not one table was served if they attempted to exceed the party maximum of 6 patrons. Tables were presented bills if they were attempting to exceed the time limit- regardless of the fall out that inevitably ensued in the form of negative Yelp reviews or employees being cussed out. I do not think any of us made it the whole season without crying at least once- it was HARD! Every shift was preparing for battle, and I am proud of what we accomplished as a team and as a family. We spent our summer both serving and enforcing table maximums and time limits to customers who felt frustrated that they could not have the dining experience that they wanted. We placated, argued, and sometimes outright fought with customers. This was by far the hardest any of us have ever worked- but we did it happily because we were feeling blessed to be working! Our employers bent over



backwards for us to be sure we were safe and able to support ourselves, and we in turn bent over backwards for them to maintain quality and safety at their business. It is incredibly insulting to read the allegations made against The Port, Ember, and frankly every single of us who worked SO HARD under lousy circumstances to feed our families and keep our livelihoods intact.

I never felt unsafe at work. I had most everyone I served tell me how wonderfully we were handling the situation, often comparing their experiences to other Cape establishments they had felt unsafe at. Most of the customers I served came back time and time again, choosing our restaurant as their 'spot' because of the high bar we had set for ourselves.

Again, I am personally insulted by the accusations made against us largely by people who have no idea what it is like to work at a busy restaurant on Cape Cod in the summer, let alone during a Pandemic. Trying to have our liquor licensing revoked after the work we put in is abhorrent. The number of families The Port and Ember employ that would be harmed by this?! I am sick over it. I have to believe that the truth will prevail here; because what I have been reading in the news are absolutely NOT the facts.

Paula Ribeiro, CAREER WAITRESS



**From:** Brackett  
**To:** Raymond Tomlinson  
**Subject:** 250 Letters of Support in 48 hours (1-24)  
**Date:** Friday, March 26, 2021 10:15:26 AM  
**Attachments:** [IMG\\_0920.PNG](#)  
[IMG\\_0923.PNG](#)  
[IMG\\_0924.PNG](#)  
[IMG\\_0925.PNG](#)  
[IMG\\_0926.PNG](#)  
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[IMG\\_0941.PNG](#)  
[IMG\\_0942.PNG](#)  
[IMG\\_0943.PNG](#)  
[IMG\\_0944.PNG](#)

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8:52 📶 🔋 99%

< 16 2020 at The Port and E... ^ v

To: <[jbrackett@aol.com](mailto:jbrackett@aol.com)>

Griff,  
Hope your winter is going well.  
I just wanted to drop you a note having read the latest update/assault on The Port and Ember in the Cape Cod Times. It is frustrating for me and my friends, colleagues and summer rentals to read of this, having visited The Port and Ember so many times last summer and early fall (as we do every year). I am a frequenter of many restaurants (before and during Covid) and I have not experienced any establishments that were more cautious and vigilant, in these challenging times, than your restaurants. Clearly the narrative of the reports and what we have experienced in person do not match up. Keep up the hard work and thanks again for bringing these two great establishments to Harwich Port.

All the best,  
Paul



me 12:53 PM

to mmacaskill



Hello,

As a tax paying, property owner in Harwich, close enough to hear the incredible live music from **Ember** every night, I think what is being done to these two restaurants is a shame. We need them in town and we ENJOY them in town. Please stop this nonsense and let small business succeed in our community. Now is not the time for politics, it's the time to come together and have a successful summer amidst a pandemic.

**Meghan Rothschild**

President & Chief Badass

Chikmedia

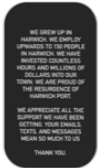
[www.chikmedia.us](http://www.chikmedia.us)

(she/her/hers)



4:41 PM

Replied to your story



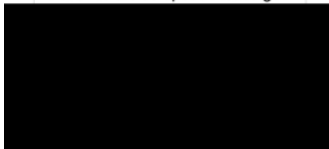
Keep fighting!!! 🙌 words can't express how great full I am to be a part of this amazing family... each year you guys go above and beyond to make things happen for US as staff and US as a community... #ThePort/Ember





5:00 PM

My husband and I love your restaurants and we love Molly and Jake! We go to the Nauti Bar all the time. We joined the first public hearing and there was no representation from you, but then we read a letter to the Chronicle stating that you didn't know about that hearing which is unacceptable. We joined the hearing last night to try to figure out what is going on and it was postponed. What can we do for you? Our town would be nothing without the two upscale restaurants in the Port. You bring people and money to Harwich Port. We are so upset. Please get



5:09 PM

Replied to your story



they hate us...cause they ain't us. Harwichport NEEDS ember & port





5:11 PM

Replied to your story



THE PORT AGAINST EVERYBODY LFG

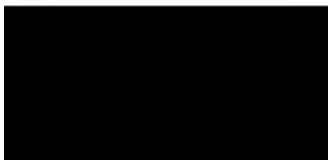


5:11 PM

Replied to your story



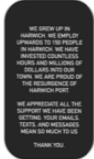
My brother and I are so grateful to be 2 of your employees. Working at the port has been the best job experience I've ever had. I hate to see that the town is trying to jeopardize that. We are counting down the days until we start work again. Thank you for all that you do!



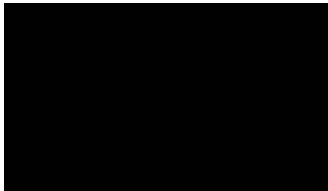


5:22 PM

Replied to your story

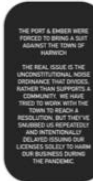


It has been sickening to see the town of Harwich treat the Port and Ember this way - ESPECIALLY during a time when the town should be doing everything they can to support the livelihood of their own local restaurants. It is so evident to anyone who is a customer how much hard work and dedication has gone into making these restaurants successful. You all have so much support. 💙💙 All of my love.

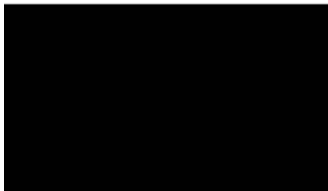


5:27 PM

Replied to your story



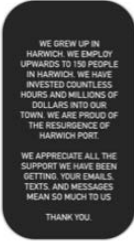
UNCONSTITUTIONAL



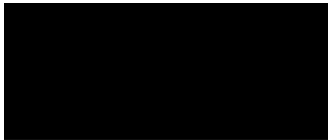
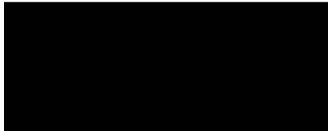


5:36 PM

Replied to your story

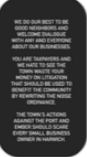


we love you guys!

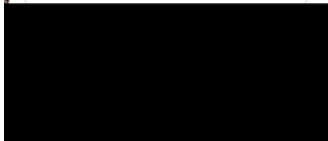


5:37 PM

Replied to your story



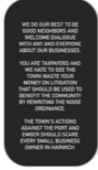
The Brackett Brothers have done so much to improve the town of Harwich Port. We thank you for employing so many people and so many people appreciate your business. It is beyond a shame to see this happening in such a difficult time. 💕💕💕





5:38 PM

Replied to your story

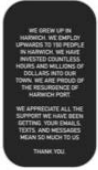


The McGuire family completely supports both Ember and the Port, they help the town and give Harwichport a stable setting, but the best part is they support our town and have great food and atmosphere!!!

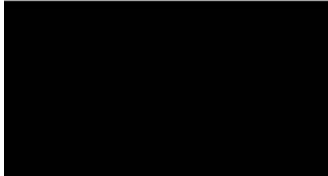


5:47 PM

Replied to your story



You have the LOCALS support. We appreciate all that you do for HARWICH.

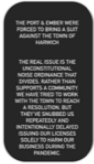






5:48 PM

Replied to your story

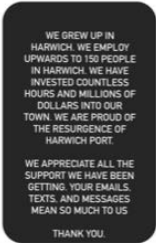


As a sales manager at Wychmere I obviously can't speak on behalf of my work haha BUT I am always telling everyone to check out the port and ember and we get so many clients because Harwichport is such a great area for a fun wedding weekend! Keep fighting and we (as staff) will be in this summer! ❤️❤️❤️



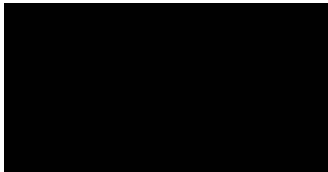
5:48 PM

Sent theportrestaurant's story



I wouldn't vacation in Harwich Port if it weren't for you, let us know how we can support!



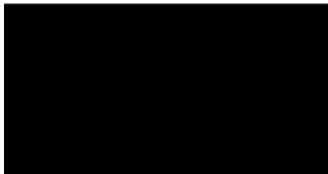


5:51 PM

Replied to your story

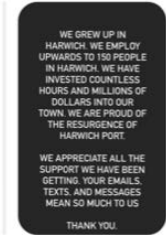


What are the noise ordinances?  
Huge supporter! I just don't keep  
up with these things so would be  
helpful to know what's wrong  
now to know how To best  
support 😊

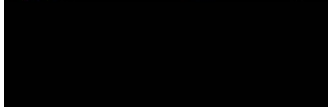


5:51 PM

Sent theportrestaurant's story



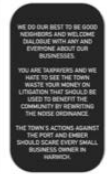
Ughhh this breaks my heart. We  
used to rent in Chatham but now  
own in Harwich. Over the past 10  
years we have loved what the  
port and ember have down for  
harwich port. It has made  
harwich a destination and lively  
downtown! Counting down the  
days til \$1 oysters 🍷





5:55 PM

Replied to your story



HARWICH NEEDS the port and ember. Where would you go if these places didn't exist? Not HARWICH.  
  
Run by locals- employing locals- supporting locals



5:55 PM

Replied to your story



love you guys!! I tell anyone and everyone to check out The Port. You guys are my absolute favorite restaurant. Lots of love and support to you all!!!



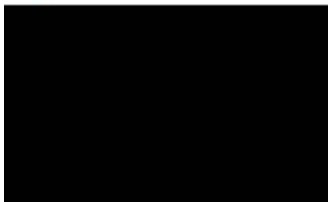


5:57 PM

Replied to your story



We love you!!!! Always on your side! The Port/ Ember > anywhere else



5:53 PM

Replied to your story



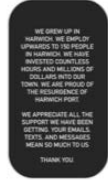
This town need to GROW UP. There is a reason the town is thriving and property value has gone up ..... the port and ember



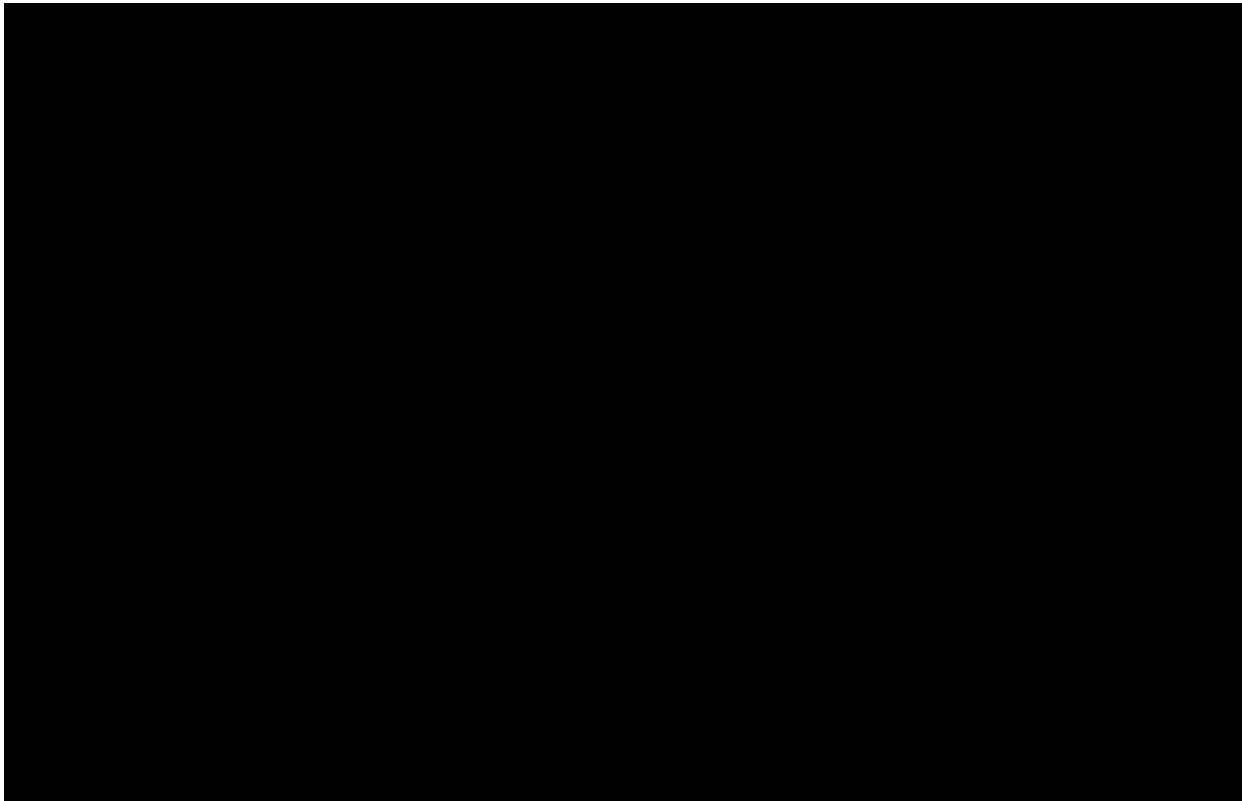


5:56 PM

Replied to your story



We love you!!! Always on your side!



5:45 PM

Replied to your story

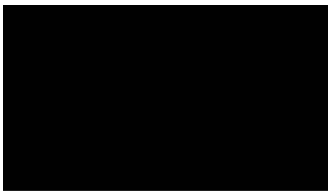


THE PORT & EMBER WERE  
FORCED TO BRING A SUIT  
AGAINST THE TOWN OF  
HARWICH

THE REAL ISSUE IS THE  
UNCONSTITUTIONAL NOISE  
ORDINANCE THAT DIVIDES,  
RATHER THAN SUPPORTS A  
COMMUNITY. WE HAVE  
TRIED TO WORK WITH THE  
TOWN TO REACH A  
RESOLUTION, BUT THEY'VE  
SNUBBED US REPEATEDLY  
AND INTENTIONALLY  
DELAYED ISSUING OUR  
LICENSES SOLELY TO HARM  
OUR BUSINESS DURING  
THE PANDEMIC.

Good for you for standing up for  
yourselves and small businesses.  
Thank you.



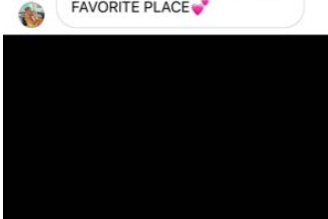


6:07 PM

Replied to your story



Please let us know how we can support! The Port is down the street from my house and is my FAVORITE PLACE 🍷



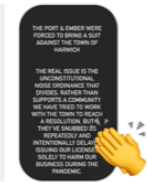
Sent from my iPhone

**From:** Brackett  
**To:** Raymond Tomlinson  
**Subject:** 25-48  
**Date:** Friday, March 26, 2021 10:15:55 AM  
**Attachments:** IMG\_0945.PNG  
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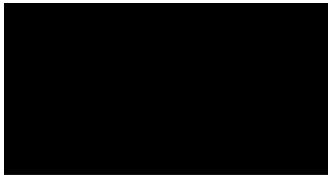
Reacted to your story



You guys have changed the entire sleepy town that Harwich Port once was. Whoever keeps doing this clearly doesn't care about what's best for the town and the people who live there over the summer AND year round.

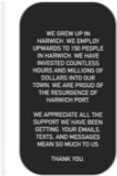




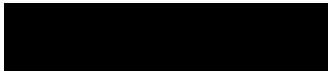
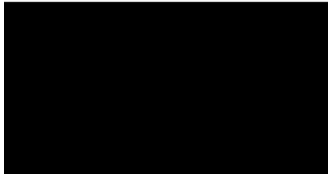


6:24 PM

Replied to your story



THE DALYS OF CHATHAM ARE WITH YOU 🤝🤝 FIGHT THE GOOD FIGHT



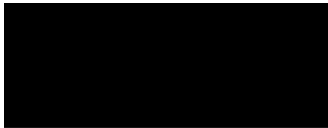
6:27 PM

Replied to your story



As always let me know if I can do anything to show support for you guys! I was at the Port and Ember multiples times this past summer....as a Family Nurse Practitioner who has been working with COVID-19 patients in Lynn, MA (the Epicenter of the virus) I can confidently say I witnessed every and all employees practicing ALL the state guidelines and necessary safety precautions. Let me know if I can write in to anyone!





6:19 PM

Replied to your story



I am SO angry about this. Ember and The Port are two of the most profitable businesses in Harwich-maybe even on the Cape. I am sorry you guys are dealing with this and I hope the town realizes what both restaurants are doing for the town ❤️



6:35 PM

Replied to your story



Cape Cod wouldn't be the same without Ember/The Port. Rooting for you!





6:37 PM

Replied to your story

WE DREAM UP AN  
HARWICH WE EARLY  
SPANNED TO THE PEOPLE  
IN HARWICH WE HAVE  
INTERESTED COURTESY  
HOURS AND WILLING OF  
YOU AND WILLING OF  
TOWN WE ARE PROUD OF  
THE RESOURCES OF  
HARWICH PORT

WE APPRECIATE ALL THE  
SUPPORT WE HAVE BEEN  
GETTING YOUR EMAILS  
TEXTS AND MESSAGES  
MEANS SO MUCH TO US

THANK YOU

Love you!!!! ❤️❤️❤️ family  
forever



6:40 PM

Replied to your story

WE DREAM UP AN  
HARWICH WE EARLY  
SPANNED TO THE PEOPLE  
IN HARWICH WE HAVE  
INTERESTED COURTESY  
HOURS AND WILLING OF  
YOU AND WILLING OF  
TOWN WE ARE PROUD OF  
THE RESOURCES OF  
HARWICH PORT

WE APPRECIATE ALL THE  
SUPPORT WE HAVE BEEN  
GETTING YOUR EMAILS  
TEXTS AND MESSAGES  
MEANS SO MUCH TO US

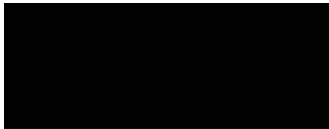
THANK YOU

I just don't understand how other  
businesses in town have been  
doing the exact same things as  
the Port and Ember and are NOT  
facing the Harwich board of  
selectman!!!! It doesn't make any  
sense.





That's pretty lame if the town doesn't provide equal opportunity. I live in California but bought a place in Harwich exactly because of the vibe you're trying to create in town. Harwich isn't a drive through town any more for vacationers, it's a destination now.



6:41 PM

Sent theportrestaurant's story

WE GREW UP IN HARWICH. WE EMPLOY UPWARDS TO 150 PEOPLE IN HARWICH. WE HAVE INVESTED COUNTLESS HOURS AND MILLIONS OF DOLLARS INTO OUR TOWN. WE ARE PROUD OF THE RESURGENCE OF HARWICH PORT.

WE APPRECIATE ALL THE SUPPORT WE HAVE BEEN GETTING. YOUR EMAILS, TEXTS, AND MESSAGES MEAN SO MUCH TO US.

THANK YOU.

#FreeThePort!!!!





I am just seeing your stories about the lawsuit you guys had to file. I'm so sorry that it has come to this! You guys put Harwichport on the map and people from all over come there just to go to The Port or Ember. How stressful! Thinking of you guys!!! xoxo

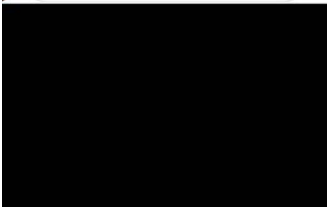


6:51 PM

Replied to your story



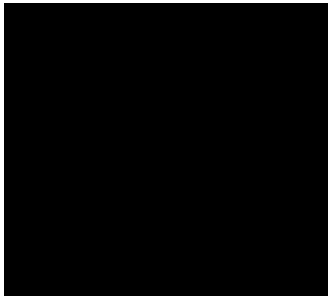
We love you guys!!! Best spot on the Cape!!





6:48 PM

Thank you guys for putting up a fight for what's right in Harwich — unfortunately it seems this is the case everywhere on the Cape, they are determined to make it harder for small businesses to succeed. We need the port to stay and you have a ton of support ready to rally around you



Sending all my love and support to you guys!!! Summer wouldn't be the same without The Port ❤️❤️❤️



7:03 PM

Replied to your story



The noise ordinance across the cape is such a joke. Try enjoying a night at the woodshed and now leave a sweaty mess because they have to close the windows to keep the sound in.

We got married at Oceans Edge in the permanent tent and our wedding had to end at exactly 10pm due to the noise ordinance. Such a joke!!

I love the port/nauti bar so much, I was so happy we were able to swing by this past summer and enjoy some food and cocktails while abiding by the struck state guidelines.

You know how important you are to the scene in Harwich Port.... a huge reason why we wanted to be in the space we are in....

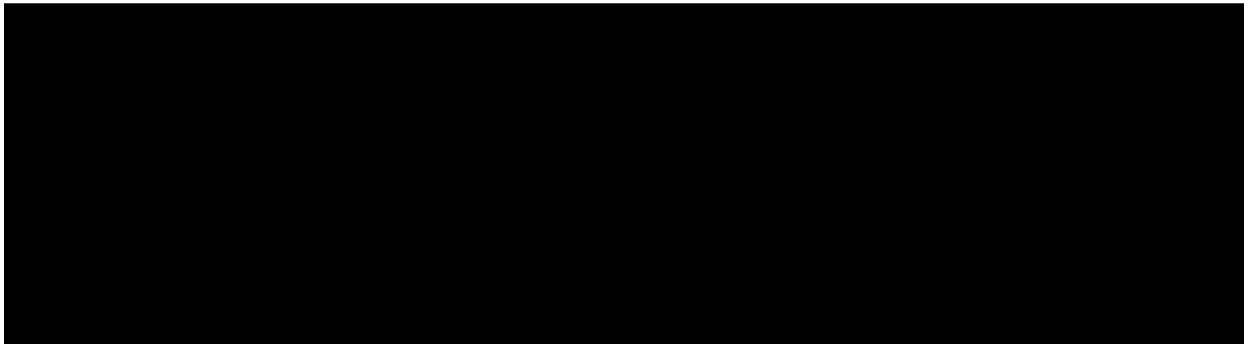


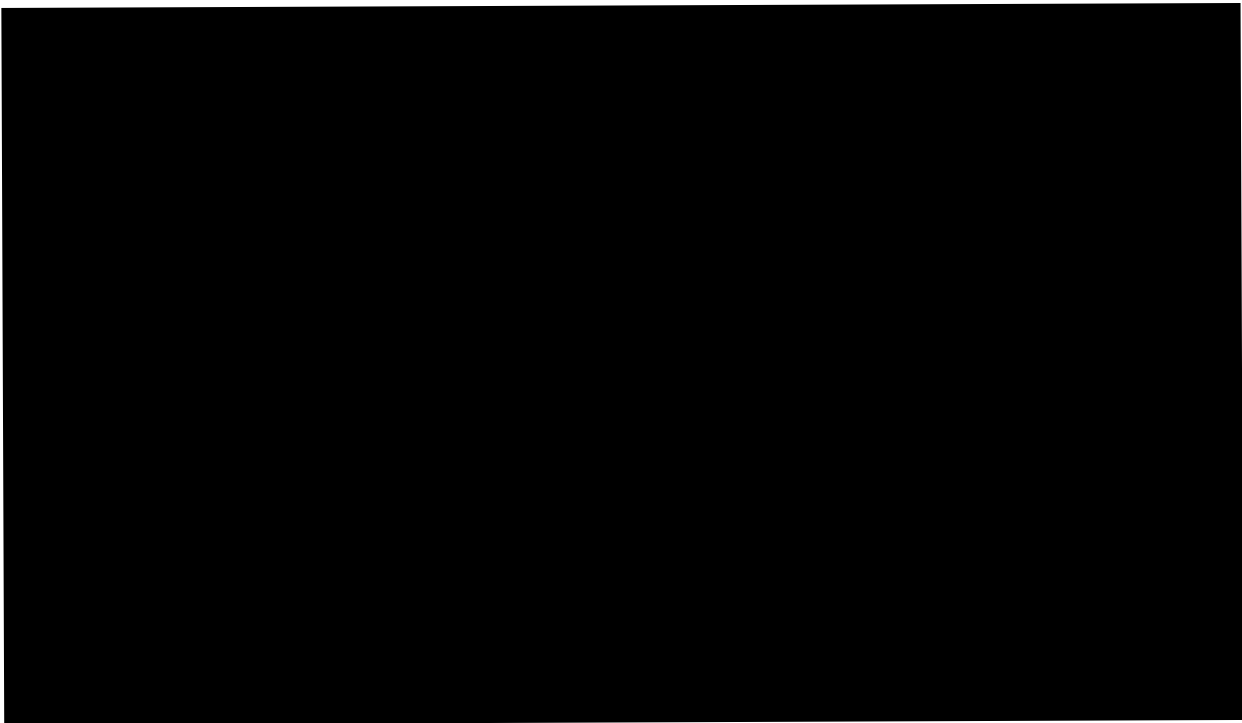




7:10 PM

We love you guys!!! Cannot wait to be back! So sorry you are going through this!!!! We would be lost without you!!!





Replied to your story



PORT FOR LIFE 🔥🔥



7:13 PM

Replied to your story



Love you guys and all that you do for harwich and the greater cape area! You have my support always 🙌





Replied to your story



 PORT FOR LIFE 🔥🔥



7:13 PM

Replied to your story



 Love you guys and all that you do for harwich and the greater cape area! You have my support always 🙌





7:13 PM

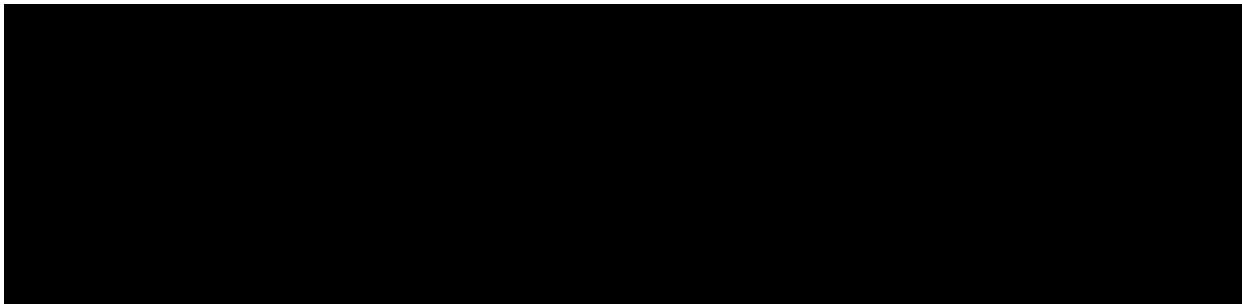
Replied to your story



Love you guys and all that you do for harwich and the greater cape area! You have my support always 🍷



"The Port & Ember have revitalized this community, and made Harwich Port a place that new generations of visitors will boast about. This legal battle is frivolous, cost prohibitive on behalf of the taxpayers, damaging to small business, and it should end now. Please accept their adherence to respect the neighborhood, while also allowing them to boost tourism, while employing locals, by a locally owned establishment. Do not make room for corporate chains to take over and destroy the charm that this town has. Please allow Ember and The Port to continue to contribute to the community, and allow these establishments to employ locals, providing jobs, and boosting tourism. Please and Thank You, Daly Family, Over 100 years in Chatham, and The Port & Ember are what bring us to Harwich Port."

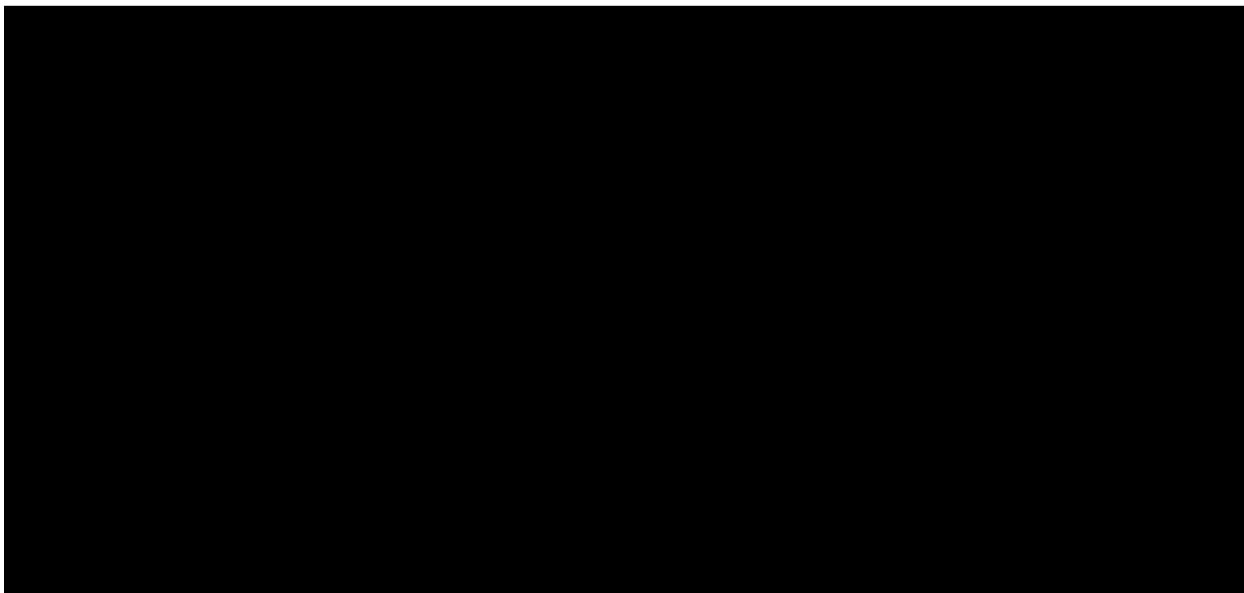


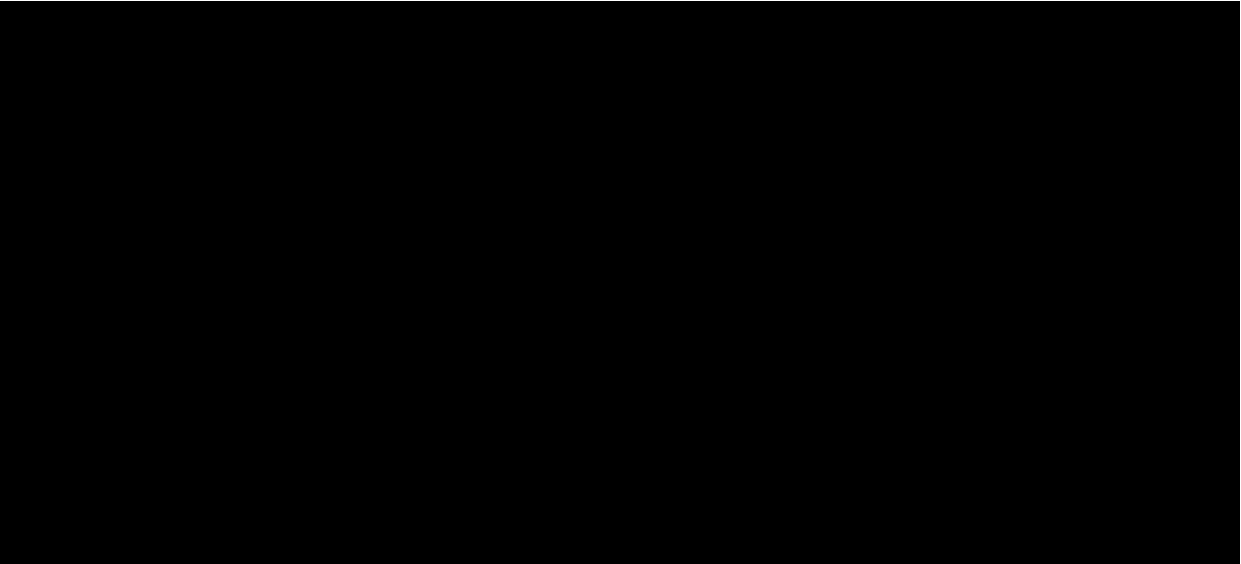


7:25 PM



Buckle me in I'm ready to fight  
for The Port and Ember!

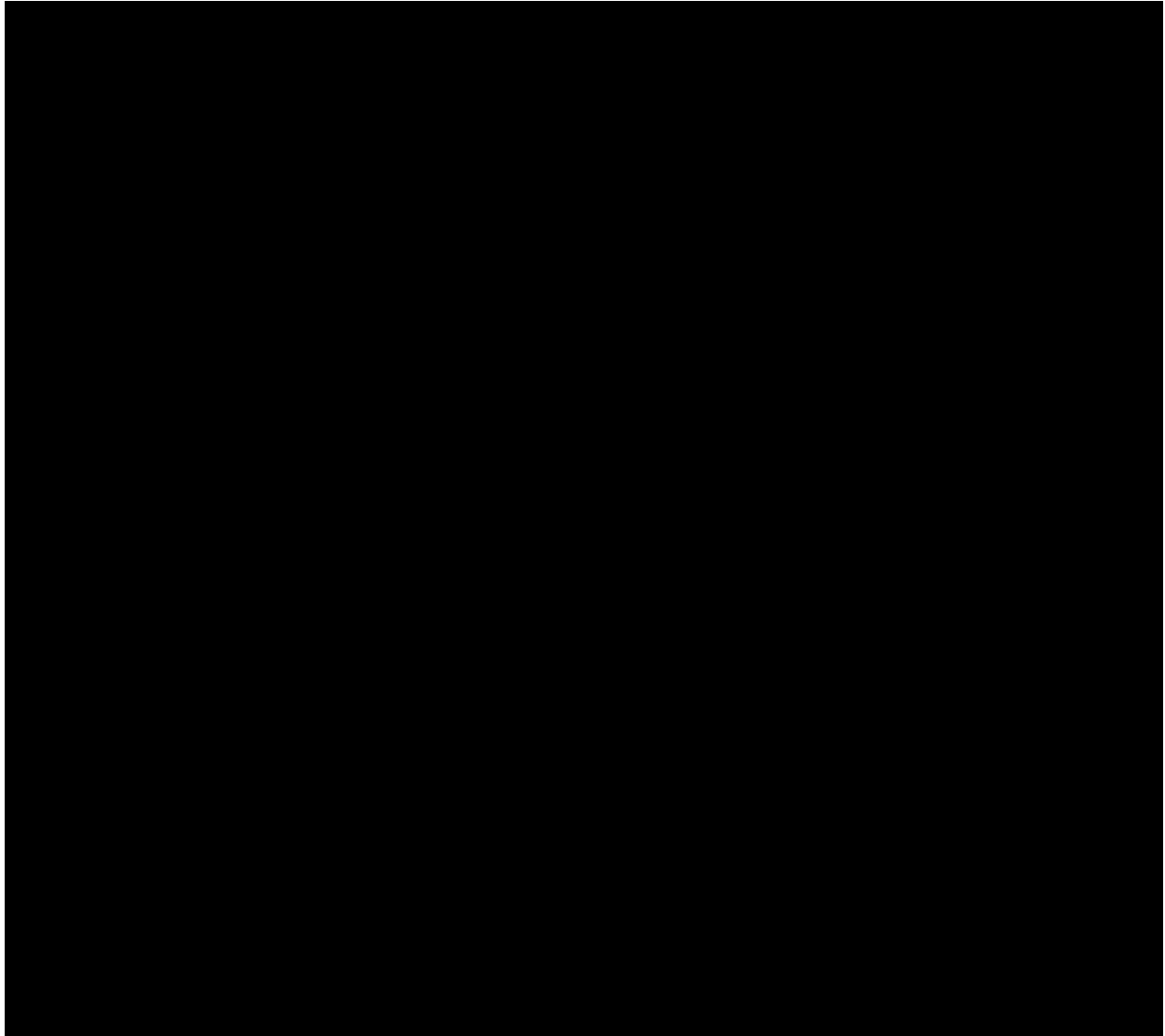




Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 49-72  
**Date:** Friday, March 26, 2021 10:16:39 AM  
**Attachments:** [IMG\\_0969.PNG](#)  
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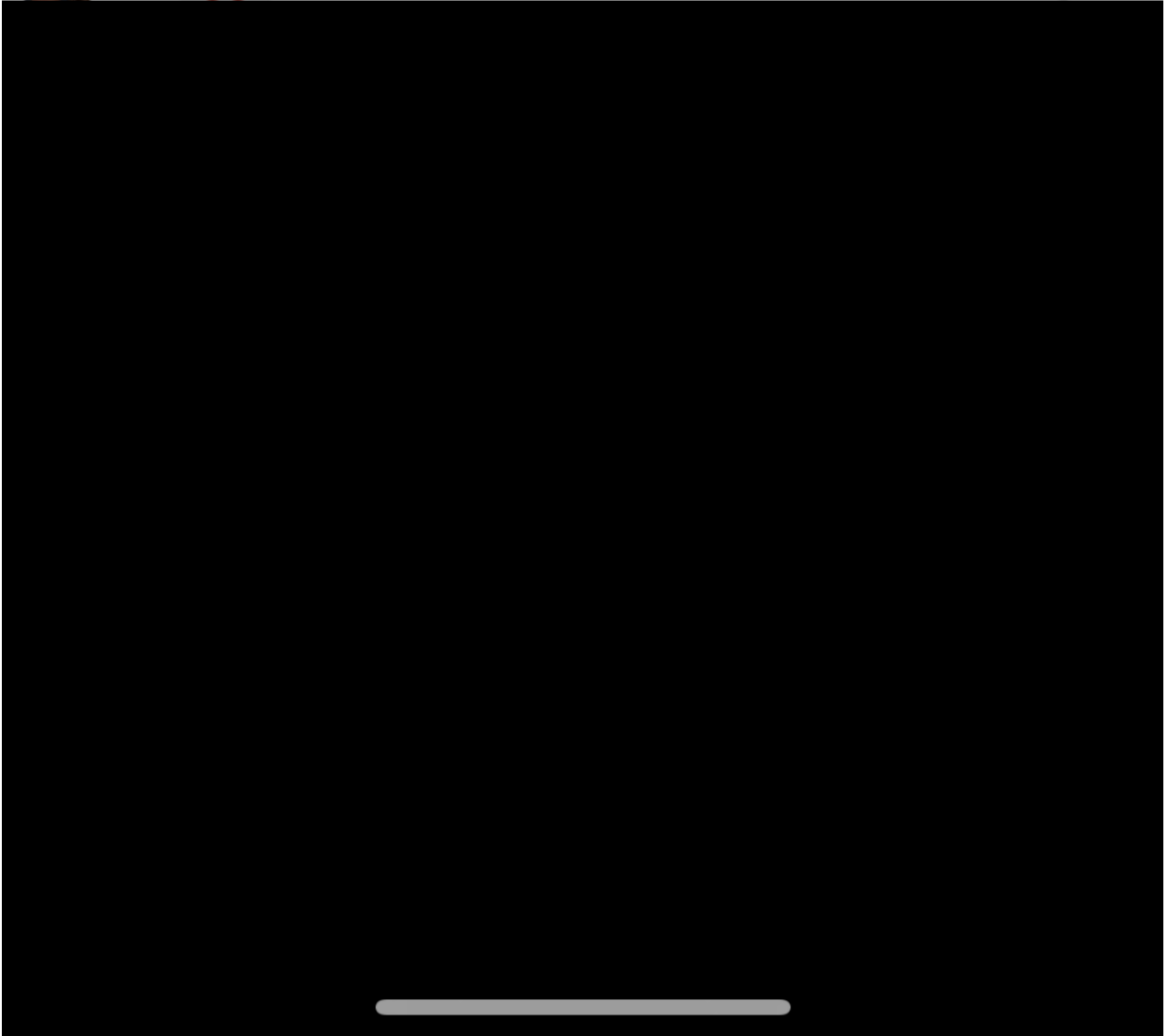
7:33 PM

Supporting you all 100% and





everyone in Harwich and (Cape Cod) should too!!



# False

Investigators with the ABCC did not find any Harwich restaurants in violation of COVID-19 regulations except for The Port and Ember, Powers said.

**THE ABCC DID NOT  
REPORT OR FIND ANY  
VIOLATIONS AT  
EMBER**

iMessage  
Today 7:37 PM

Hey...just catching up on all this BS!  
I'm sure you're crazy so I won't tie you up...but you know how we feel.  
Can't wait until you guys are open...and looking forward to enjoying another great season with you.  
Catch up with you soon



7:33 PM

Replied to your story

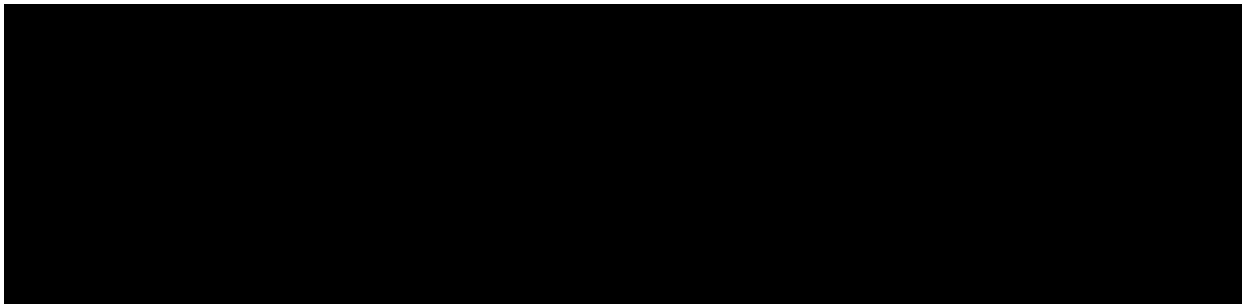


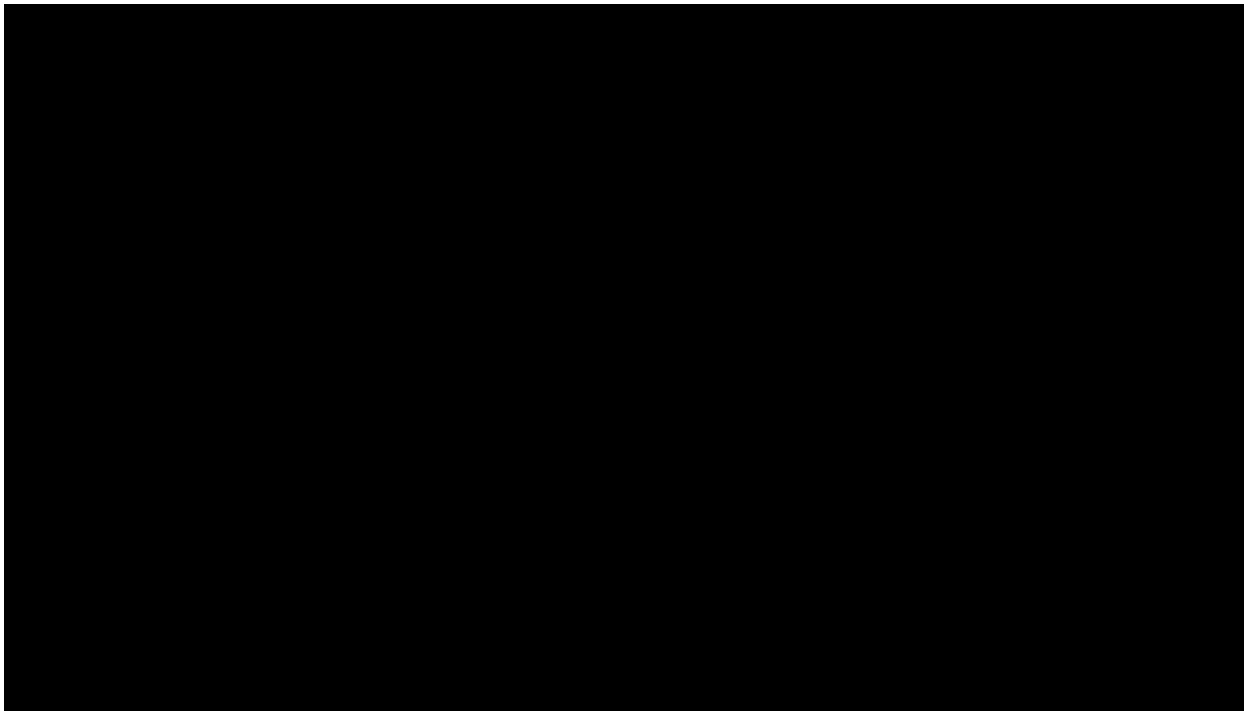
This is ridiculous and the town administration pushing this BS should be ashamed of themselves. A year ago my wife and I purchased a rental property in Harwich after falling in love with the downtown - with The Port and Ember anchoring it. This is an opinion shared by many and I now fear for the other awesome small businesses the town could turn to next. Both these places ARE Harwich and have our full support.



7:33 PM

How can we help with the town of Harwich? We love your spots and every time we have friends in town, we're at The Port and Ember. And if we can't get a seat...there are bunch of other great places because all boats rise, and you've helped build an awesome community in Harwich Port! Please let your followers know how we can help!

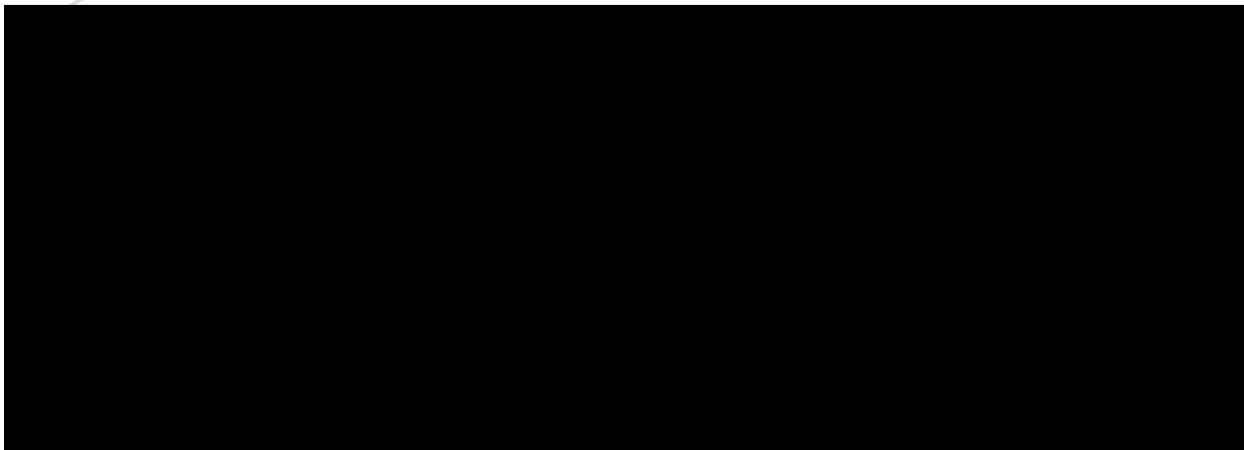


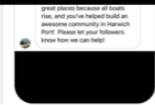
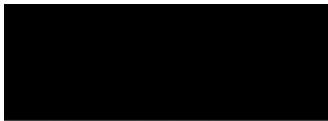
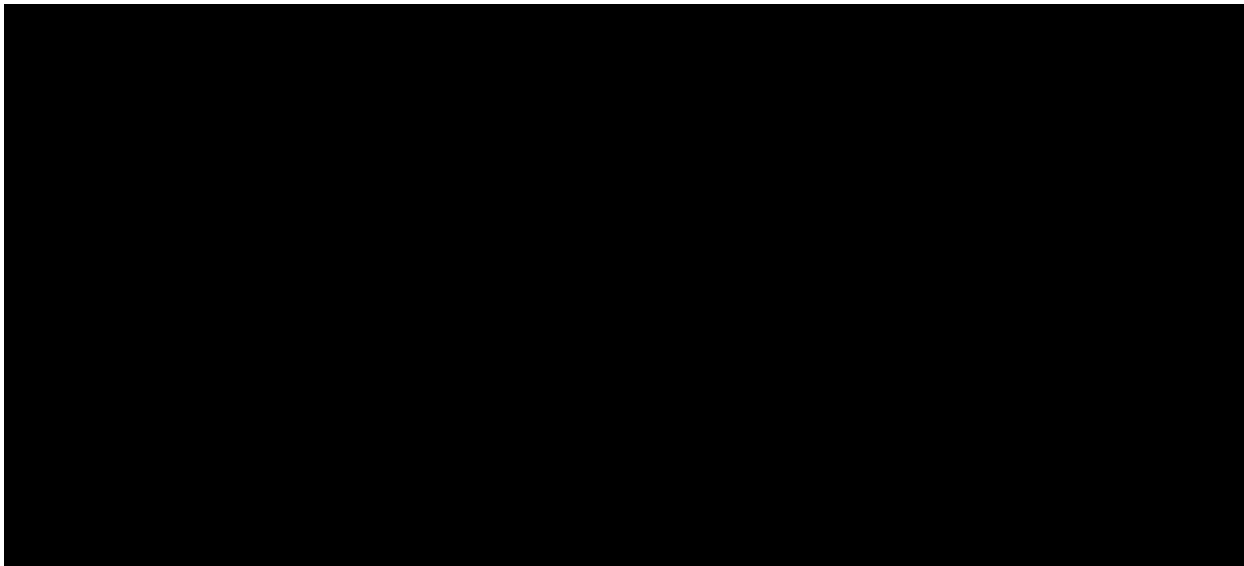


6:54 PM

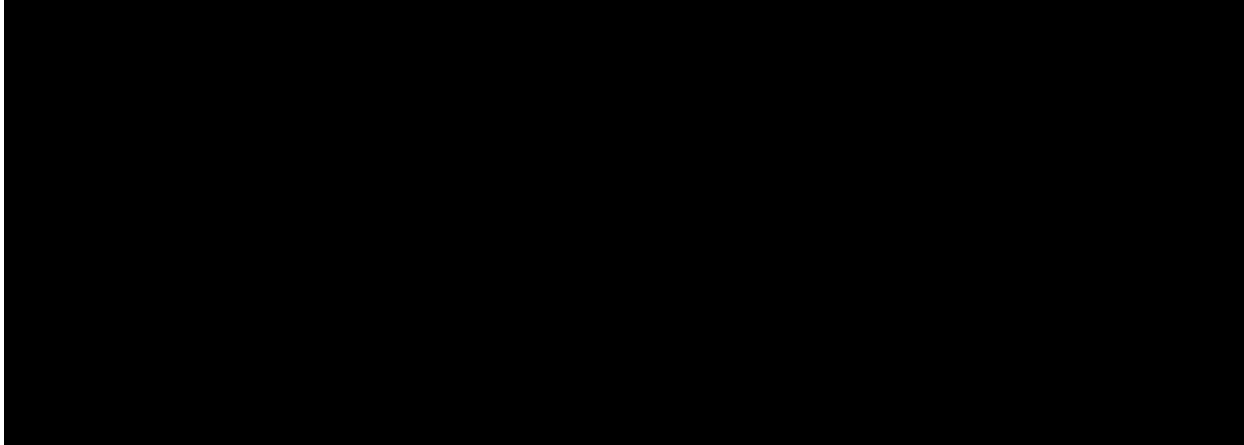
#FreeThePort

It's time to stop voting for the same people in small town politics!





The Port has the FULL SUPPORT of the Black family! We moved to Harwichport 3 years ago from West Yarmouth and have watched our family and friendships absolutely thrive. The Port and Ember are the anchors to this town and are integral to its future. The Town needs to wrap its arms around these institutions and support them! We shared our best of the summer at the Port and we were able to let loose for an hour BECAUSE we felt so safe! No one in town did a better job to bring some joy to a dark summer and they should be celebrated! PLEASE let us know what we can all do to help!



7:50 PM

We love coming down the road to visit you guys at The Port and Ember! We have two young children who are usually in tow and your staff at both restaurants has always welcomed us with open arms. We support you!

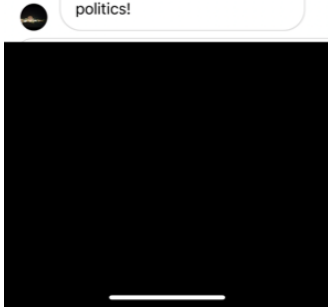




6:54 PM

#FreeThePort

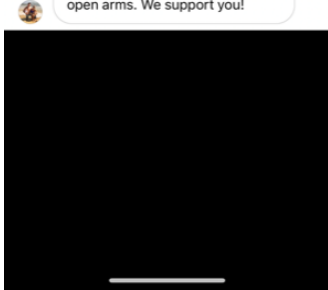
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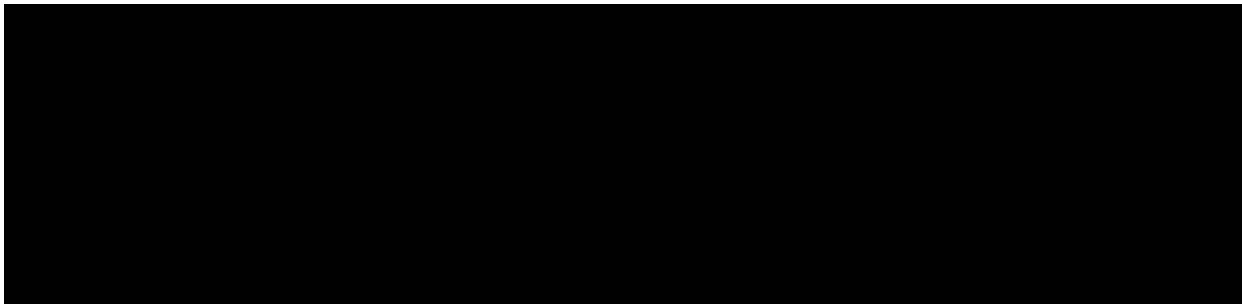


8:10 PM

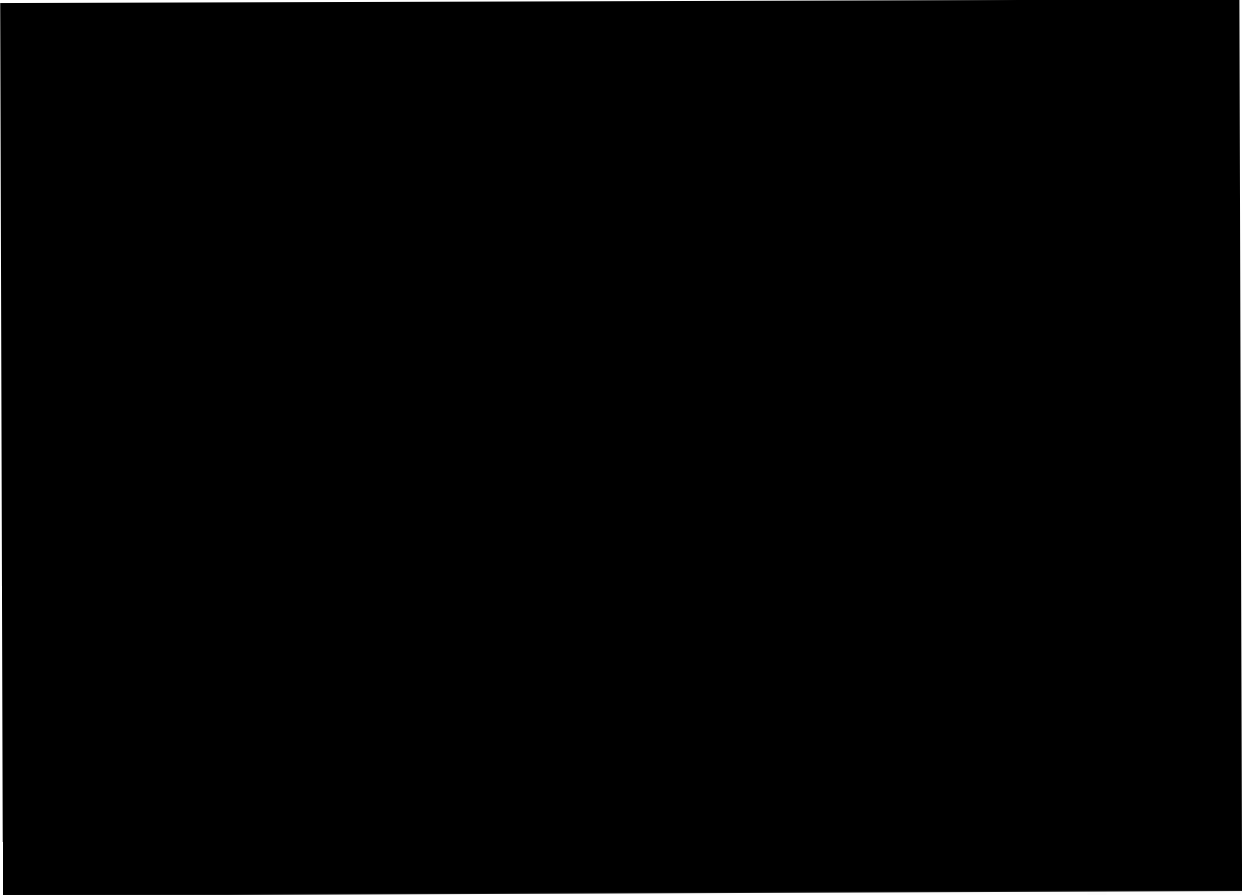
Replied to your story



My yearly family vacation would not be the same without these two restaurants. We eat at both of these places the entire week! It has been a tradition that we look forward to every summer. ❤️❤️❤️

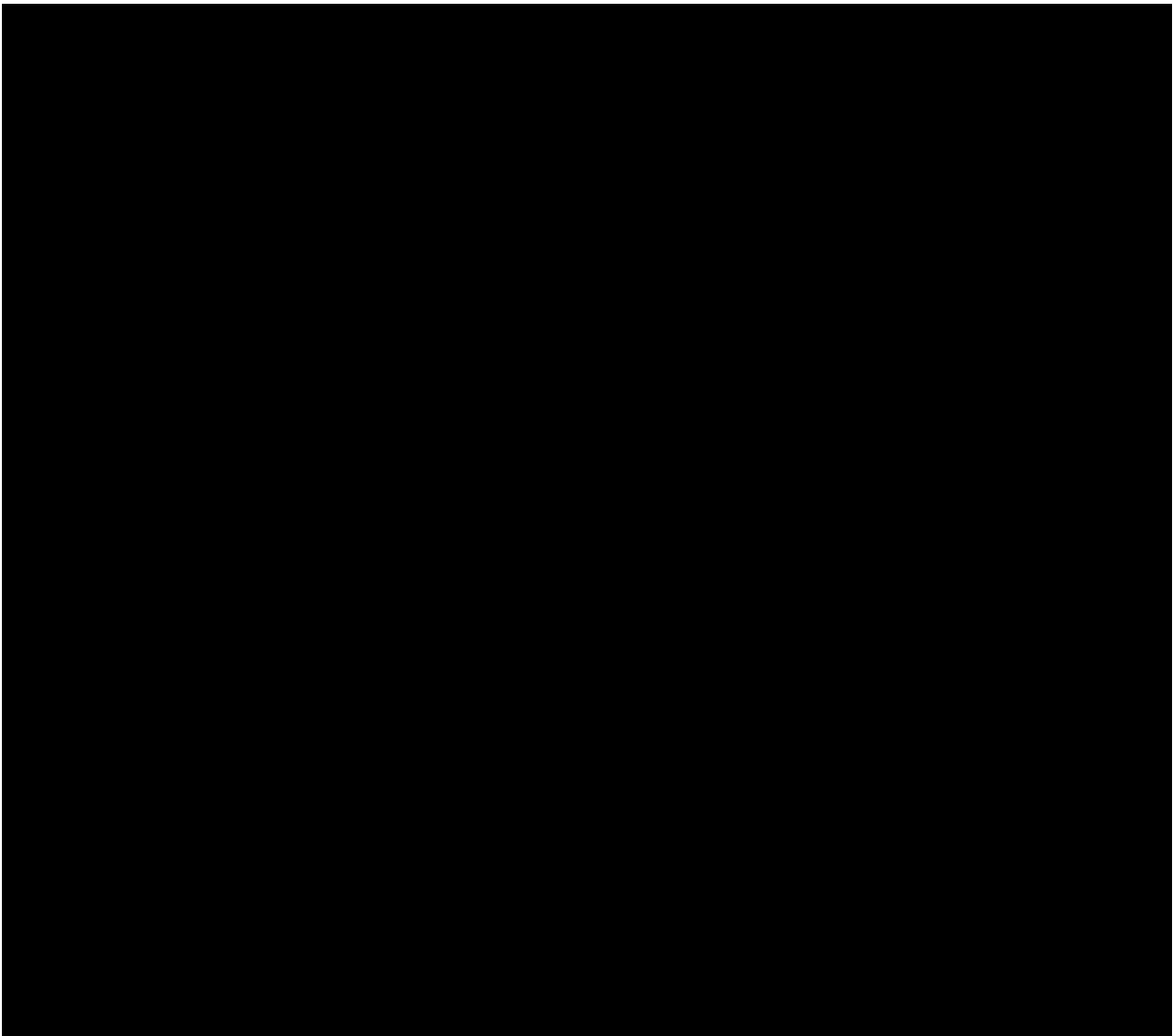






Fight the good fight! Full support  
my wife and I love you guys 🦊





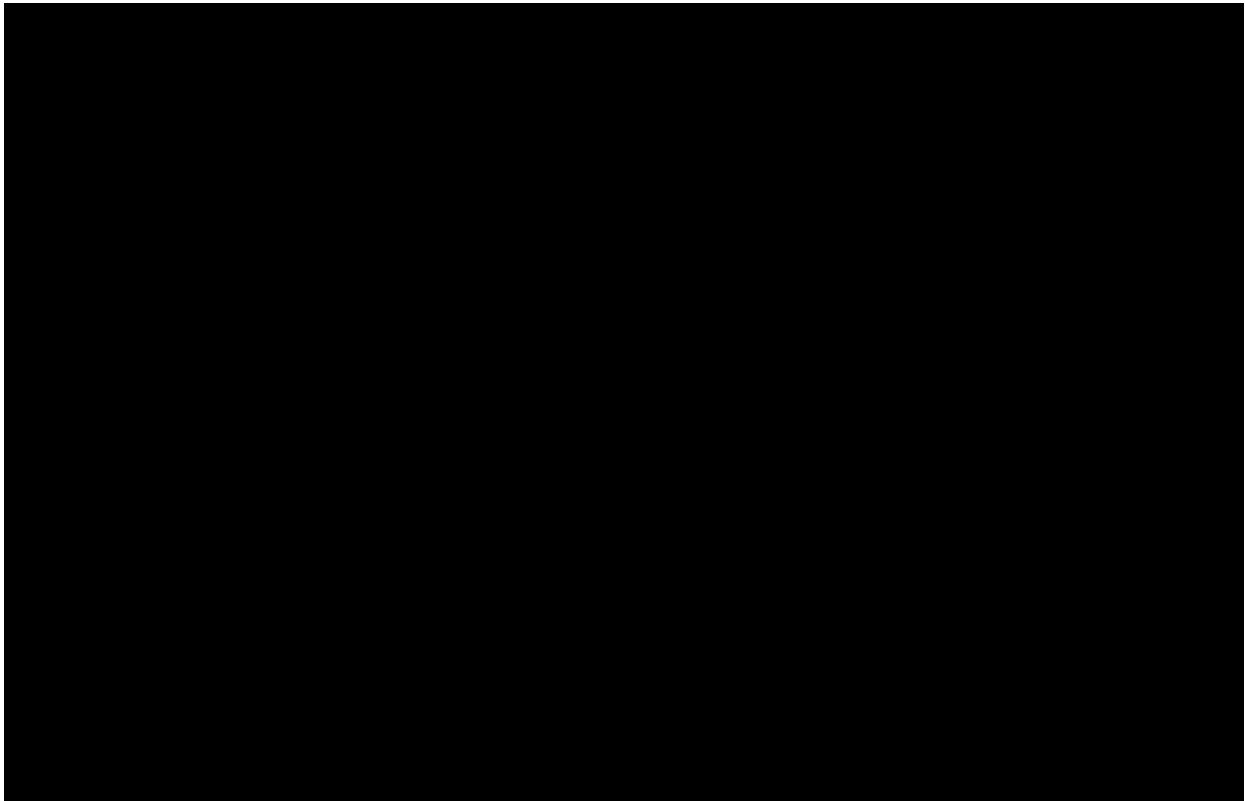
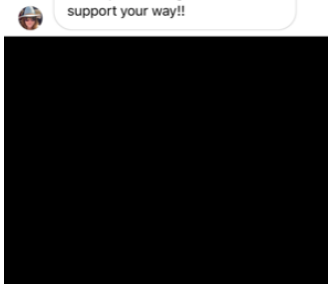
8:17 PM

Get a lawyer. You are in a business district. They can eat shit. Good luck and got speed. Fight for your right to part.





I'm disgusted to hear what the town has been doing to your businesses. We are in Wellfleet for the summer but close friends have a house in Harwich Port and they introduced us to Ember and The Port. We are huge fans. Ember is one of our fave spots on the Cape. Sending lots of support your way!!



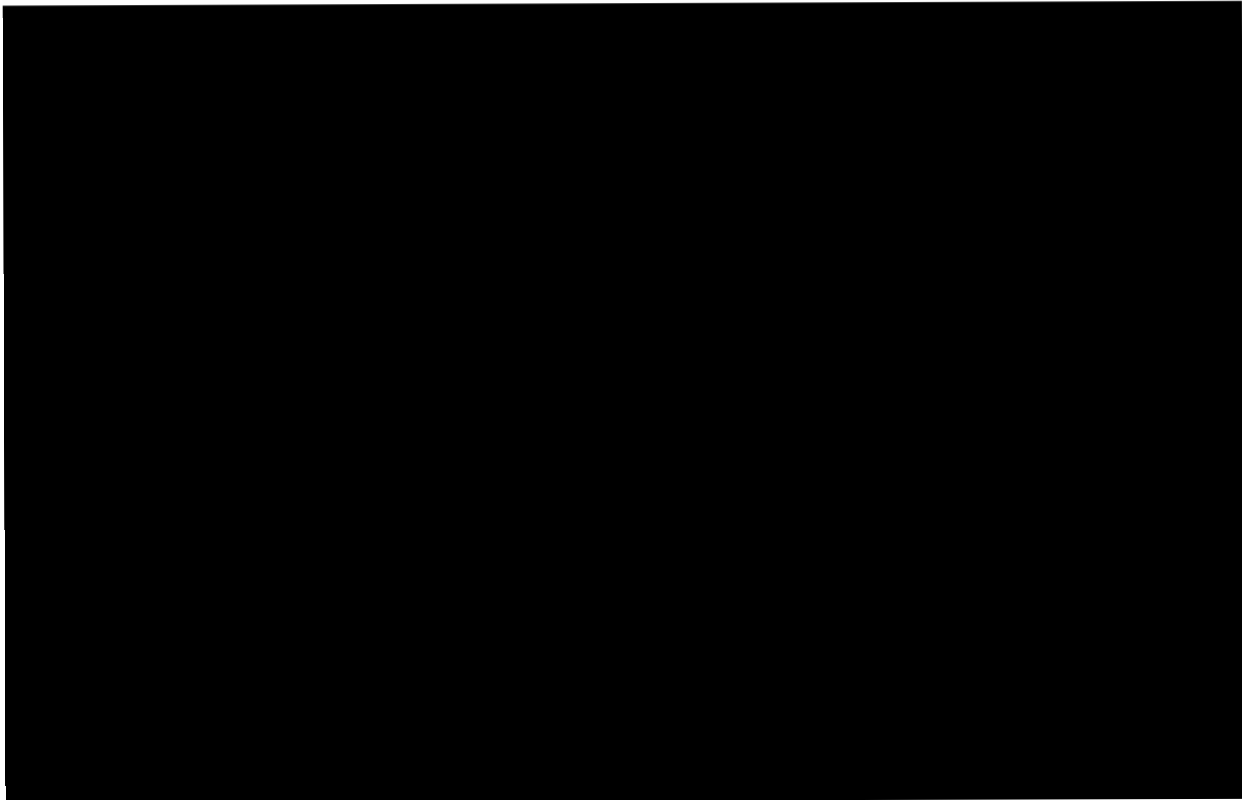
8:04 PM

Replied to your story



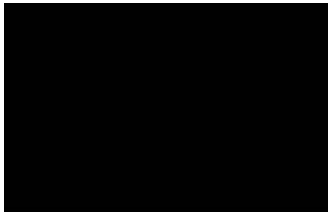


Omg what happened?!? I go to Orleans every summer and ember is our favorite





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8:04 PM

Replied to your story



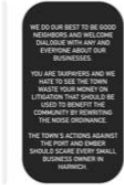
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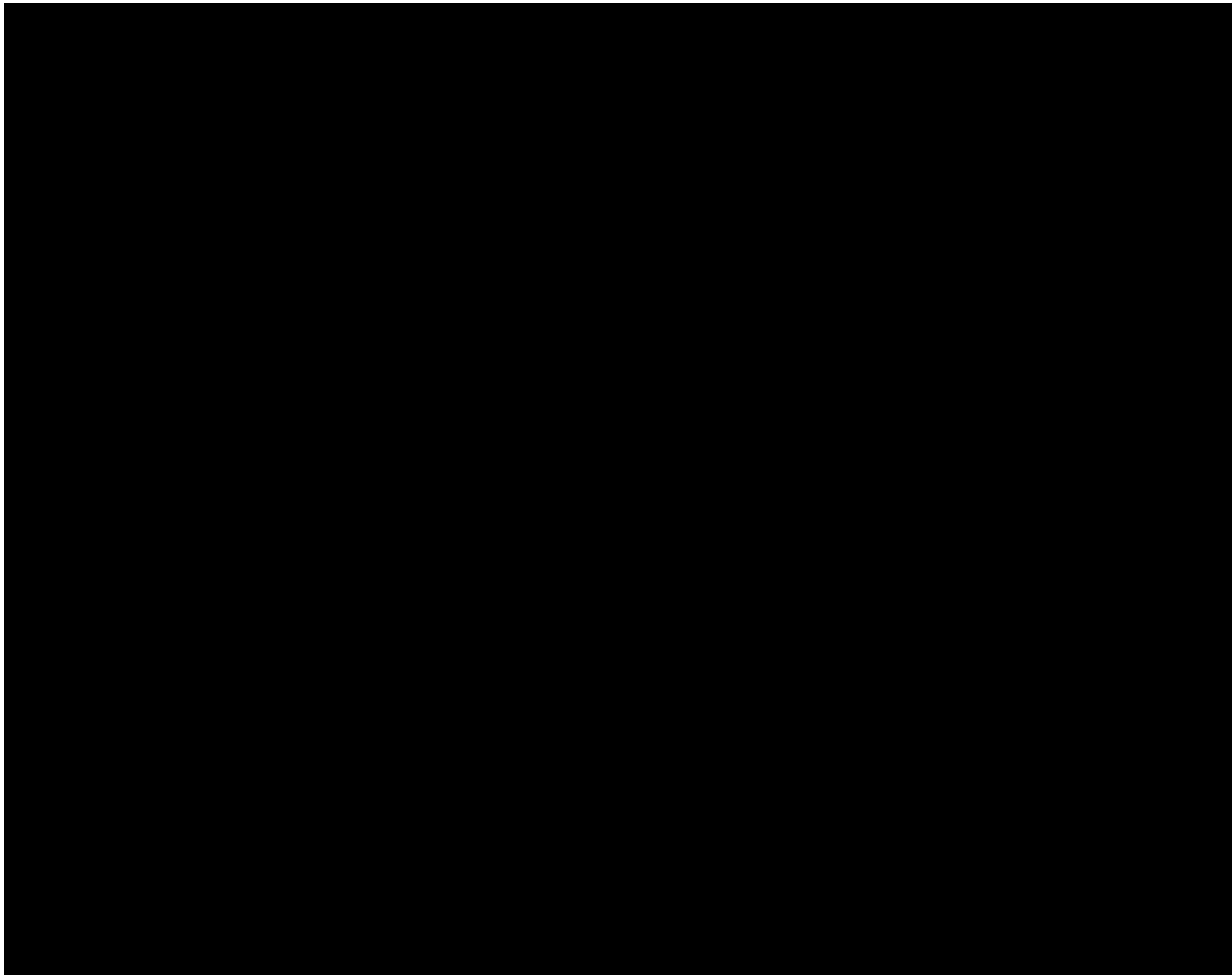


8:25 PM

Replied to your story



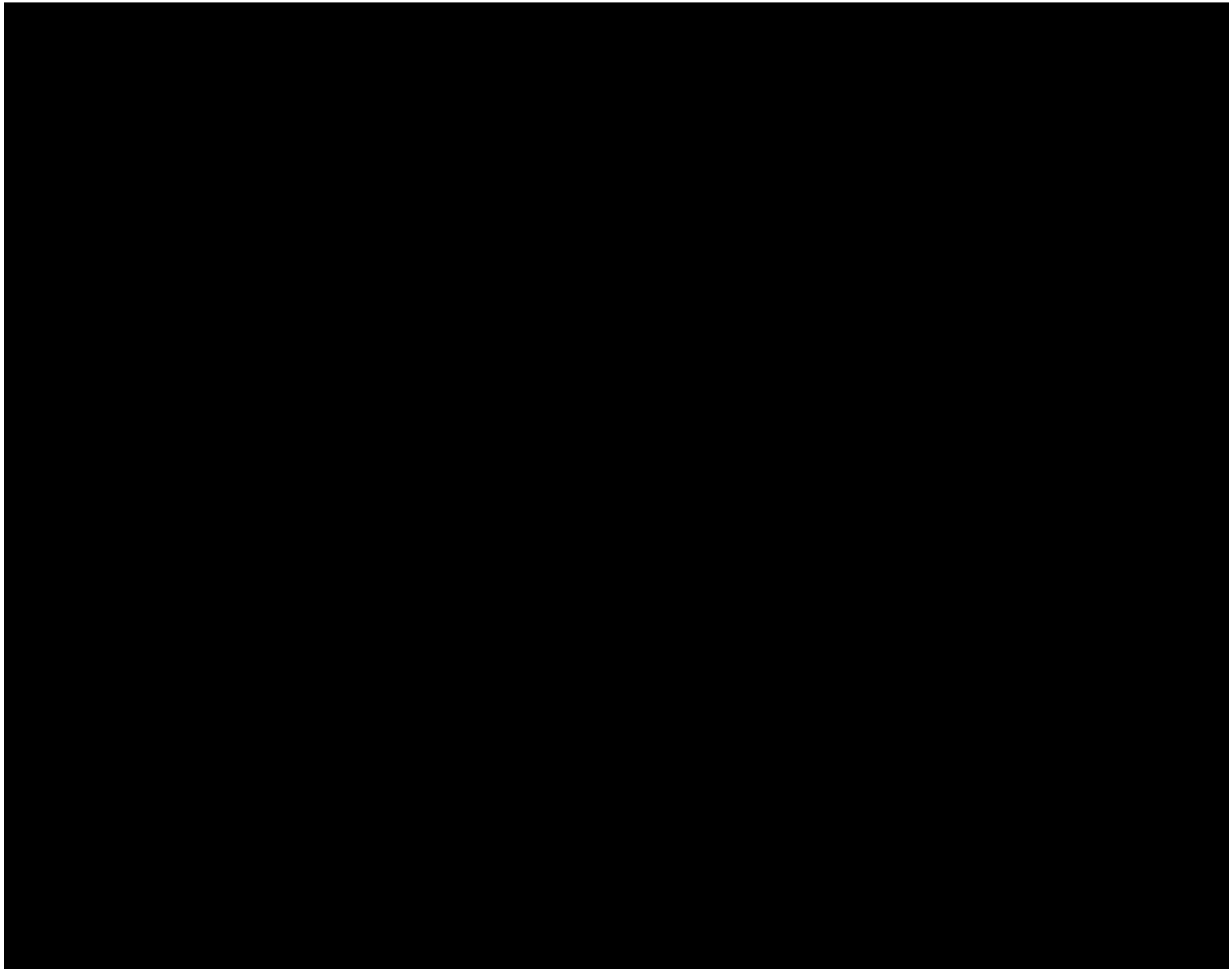
#FreeThePort !!!!



Imagine Harwich without the  
port/ember

No thanks 🙅

HA  
HA

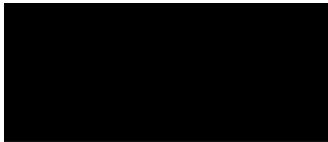






WE DREW UP AN  
ANNOUNCEMENT TO THE PEOPLE  
IN HONOLULU. WE HAD  
PROJECTED OUR LOSS  
WOULD BE IN THE MILLIONS OF  
DOLLARS INTO OUR  
TOWN. THE ONE PHRASE OF  
THE ANNOUNCEMENT  
WE APPRECIATE ALL THE  
SUPPORT WE HAVE BEEN  
GIVING AND RECEIVING  
MEAN SO MUCH TO US  
THANK YOU

literally my favorite two  
restaurants on the whole cape,  
always the best food and such a  
good time ❤️❤️❤️



8:42 PM

Replied to your story

THE PORT & DUNN WINE  
PROJECT IS A GREAT  
PROJECT. WE HAVE  
MADE THE TOWN OF  
HONOLULU  
THE REAL ISSUE IS THE  
COMMUNITY  
WINE COMPANY THAT  
WANTS TO OPEN  
A RESTAURANT  
IN THE TOWN OF  
HONOLULU. BUT  
WE HAVE  
ALREADY  
MADE THE TOWN OF  
HONOLULU  
A GREAT PLACE  
TO LIVE.

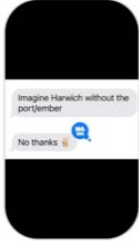
Absolutely disgusting and  
sickening to see how the town is  
treating LOCAL SMALL  
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You guys have done so much  
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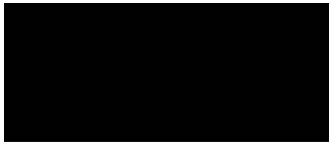
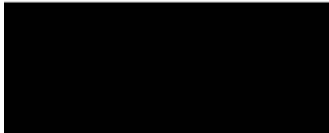


8:43 PM

Replied to your story



Love you guys !!!!



8:42 PM

Replied to your story



Absolutely disgusting and sickening to see how the town is treating LOCAL SMALL BUSINESS during a PANDEMIC. You guys have done so much good for the area over a long period of time and will always have my support. Looking forward to getting back soon!





Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 73- 96  
**Date:** Friday, March 26, 2021 10:17:42 AM  
**Attachments:** [IMG\\_0992.PNG](#)  
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[IMG\\_1016.PNG](#)  
[IMG\\_1017.PNG](#)

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8:52



Lauren Malone  
malone13



Replied to your story



I feel that harwich port has really built up its lifestyle and has accomplished such a great livelihood and attraction for the location. Which is great for cape cod and local business! Which is what local businesses strive for on and off seasons. It's locations like these that people always want to come back to enjoy. I love the progress that is being built in to this harwich port location. I hope this can strongly bring locals and visitors in to a wonderful cape cod experience with shopping, dining and night life affair ! Harwich port deserves a cape cod experience!



Message...



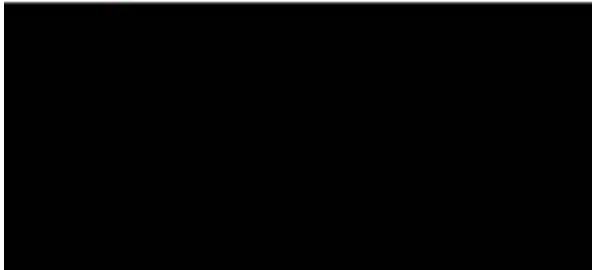


8:52 PM

Replied to your story



We visited the Port frequently this summer and every time your staff was adhering to policy and enforcing the rules! My favorite place to go it's unfortunate this is happening the past year was hard enough for bars and restaurants I'm team Port all the way can't wait to be back buying mudslides soon ❤️❤️❤️



8:52 PM

Replied to your story



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8:57 PM

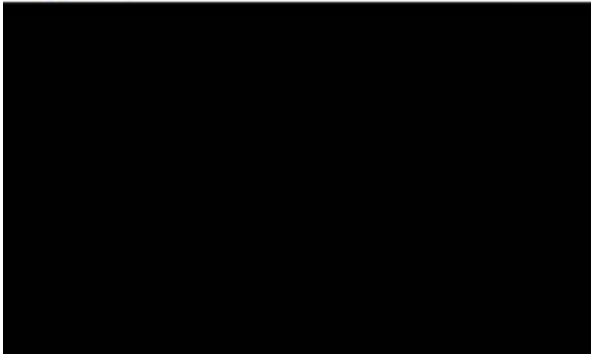
Replied to your story

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HARRISBURG. WE EMPLOY  
SPONSORED TO THE PEOPLE.  
IN HARRISBURG WE HAVE  
INVESTED COUNTLESS  
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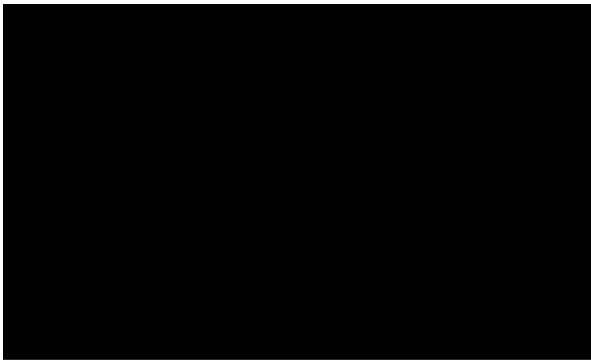
WE APPRECIATE ALL THE  
SUPPORT WE HAVE BEEN  
GETTING. YOUR EMAILS,  
TEXTS, AND MESSAGES  
MEAN SO MUCH TO US.

THANK YOU.

I am so sorry guys. Small businesses do not deserve this grief right now. Keep fighting, we love you!! ❤️ #portnights





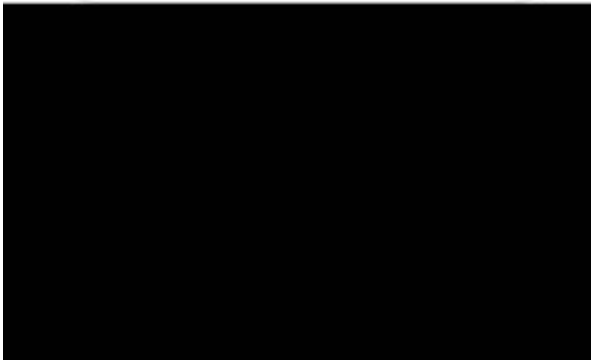


9:02 PM

Replied to your story



Team port and ember! Absolutely terrible! Over a noise complaint?!????





<  **Wilki**  
wilki.music



9:03 PM

Replied to your story



Sent all three of these posts to the barstool fund's IG handle. Really hope the reply back! If you have not already, reach out to them. Family run small businesses like yours are exactly who they are trying to help get through this pandemic.



@barstoolfund





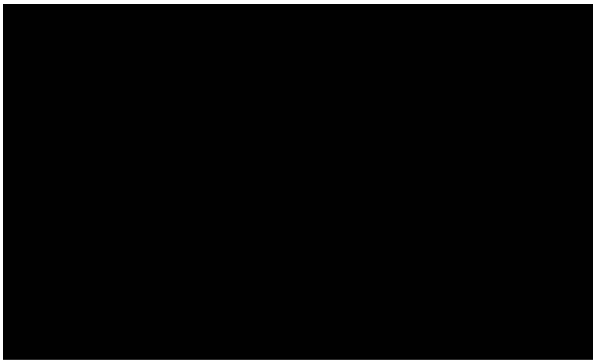
9:08 PM

Replied to your story



When I think of harwichport, I think of you guys. My family's had a home here for 7 or 8 years now and the changes that have occurred to revitalize the downtown during that time have a lot to do with the port and ember thinking outside the box to make HarwichPort the place to be on the cape! Keep fighting! Can't wait for your summertime vibes! 🌞 🍷 🍂





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Replied to your story



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WE GROW UP IN HARWICH. WE SWAP UPWARDS TO THE PEOPLE IN HARWICH. WE HAVE INVESTED COUNTLESS HOURS AND MILLIONS OF DOLLARS INTO OUR TOWN. WE ARE PROUD OF THE RESURGENCE OF HARWICH PORT.  
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9:25 PM

Replied to your story



This is terribly unfortunate. The Port is my favorite restaurant in town. I love the nauti bar and having drinks by the massive fire pit at Ember. My family and I will continue to be faithful patrons and support your awesome businesses that have helped lift and shape what Harwich is today!



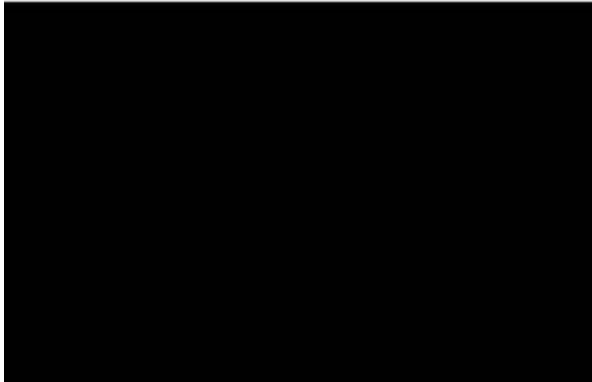


9:31 PM

Replied to your story



I love the port and ember!!!❤️  
two of the best places on cape!!!!



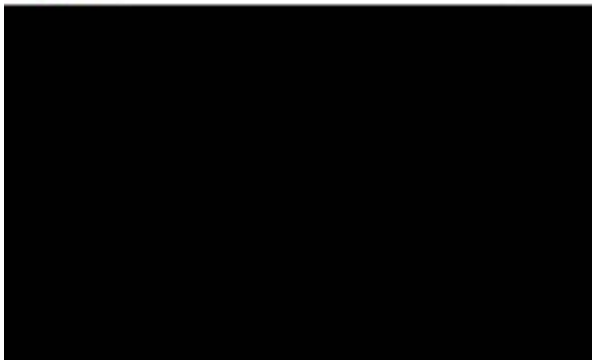


9:33 PM

Replied to your story

WE DO OUR BEST TO BE GOOD NEIGHBORS AND WELCOME MALADUE WITH ANY AND EVERYONE ABOUT OUR BUSINESS.  
YOU ARE SUPPORTERS AND WE WANT TO SEE THE TOWN MAKE YOUR BIRTHDAY CELEBRATION THAT SHOULD BE USED TO BENEFIT THE COMMUNITY BY REMOVING THE NOISE ORDINANCE.  
THE TOWN'S ACTIONS AGAINST THE PORT AND CHARGE SHOULD SCARE EVERY SMALL BUSINESS OWNER IN HARWICH.

We love The Port! Our favorite spot in Harwich! Please post what all your supporters can do to help! [#portnightsforever](#)







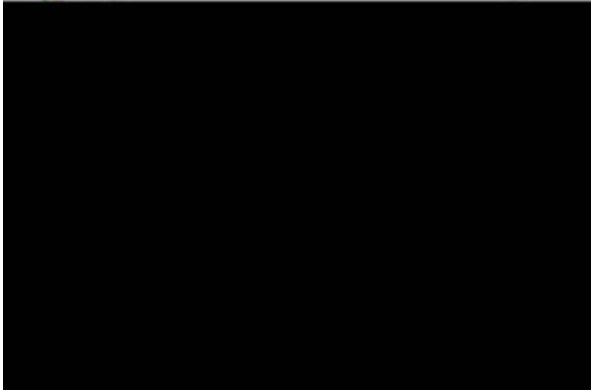
9:37 PM

Replied to your story

THE PORT & EMERIS HAVE  
 FORCED TO BRING A SUIT  
 AGAINST THE TOWN OF  
 HANCOCK

THE REAL ISSUE IS THE  
 UNCONSTITUTIONAL  
 STATE INTERFERENCE THAT  
 EMERIS, RATHER THAN  
 SUPPORTS & COMMUNITIES  
 WE HAVE TRIED TO WORK  
 WITH THE TOWN TO REACH  
 A RESOLUTION, BUT  
 THEY'VE INSISTED ON  
 REPEATEDLY AND  
 INTENTIONALLY DELAYED  
 HOLDING OUR LICENSES  
 SUBJECT TO HAVING OUR  
 BUSINESS DURING THE  
 FRANCHISE.

always loved going to the port in  
 the summer! Let me know if I can  
 help in anyway





9:25 PM

Replied to your story



This is terribly unfortunate. The Port is my favorite restaurant in town. I love the nauti bar and having drinks by the massive fire pit at Ember. My family and I will continue to be faithful patrons and support your awesome businesses that have helped lift and shape what Harwich is today!





9:31 PM

Replied to your story



I love the port and ember!!!❤️  
two of the best places on cape!!!!





9:33 PM

Replied to your story

WE DO OUR BEST TO BE GOOD  
NEIGHBORS AND WELCOME  
SALADUE WITH ANY AND  
EVERYONE ABOUT OUR  
BUSINESS.  
  
YOU ARE SUPPORTERS AND WE  
WANT TO SEE THE TOWN  
RIGHTS YOUR BIRTHDAY  
LITIGATION THAT SHOULD BE  
USED TO BENEFIT THE  
COMMUNITY BY REMOVING  
THE NOISE ORDINANCE.  
  
THE TOWN'S ACTIONS AGAINST  
THE PORT AND CHAIR  
SHOULD SCARE EVERY SMALL  
BUSINESS OWNER IN  
HARWICH.

We love The Port! Our favorite spot in Harwich! Please post what all your supporters can do to help! [#portnightsforever](#)





9:37 PM

Replied to your story

THE PORT & EMILIE WERE FORCED TO BRING A SUIT AGAINST THE TOWN OF HANCOCK  
  
THE REAL ISSUE IS THE UNCONSTITUTIONAL, BIAS DISCRIMINATION THAT EMILIE, RATHER THAN SUPPORTS & COMMUNITYS WE HAD TO GO TO WORK WITH THE TOWN TO REACH A RESOLUTION, BUT THEY'VE RECALLED US REPEATEDLY AND INTENTIONALLY DELAYED BRINGING OUR LICENSES TO US TO HAVE OUR BUSINESS THROUGH THE PROCESS.

always loved going to the port in the summer! Let me know if I can help in anyway





9:48 PM

Replied to your story

WE GREW UP IN  
 HARRACK WE EMPLOY  
 UPWARDS TO 700 PEOPLE  
 IN HARRACK WE HAVE  
 INVESTED COUNTLESS  
 HOURS AND MILLIONS OF  
 DOLLARS INTO OUR  
 TOWN WE ARE PROUD OF  
 THE RESILIENCE OF  
 HARRACK PORT.

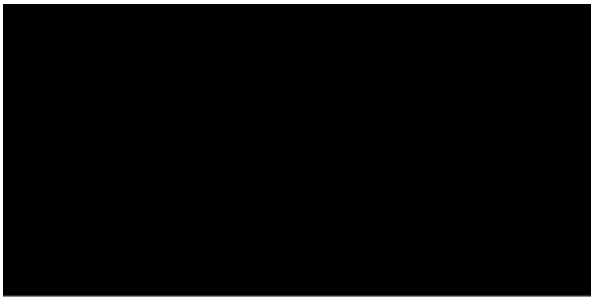
WE APPRECIATE ALL THE  
 SUPPORT WE HAVE BEEN  
 GETTING YOUR EMAILS  
 TEXTS AND MESSAGES  
 MEAN SO MUCH TO US

THANK YOU



Can't wait to come in this  
 Summer with all my friends to  
 support the Port!





9:59 PM

Replied to your story

THE PORT & CANNON WERE FORCED TO BRING A SUIT AGAINST THE TOWN OF FERRISBORO

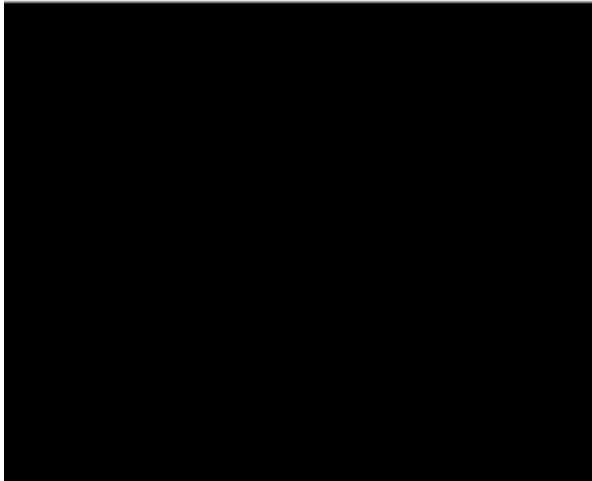
THE REAL ISSUE IS THE UNCONSTITUTIONAL NOISE ORDINANCE THAT DIVIDES RATHER THAN SUPPORTS A COMMUNITY. WE HAVE TRIED TO WORK WITH THE TOWN TO REACH A RESOLUTION BUT THEY'RE UNWILLING REPEATEDLY AND INTENTIONALLY DELAYED ISSUING OUR LICENSES SOLELY TO HARM OUR BUSINESS DURING THE PANDEMIC.

Complete BS! We love coming down to the two restaurants - we bring our kids, celebrate my dads 75th or just come down with friends for fun. No matter what audience you have, both places accommodate and everyone eats well and has a great time. This is a joke





My first time at both places this summer and it was the absolute best! Went back multiple times throughout and can't wait until this summer to return- sending you all the support!! Protect small businesses! ❤️







9:58 PM

Sent theportrestaurant's story

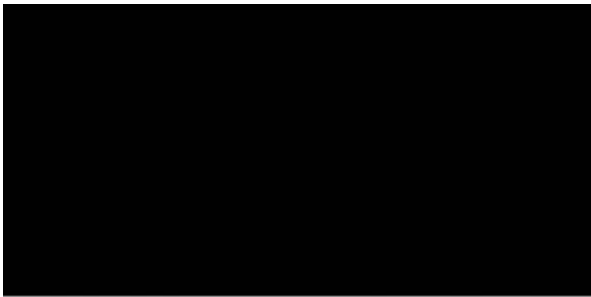
WE DO OUR BEST TO BE GOOD NEIGHBORS AND WELCOME DIALOGUE WITH ANY AND EVERYONE ABOUT OUR BUSINESSES.

YOU ARE TAXPAYERS AND WE HATE TO SEE THE TOWN WASTE YOUR MONEY ON LITIGATION THAT SHOULD BE USED TO BENEFIT THE COMMUNITY BY REWRITING THE NOISE ORDINANCE.

THE TOWN'S ACTIONS AGAINST THE PORT AND EMBER SHOULD SCARE EVERY SMALL BUSINESS OWNER IN HARWICH.

Just moved to Harwich from Georiga. This is absolutely absurd and will be part of anything needed to help out these two restaurants.





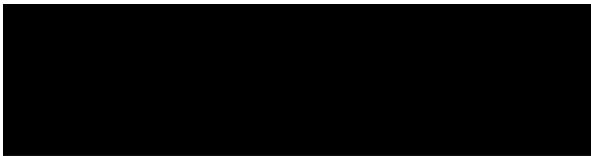
9:59 PM

Replied to your story



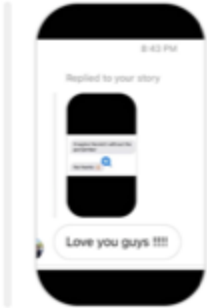
Complete BS! We love coming down to the two restaurants - we bring our kids, celebrate my dads 75th or just come down with friends for fun. No matter what audience you have, both places accommodate and everyone eats well and has a great time. This is a joke





10:13 PM

Replied to your story



Port and ember have made Harwich port what it is today. They have transformed it into a go to spot! A few angry people are trying to ruin people's lively hoods with misinformation. How can a handful of no fun people have such clout! I can't wait to be outside a one of those bars enjoying what cape cod is all about



10:33 PM

Replied to your story

WE DO OUR BEST TO BE  
GOOD NEIGHBORS AND  
WELCOME EVERYONE  
WITH ANY AND EVERYONE  
ABOUT OUR BUSINESSES.

YOU ARE TRAVELERS AND  
WE HATE TO SEE THE  
TOWN WASTE YOUR  
MONEY ON LITIGATION  
THAT SHOULD BE USED TO  
BENEFIT THE COMMUNITY  
BY REWRITING THE NOISE  
ORDINANCE.

THE TOWN'S ACTIONS  
AGAINST THE PORT AND  
EMBER SHOULD SCARE  
EVERY SMALL BUSINESS  
OWNER IN HARTWICH.

I don't know all of the details of the situation but I just wanted to say that my husband and I ate inside of a restaurant for the first time since covid hit a few weeks ago. We had a baby in February of 2020 so we've been very cautious and safe. Do you want to know where we ate? Ember! It was our first time there and we were very impressed. We felt very safe inside and the food was amazing. You have our support and we will definitely be back!

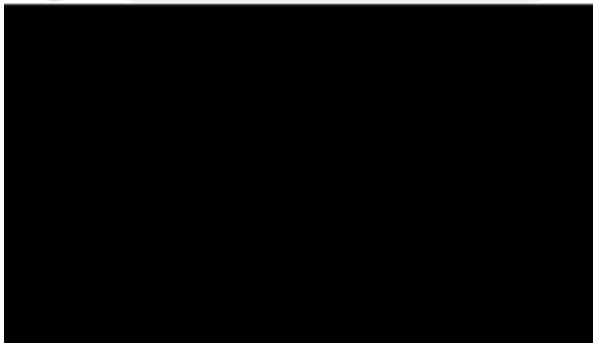


10:36 PM

Replied to your story



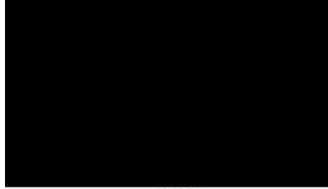
You guys have brought lots of life and love to Harwich, also employment and help to the local economy. You have my support always ❤️



Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 96-120  
**Date:** Friday, March 26, 2021 10:18:48 AM  
**Attachments:** [IMG\\_1018.PNG](#)  
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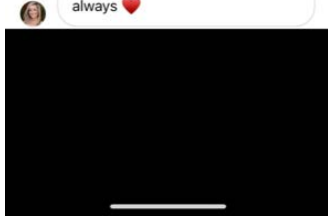


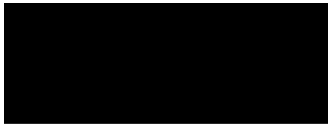
10:36 PM

Replied to your story



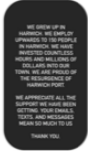
You guys have brought lots of life and love to Harwich, also employment and help to the local economy. You have my support always ❤️



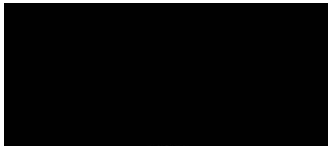


6:00 AM

Replied to your story



I'm not 100% clear on what the town is doing, but the first time I came to Harwich was to visit The Port, and immediately I wanted to buy a house there. Restaurants are the backbone of communities and towns. The Port & Ember are exactly that. If they both don't exist in Harwich we won't be back to visit. ❤️

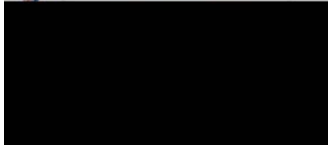


6:00 AM

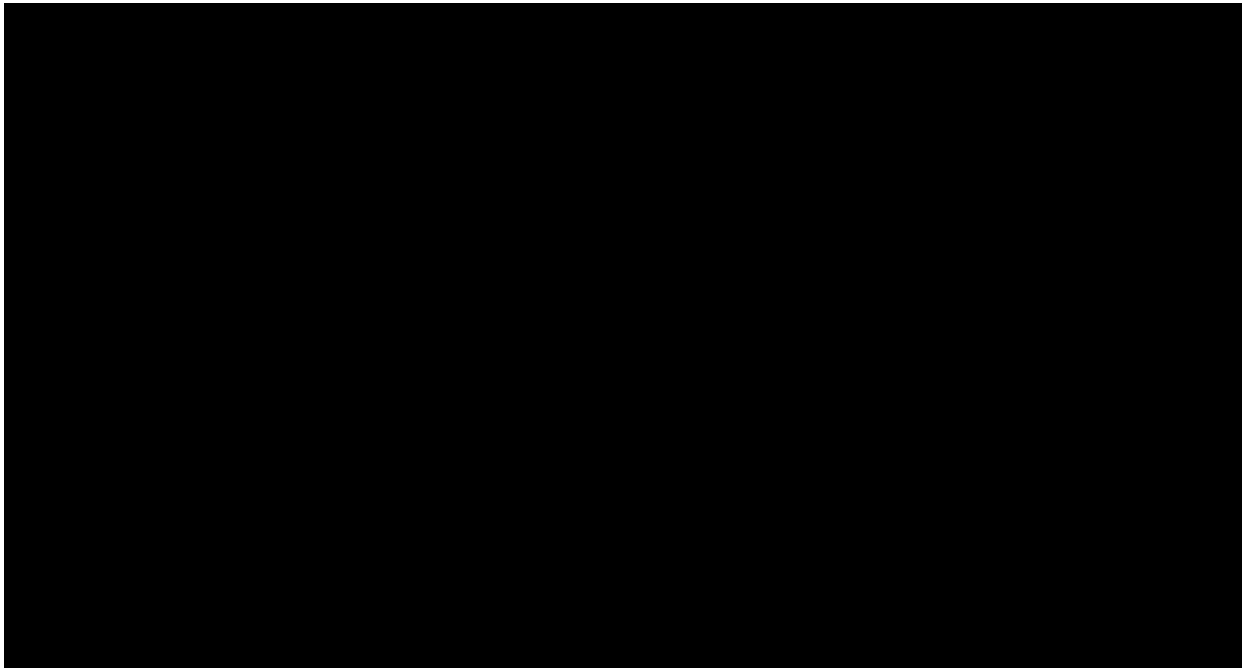
Replied to your story



Our summers wouldn't be the same without the port/ember. We usually have our 2 young kids in tow and staff has always provided us with superior customer service often giving our kiddos special attention. We just love the good vibes and positivity. Sorry to hear all this is happening. We support you guys! #theportisforthepeople

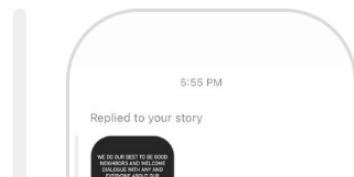


I am fortunate enough to spend quite a bit of time on the cape during the summer months. Throughout that time I've gotten to know some amazing small and seasonal business owners. People who pride themselves on giving non-locals like myself that animated feeling of excitement as the summer months approach. The thoughts of a Friday night dinner at Ember or mid-day lunch out back of the Port are enough to get you through a harsh winter. That being said, watching what Ember/Port's amazing staff was able to this past summer taking the proper precautions to make the restaurant enjoyable, but more importantly safe, was truly amazing. The constant creativity to provide amazing nights for many people like myself, as well as employ so many people throughout the year should not be taken for granted. I fully support, and will continue to support the direction in which these restaurants are bringing the town of Harwichport. Although I can only give an outsiders perspective, I hope the town is able to see this as well.



7:06 AM

Replied to your story



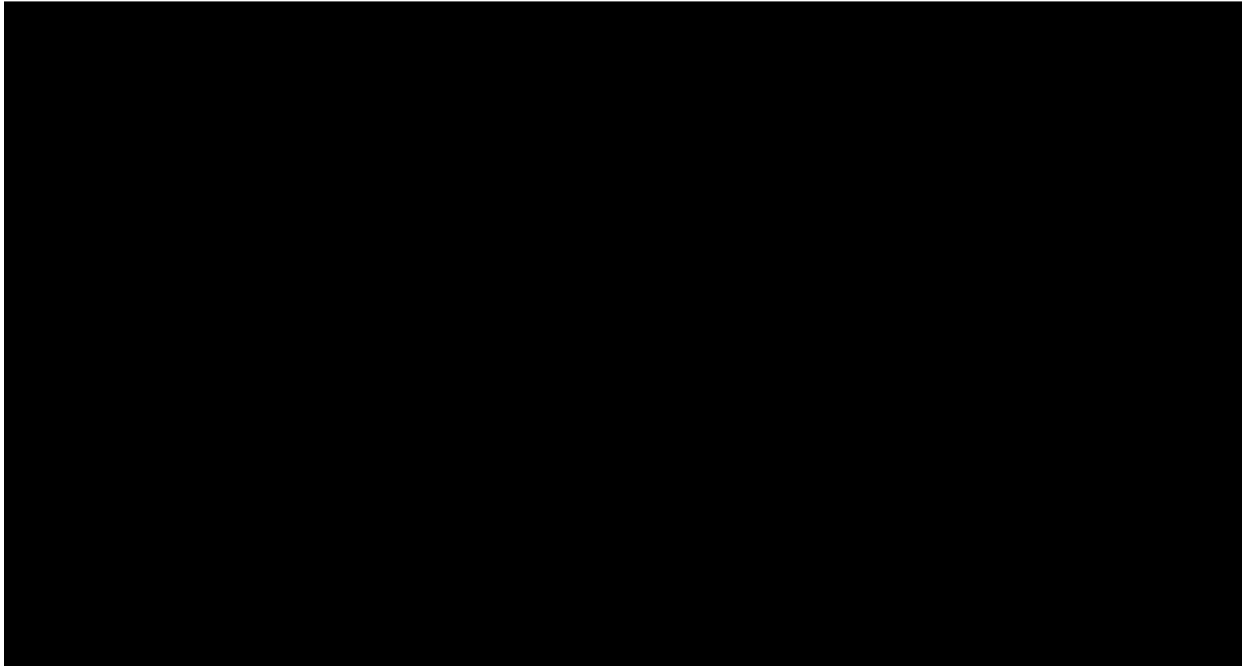




HARWICH NEEDS the port and ember. Where would you go if these places didn't exist? Not HARWICH.

Run by locals- employing locals- supporting locals

This comment 🙌🙌 You guys put Harwich on the map. Unbelievable you are still fighting the town on such BS after all these years. I recommend The Port and Ember to anyone I know going to the Cape!



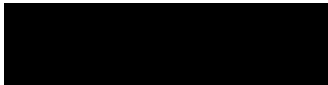


7:06 AM

Replied to your story



This comment 🙄 You guys put Harwich on the map. Unbelievable you are still fighting the town on such BS after all these years. I recommend The Port and Ember to anyone I know going to the Cape!



Coming from Long Island, NY, I've always looked forward to visiting the PORT- which to me, was the absolute quintessential establishment that embodied and protected that "Cape feel"- yet was a place of business that added so much to this bucolic, historic town. And seeing the measures that the PORT and EMBER took to remain within the guidelines, to remain safe and compliant during the trying times of last summer, although the restaurant lost some of the magic they had, it was still abundantly clear that the town came out in droves to support these fine establishments. I have visited many of restaurants and bars over my years, but I am still hard pressed to find one that captures the spirit and tradition of a town, while still embracing all its residents and upholding the values that are near and dear to Harwich Port. To suggest anything otherwise is blasphemy and criminal



I am fortunate enough to spend quite a bit of time on the cape during the summer months. Throughout that time I've gotten to know some amazing small and seasonal business owners. People who pride themselves on giving non-locals like myself that animated feeling of excitement as the summer months approach. The thoughts of a Friday night dinner at Ember or mid-day lunch out back of the Port are enough to get you through a harsh winter. That being said, watching what Ember/Port's amazing staff was able to this past summer taking the proper precautions to make the restaurant enjoyable, but more importantly safe, was truly amazing. The constant creativity to provide amazing nights for many people like myself, as well as employ so many people throughout the year should not be taken for granted. I fully support, and will continue to support the direction in which these restaurants are bringing the town of Harwichport. Although I can only give an outsiders perspective, I hope the town is able to see this as well.



Yesterday, 11:27 PM

Replied to your story

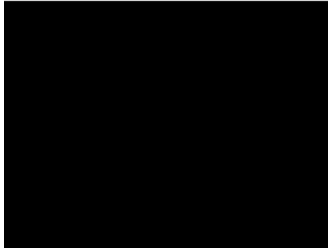


Love and support you guys! 💕💕





covid protocol . If they can stand back and with a straight face say that the employees themselves did not care about getting covid or implementing Covid protocol then I would put money that not one of them stepped foot in either establishment all summer and they are simply going by hear say which amounts to nothing .



<  Meg Dutcher...  

I've been managing nights were police were called ,and never had entertainment booked . I've also been managing when it's a holiday weekend on a Saturday and the board of health, building inspector and board members show up for their "inspections" during prime dining hours . So it's funny that we've never been in violations when things are hectic and during the light of day but suddenly when night falls they find all these violations . I literally dined at Ember/Port all summer and never did I see no masks or a disregard for any covid protocol . If they can stand back and with a straight face say that the employees themselves did not care about getting covid or implementing Covid protocol then I would put money that not one of them stepped foot in either establishment all summer and they are simply going by hear say which amounts to nothing .





**Eddie Gallagher**  
@EddieGallagher

[harwich-ma.gov/home/webforms/...](https://harwich-ma.gov/home/webforms/)

For anyone who has dined at either ember or the port in Harwich Port, please select "town" in the drop-down box and send a note of support for these restaurants. The town provided no warnings but is trying to revoke licenses because of Covid. continues...

8:28 AM - 3/24/21 - Twitter for iPhone





**Eddie Gallagher**  
@EddieGallagher

If you dined there at all last year, you saw how trying it must've been for them to keep their doors open but the restrictions were obvious. Like everyone else, they adhered to the restrictions. They received 0 warnings from the town re violations. They employ upwards of 150 ppl...

8:28 AM · 3/24/21 · [Twitter for iPhone](#)

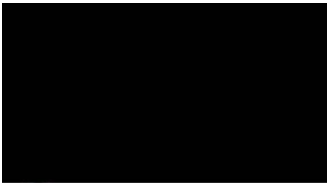


**Eddie Gallagher**  
@EddieGallagher

Hopefully towns everywhere are trying to help businesses out As opposed to punishing without warning. It is hard enough to be an entrepreneur in non-Covid times. The restaurant industry is getting crushed. If they have an issue, There is a process. Follow it! Unreal.

8:28 AM · 3/24/21 · [Twitter for iPhone](#)



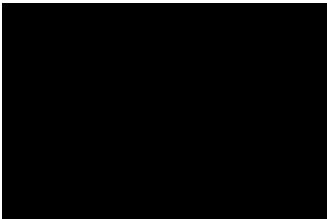


**Eddie Gallagher**  
@EddieGallagher

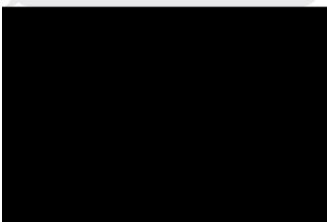
[harwich-ma.gov/home/webforms/...](https://harwich-ma.gov/home/webforms/...)

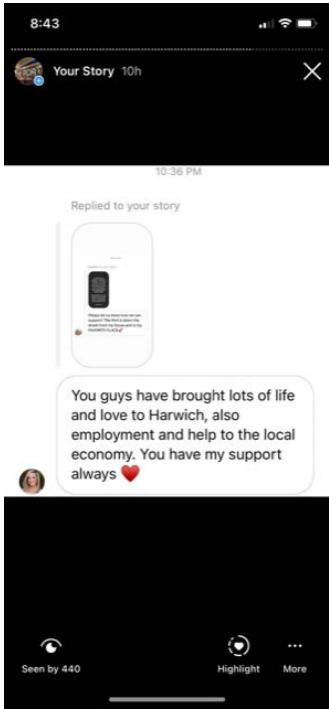
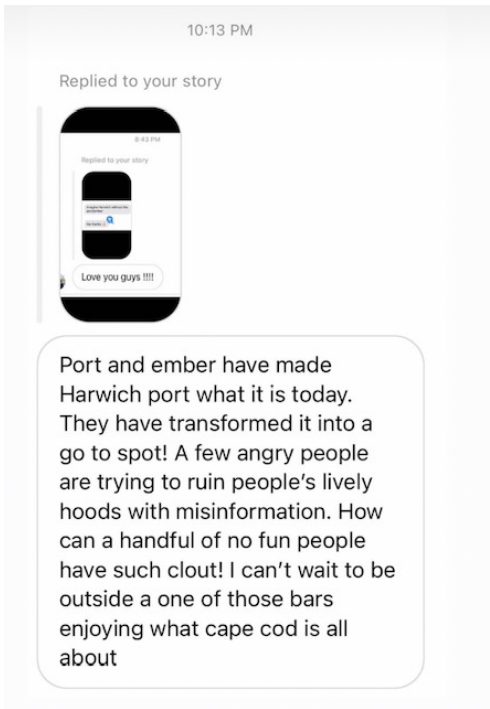
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8:28 AM · 3/24/21 · Twitter for iPhone



I'm glad you're fighting back. It's ridiculous. you employ so many people And draw so many patrons to the town, you would think there would be a certain level of gratitude from the town. And even if they were a beef, they need to follow the process otherwise who in the world would want to open a business in the town?!



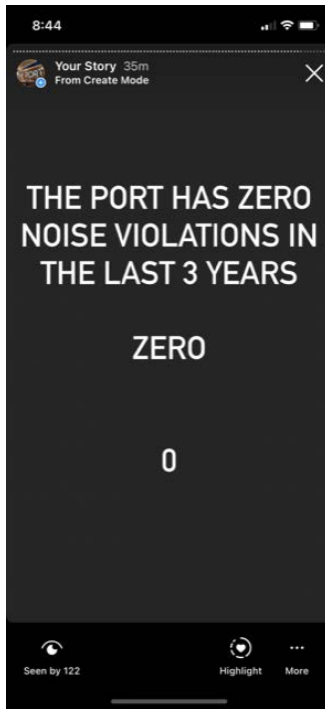




'I AM REACHING OUT TO YOU IN SUPPORT OF THE PORT RESTAURANT AND THE BRACKETT FAMILY. I LIVE ON SEA STREET AND HAVE SPENT EVERY SUMMER IN HARWICHPORT FOR THE PAST 30 YEARS. I HAVE GROWN UP ON THIS AMAZING STREET AND MY FONDEST CHILDHOOD MEMORIES INCLUDE SUMMERS IN HARWICHPORT. I HAVE PERSONALLY WITNESSED HOW THE PORT TRANSFORMED THIS TOWN IN SUCH A POSITIVE WAY. THE OWNERS GRIFFIN AND JUDD, ARE NOT ONLY RESPECTFUL AND GREAT NEIGHBORS; THEY ARE GOOD PEOPLE. IT'S NOT ONLY SHOCKING TO READ ANYTHING NEGATIVE ABOUT THIS ESTABLISHMENT BUT IT IS INFURIATING BECAUSE IT IS ALL BASED ON LIES.....'

'IT IS ABSOLUTELY SICKENING TO READ WHAT THE ARTICLES IN THE LOCAL PAPERS ARE SAYING ABOUT THE "COVID VIOLATION CONCERNS". SUMMER 2020 I WAS LIVING IN HARWICHPORT ON SEA STREET WITH MY 6 MONTH OLD BABY AND 4 YEAR OLD SON. THE FIRST RESTAURANT I EVER TOOK MY BABY TO WAS THE PORT BECAUSE I TRUSTED THEM AND KNEW THAT THEY WOULD DO THINGS THE RIGHT WAY. I KNEW THAT THEY WOULD FOLLOW ALL THE STATE RULES AND GUIDELINES (MASKS, SOCIAL DISTANCING OF 6 FEET AND ONLY 6 PER TABLE). TO READ THAT THEY "FLAGRANTLY DIDN'T FOLLOW RULES" IS ASTONISHING CAUSE IT COULDN'T BE FURTHER FROM THE TRUTH....'

'I'VE NEVER SEEN A GROUP OF PEOPLE WORK HARDER THEN THE STAFF AT THE PORT DID THIS SUMMER. THEY DID EVERYTHING THEY WERE SUPPOSED TO DO TO KEEP THEIR STAFF AND DINERS SAFE. IT BREAKS MY HEART TO KNOW THE TOWN IS DOING THIS TO THEM BECAUSE IT SEEMS SO INTENTIONAL AND WRONG. I HAVE FAITH THAT THIS WILL ALL WORK OUT AND THINGS WILL GET RESOLVED SOON AND IN THE MEANTIME I STAND WITH THE PORT. I WILL DO WHATEVER I PERSONALLY CAN TO FIGHT FOR WHAT IS RIGHT AND SUPPORT THESE AMAZING BROTHERS AND RESTAURANT.'



MY FAMILY AND I ENJOY REGULAR TRIPS TO HARWICHPORT TO DINE AS A FAMILY AT EMBER AND THE PORT. WE LIVE IN SANDWICH BUT WE COME TO THESE RESTAURANTS SPECIFICALLY FOR THE FOOD, AND SERVICE, BUT GENERALLY FOR THE WALKING THROUGH THE VILLAGE. FROM TIME TO TIME, WE ENJOY CHECKING OUT THE OTHER STORES OR GETTING AN ICE CREAM.

WE ENJOYED THESE RESTAURANTS MANY TIMES OVER THE LAST YEAR. IT WAS AN EXTRAORDINARILY DIFFICULT YEAR TO BE IN THE RESTAURANT BUSINESS SO WE DID OUR BEST TO SUPPORT OUR FAVORITE PLACES. AT NO TIME DID WE FEEL IN ANY WAY UNSAFE. QUITE THE CONTRARY. OUR HOPE HAS BEEN THAT THESE BUSINESSES AND THEIR EMPLOYEES WOULD BE ABLE TO WEATHER THE COVID STORM GIVEN ALL OF THE OBVIOUS, CUMBERSOME RESTRICTIONS BEING EMPLOYED. THIS WAS VERY NOTICEABLE TO US AT BOTH THE PORT AND EMBER.

MY HOPE IS THAT THE TOWNS ACROSS THE STATE ARE LOOKING TO ASSIST THESE BUSINESSES WHO BOTH SERVE AND EMPLOY SO MANY PEOPLE AS OPPOSED TO LOOKING FOR WAYS TO PUNISH THEM FOR THINGS THAT DIDN'T EVEN MERIT A WARNING. AND ESPECIALLY GIVEN THE EXTRAORDINARILY DIFFICULT CIRCUMSTANCES THESE BUSINESSES WERE FORCED TO ENDURE THROUGH NO FAULT OF THEIR OWN. THANK YOU FOR HAVING SUCH A GREAT PLACE TO VISIT DOWN CAPE.

Sent from my iPhone

**From:** Brackett  
**To:** Raymond Tomlinson  
**Subject:** 121-144  
**Date:** Friday, March 26, 2021 10:19:44 AM  
**Attachments:** [IMG\\_1042.PNG](#)  
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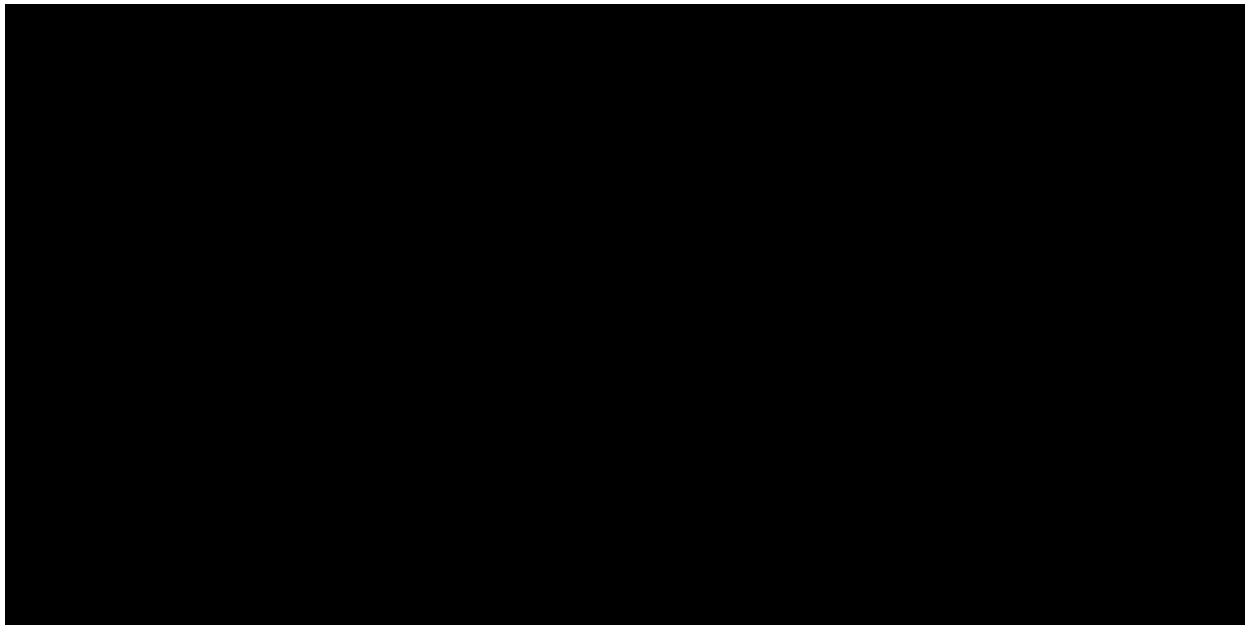


8:42 AM

Replied to your story

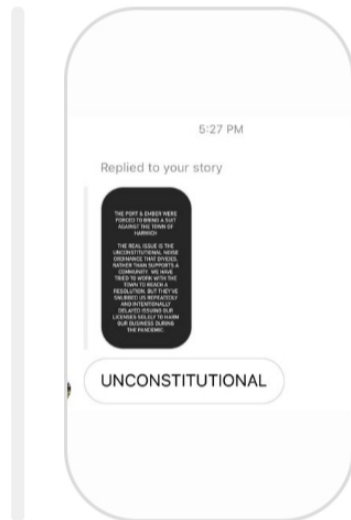


Can you link this in your bio?  
Definitely want to help 🙏



8:52 AM

Replied to your story



Shame on town of Harwich!!!!!!  
You guys have created a  
restaurant empire and name for  
yourselves. Love supporting your  
business!!!



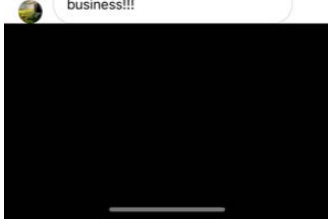


8:52 AM

Replied to your story



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Mark Leach

The Bracket family has spent a lot of money breathing new life to buildings that were in poor condition. Starting with Brax Landing which opened in 1975. Formerly as I was told a large home which was used by Thompson's Clam Bar as dormitory for their staff. Later on they bought the former Butner's building in Harwichport and with another large amount capital built the Port an upscale restaurant which improved the downtown. Finally they took over the former Nick and Dick's restaurant and with another large rebuild made a great restaurant in the Embers. Hundreds of good jobs were established from these efforts not mention the many suppliers who have employed many more. Shame on the short sighted and those who obviously have a grudge against this family. Looking at the real estate values Harwichport is a great place to own a home.

Janelle the selectman who was on the board when the Bylaw was written

The same person who owned a spa and sold packages to customers that included bottles of champagne without having a liquor license?

That Janelle

How many times has she been arrested?

She should know the law. She has been on the wrong side of it more than most

'SENT THIS TO THE TOWN-

TO WHOM IT MAY CONCERN:  
I HAVE READ QUITE A BIT ON THE TOWN OF HARWICH TRYING TO CLOSE TWO SMALL BUSINESSES IN HARWICHPORT. THEY HAPPEN TO BE TWO OF THE BEST RESTAURANTS ON THE CAPE (THE PORT AND EMBER). DURING THIS COVID PANDEMIC SMALL BUSINESSES INCLUDING RESTAURANTS WERE UNDISPUTEDLY TARGETED AND HUNDREDS OF THOUSANDS ACROSS THE US WERE FORCED TO CLOSE THEIR DOORS FOR EVER....'

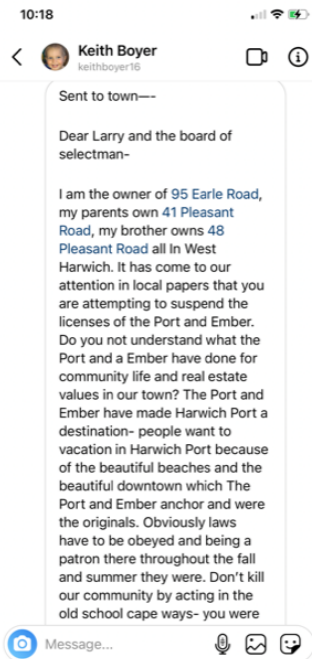
" SO LET'S CHANGE GEARS AND FACE WHAT THIS REALLY IS ABOUT, A PERSON VENDETTA FROM A FEW "IMPORTANT PEOPLE" TO PUNISH AND ATTEMPT TO DESTROY TWO LOCAL SMALL BUSINESSES WHICH EMPLOY AND PROVIDE GOOD PAYING JOBS FOR HUNDREDS IN THE COMMUNITY. THE TRUE STORY OF THE TWO OWNERS AND THEIR SUCCESS WAS THE EPITOME OF THE AMERICAN DREAM AND SHOULD BE CELEBRATED, SHARED, AND INSPIRING...."

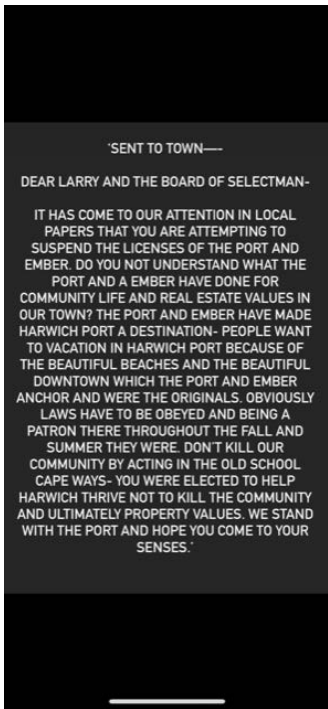
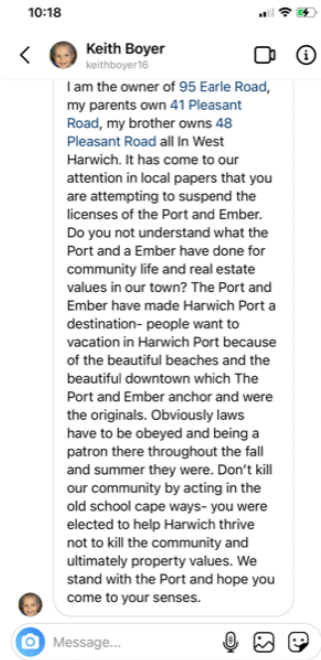
MESSAGES now  
Judd  
iMessage

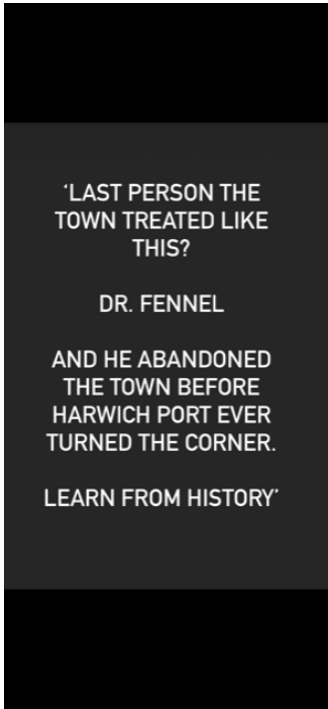
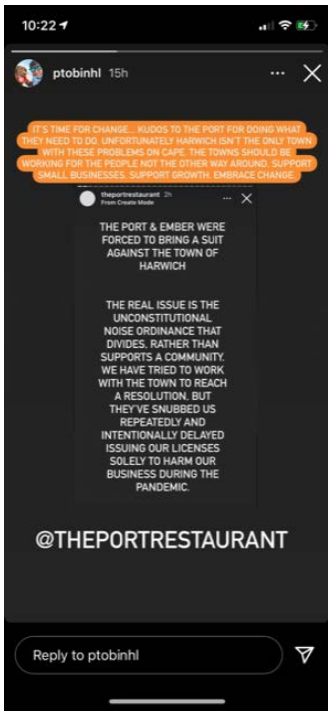
"THEY TOOK THE RISK, THEY WORKED SO HARD TO ACHIEVE SUCCESS, AND LIKE ALL TO OFTEN IN THIS WORLD TODAY, WHEN SOMEONE ACHIEVES THAT SUCCESS, SOMEONE SURFACES TO TRY TO TEAR THEM DOWN. THAT'S WHAT THIS IS ABOUT AND IT'S SAD. I'M CONFIDENT THE TOWNS TIME AND RESOURCES COULD BE FAR BETTER SPENT, AND HOPEFUL THEY WILL COME TO THEIR SENSES AND PROTECT SMALL BUSINESSES AND GOOD JOBS IN THE COMMUNITY, NOT TRY TO TEAR THEM DOWN IN THE MOST DIFFICULT TIMES IN THIS GENERATION."

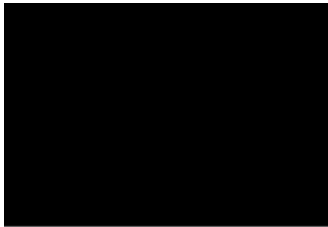
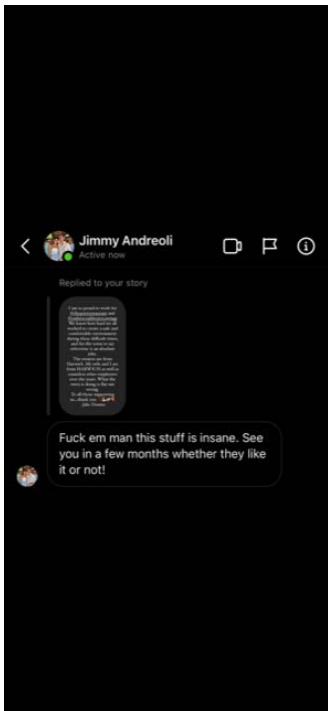


THEY TOOK THE RISK. THEY WORKED SO HARD TO ACHIEVE SUCCESS, AND LIKE ALL TO OFTEN IN THIS WORLD TODAY, WHEN SOMEONE ACHIEVES THAT SUCCESS, SOMEONE SURFACES TO TRY TO TEAR THEM DOWN. THAT'S WHAT THIS IS ABOUT AND IT'S SAD. I'M CONFIDENT THE TOWNS TIME AND RESOURCES COULD BE FAR BETTER SPENT, AND HOPEFUL THEY WILL COME TO THEIR SENSES AND PROTECT SMALL BUSINESSES AND GOOD JOBS IN THE COMMUNITY, NOT TRY TO TEAR THEM DOWN IN THE MOST DIFFICULT TIMES IN THIS GENERATION.'

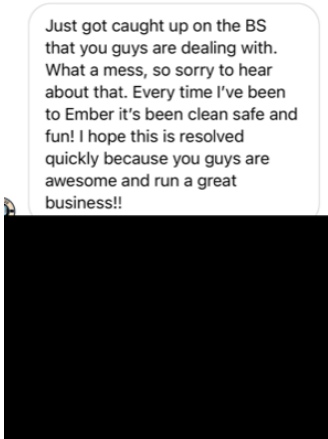








10:32 AM



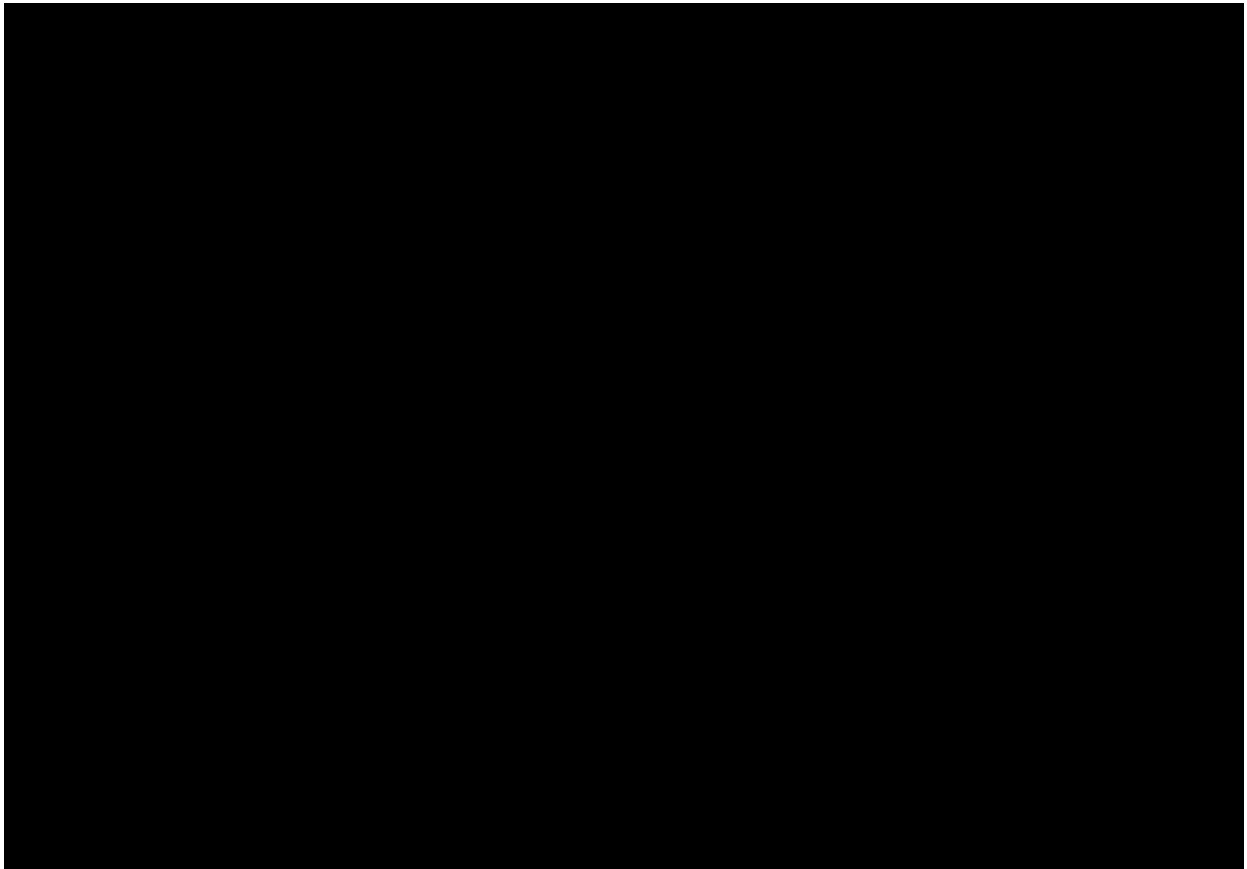


10:37 AM

Replied to your story



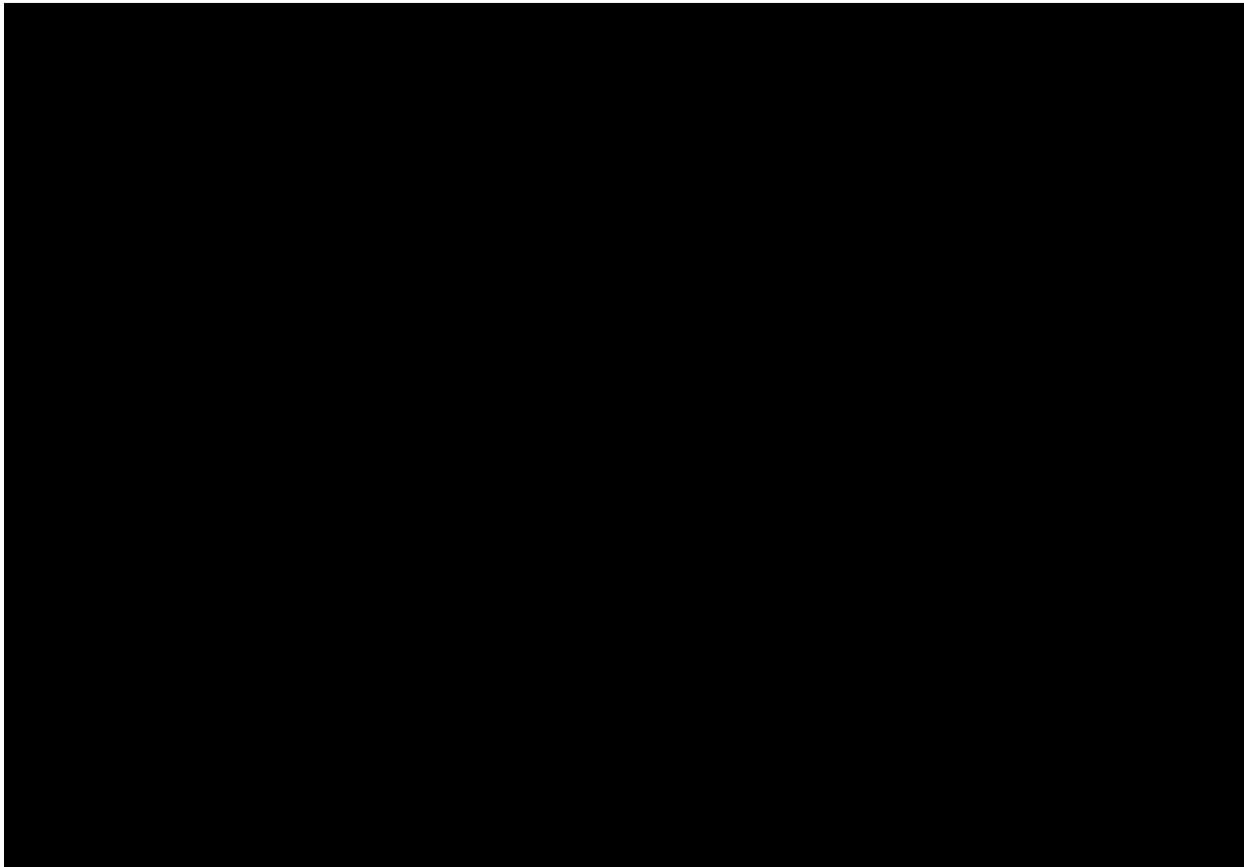
I can't believe what the town is doing. We've emailed Larry expressing our full support of both the Port and Ember. Both are essential to our town and really looking forward to working for such an awesome community. Let us know any other ways we can support you!!!

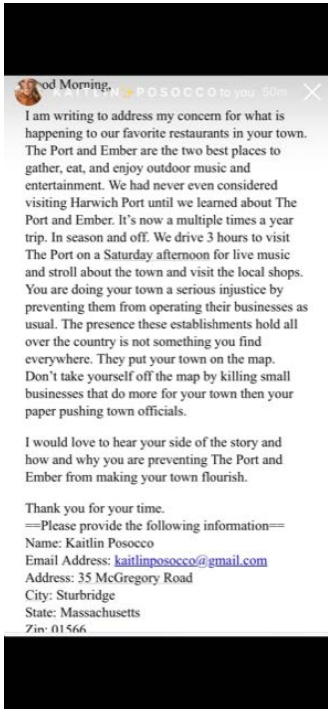
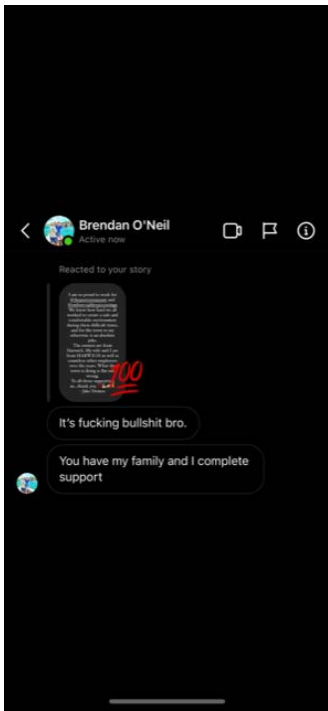


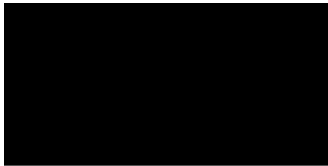
10:50 AM



The Port is the heart of Harwich!  
I've made some of the greatest  
summer friends at the port in the  
last few years and I can't imagine  
Harwich without a night at the  
port. Last year I felt so  
comfortable and safe during the  
peaks of covid, the staff and  
owners have their customers top  
of mind.





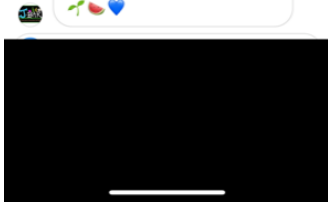


11:30 AM

Replied to your story

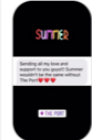


The town can be so disrespectful to us small businesses !! Its unreal ..Cant they see we make up the town - you guys are landmarks here - thanks for being such great neighbors to J.Bar ...we support you always

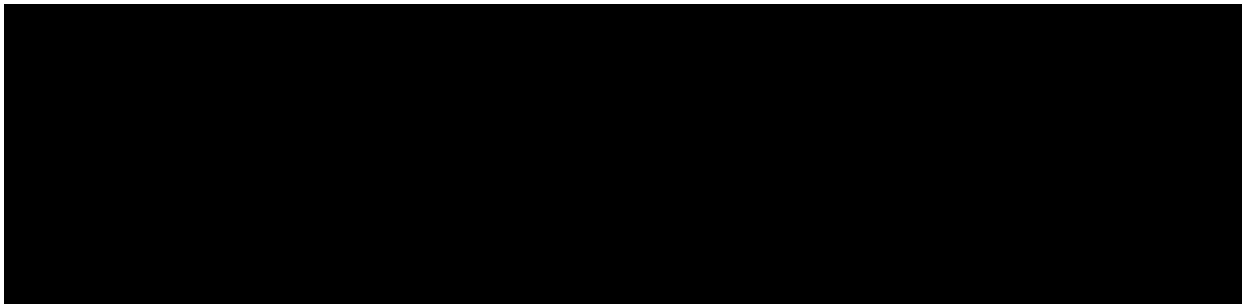


11:47 AM

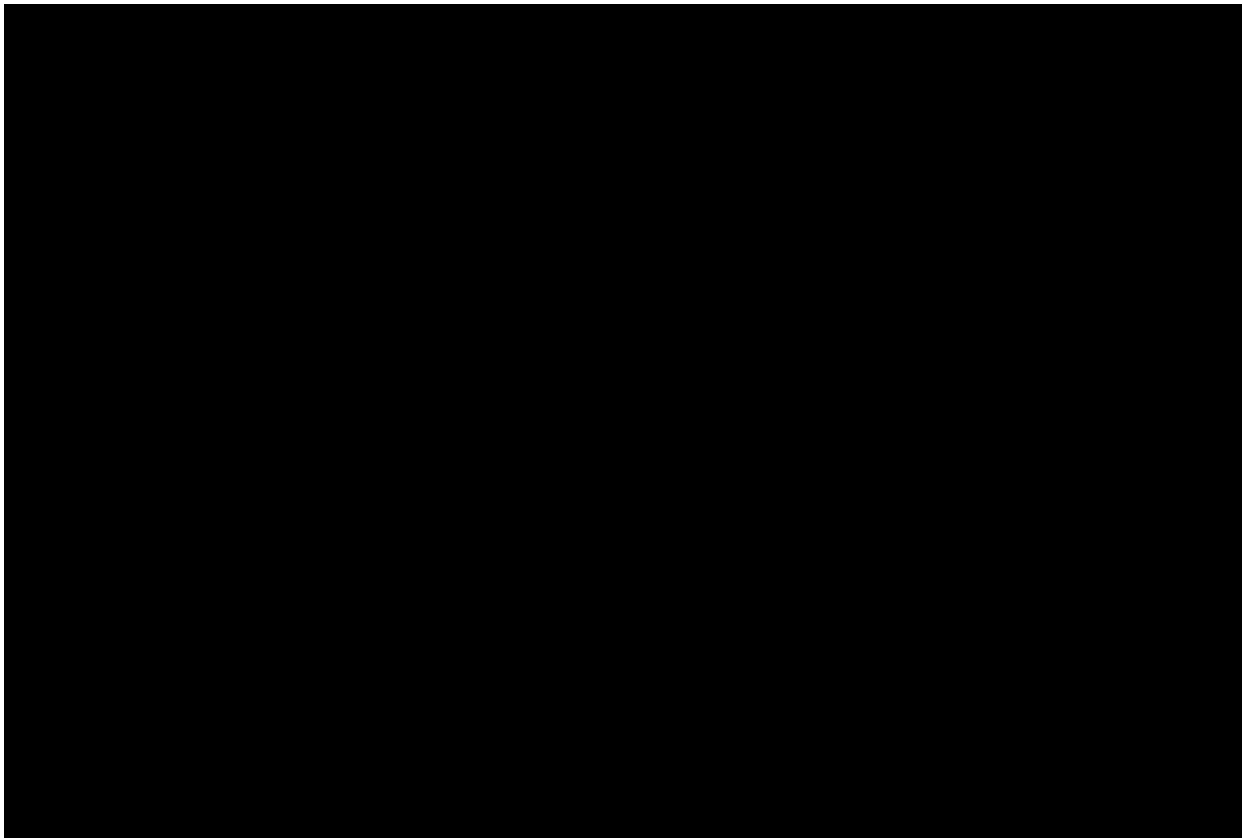
Replied to your story



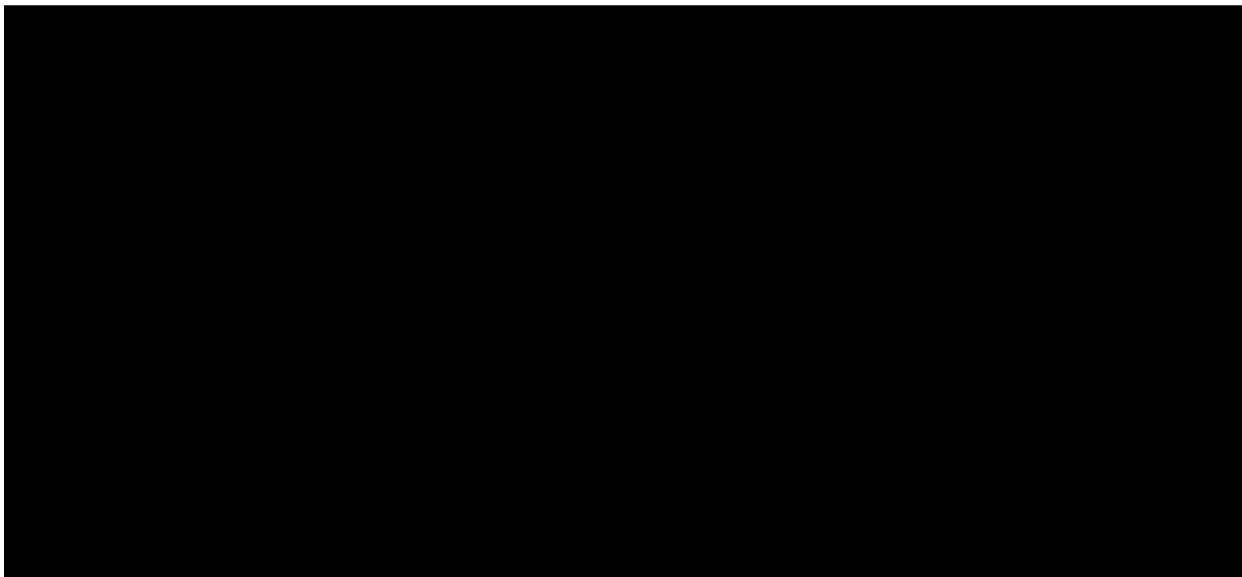
the two best bars in the entire state, counting down the days until opening night! thank you for making it such an awesome spot!







Let us know anything else we can do.  
Values in the town are up huge and the  
downtown restaurant / music scene has a  
lot to with it

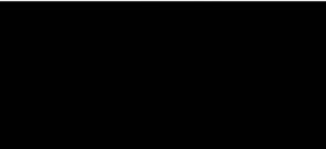




I am writing to address my concern for what is happening to our favorite restaurants in your town. The Port and Ember are the two best places to gather, eat, and enjoy outdoor music and entertainment. We had never even considered visiting Harwich Port until we learned about The Port and Ember. It's now a multiple times a year trip. In season and off. We drive 3 hours to visit The Port on a Saturday afternoon for live music and stroll about the town and visit the local shops. You are doing your town a serious injustice by preventing them from operating their businesses as usual. The presence these establishments hold all over the country is not something you find everywhere. They put your town on the map. Don't take yourself off the map by killing small businesses that do more for your town than your paper pushing town officials.

I would love to hear your side of the story and how and why you are preventing The Port and Ember from making your town flourish.

Thank you for your time.



Sent from my iPhone

**From:** Brackett  
**To:** Raymond Tomlinson  
**Subject:** 145-168  
**Date:** Friday, March 26, 2021 10:20:58 AM  
**Attachments:** IMG\_1066.PNG  
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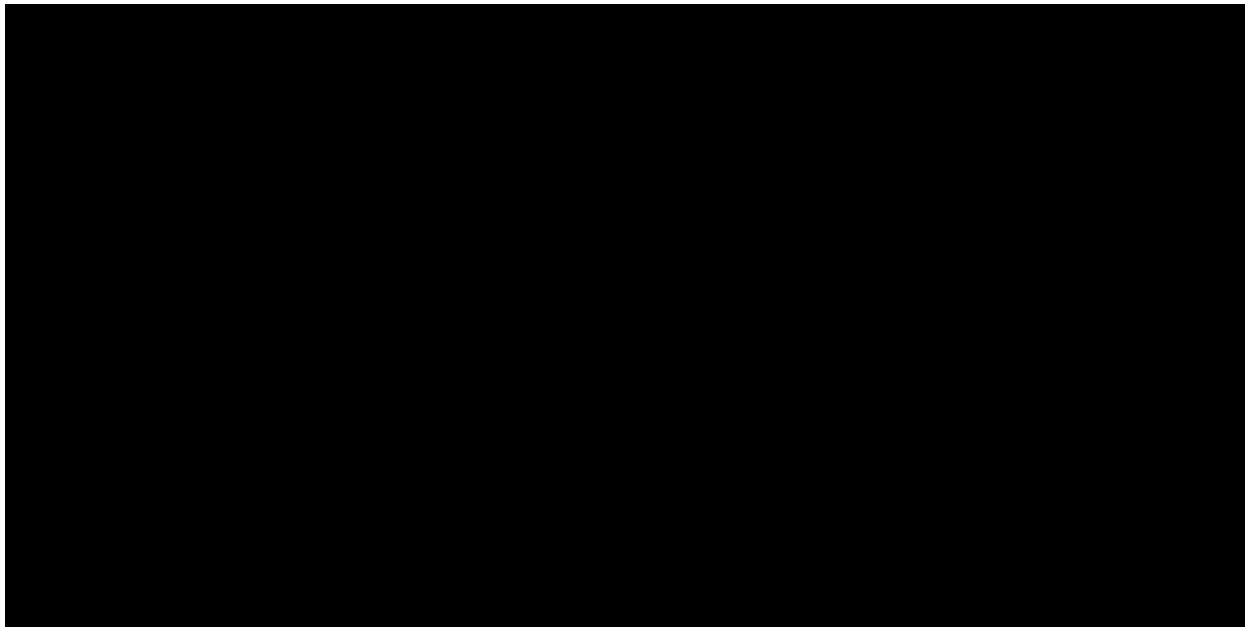


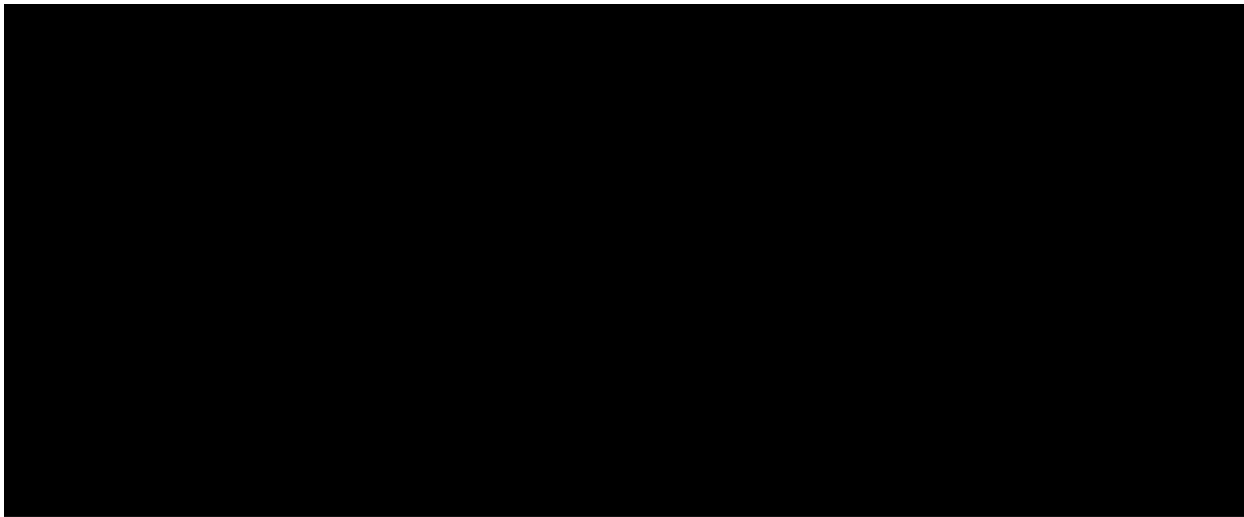
12:06 PM

Replied to your story



#FreeThePort favorite restaurant out there ❤️

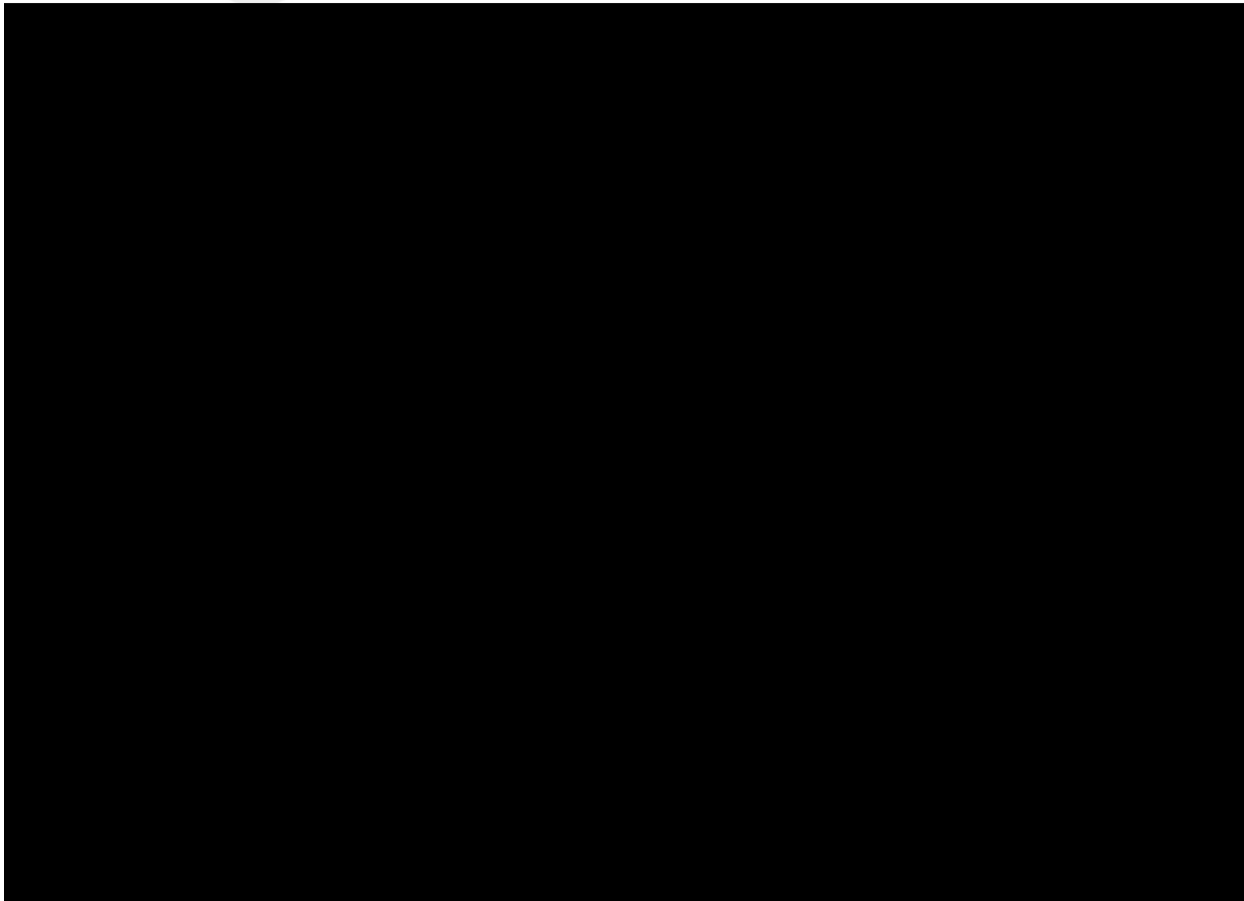




12:16 PM



This is blowing up in your favor!!!  
Yes!!! Way to go!!

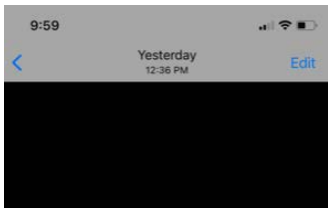




I am writing this on behalf of The Port & Ember after hearing of recent news going on with their licenses getting suspended due to lack of COVID regulations.

My family stayed in Welfleet this summer, but because the Port & Ember have become such staples in our summer tradition, we willingly drove 45min+ each way to visit the restaurants during our stay. My sister & cousin are both ICU nurses in Boston, working on the front lines throughout this pandemic. During our meals at the Port (back tent outside) and by the fire pit at Ember, they both called out how above & beyond the staff at both restaurants were going in order to ensure they were following protocol. My sister in law was pregnant, and therefore high risk. She also mentioned how the Port was one of the only restaurants she went to all summer where she truly felt comfortable & safe.

I can only speak to my personal experience, but to have 3 separate family members make a point to say how well both restaurants handled such uncharted territory should be a pretty good sign as to how these hardworking teams responsibly navigated an incredibly difficult summer. All so that people like US were able to make the trip to Harwich

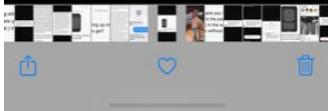


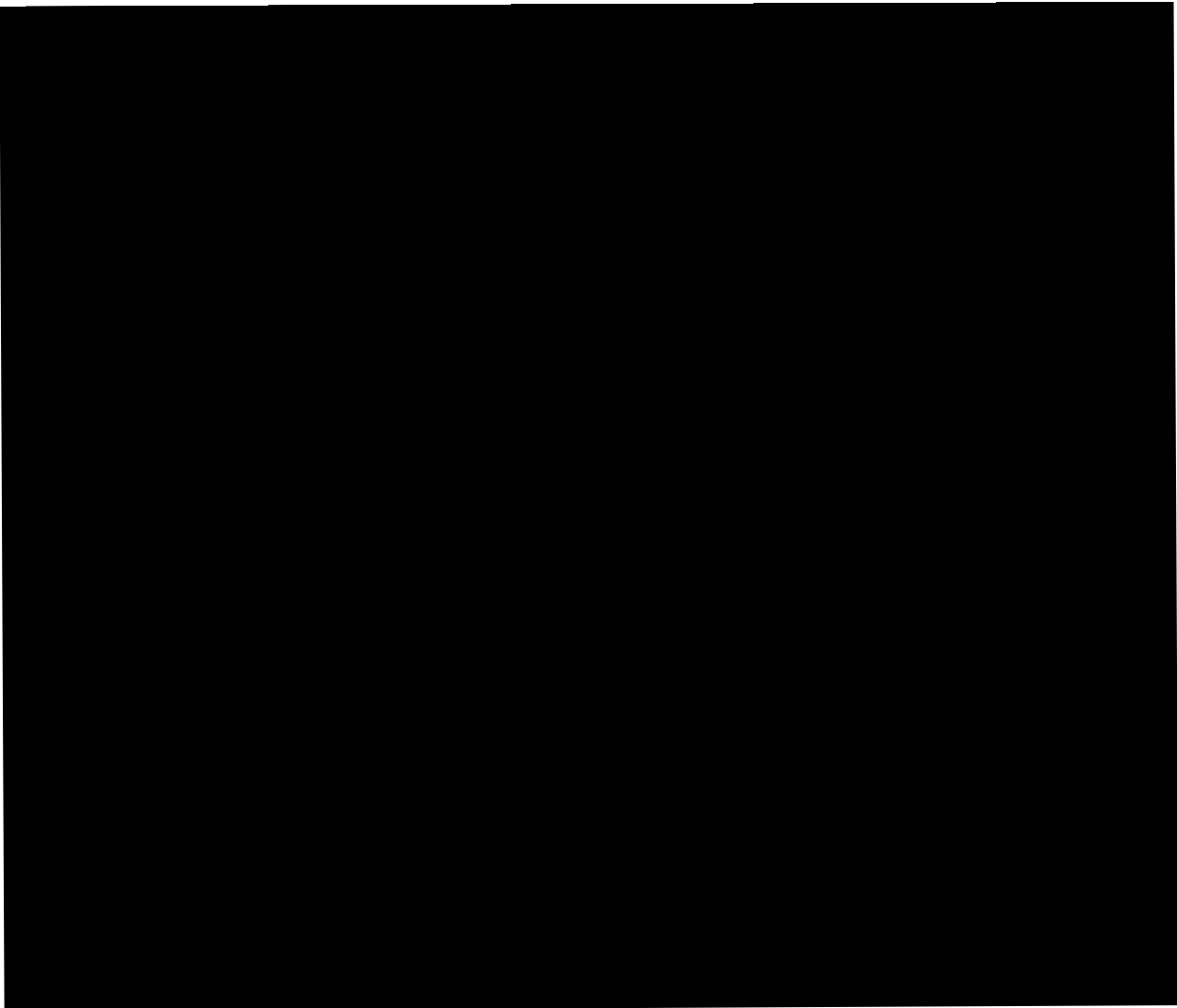
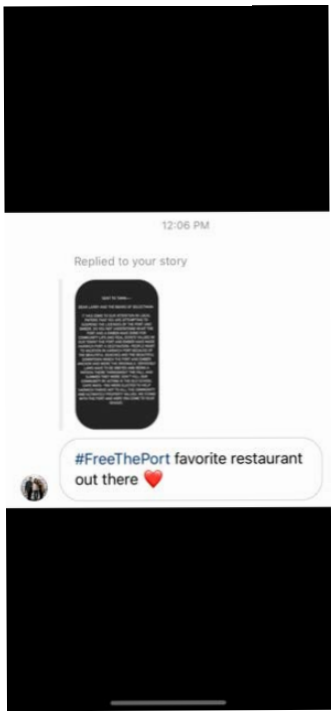
12:06 PM

Replied to your story



#FreeThePort favorite restaurant out there ❤️





Will do - thank you for the info!  
We frequent the port and ember  
every week in the summer - can't  
imagine life without you!





Will do - thank you for the info!  
 We frequent the port and ember  
 every week in the summer - can't  
 imagine life without you!

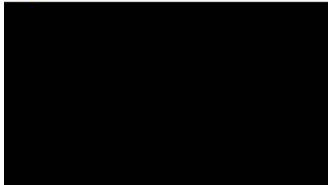


WE GREW UP IN  
 HARWICH. WE EMPLOY  
 UPWARDS TO 150 PEOPLE  
 IN HARWICH. WE HAVE  
 INVESTED COUNTLESS  
 HOURS AND MILLIONS OF  
 DOLLARS INTO OUR  
 TOWN. WE ARE PROUD OF  
 THE RESURGENCE OF  
 HARWICH PORT.

WE APPRECIATE ALL THE  
 SUPPORT WE HAVE BEEN  
 GETTING. YOUR EMAILS,  
 TEXTS, AND MESSAGES  
 MEAN SO MUCH TO US.

THANK YOU.

I wouldn't vacation in Harwich  
 Port if it weren't for you, let us  
 know how we can support!





1:02 PM

Truly cannot believe what I am reading about what the town of Harwich is doing to our favorite restaurants, The Port & Ember. We are extremely fortunate to be able to spend the majority of our summers on the Cape. With that being said, our favorite restaurants are these two, not only is the food, drinks and ambiance amazing but the staff is what truly makes it superb. They go above and beyond to provide each customer top notch service while making you feel like part of the family. During such a tough year for establishments, this is the time to come together. Thank you guys for standing up for what is right, you have our full support and we will do whatever we can to help. #FreeThePort  
-The Desrosena's



I'm writing to support the local establishments of both the Port & Ember. I've frequented both locations numerous times since their inception. Additionally I recall what preceded them. Both establishments have led to an increase in consumerism and tourism within Harwich.

I strongly encourage the town to re-evaluate their stance on both locations. The Port was critical in establishing the burgeoning restaurant scene in Harwich. The Port's well-known brand has driven increased traffic from patrons throughout the Cape. Traffic that has not only supported The Port, but numerous other businesses as well. The town has been a direct beneficiary of the attention the Port has attracted. The vibrant nature of the town has been most influenced by The Port. Consequently, increased attention to the town has directly contributed to higher property values and this is in no small part a reflection of The Port's contribution to the community.

The Ember property was previously a revolving door of restaurants such as Luscious Louie's. Ember established a friendly, largely year-round restaurant that catered to droves of excited patrons.

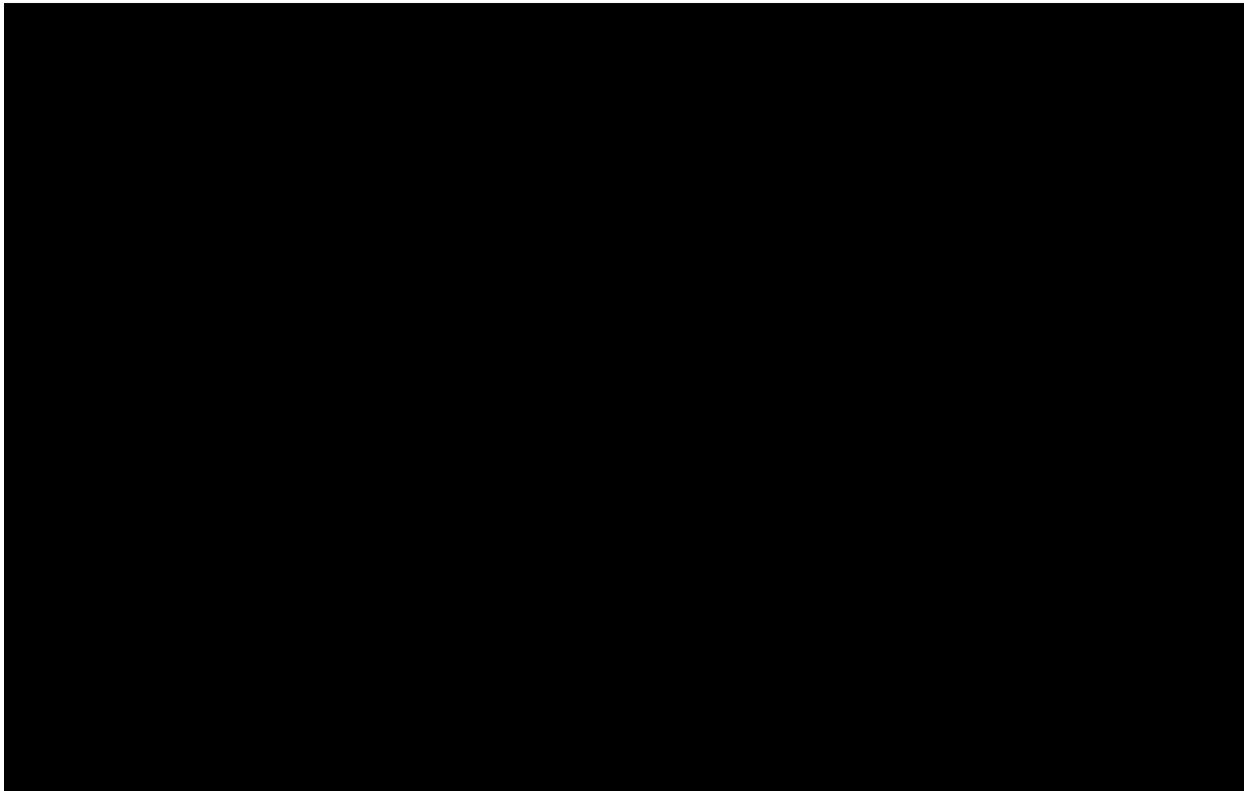
Withholding, suspending or removing the liquor licenses for these establishments would essentially be a death sentence for these businesses. I think that is unacceptable, particularly given their contribution to the community over the better part of the last two decades. It is misguided and frankly condemnable to punish a business in this way particularly given the sad number of businesses that have had to shuttered in direct response to COVID-19. Especially unfortunate is the town's prerogative towards a business and family that has long standing roots within Harwich.

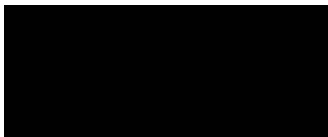
I urge the town to reconsider their current course of action and with an open-mind hear the opinions and voices of the community, many of whom strongly support The Port & Ember.

1:23 PM

I 100% support the port! You guys are the reason why I drive

down to cape whether it's summer or December. Always had the best customer service here, they went well beyond exceptions. Can't forget about one of the best mudslides ever. Also, the port is the main reason why I stay in Harwich. If there is no port, then there's no tourism in the Harwich. Love this place

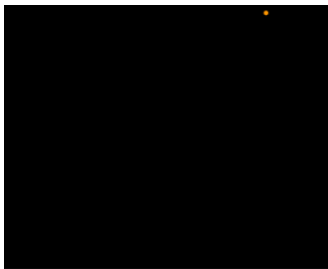




**NO ABCC FINDINGS OR  
REPORT RELATED TO  
COVID VIOLATIONS AT  
EMBER**

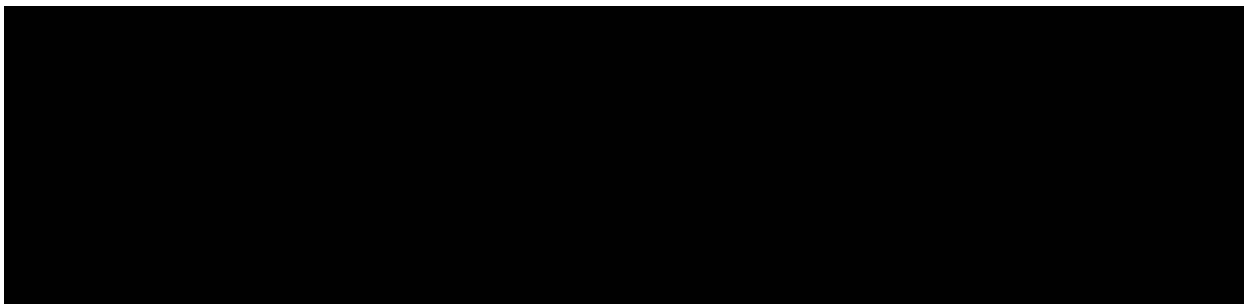
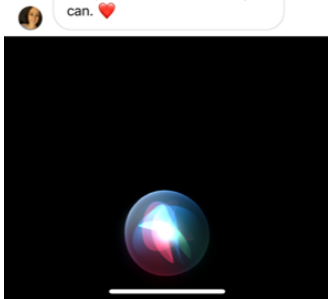
"We visited every liquor establishment in Harwich Port both evenings, undercover and overtly," Binienda said.

**DESPITE WHAT HAS  
BEEN WRITTEN  
LOCALLY IN THE  
PAPERS**



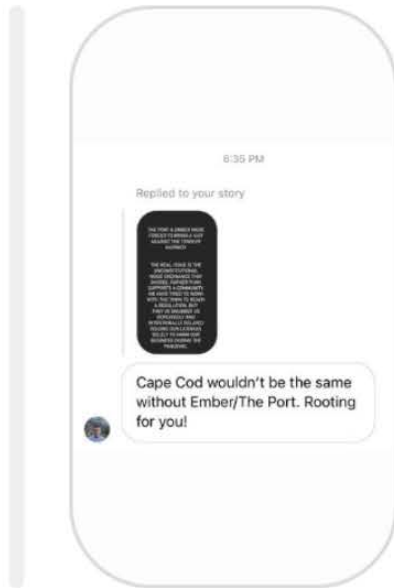
1:27 PM

We love the Port and will always back you guys! Not only do you give us a great place to go but also have awesome staff and always accommodate when you can. ❤️

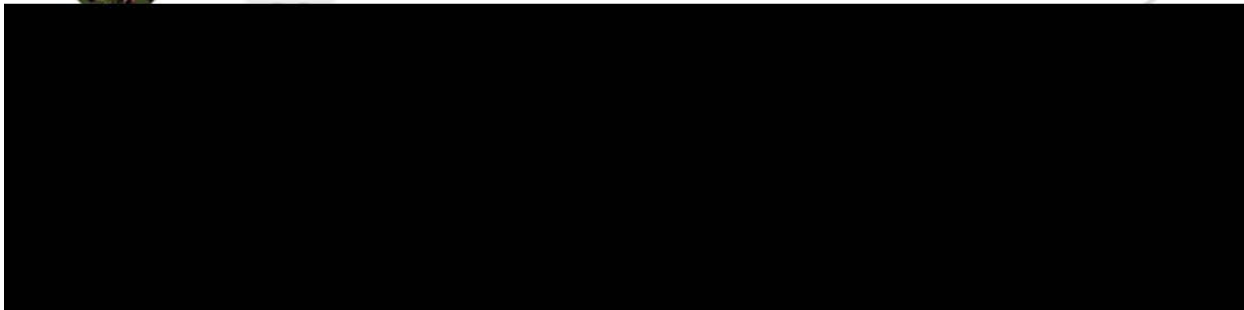




Replied to your story



The jewel of Harwichport!The P  
❤️ rt



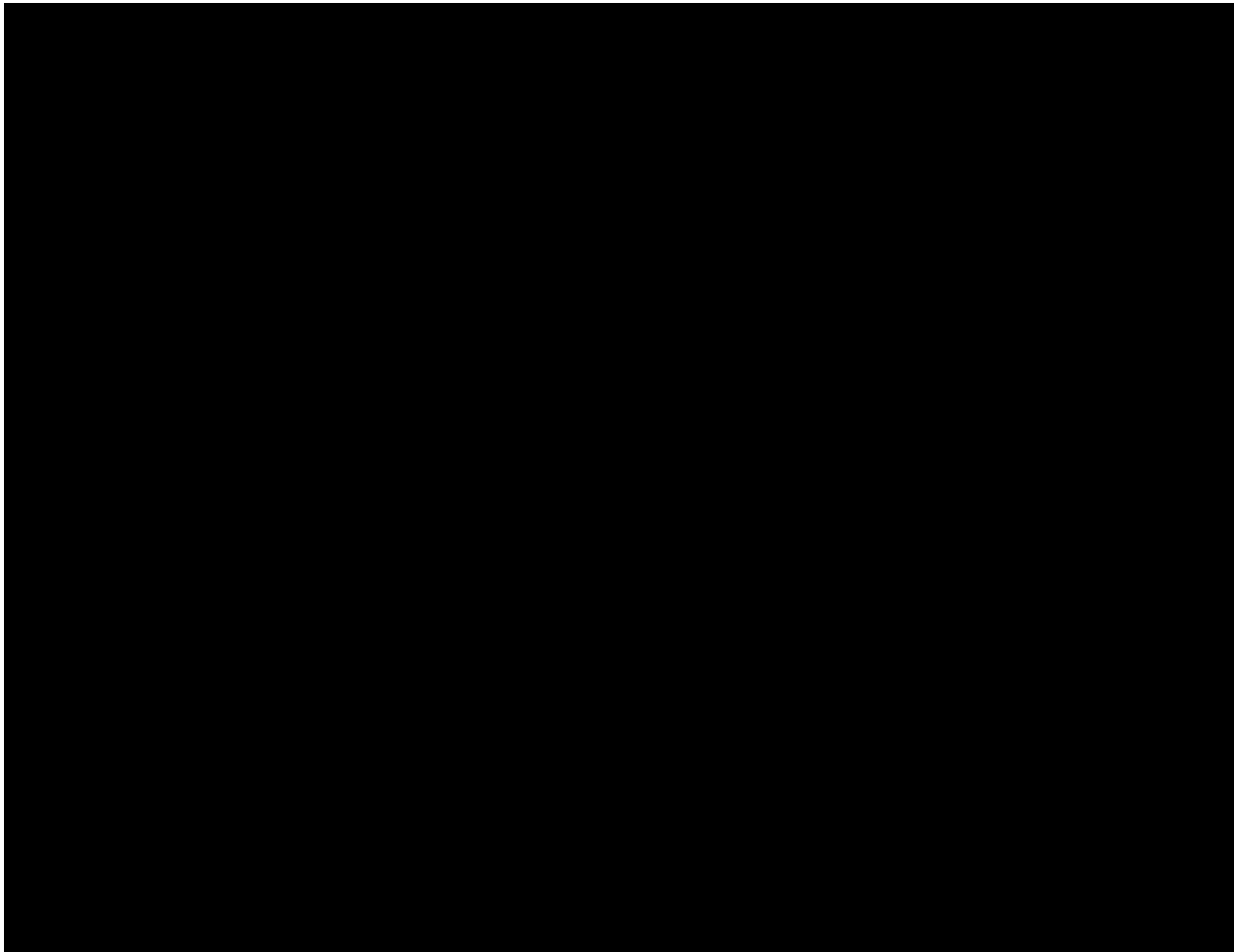


Today 10:02 PM

Hey thinking of you guys right now. Everyone worked so incredibly hard this summer to follow the changing protocols and you were at the forefront of those efforts. I think what you're doing is great and I admire how hard you are working on behalf of your staff, family, and customers. I look forward to another amazing summer working for and with you. See u soon! Karen's on the lose!

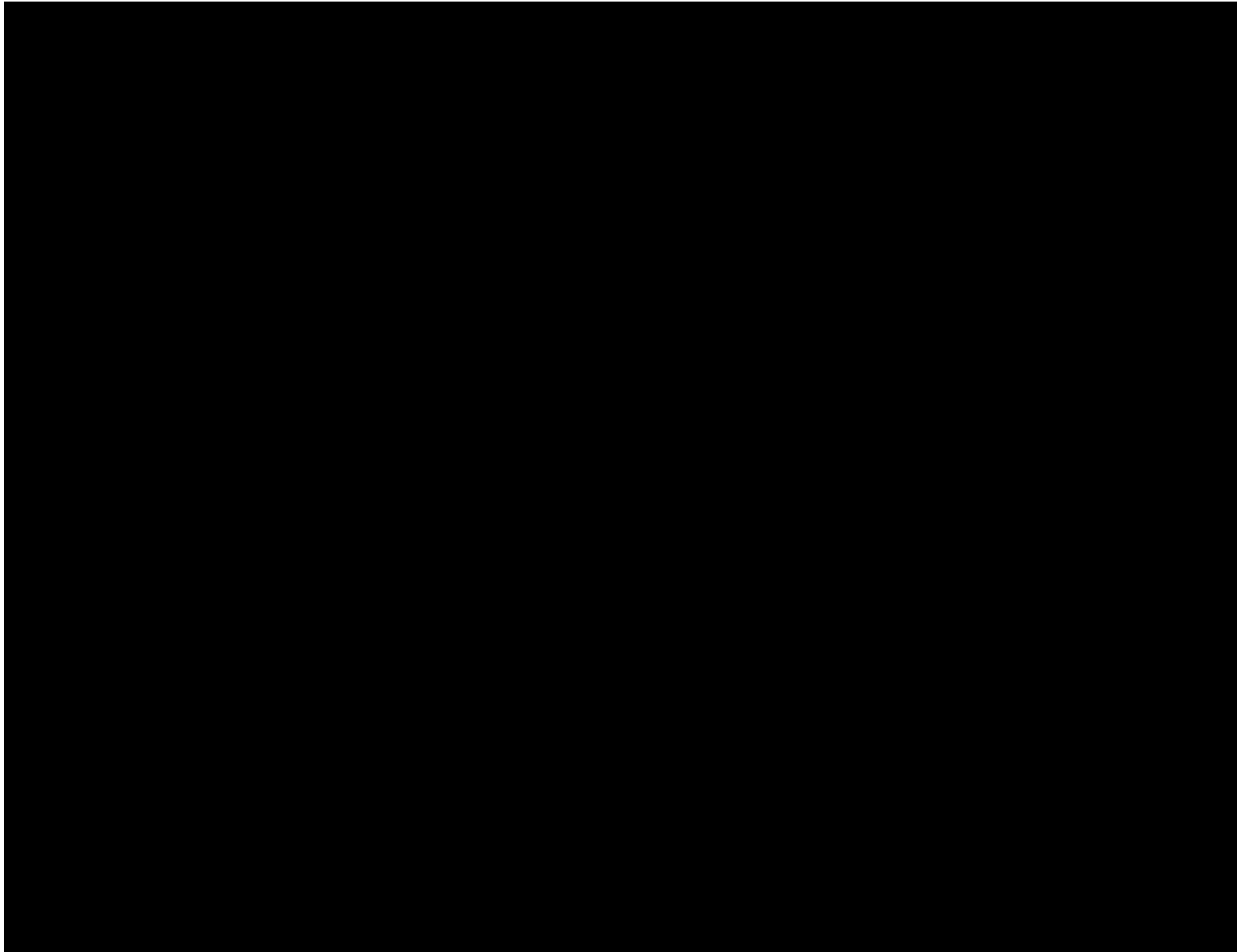


Hey Judd just figured I'd shoot you a text and say my family and I are praying and are so pissed about what's going on . My dads family has lived in harwich port since 1950 and nothing has compared to those two restaurants . I have faith you guys will win this battle ! Thank you for all the years you employed me at ember you and Griff are easily the best owners I've worked for! Can't wait till this thing gets settled ... much love to the family !!!



5:02 PM

The Port and Ember are one of the reasons we have been trying to buy property in Harwichport! We have frequented both establishments last year and so no violations. Your staples on the Main Street. This is very sad to hear! Good luck 🍀







Replied to your story



We recently purchased/renovated a home in Harwich Port - having The Port & Ember in walking distance from our house was a huge selling point!! We LOVE both restaurants - Harwich Port would not be the same with out you!!!

Prior to restaurants being open we so appreciated weekly delicious take out from The Port w/ hand written thank u notes & when we were able to dine in we always felt comfortable & safe eating at both restaurants!!!

It would be hard to image the lovely town of Harwich Port with these 2 establishments!!!!

We support you ❤️❤️❤️



6:59 PM

Absolutely my families two favorite restaurants on Cape Cod! The Brackett brothers and their amazing staff have brought Life to Harwich center!! Without these two restaurants the town will see a huge decline in visitors over the summer!! My family has a business in the Port and their business sees a huge increase once the Port and Ember are open!! It is really sad to see what is happening to two amazing business men who have created a huge business driven by so many locals and visitors to the Port!!

We stand behind you, support you and will do whatever you need to fight for your business !!



I AM WRITING ON BEHALF OF THE PORT AND EMBERS AND THE UNFORTUNATE NEWS THAT HAS FALSIFIED ABOUT THESE ESTABLISHMENTS. HAVING VISITED THE CAPE MY WHOLE LIFE I CAN HONESTLY SAY THAT HARWICH PORT WOULD NOT BE THE DESIRABLE DESTINATION IT IS TODAY WITHOUT THOSE 2 GREAT RESTAURANTS. THE LIVE MUSIC HAS ATTRACTED VISITORS FROM ALL OVER THE CAPE TO COME SPEND MONEY IN HARWICH. WHAT WAS ONCE A TOWN THAT YOU USE TO JUST DRIVE THROUGH TO GET TO CHATHAM, IS NOW THRIVING AND BRINGING IN NEW BUSINESS AND ADDITIONAL RESTAURANTS AND BARS. I REMEMBER THE DAYS BEFORE EMBERS WHEN EVERY SUMMER WE WOULD GUESS TO SEE WHAT NEW NAME WAS SLAPPED ONTO THAT PRIME PIECE OF PROPERTY IN HARWICH PORT. IT WAS A JOKE HOW MANY BUSINESSES FAILED TO SUCCEED IN THAT LOCATION.

'WHAT THE BRACKETT'S HAVE DONE THERE IS EXACTLY WHAT OTHER TOWNS WISH THEY HAD THE SPACE AND OPPORTUNITY TO DO AS WELL. IT'S FRANKLY SHOCKING THAT ANYONE WHO OWNS PROPERTY IN THAT TOWN WOULD EVER WANT ANYTHING EXCEPT SUCCESS FOR THESE 2 RESTAURANTS BECAUSE YOUR PROPERTY VALUES HAVE EXPLODED IN THE LAST 5-10 YEARS. HOMES WERE SELLING OVER ASK IN A MATTER OF HOURS LAST YEAR AND FOR ANYONE TO THINK YOU'D HAVE THAT SAME CRAZY DEMAND WITHOUT A THRIVING AND VIBRANT DOWNTOWN IS JUST NOT A LOGICAL HUMAN BEING.'

THE OWNERS AND THE STAFF OF THE PORT AND EMBERS TAKE COVID VERY SERIOUSLY. I WITNESSED IT FIRST HAND LAST SUMMER WHEN ALL RESTAURANTS WERE TRYING TO NAVIGATE THESE UNCHARTED WATERS. MY FAMILY AND FRIENDS FREQUENTED THE PORT AND EMBERS MULTIPLE TIMES A WEEK AND WERE CONSTANTLY IMPRESSED WITH THE WAY THE STAFF KEPT THE CUSTOMERS SAFE. THEY WERE CONSTANTLY CLEANING AND SANITIZING AND NEVER ONCE DID I SEE ANYONE WITHOUT A MASK. I HOPE THE TOWN SERIOUSLY CONSIDERS THE IMPACT OF PENALIZING THE 2 MOST POPULAR PLACES IN HARWICH. JUST WHEN WE ARE FINALLY STARTING TO SEE A LIGHT AT THE END OF THIS COVID TUNNEL.'



Love you guys! We totally 100% support you. Harwich Port needs YOU more than you need them.

Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 169-193  
**Date:** Friday, March 26, 2021 10:21:43 AM  
**Attachments:** [IMG\\_1095.PNG](#)  
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iMessage  
Today 9:44 PM

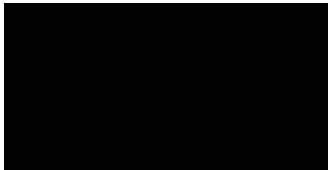
Hey Griff we are so sorry to hear about what you guys are going through. Over the past 10+ years our family always looks forward going "where everyone knows your name" and always feels comfortable and safe. Not sure what we can do to help, but if there is a petition or something going around we will always support you guys. Don't hesitate to reach out if there is anything we can do. Hang in there we hope this is behind you soon.



"Where Everybody Knows Your Name"...a slogan from Cheers but couldn't ring truer for The Port & Ember. Not a summer goes by where rushing down the Cape and settling in on The Port deck to a nice cold Whales Tale and watching friendly and familiar faces come and go isn't the remedy to a long work week. It's in the subtleties The Port excels, from the look the bartender gives you when they sense you need replenishment to an ice cold tray of oysters bringing a group together, the experience is unparalleled. As we've come to learn this year mainstays are the cornerstone of the community. So let's move on, pour a cold beer and enjoy a warm breeze in the back of The Port deck. After all...it's the little things in life...

\* also felt safe and never in-doubt of Covid protocol anytime we dined there this summer\*

Hey Judd, read the article in the Chronicle of what's been going on with you guys and the town. Any chance you would like for me to speak at a hearing about how important your restaurants are to the local economy let me know. Just want to let you know you have our support  
Be well  
Steve

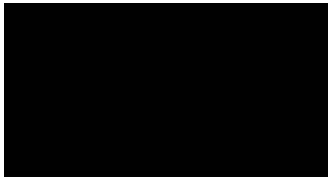


**Eddie Gallagher**  
@EddieGallagher

Replying to @insta\_eich

The selectmen influenced by a couple of people in authority who aren't necessarily friendly to the Bracketts are threatening to take away liquor licenses from both restaurants. There is usually a process involving written warnings and temporary closures which hasn't happened.

6:58 AM · 3/25/21 · Twitter for iPhone



Yesterday, 10:52 PM

Replied to your story



as a bartender memorial day weekend I can reaffirm every word of this, scott & the whole ember staff made safety our #1 priority





6:21 AM

Replied to your story



If you were so loose with covid rules, wouldn't there be multiple reports of outbreak there?

Shit like this is what gives government a bad name.

We stand behind you, consider running for selectman to end the town bowing down to a few wealthy homeowners in the area!



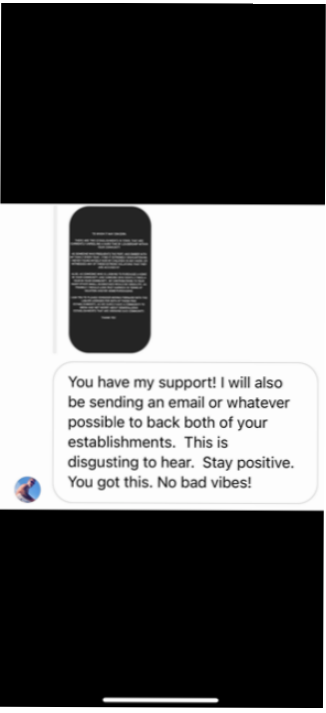
Yesterday, 10:52 PM

Replied to your story



as a bartender memorial day weekend I can reaffirm every word of this, scott & the whole ember staff made safety our #1 priority





**'YOUR DISREGARD FOR  
FAIRNESS IS FLAGRANT.  
THERE'S THE REAL  
MEANING OF THE  
WORD, MR.  
BALLANTINE.'**



'DON HOWELL REFERRED TO THE PORT AS THE GOOSE THAT LAID THE GOLDEN EGG. HE UNDERSTANDS HOW VALUABLE THOSE TWO PLACES ARE TO HARWICH. NOW'S A GOOD TIME TO TAKE A STAND BEHIND THESE FINE YOUNG MEN. TIME TO DO THE RIGHT THING.'

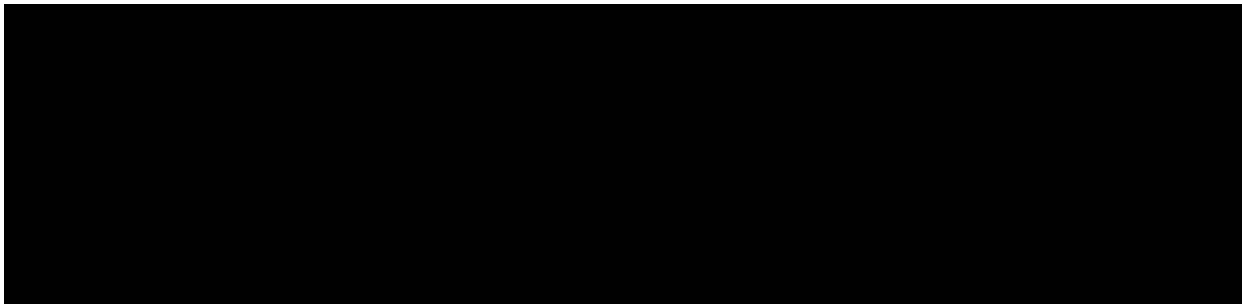


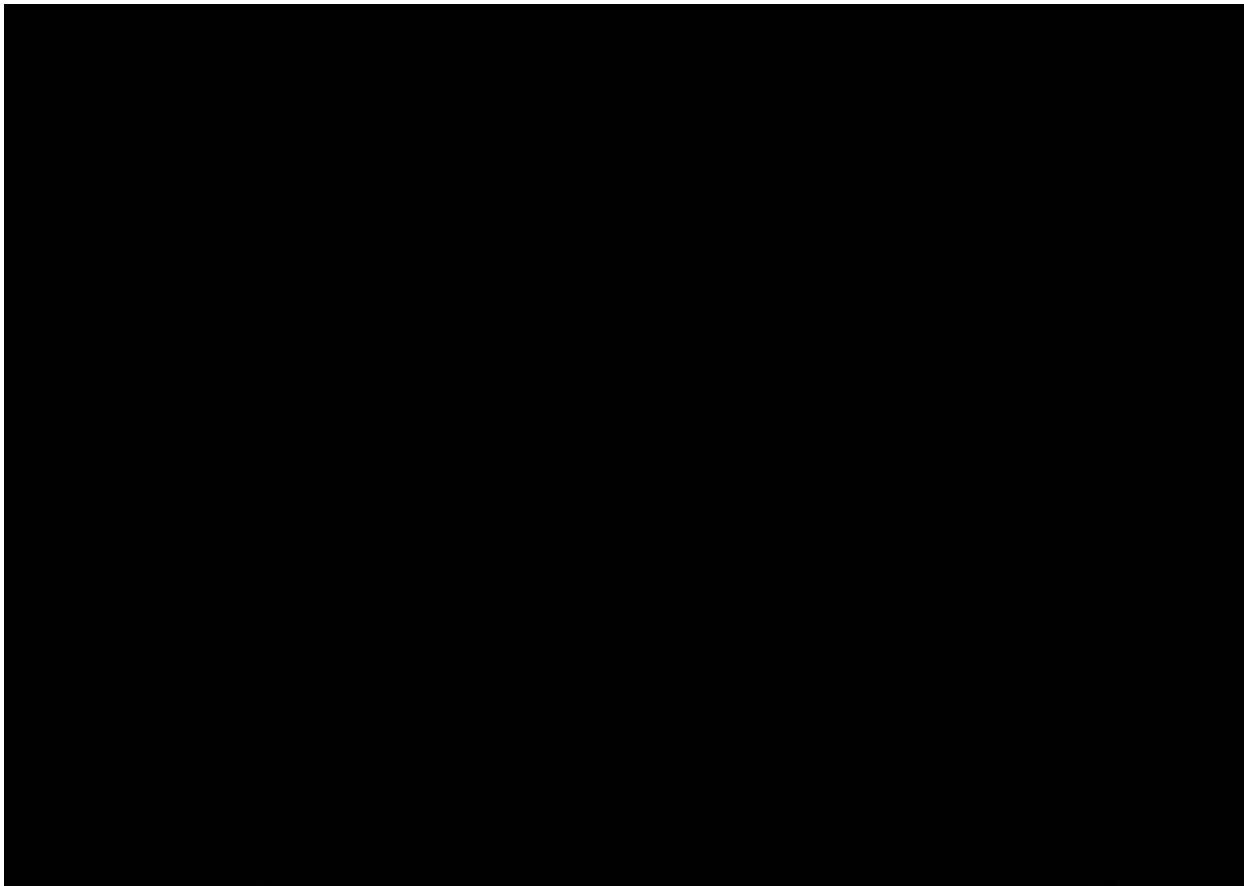
9:14 AM

Replied to your story

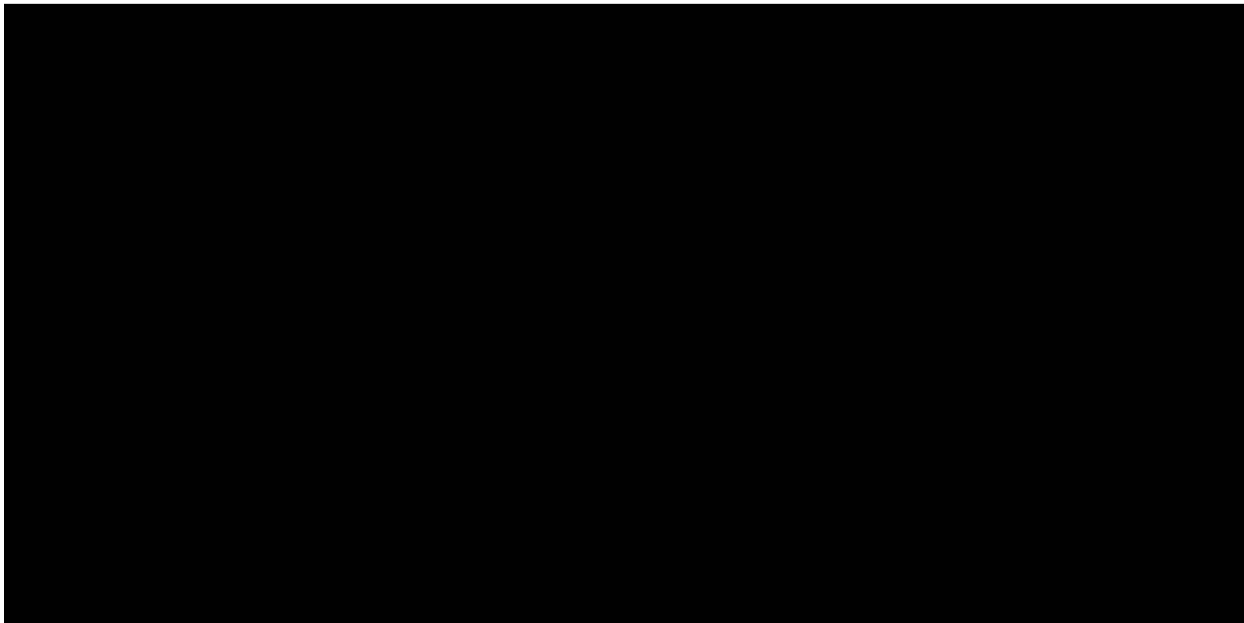


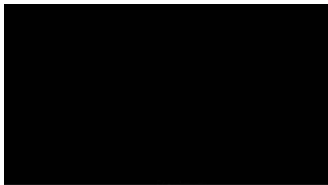
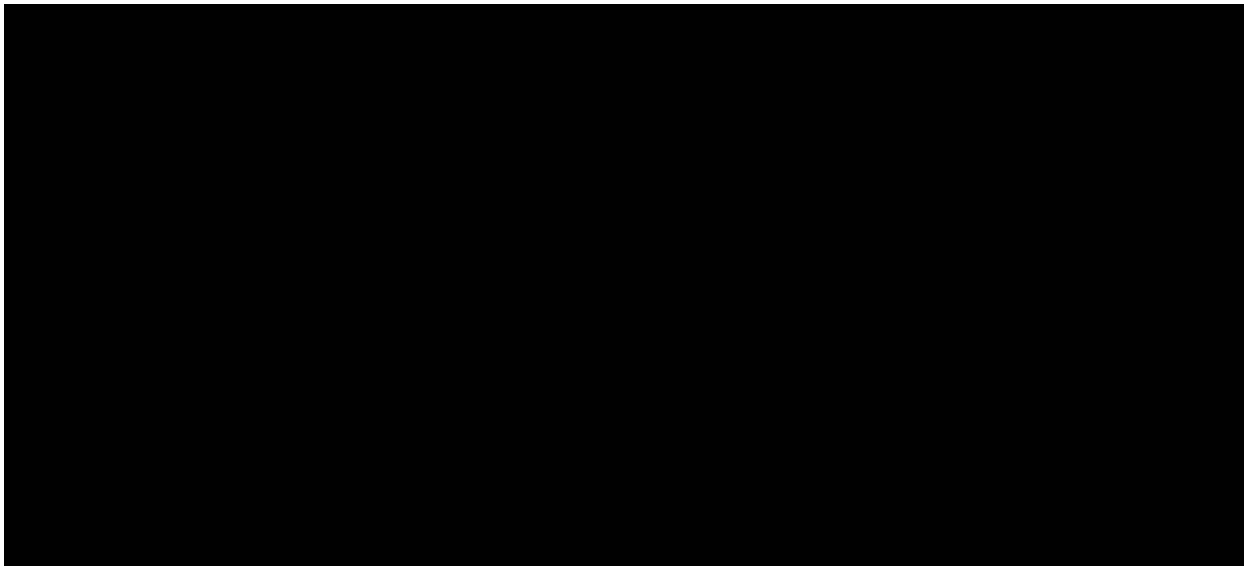
That would be such a sad day what is wrong with the town two of the best restaurants on the cape what can residents do to help





Harwich is irrelevant without Port and Ember. Sad the town doesn't realize what they have.





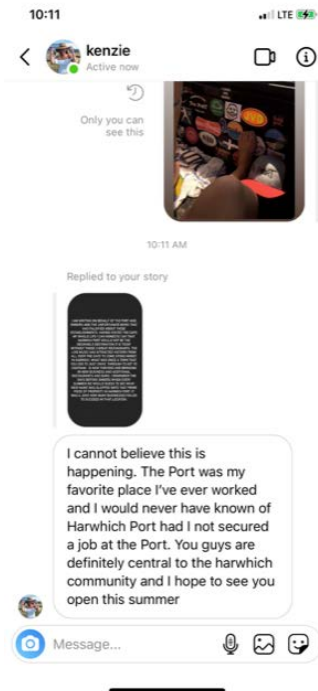
9:49 AM

Replied to your story



Sorry to see this happening to you guys. I love the port and ember, makes HP full of life even during the pandemic brought us some normality over the summer. We are with you!





Submitted on Wednesday, March 24, 2021 - 1:32pm

Submitted values are:

What does this comment regard: Town  
Please include any questions or comments: I have recently heard of the action that the Town of Harwich is taking against two great restaurants, The Port and Ember. I have spent my entire life visiting the Cape and have personally worked for the Brackett brothers, and do not have one negative thing to say about them. Two of my sisters were pregnant this summer and I have another family member who is considered high risk, and The Port and Ember were among the few restaurants that we felt safe dining at. I spent a lot of my summer visiting The Port and Ember and never once felt that they were in violation with the Covid-19 safety protocols. At a time when the community should be coming together to support our local businesses that have struggled for the past year, it would be truly saddening to see additional obstacles thrown their way. I really hope the town thinks long and hard about the decisions ahead and reconsider the action they are taking against The Port and Ember. Thank you!  
==Please provide the following information==  
Name: Christine Gill



What does this comment regard: Town  
Please include any questions or comments: I have recently heard of the action that the Town of Harwich is taking against two great restaurants, The Port and Ember. I have spent my entire life visiting the Cape and have personally worked for the Brackett brothers, and do not have one negative thing to say about them. Two of my sisters were pregnant this summer and I have another family member who is considered high risk, and The Port and Ember were among the few restaurants that we felt safe dining at. I spent a lot of my summer visiting The Port and Ember and never once felt that they were in violation with the Covid-19 safety protocols. At a time when the community should be coming together to support our local businesses that have struggled for the past year, it would be truly saddening to see additional obstacles thrown their way. I really hope the town thinks long and hard about the decisions ahead and reconsider the action they are taking against The Port and Ember. Thank you!



iMessage  
Today 10:42 AM



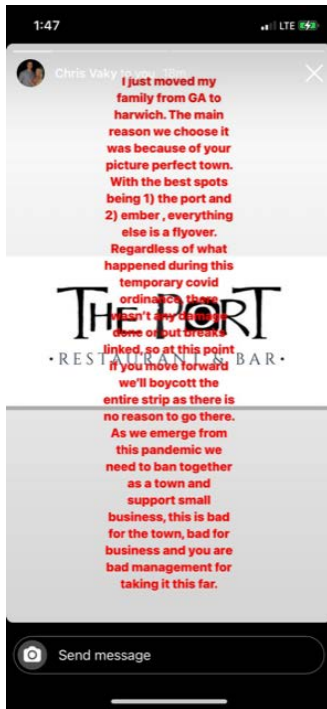
Hey Griff - I've heard about everything happening and I can only imagine you're probably getting flooded with messages from people, but I sent a message through the town form to express my supPORT for you guys and the Port and Ember. Our family loves you guys and you've been so great to us over the years, so just wanted to let you know we're thinking of you!

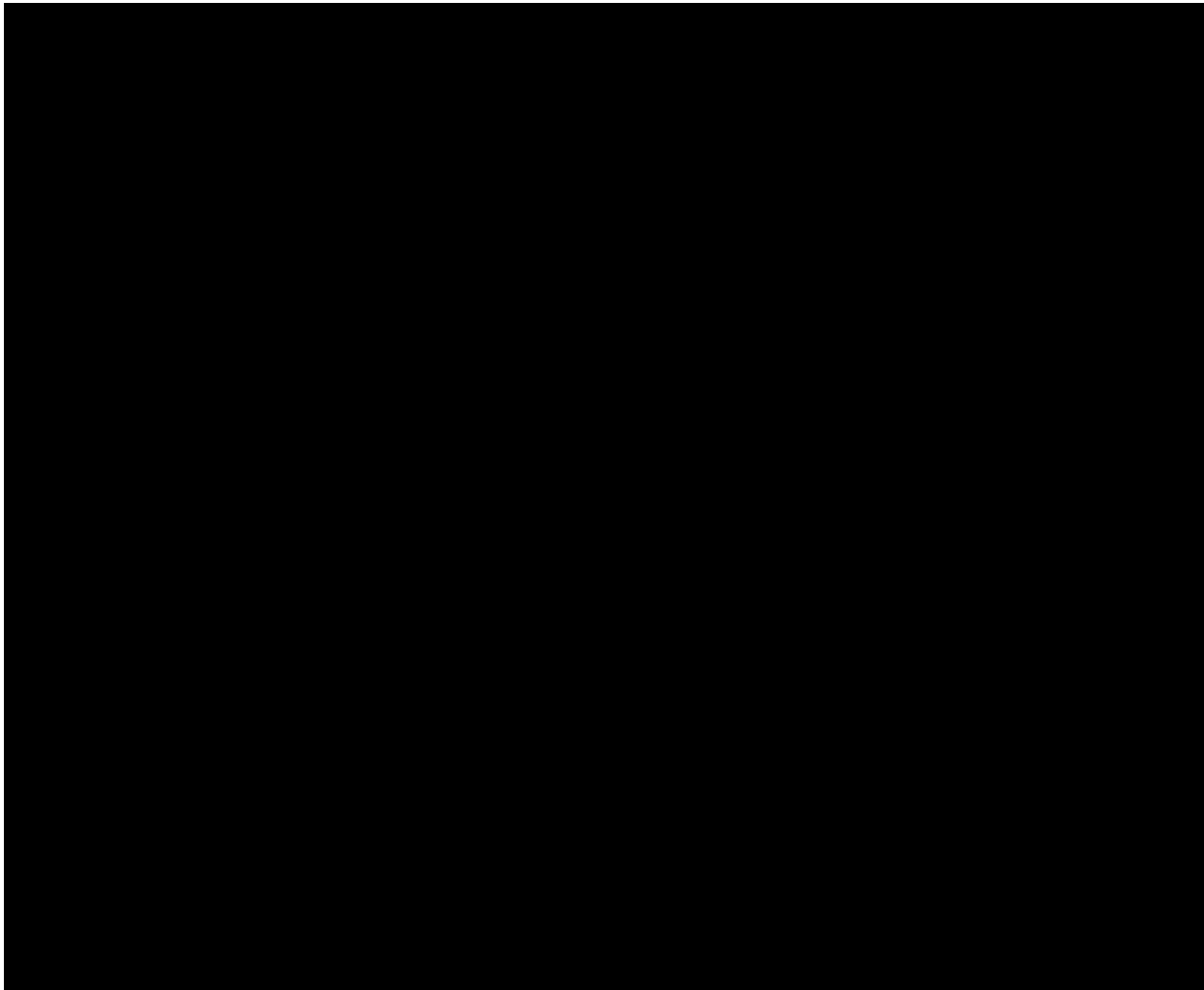
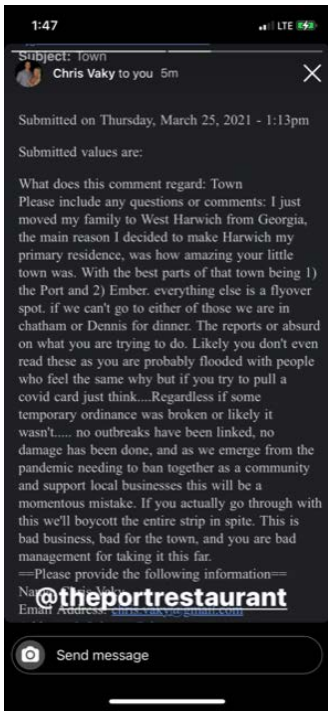


'AS I SAID. THEY DON'T LISTEN TO CONTRARY FACTS.

THERE WAS A CONTRACT PUT OUT ON YOU GUYS. THIS IS A HIT JOB.

PEOPLE NEED TO RESIGN. AND PAY LEGAL FEES. TIME TO CLEAN HOUSE. '



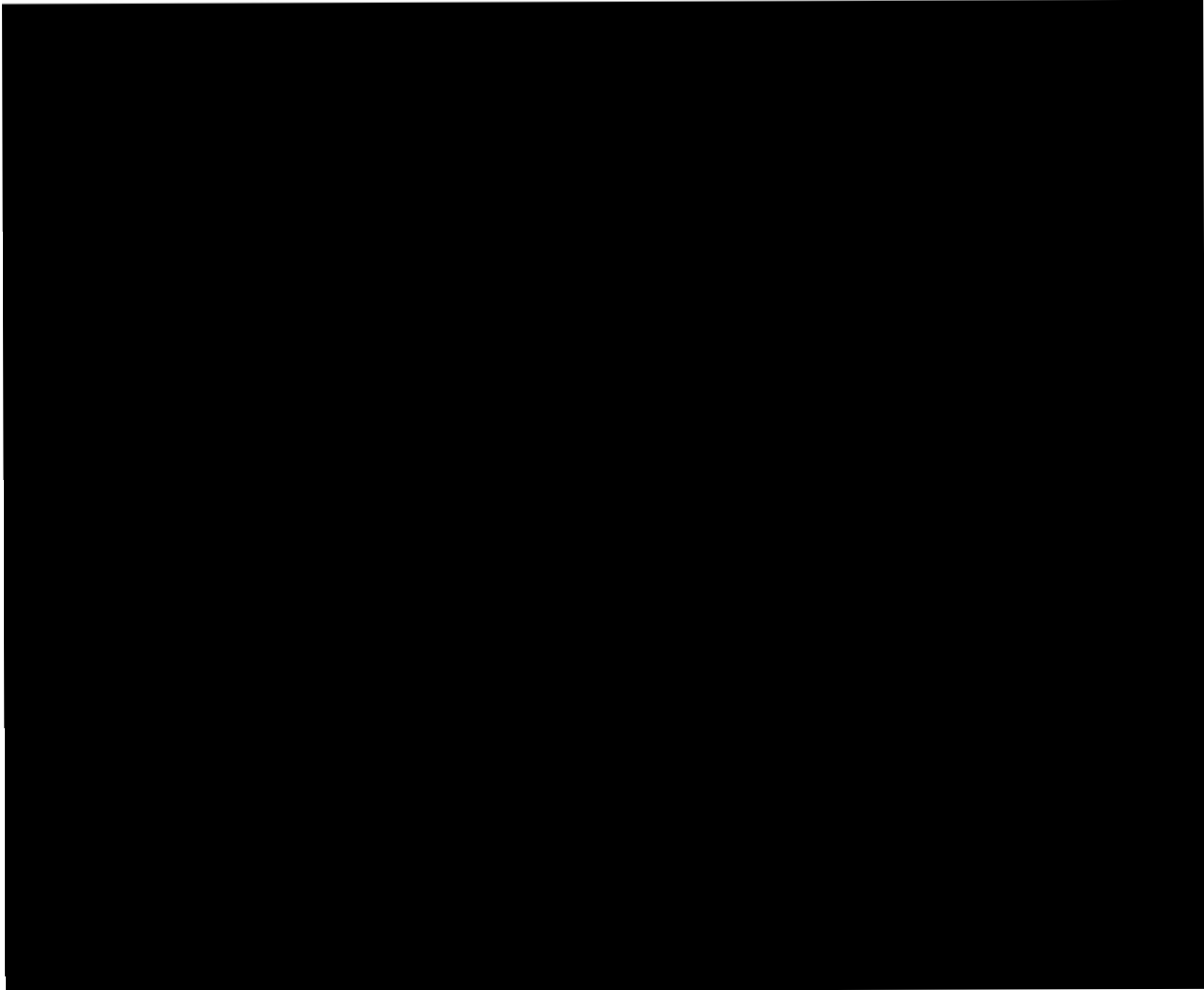


12:54 PM

Never make a trip to the cape  
without stopping by the port at  
least once! A staple for the town



Good luck!







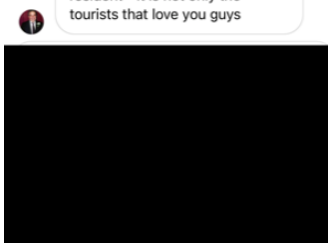
iMessage  
Today 2:13 PM

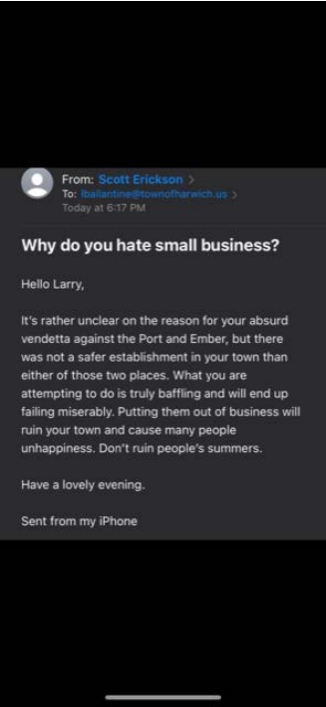
Hey Griff just wanted to personally text you and say I am praying for you and the family ! You did not deserve this shit ! You are the two best owners I have ever worked for ! You deserve justice for this



2:37 PM

Hey I haven't read the article yet but all I can say is what the hell does Harwich have against businesses surviving , thriving and bringing money into town? The people that go to your establishments are the same people that bring their money to the other local businesses- it is a witch hunt - it needs to stop- I am a year round Harwich resident - it is not only the tourists that love you guys

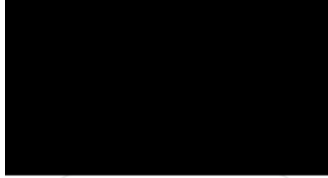




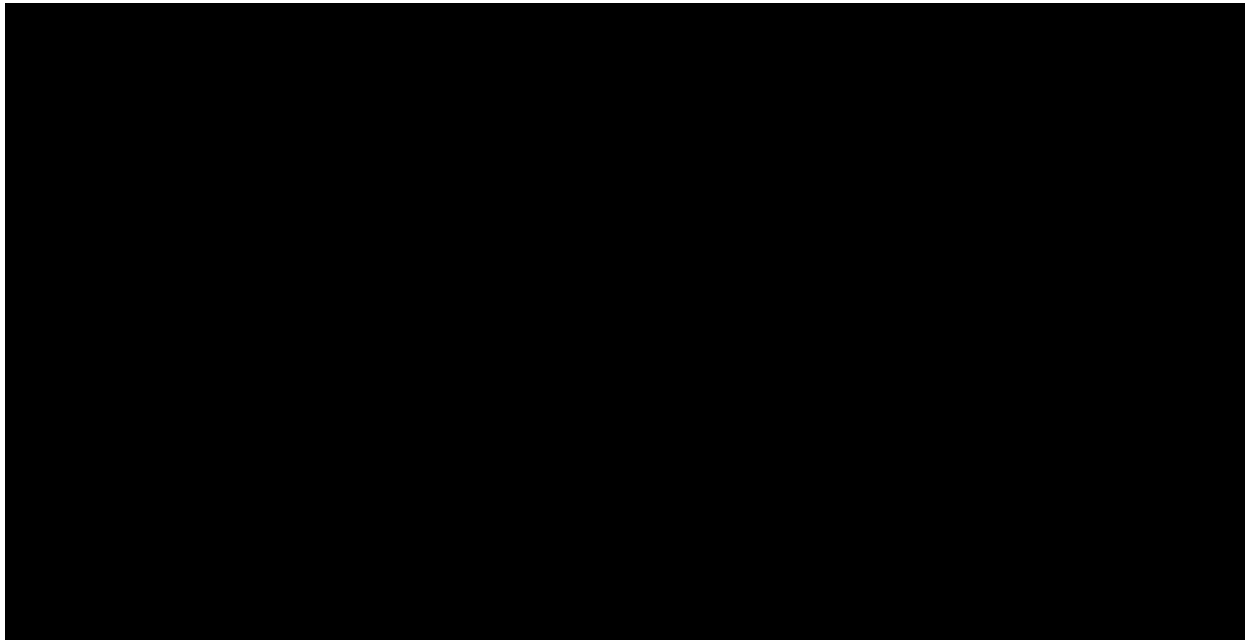
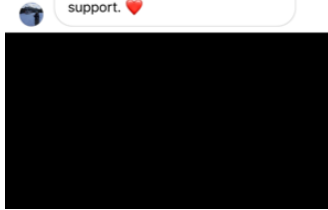
Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 193-216  
**Date:** Friday, March 26, 2021 10:22:07 AM  
**Attachments:** [IMG\\_1120.PNG](#)  
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[IMG\\_1178.PNG](#)  
[IMG\\_1179.PNG](#)

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That building that you are in has seen so much turnover... I worked as a hostess at two of the prior restaurants..... that did not make it. The building was vacant. Finally, you guys came in and took over.... instead of an empty eyesore, that building has become a lively, wonderful place to dine. I was born and raised in Harwich.. graduated from Harwich High. This is NOT FAIR. What is going on behind the scenes? Who is next? Sunday school? Is it because they want to build more condos? I'm sorry guys. You have all the locals support. ❤️

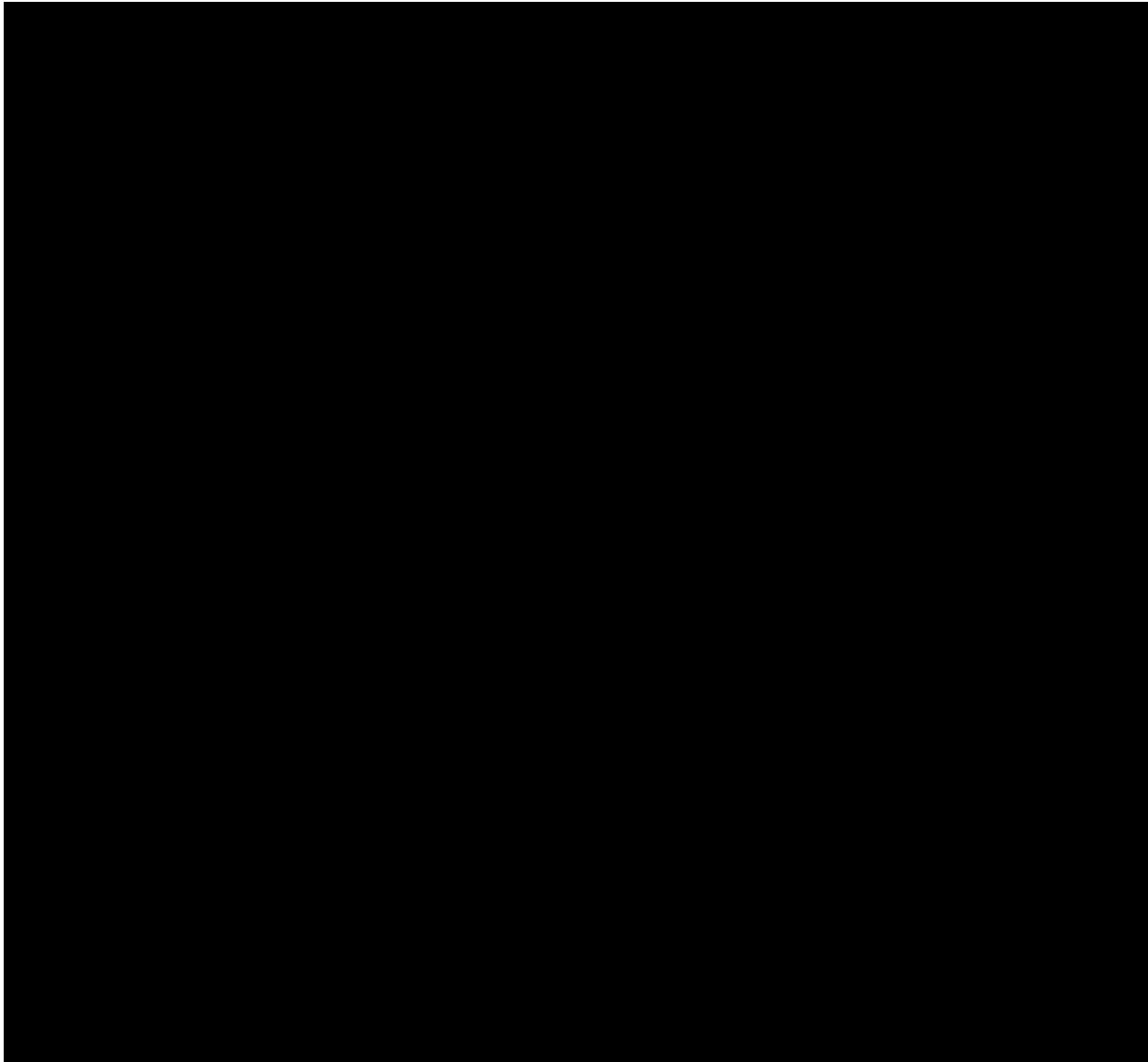




**Please include any questions or comments**

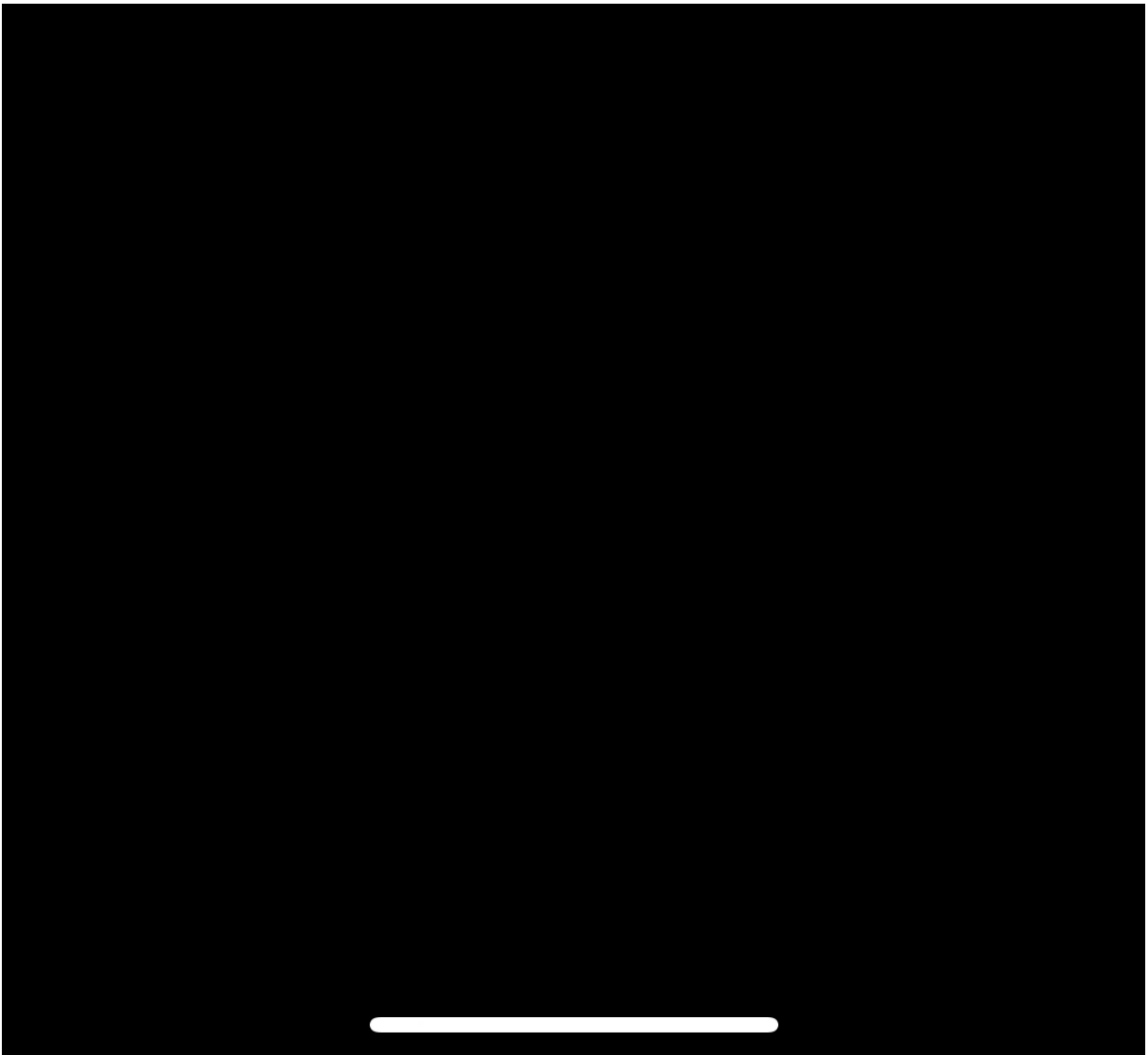
DO NOT SHUT DOWN THE PORT OR EMBER. They are the only reason I come to Harwich.





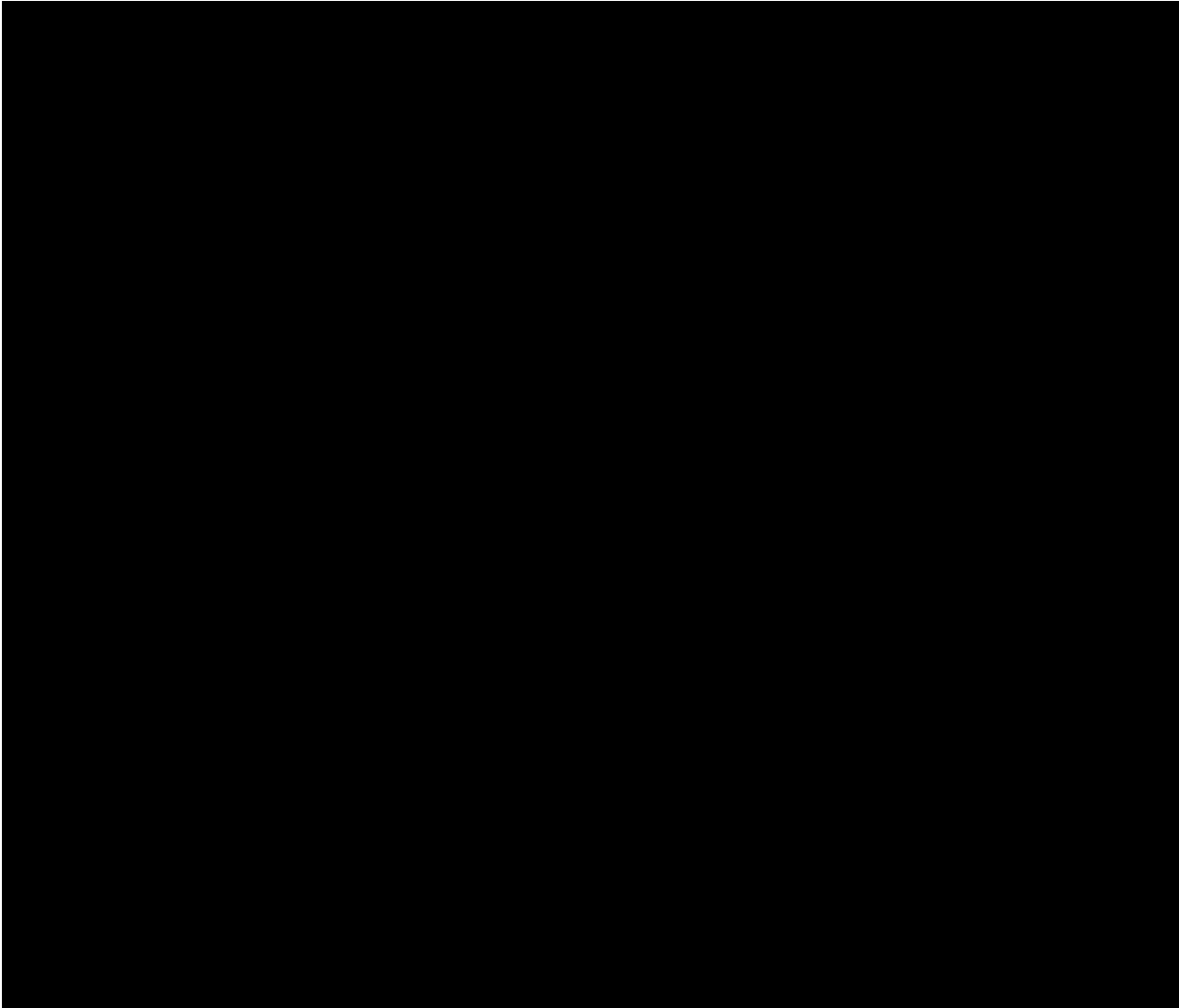
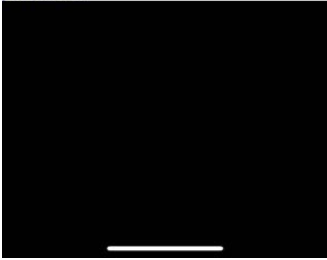
I will flip. Hang in there! So many people have your backs!





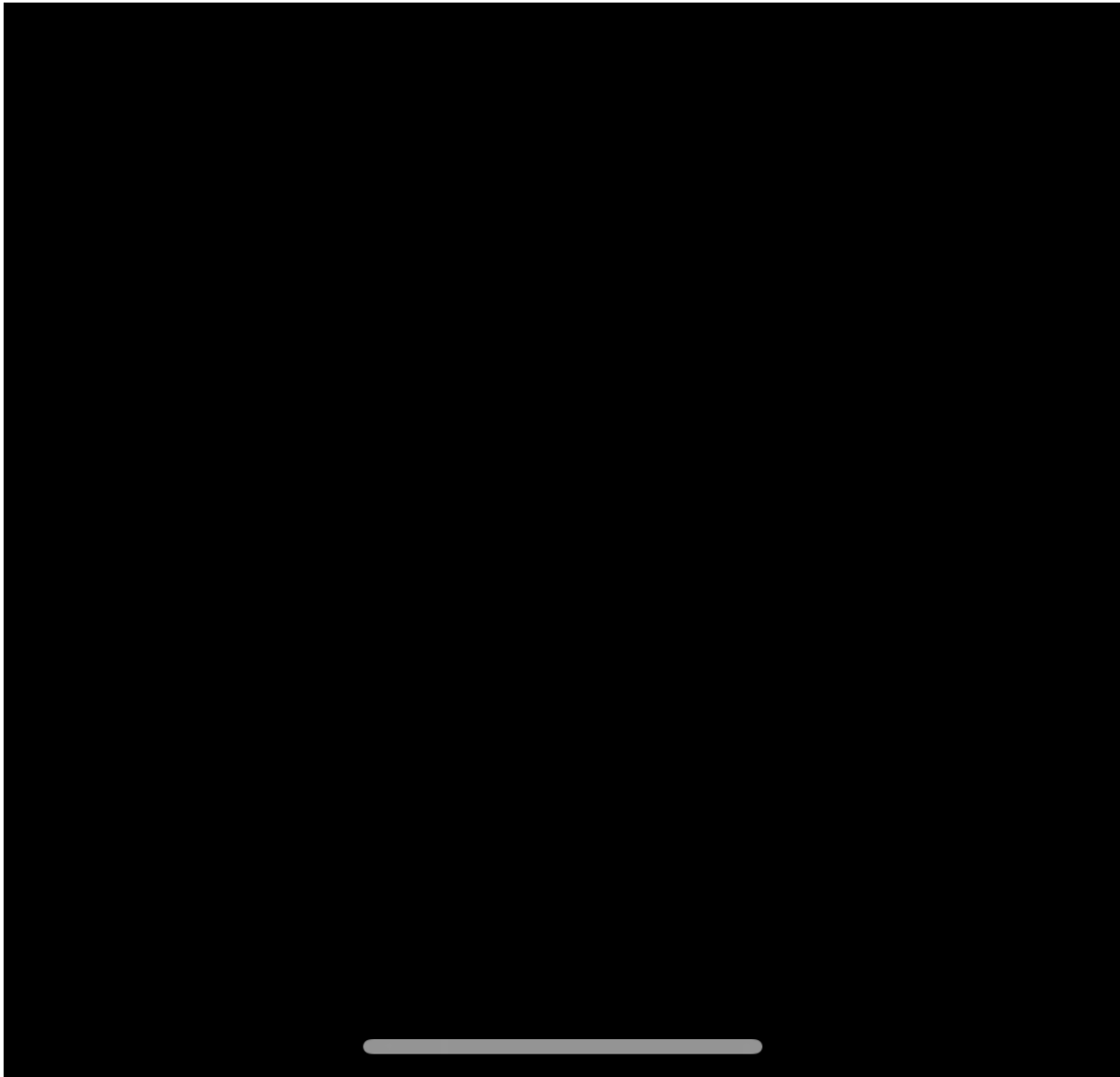


I am writing in support of outdoor entertainment at The Port and Ember.  
We look forward to our nights out with our friends and family outside at these two mainstays. Our boys have grown up eating pizza and listening to music at ember.  
We would hate to see that go. We have moved to Chatham now and still come back to harwichport for nights out that the Port and Ember. Thank you for your time





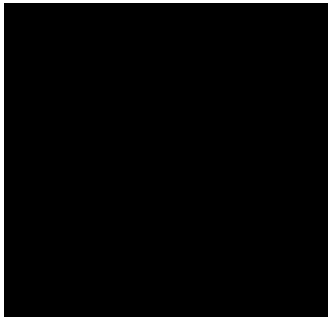
**jeriben** Just talking to a friend about how Harwichport is now the place to go! Downtown has been totally transformed since the Port and Ember opened years ago!




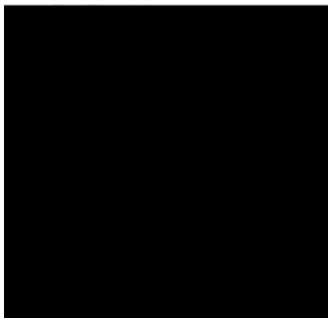





opened up The Port and completely transformed it. Now it's a destination to stroll, have dinner, cappuccinos, cocktails, bonfires, contemporary art, clothing, home decor, etc. Not sure what the story is here, but it all started with you guys and I think we can all appreciate that. 🍷🍷

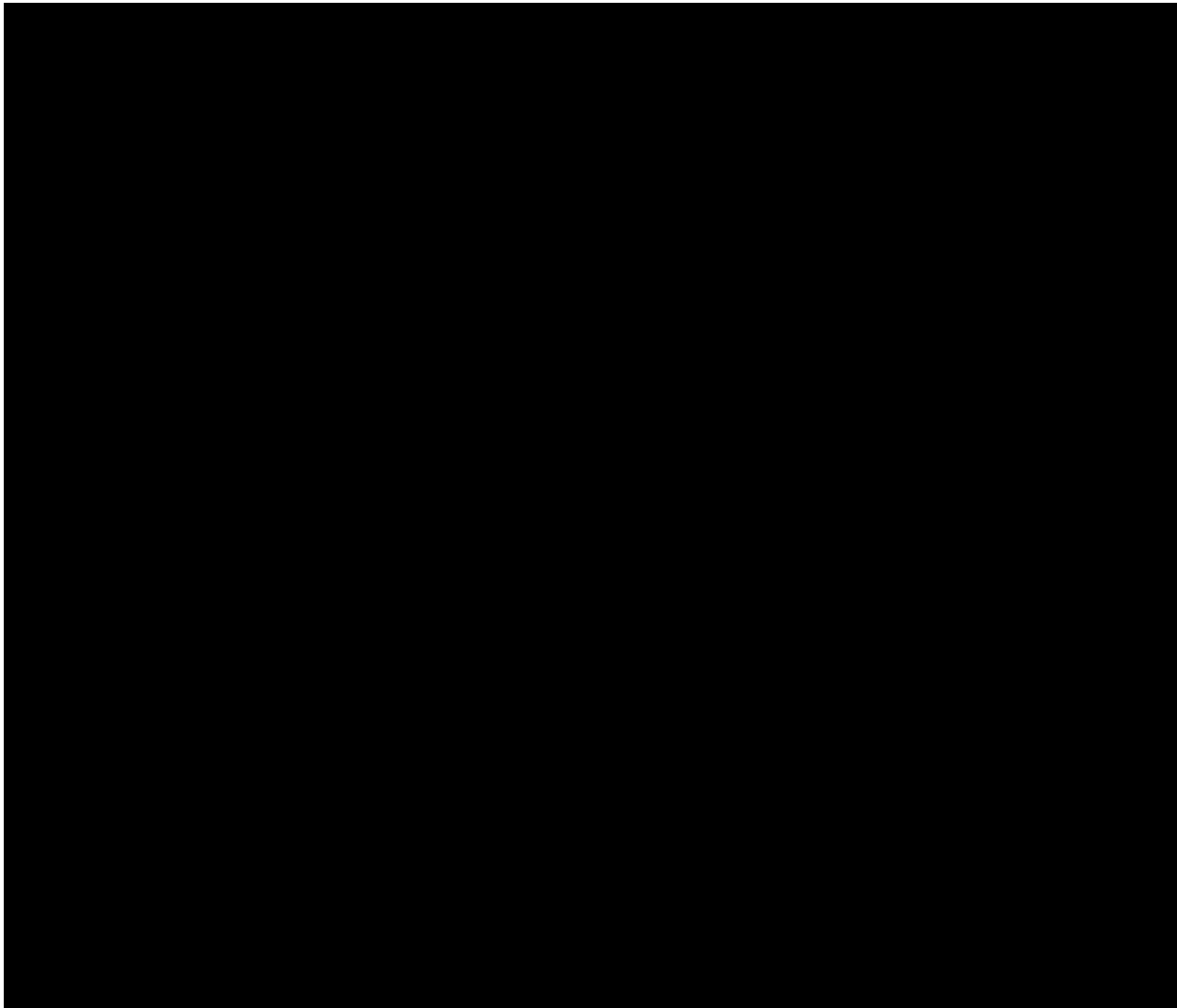


 nicolecox03 This is amazing. I love what The Port and Ember has brought to Harwichport, and so does my family. Can't wait for summer 2021!!! ❤️🔥





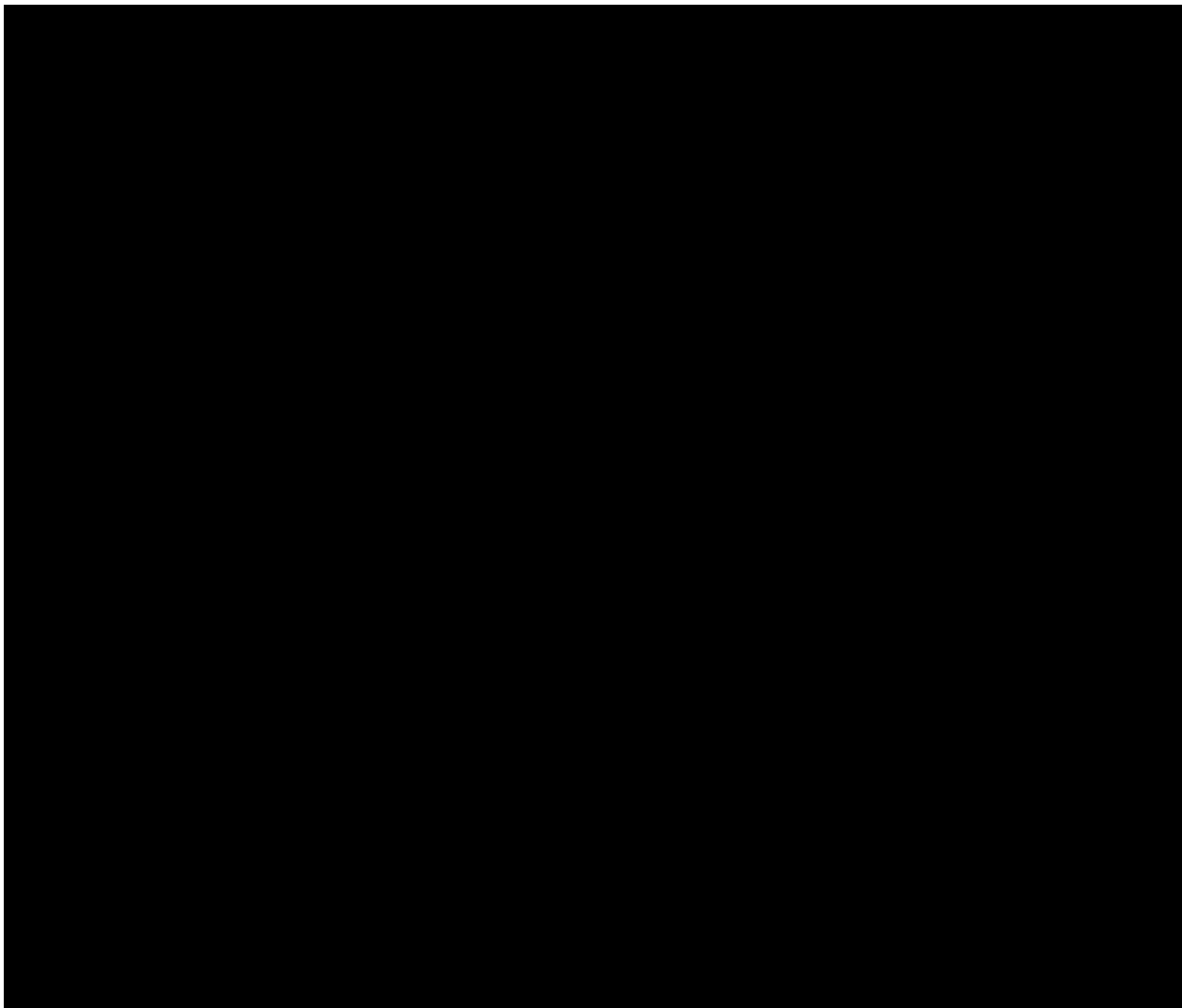
 kpietal My own husband couldn't convince me that the town you guys grew up in was cool until I stepped foot in the Port! Your restaurants having given that town LIFE. Sorry if there are haters 😊. I'm just an outsider looking in at the beauty that has sparked downtown since you guys opened!!



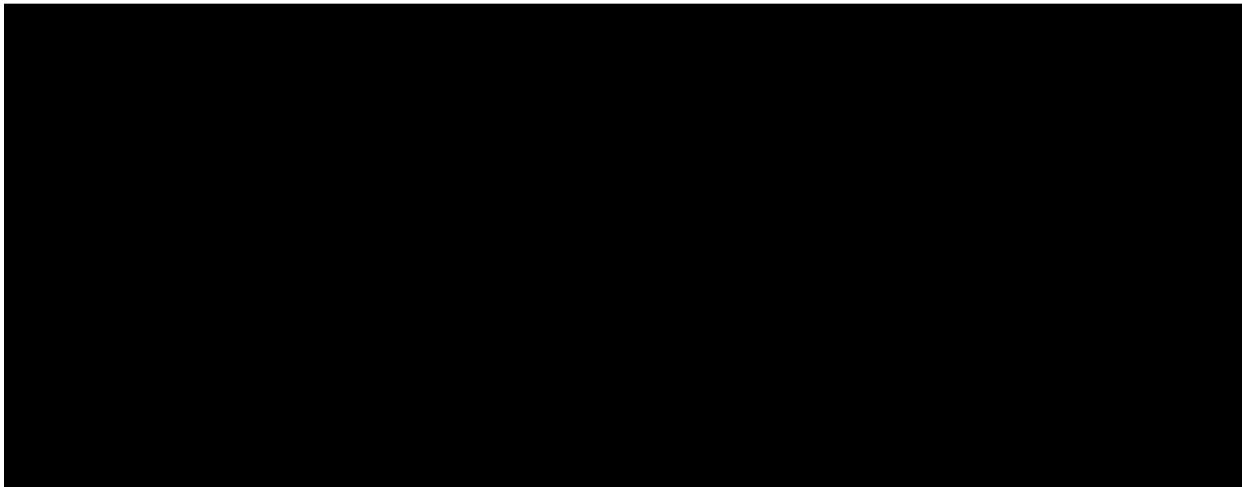


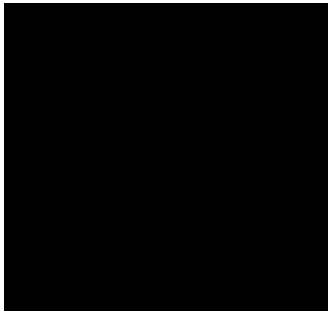
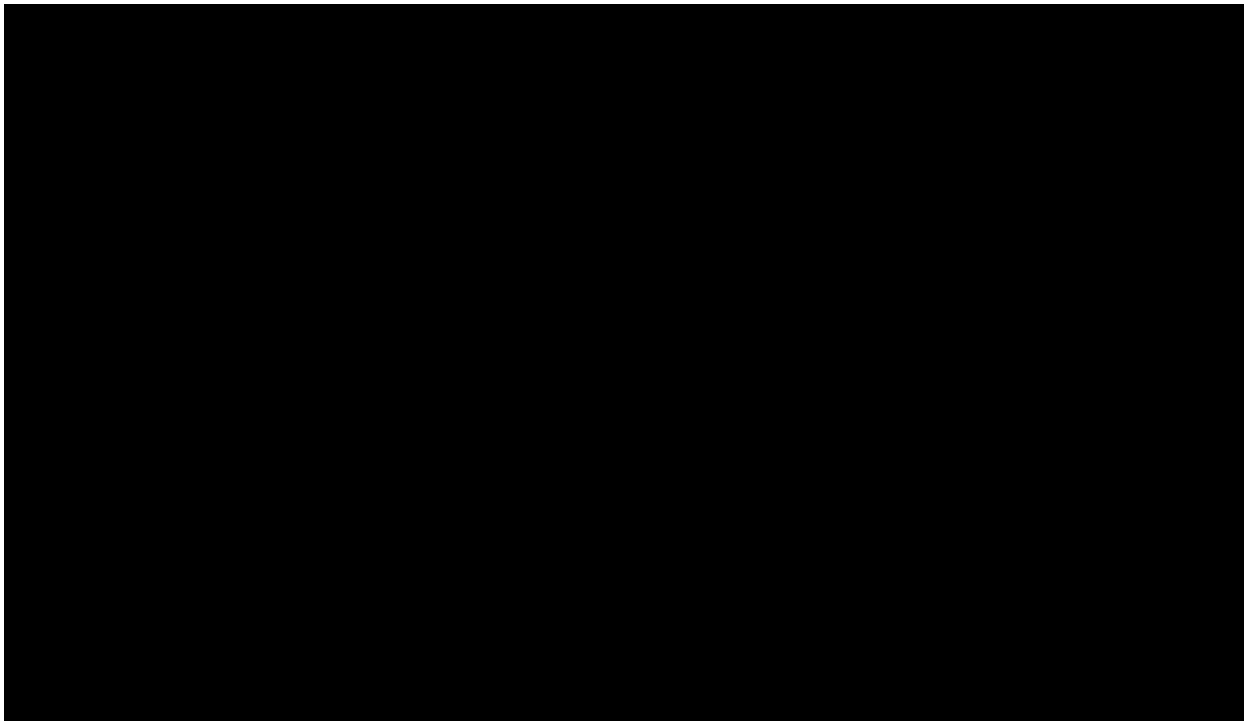
**sbpurtell** Love this Lucie! The good guys always win in the end ❤️ looking forward to so many more memories at the 2 places that make Harwich Port such a special place.




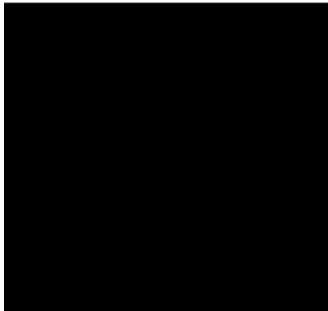


fmg7 🙌❤️ well said....love this. I'm so sorry you are all having to go through all of this...absolutely ridiculous. Much love to you and your family. ❤️🙏




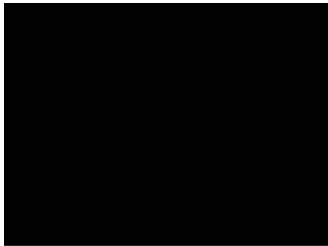
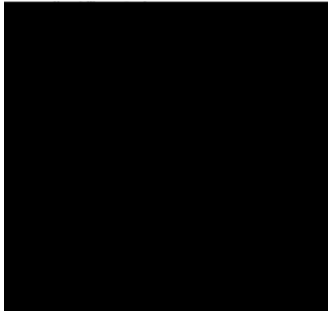


 heidi|redfern From a born and raised Chatham Girl and husband we 100% support you guys from CT. The only place we ever consider going out to eat is The Port or Ember if we visit! This is unbelievable to us. ❤️






 katelyn\_m\_gleason 🙏🙏🙏 thank you for inviting me to be a part of The Port family so long! No is truer or shines brighter or loves bigger than you @ljbtrack ❤️



 megdutcher 🙏🙏🙏 You can add 🙏  
 Employed a local mama and with that allowed her to be a stay at home parent AND help support her family. And ALWAYS treated as family . ❤️  
 As a manager I saw first hand the donations to the raffles, clubs ,schools ,committees & local teams that were given without hesitation & purely out of support for their community . I've never seen owners give more of their heart,Soul & energy into their business' & I've never been so proud to work for a family business like this one 🙏





 **jeriben** Just talking to a friend about how Harwichport is now the place to go! Downtown has been totally transformed since the Port and Ember opened years ago! ❤️



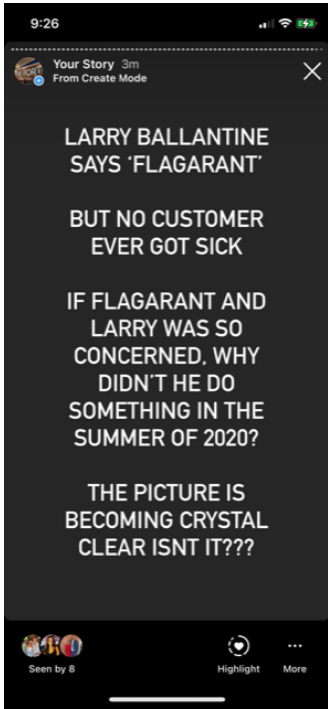
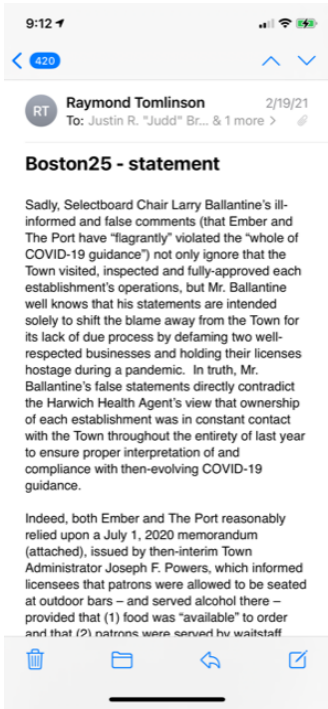
 **Eddie Gallagher**  
@EddieGallagher

Replying to @insta\_eich

The selectmen influenced by a couple of people in authority who aren't necessarily friendly to the Bracketts are threatening to take away liquor licenses from both restaurants. There is usually a process involving written warnings and temporary closures which hasn't happened.

6:58 AM · 3/25/21 · [Twitter for iPhone](#)





**THE SUPPORT HAS  
BEEN ABSOLUTELY**



BEEN ABSOLUTELY  
INCREDIBLE

THE MESSAGES, DM'S,  
EMAILS, TEXTS... HAVE  
ALL MEANT SO MUCH  
TO THE BRACKETT  
FAMILY AND THE PORT &  
EMBER TEAM

THANK YOU



[#WEAREHARWICHPORT](#)

9:42

I HAVE ALWAYS FELT SAFE DINING AT EITHER ESTABLISHMENT. THEY ARE STAPLES IN THE TOWN AND ARE A MAJOR REASON IT HAS BECOME SUCH A GREAT DESTINATION. IN FACT, MANY OF MY FRIENDS ARE LOOKING SOLELY AT HARWICHPORT NOW AS THEY ARE LOOKING TO BUY A HOME ON CAPE. AND THESE RESTAURANTS AND THE EXPERIENCES WE HAVE SHARED THERE PLAY A HUGE PART IN THAT. I SINCERELY HOPE THAT HARWICH RECONSIDERS THE ACTION BEING TAKEN AGAINST THEM. ESPECIALLY NOW, THIS SHOULD BE THE TIME WHEN WE ARE ALL SUPPORTING LOCAL BUSINESSES AND HELPING THEM THRIVE RATHER THAN CREATING OBSTACLES FOR THEM TO DO THEIR JOB FOR THEIR EMPLOYEES, THEIR NEW AND LOYAL GUESTS, AND THE TOWN. THANK YOU.

9:42

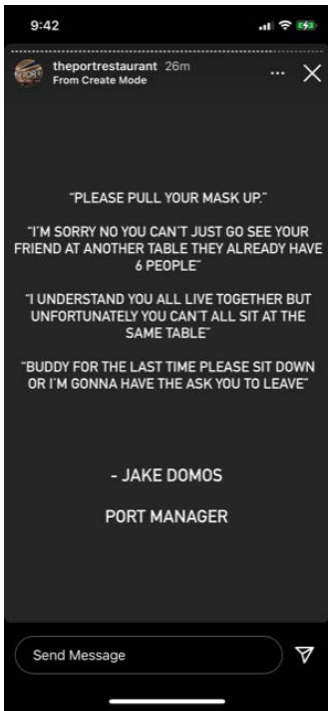
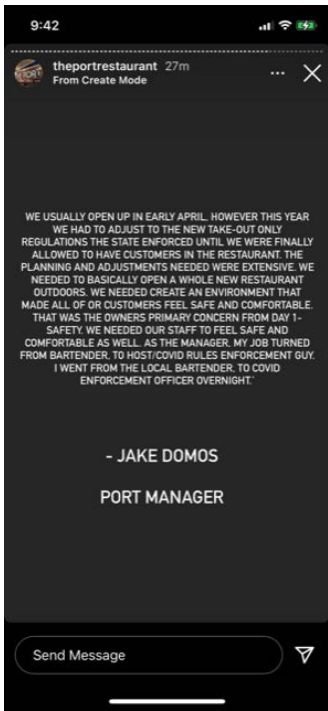
theportrestaurant 28m  
From Create Mode

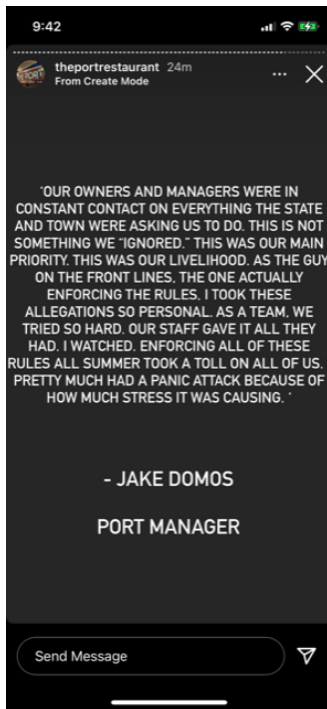
"OUR FEELING IS THIS WAS VERY FLAGRANT. THEY IGNORED THE WHOLE OF COVID-19 REGULATIONS." -PERSON WHO CLEARLY DID NOT VISIT THE PORT RESTAURANT THIS SUMMER.

WAKING UP AND READING THE ABOVE STATEMENT FROM A SELECTMAN IN MY HOMETOWN THE OTHER MORNING SURE DID STRIKE A NERVE. I HAVE WORKED FOR THE BRACKETT'S FOR 10 YEARS NOW. WE ARE A FAMILY AND MY FAMILY WAS UNDER ATTACK. I NEEDED A COUPLE OF DAYS TO REALLY GIVE IT SOME THOUGHT BEFORE I PUT IT DOWN ON PAPER. AN ARTICLE SO MISLEADING, WRITTEN TO DESTROY TWO BUSINESSES THAT HAVE SPARKED THE GROWTH OF LITTLE OLD HARWICH PORT. SURELY REQUIRED A RESPONSE. I MEAN, I WAS THERE EVERYDAY-100 HOURS A WEEK- ABSOLUTELY GRINDING. MY WIFE WAS THERE WITH ME TOO. IN FACT, THE PORT AND EMBER EMPLOY SO MANY PEOPLE I LOVE AND CARE ABOUT... I NEEDED TO RESPOND. I WOULD LIKE TO GIVE YOU MY ACCOUNT OF WHAT IT WAS LIKE TO WORK IN A RESTAURANT THIS YEAR, SPECIFICALLY THE PORT RESTAURANT...

- JAKE DOMOS  
PORT MANAGER

Send Message

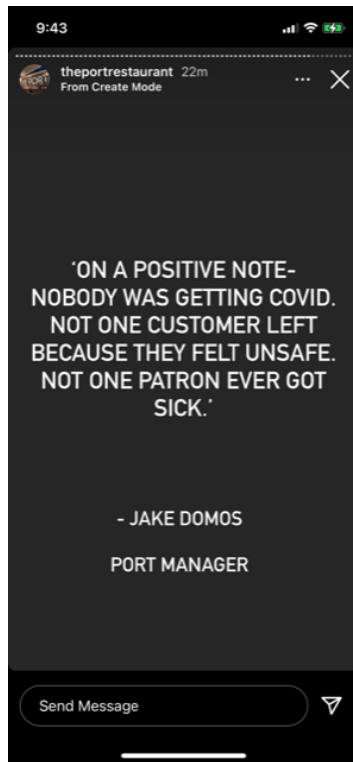


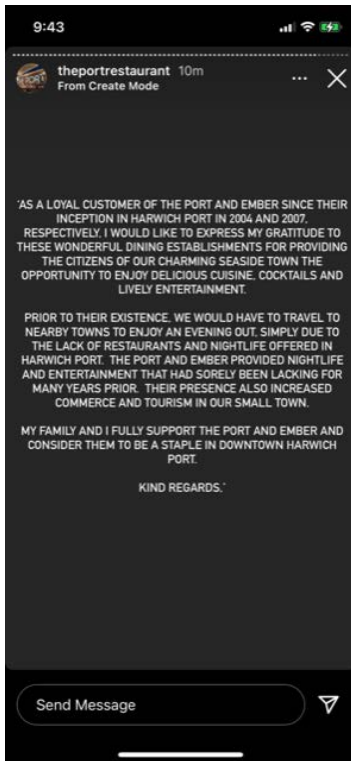
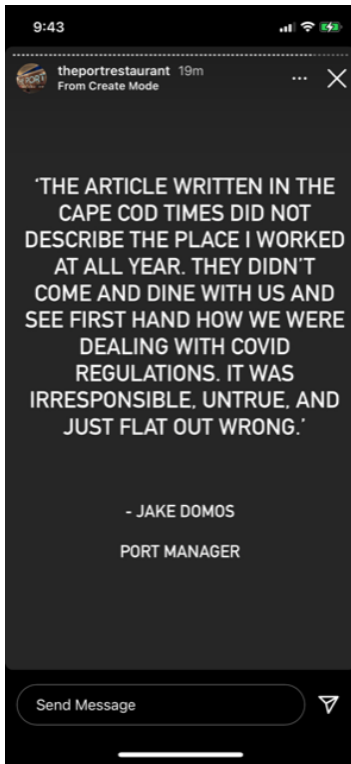


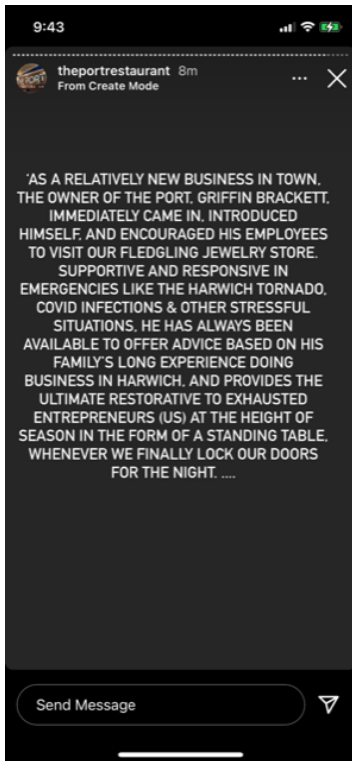
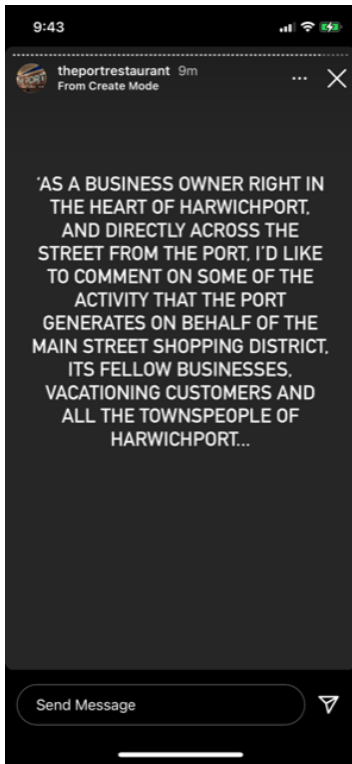
Sent from my iPhone

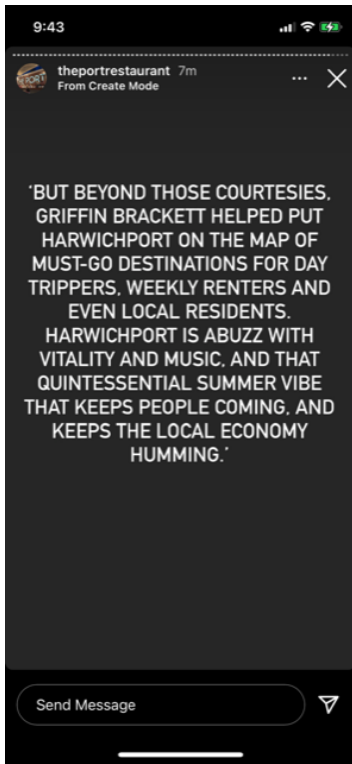
**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 217-240  
**Date:** Friday, March 26, 2021 10:23:02 AM  
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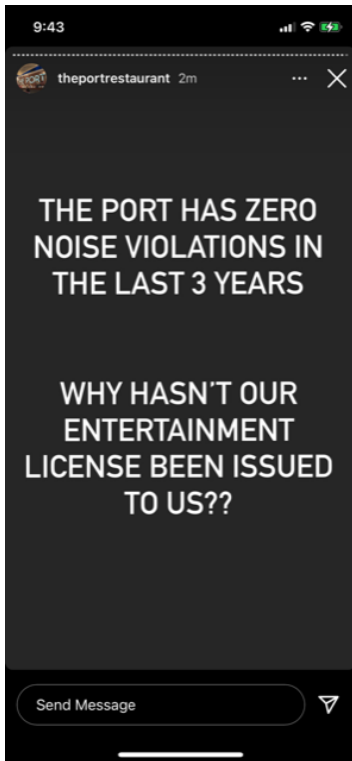
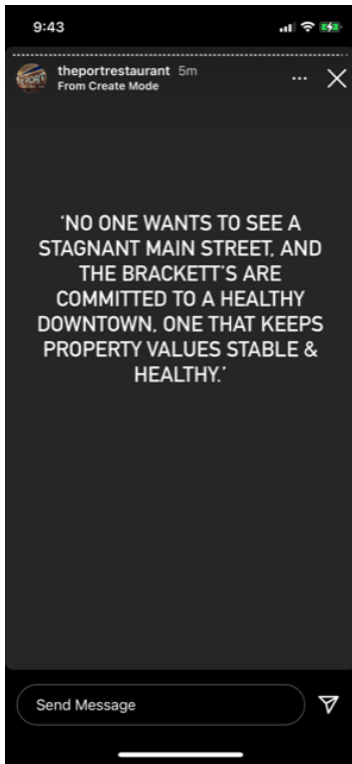








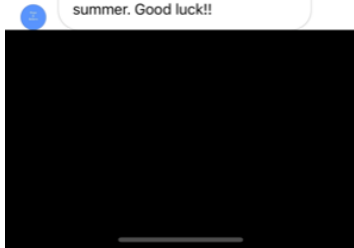




Wishing you luck with your case against the town. I did send in a letter of support via Harwich MA Gov Form. If there were flagrant violations in 2020 you should of faced consequences then. The purpose of the restrictions were to decrease the spread of covid. Issuing sanctions/consequences now just looks like abuse of power and a vendetta from the town. My parents love The Port and would go weekly during the season. Hoping they can go this summer. Good luck!!



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Reacted to your story



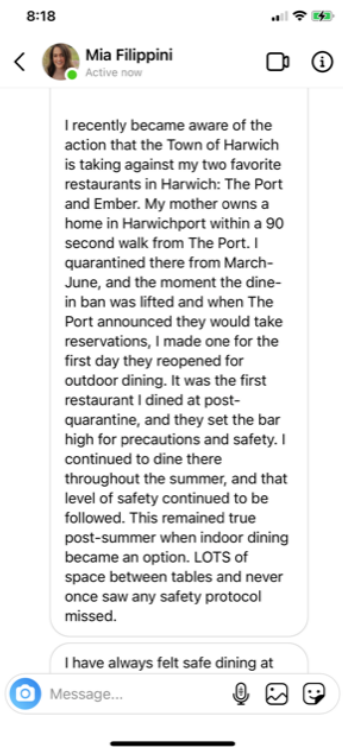
Know you have this completely handled and sorry that you are dealing with short sighted town officials who just want to give you a hard time but at the end of the day you have down incredible work for the entire town. Can't wait till these clowns have had their power trip and the real people can enjoy the port as you built it

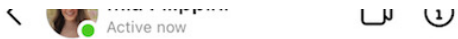


**Mia Filippini**  
Active now



I recently became aware of the action that the Town of Harwich is taking against my two favorite restaurants in Harwich: The Port and Ember. My mother owns a home in Harwichport within a 90 second walk from The Port. I quarantined there from March-June, and the moment the dine-in ban was lifted and when The Port announced they would take reservations, I made one for the first day they reopened for outdoor dining. It was the first restaurant I dined at post-quarantine, and they set the bar high for precautions and safety. I continued to dine there throughout the summer, and that level of safety continued to be followed. This remained true post-summer when indoor dining became an option. LOTS of space between tables and never once saw any safety protocol missed.





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8:19 AM



**PORT STRONG!** You guys contributed to driving growth, demand and appreciation in real estate valuations. Bunch of elitists being elitists! **#PortStrong**



2:37 PM

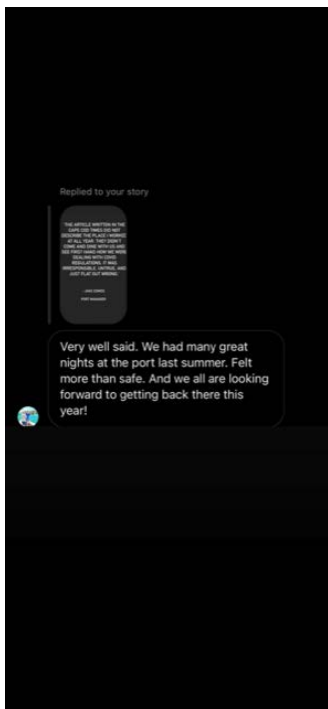
Hey I haven't read the article yet but all I can say is what the hell does Harwich have against businesses surviving , thriving and bringing money into town? The people that go to your establishments are the same people that bring their money to the other local businesses- it is a witch hunt - it needs to stop- I am a year round Harwich resident - it is not only the tourists that love you guys



Sent from my iPhone

**From:** Brackett  
**To:** Raymond Tomlinson  
**Subject:** 240-264  
**Date:** Sunday, March 28, 2021 12:36:11 PM  
**Attachments:** IMG\_1244.PNG  
IMG\_1245.PNG  
IMG\_1267.PNG  
IMG\_1271.PNG  
IMG\_1272.PNG  
IMG\_1277.PNG

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## Replied to your story

'THE ARTICLE WRITTEN IN THE  
CAPE COD TIMES DID NOT  
DESCRIBE THE PLACE I WORKED  
AT ALL YEAR. THEY DIDN'T  
COME AND DINE WITH US AND  
SEE FIRST HAND HOW WE WERE  
DEALING WITH COVID  
REGULATIONS. IT WAS  
IRRESPONSIBLE, UNTRUE, AND  
JUST FLAT OUT WRONG.'

- JAKE DOMOS  
PORT MANAGER

The port is my everything man. This is killing me. It's the reason my family moved to harwichport and why we love it so much. Stay up they can't hold us down.



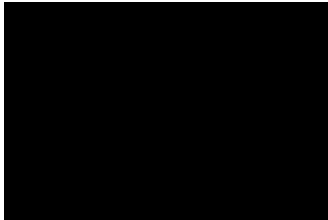


Yesterday, 9:23 PM

We have owned a home in Harwich for 11 years and Ember is our go to place! We stand behind you and want everyone to know that Harwichport would not be the same without Ember and The Port! Our family is with you and support you!



So much love and support for you guys! I personally witnessed how hard your staff worked (especially Jake and Molly) to ensure customers had a safe and fun time this summer. Out of the many restaurants I visited, I felt the most safe at The Port. Guidelines were followed to a tee. Heartbreaking to see some ignorant people attack a local business like this. 🙄



So much love and support for you guys! I personally witnessed how hard your staff worked (especially Jake and Molly) to ensure customers had a safe and fun time this summer. Out of the many restaurants I visited, I felt the most safe at The Port. Guidelines were followed to a tee. Heartbreaking to see some ignorant people attack a local business like this. 🙄



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IRRESPONSIBLE, UNTRUE, AND  
JUST FLAT OUT WRONG.

- JAKE DOMOS  
PORT MANAGER

Well said Jake. Still can't believe you have to deal with this situation. I was at The Port dozens of times last summer. I actually think your staff was exceptional with their Covid protocol.



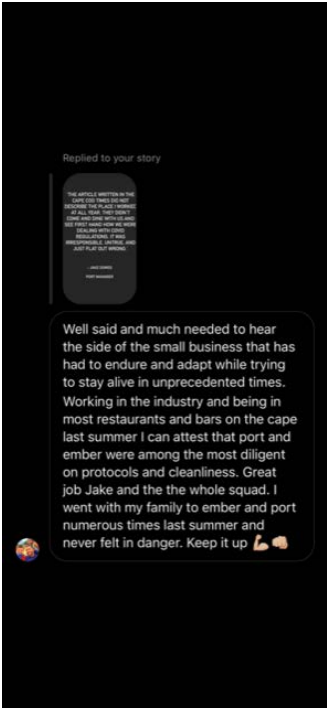
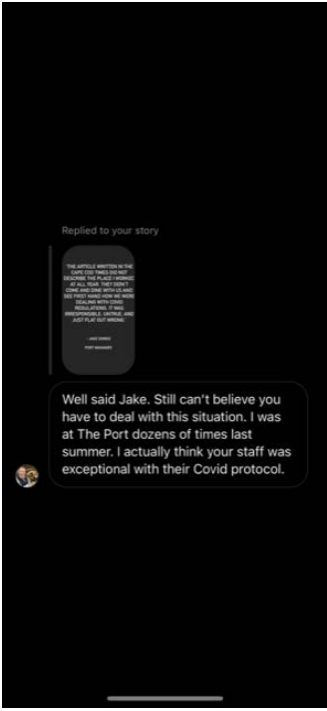
## Replied to your story

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JUST FLAT OUT WRONG.

- JAKE DOMOS  
PORT MANAGER

Well said and much needed to hear the side of the small business that has had to endure and adapt while trying to stay alive in unprecedented times. Working in the industry and being in most restaurants and bars on the cape last summer I can attest that port and ember were among the most diligent on protocols and cleanliness. Great job Jake and the the whole squad. I went with my family to ember and port numerous times last summer and never felt in danger. Keep it up 🍊👊





**'SADLY, SELECTBOARD CHAIR LARRY BALLANTINE'S ILL-INFORMED AND FALSE COMMENTS (THAT EMBER AND THE PORT HAVE "FLAGRANTLY" VIOLATED THE "WHOLE OF COVID-19 GUIDANCE") NOT ONLY IGNORE THAT THE TOWN VISITED, INSPECTED AND FULLY-APPROVED EACH ESTABLISHMENT'S OPERATIONS, BUT MR. BALLANTINE WELL KNOWS THAT HIS STATEMENTS ARE INTENDED SOLELY TO SHIFT THE BLAME AWAY FROM THE TOWN FOR ITS LACK OF DUE PROCESS BY DEFAMING TWO WELL-RESPECTED BUSINESSES AND HOLDING THEIR LICENSES HOSTAGE DURING A PANDEMIC.'**

**'MR. BALLANTINE'S FALSE STATEMENTS DIRECTLY CONTRADICT THE HARWICH HEALTH AGENT'S VIEW THAT OWNERSHIP OF EACH ESTABLISHMENT WAS IN CONSTANT CONTACT WITH THE TOWN THROUGHOUT THE ENTIRETY OF LAST YEAR TO ENSURE PROPER INTERPRETATION OF AND COMPLIANCE WITH THEN-EVOLVING COVID-19 GUIDANCE.'**



March 22, 2021

To whom it may concern:

I am forwarding this letter in support of The Port Restaurant & Bar, located at 541 Route 28, Harwich Port, MA 02646.

My family and I have been frequent customers at the Port and the Oyster Bar for over ten years. I can honestly attest to the outstanding operation that Griffin Brackett and his staff run. They always put the safety and interest of their customers first and foremost.

This past year, they did a remarkable job during the pandemic to offer fine dining in a safe and controlled environment. In compliance with CDC guidelines, The Port created a large, open-aired outdoor dining space where tables were properly social distanced, allowing restaurant goers to feel safe and at ease. The staff was always friendly, accommodating, and the first to call out any behavior that could have been potentially putting others at risk. Griffin Brackett and his staff put in their best effort during the summer months of 2020 to create a space where people could experience much-needed socialization, while following the safety guidelines presented by the state and local officials.

The Port is my family's go-to restaurant and will continue to be because of the safe and welcoming environment it offers. The establishment is a Harwich Port staple, bringing people in from surrounding towns to enjoy its food, drink and atmosphere, which contributes to the overall character of the town. A Harwich Port summer would simply not be the same without a drink and a dozen oysters shared with family and friends at The Port, something the Brackett's have put their hearts into creating for decades.

Sincerely,

James Andreoli, CPCU  
Senior Vice President  
Phone: (508) 755-6210 x 103  
Email: jandreoli@quakerma.com

---

I have known Griff and Judd Brackett for over 20 years. I have known them from both a personal and business perspective. I have the highest regard for both of these men. They operate their restaurants with the highest degree of respect for their clients, the town of Harwich, and the employees they choose to hire.

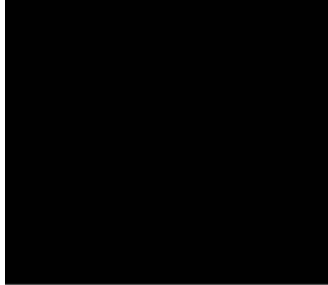
The food is excellent and the atmosphere in both buildings is clean, wholesome, as well as pleasant. Harwich Port is certainly well served and represented by the high quality of management skills and all around atmosphere provided by both of these establishments.

We should all be proud of the class and distinction that both of these restaurants bring to the town of Harwich. They deserve our full support and to be thought of as a valuable asset to the town.

Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 265-289  
**Date:** Sunday, March 28, 2021 12:37:08 PM  
**Attachments:** [IMG\\_1279.PNG](#)  
[IMG\\_1284.PNG](#)  
[IMG\\_1305.PNG](#)  
[IMG\\_1314.PNG](#)  
[IMG\\_1383.PNG](#)  
[IMG\\_1414.PNG](#)  
[IMG\\_1415.PNG](#)  
[IMG\\_1416.PNG](#)

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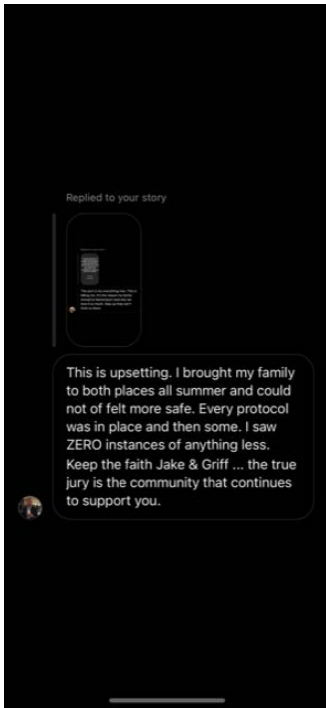


**'THE PORT AND EMBER HAVE CHANGED THE LANDSCAPE OF HARWICH PORT IN THE BEST WAY POSSIBLE. PREVIOUS TO THESE TWO RESTAURANTS COMING TO HARWICH PORT EVERYONE WENT TO DENNIS OR CHATHAM TO EAT, SHOP AND WALK AROUND. NOW HARWICH PORT IS THE DESTINATION. THEY NOT ONLY BROUGHT INCOME, JOBS AND LIFE TO THEIR OWN BUSINESSES BUT FOR SO MANY OTHERS AS WELL WHO FOLLOWED IN THEIR FOOTSTEPS.'**

'THIS SUMMER WILL BE MY 15 YEAR WEDDING ANNIVERSARY AND I THINK BACK TO WHEN WE HAD OUR REHEARSAL DINNER AT THE PORT. THEN, AND NOW, THE OWNERS COULDN'T BE MORE ACCOMMODATING, GRACIOUS AND APPRECIATIVE OF THEIR CLIENTS. THERE IS NOTHING BETTER THAN SPENDING A SUMMER NIGHT LISTENING TO LIVE MUSIC AT THESE RESTAURANTS AFTER EATING A FANTASTIC DINNER - WHETHER A CASUAL PIZZA AT EMBER OR A HIGH END MEAL AT THE PORT.'

'THIS YEAR OUR WORLD HAS BEEN TURNED UPSIDE DOWN AND WE'VE ALL HAD TO LEARN NEW RULES AND ONES THAT ARE CONSTANTLY CHANGING. THE RESTAURANT INDUSTRY HAS BEEN CHANGED FOREVER WITH SO MANY HAVING TO CLOSE. I CANNOT IMAGINE TRYING TO HURT THESE BUSINESSES MORE THAN WHAT THEY'VE ALREADY SUFFERED BECAUSE OF "RUMORS".'

This is upsetting. I brought my family to both places all summer and could not of felt more safe. Every protocol was in place and then some. I saw ZERO instances of anything less. Keep the faith Jake & Griff ... the true jury is the community that continues to support you.



## Replied to your story

THE ARTICLE WRITTEN IN THE  
CAPE COD TIMES DID NOT  
DESCRIBE THE PLACE I WORKED  
AT ALL YEAR. THEY DIDN'T  
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DEALING WITH COVID  
REGULATIONS. IT WAS  
IRRESPONSIBLE. UNTRUE. AND  
JUST FLAT OUT WRONG.

- JAKE DOMOS

PORT MANAGER

Waitin for them to put themselves in  
your shoes homie! Not everyone can  
kill it the way you guys do, should put  
the place on stilts and tow it to a town  
that actually has a business acumen.

## Port And Ember Sue Town Over Noise Ordinance

### License Renewal Hearings Put On Hold

by William F. Galvin

HARWICH—Public hearings on liquor and entertainment license renewals for the Port Restaurant and Bar and Ember Pizza were postponed Monday after the owners of the establishments sued the town in federal court.

Justin R. Brackett and Jared G. Brackett of 3137 LLC filed the action against the town of Harwich and several officials in U.S. District Court in Boston on Friday, claiming that the town's noise ordinance violates their Constitutional rights.

Selectmen discussed the suit with town counsel in executive session Monday. Afterward, Selectmen Chairman Larry Bal-

lantine said the board decided to postpone the scheduled hearings for two weeks on the advice of counsel to give the town time to develop its defense. The hearing drew 68 people to the remote session.

The time would also allow selectmen to obtain legal counsel for the federal suit, which would be provided by the town's insurance company, said Town Administrator Joseph Powers.

Powers said the selectmen will meet Friday morning in executive session to discuss legal strategy. He anticipated the hearings on the restaurants' seasonal licenses would resume on April 5.

Continued on Page 2A

'I'VE BEEN COMING TO HARWICH SINCE 2004 WHEN MY IN-LAWS PURCHASED A HOUSE NEAR RED RIVER BEACH. MY WIFE AND I HAD OUR WEDDING REHEARSAL DINNER AT THE PORT AND SINCE THAT TIME HAVE COME TO KNOW THE BRACKETT FAMILY. THE ADDITION OF EMBER TO THE TOWN IN A BUILDING THAT PREVIOUSLY COULD NOT MAINTAIN A CONSISTENT RESTAURANT WAS A WELCOME ADDITION. THE CONTINUOUS IMPROVEMENTS TO BOTH RESTAURANTS BY THE BRACKETT FAMILY HAS DONE NOTHING BUT DRAW PEOPLE, REVENUE, AND POSITIVITY TO HARWICHPORT. WE STAND BY THE BRACKETT FAMILY AND THE STAFF OF BOTH OF THESE EXCELLENT ESTABLISHMENTS AND HOPE THAT LOGIC, RATHER THAN PERSONAL AGENDAS, PREVAIL. THANK YOU.'

## Replied to your story

### EMBER MANAGER

'LARGE FAMILIES ON VACATION TOGETHER REFUSED TO EAT WITH US IF THEY COULD NOT ALL DINE TOGETHER AND IN ACCORDANCE WITH THE STATE AND TOWN FOR A MAJORITY OF SUMMER AND FALL 2020 ONLY 6 PEOPLE COULD DINE TO A TABLE.'

You shouldn't need to explain yourselves.... this is clear targeting.





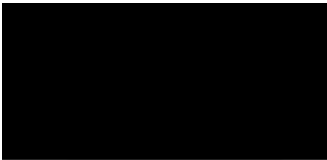
Replied to your story




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Just wanted to send along a message of support. We absolutely love The Port and Ember - our oldest daughter has waitressed at The Port over the past two summers and not once last summer did we ever think you guys weren't doing everything possible to keep staff and patrons safe. We had zero issue when we ate at either place - respected and appreciated the protocols you had to implement. You have such an awesome team in place! It is mind boggling to see the town work so hard to destroy two of its most valuable assets. Keep up the good fight - you have so much support!!!



**'PLEASE LET US KNOW  
IF THERE IS ANYTHING  
ELSE WE CAN DO! IT'S  
REALLY SHAMEFUL  
WHAT THEY ARE DOING  
TO YOU! WE'RE  
LOOKING FORWARD TO  
MANY GREAT MEALS**

# MANY GREAT MEALS AND LAUGHS THIS SUMMER AT BOTH RESTAURANTS!!!!'

Please tell us what we need to do to support you as a homeowner in HP. We will be there!

We spent most nights at your restaurant and have to say that each time we were greeted appropriately guided to our table and even when we had more than six to a party you were accommodating and we would sit next to each other at a picnic table but asked to stay at our tables which was completely understandable and fine everyone that worked there was always masked we always felt safe and had amazing nights. I could not imagine my summer without you all and cannot wait to get down there again to be with you!







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'MR BALLANTINE. THERE WAS NOTHING 'FLAGRANT' ABOUT THE PORT AND EMBER THIS PAST SUMMER. THEY FOLLOWED ALL COVID RULES. HOWEVER, THERE IS A RESTAURANT IN YOUR TOWN THAT 'FLAGRANTLY' VIOLATES EVERY COVID RULE AND MANY LAWS. OPEN YOUR EYES

IT CLEARLY LOOKS LIKE THE PORT AND EMBER HAVE BEEN TARGETED BY THE TOWN. I HOPE THE TOWN PAYS'



**'TO THE SELECT BOARD:  
I'M WRITING IN FULL SUPPORT OF JUDD  
AND GRIFFIN BRACKETT, AND TO EXPRESS  
MY ABSOLUTE DISMAY AT THE TREATMENT  
OF THEM BY TOWN OFFICIALS. THEY ARE AN  
INCREDIBLY HARD WORKING FAMILY, AND  
HAVE BEEN THE SINGLE BIGGEST  
CONTRIBUTORS TO THE REVITALIZATION OF  
HARWICH PORT. I HAVE HAD A HOME IN  
CHATHAM SINCE 1982 AND MY FAMILY WAS  
THERE FOR THE OPENING OF THE PORT IN  
2004. WE HAVE FREQUENTED BOTH  
RESTAURANTS EVER SINCE. ...'**

TO THE SELECT BOARD:  
MY DAUGHTER WORKED AT THE PORT AS  
HOSTESS AND WAIT STAFF WHILE GOING  
THROUGH LAW SCHOOL. THE PORT AND  
EMBER ARE THE ONLY TWO REASONS I  
HAVE EVER WALKED MAIN STREET IN  
HARWICH PORT. THE TWO RESTAURANTS,  
IN MY VIEW, ARE THE PRIMARY REASONS  
PEOPLE VISIT AND SHOP DOWNTOWN. IF  
THEY ARE FORCED TO CLOSE BECAUSE  
OF YOUR ACTIONS, EVERY BUSINESS IN  
HARWICH PORT WILL SUFFER. I URGE  
YOU TO IMMEDIATELY ISSUE THEIR  
LICENSES SO THEY CAN DO WHAT THEY  
DO BEST.'

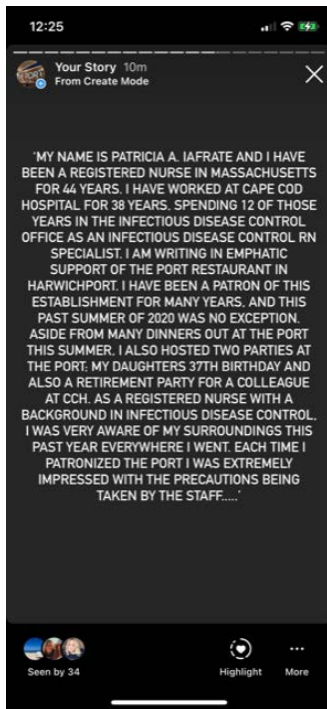
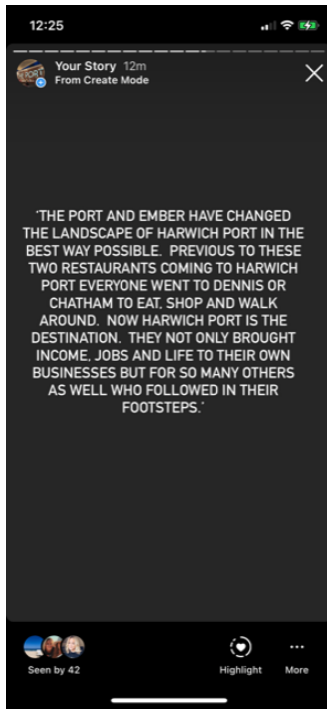
TO THE SELECT BOARD:  
THE ACTIONS OF THE SELECT BOARD HAVE  
BEEN- FOR WHATEVER REASON- PETTY  
AND UNNECESSARILY PUNITIVE WHEN  
BUSINESSES ARE STRUGGLING TO SURVIVE  
THE PANDEMIC. YOU SHOULD BE HELPING  
BUSINESSES- NOT PUNISHING THEM.  
I STRONGLY URGE YOU TO RECONSIDER  
YOUR ACTIONS IMMEDIATELY. TOURISTS  
WILL BE ARRIVING ANY DAY. AND THERE  
WILL BE TWO FEWER REASONS TO STOP IN  
HARWICH.'

'I AM SERIOUSLY DISAPPOINTED TO SEE A THINLY VEILED POLITICAL SITUATION PLAYING OUT IN HARWICHPORT. IT WOULD SEEM TO ME FROM THE OUTSIDE LOOKING IN, (AND WITH THE PERSONAL INSIGHT I HAVE INTO THE CLIMATE AT THE PORT DURING A WILDLY DIFFICULT TIME FOR THE RESTAURANT INDUSTRY) THAT THERE ARE SOME FOLKS WHO HAVE PUBLICLY HAD IT OUT FOR THIS BUSINESS, FOR SOME TIME NOW, ARE EXPLOITING COMPLEX MOMENT IN TIME TO OPERATE A RESTAURANT AS A PLATFORM TO DESTROY A BUSINESS. HOW SAD AND PETTY? THERE ARE 20 RN'S WATCHING THIS PLAY OUT WHO ARE CALLING 'BS'.'

10:36

THE PORT HAS ZERO  
NOISE VIOLATIONS IN  
THE LAST 3 YEARS

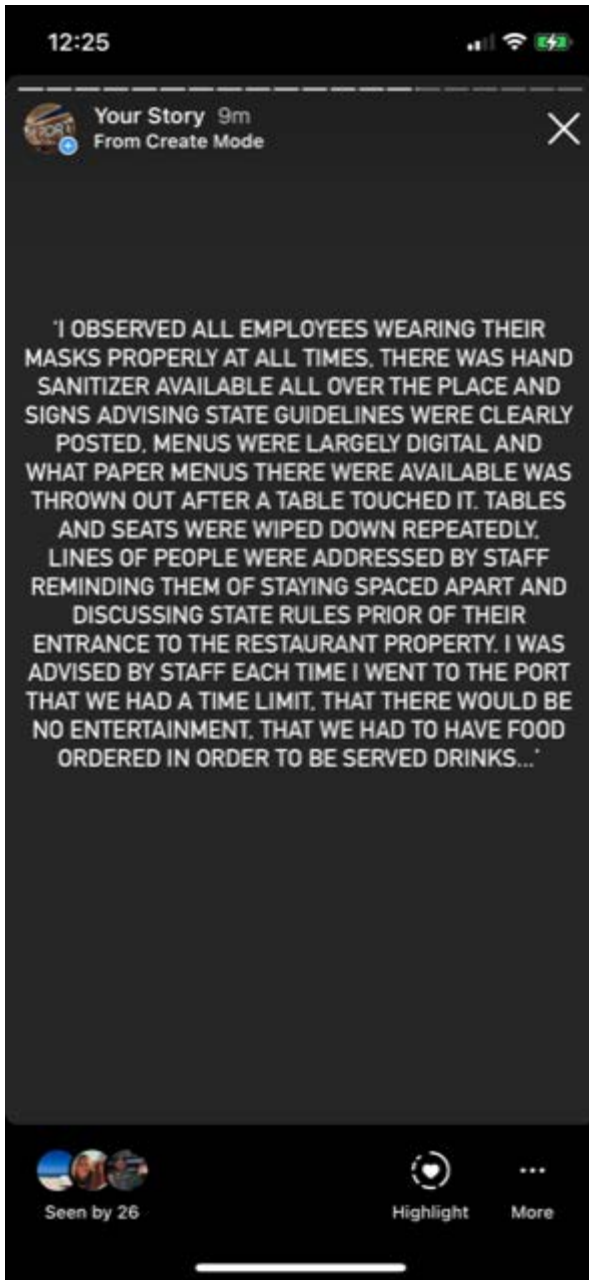
WHY HASN'T OUR  
ENTERTAINMENT  
LICENSE BEEN ISSUED  
TO US??



Sent from my iPhone

**From:** [Brackett](#)  
**To:** [Raymond Tomlinson](#)  
**Subject:** 289-294  
**Date:** Sunday, March 28, 2021 12:37:37 PM  
**Attachments:** [IMG\\_1417.PNG](#)  
[IMG\\_1418.PNG](#)  
[IMG\\_1419.PNG](#)  
[IMG\\_1420.PNG](#)  
[IMG\\_1421.PNG](#)

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12:25



Your Story 8m  
From Create Mode



'BOTH TIMES I HELD PARTIES AT THE PORT WE WERE SPLIT INTO DIFFERENT GROUPS TO MAINTAIN 6 PEOPLE PER TABLE AND WERE NOT ALLOWED TO STAND AND MINGLE BETWEEN TABLES. I OBSERVED STAFF WORKING TIRELESSLY TO RELAY THESE VERY RULES TO MANY OTHER PATRONS WHO WERE TRYING TO EXPRESS THEY FELT EXEMPT FROM THE STATE GUIDELINES. THE STAFF WAS PATIENT (THOUGH STEADFAST) BEYOND MEASURE IN THE FACE OF MUCH BACKLASH FROM VACATIONERS WHO WANTED A 'NORMAL' CAPE COD EXPERIENCE AND WERE OFTEN UNKIND WHEN DISCOVERING THERE WOULD BE NO SPECIAL EXEMPTIONS FOR ANYONE.'



Seen by 22



Highlight



More

12:25



Your Story 7m  
From Create Mode



THE RETIREMENT PARTY I MENTIONED WAS A GROUP OF REGISTERED NURSES WHO HAD BEEN ENTRENCHED IN BATTLING COVID-19 FOR 6 MONTHS AT CAPE COD HOSPITAL. IF THERE HAD BEEN ANYTHING AMISS, ANYTHING OVERLOOKED, ANYTHING LAX IN THE PORTS HANDLING OF THIS PANDEMIC, WE WERE THE PATRONS WHO WOULD HAVE PICKED IT OUT. THERE WAS NOTHING, I REPEAT NOTHING, THAT THIS GROUP OF HARD-WORKING YOUNG PEOPLE MISSED. I AM SERIOUSLY DISAPPOINTED TO SEE A THINLY VEILED POLITICAL SITUATION PLAYING OUT IN HARWICHPORT. IT WOULD SEEM TO ME FROM THE OUTSIDE LOOKING IN, (AND WITH THE PERSONAL INSIGHT I HAVE INTO THE CLIMATE AT THE PORT DURING A WILDLY DIFFICULT TIME FOR THE RESTAURANT INDUSTRY) THAT THERE ARE SOME FOLKS WHO HAVE PUBLICLY HAD IT OUT FOR THIS BUSINESS. FOR SOME TIME NOW, ARE EXPLOITING COMPLEX MOMENT IN TIME TO OPERATE A RESTAURANT AS A PLATFORM TO DESTROY A BUSINESS. HOW SAD AND PETTY? THERE ARE 20 RN'S WATCHING THIS PLAY OUT WHO ARE CALLING 'BS'.



For information about COVID-19,  
visit [cdc.gov](https://www.cdc.gov).



Seen by 14



Highlight



More



12:25



Your Story 6m  
From Create Mode



'I AM SERIOUSLY DISAPPOINTED TO SEE A THINLY VEILED POLITICAL SITUATION PLAYING OUT IN HARWICHPORT. IT WOULD SEEM TO ME FROM THE OUTSIDE LOOKING IN. (AND WITH THE PERSONAL INSIGHT I HAVE INTO THE CLIMATE AT THE PORT DURING A WILDLY DIFFICULT TIME FOR THE RESTAURANT INDUSTRY) THAT THERE ARE SOME FOLKS WHO HAVE PUBLICLY HAD IT OUT FOR THIS BUSINESS. FOR SOME TIME NOW, ARE EXPLOITING COMPLEX MOMENT IN TIME TO OPERATE A RESTAURANT AS A PLATFORM TO DESTROY A BUSINESS. HOW SAD AND PETTY? THERE ARE 20 RN'S WATCHING THIS PLAY OUT WHO ARE CALLING 'BS'.'



Seen by 11



Highlight



More



Sent from my iPhone

## Danielle Delaney

---

**From:** Bob Cohn <  
**Sent:** Thursday, March 18, 2021 10:42 AM  
**To:** Larry Ballantine; Michael D. MacAskill; Ed McManus; Don Howell; Stephen Ford  
**Cc:** Joe Powers  
**Subject:** Port and Ember Hearings  
**Attachments:** Informal Harwich Port Noise Survey; Updated with August and September readings.doc; Nantucket Outdoor Entertainment Licenses 2018.doc

March 18, 2021

Larry Ballantine  
Harwich Board of Selectmen  
732 Main Street  
Harwich, MA 02645

Dear Chairman Ballantine and Board Members,

I'm writing in regard to the upcoming hearings for Ember Pizza and Port Restaurant and Bar. Though I can't speak to after-hours disturbances and Covid-related violations, I can speak to entertainment noise issues.

In July 2019, I conducted the attached Informal Noise Survey, which I presented at the last Noise Containment Committee meeting prior to the pandemic. (I'm a Committee member, but this letter is mine alone.)

The map only depicts noise from Ember, mainly in July with a few days from May and June. As you'll see, entertainment noise from Ember was at times greatly excessive, and could be heard more than 1200 feet away, deep in the residential zone.

Noise readings from the Port are not shown on the map, but referring to the spreadsheet, you'll see that their noise levels were also greatly excessive.

Because the distance noise carries is also a measure of volume, noise at 750 feet is 5 times the volume and nuisance allowed under the Noise Bylaw, while noise heard at 1200 feet is 8 times the allowed limit. Yet noise from both venues reached these extremes.

The noise was often loud enough to disturb us on Pleasant St. and sometimes kept us from being able to sleep. Worse, though, was the effect on neighbors close to the venues, who had to endure incredible levels of noise on a regular basis.

I stopped doing surveys after July, but continued to note readings from my house. Based on this partial information, it seemed that noise levels from both venues began to improve toward the end of the 2019 season. Still, as the spreadsheet shows, things were far from quiet. Additionally there were significant relapses, including, I believe, a violation by Ember in September 2019. While for a week in July 2020 we regularly heard noise from the Port, 1000 feet away from their new performance area in their parking lot. Additionally there were all the crowd noise, after-hours, and covid-related issues during the 2020 season that others have reported.

It seems pretty clear that neither the Port nor Ember have made the same effort to be good neighbors as has Perks.

Still, I believe that this is as much a problem of our noise policy, which has unintentionally encouraged this sort of behavior. In fact, all the venues, including Perks and the Mad Minnow have been extremely

loud at times and made things difficult for their neighbors. The same is true for the West Harwich venues as well.

Because of this, and because of constantly changing venue management, I feel that to address *only* the current issues at the Port and Ember and fail to address the larger noise policy issues, is to treat the symptom rather than the disease.

As you're no doubt aware, there are a number of underlying problems with our outdoor entertainment policy:

- Amplified music can carry great distances outdoors;
- Live performances exacerbate this and are the main source of difficulties;
- The Town has granted a large number of outdoor entertainment licenses in close proximity to neighbors; but
- Failed to provide adequate noise management to protect neighbors from regular nuisance, specifically, proactive guidelines and restrictions, and a standardized, measurable noise threshold.

I hope we can take up these issues more fully at a following meeting, and in particular discuss the need for a Plainly Audible definition.

For now, though, if you do decide to grant outdoor entertainment licenses to the Port and Ember, I'd suggest some new license conditions be considered:

- 1) Speakers to be pointed away from neighbors at all times.
- 2) Live music restrictions:
  - a) Live music to be played only through house systems. I believe Perks has recently purchased a house system. Given the closeness of neighbors to all the venues, this may be an appropriate measure for live music throughout town.
  - b) Decibel monitors to be used by venues for self-regulation. This was suggested by Chief Guillemette a couple years ago.
  - c) Alternatively, security details, paid for by the venues, could perform the same function. This was suggested at a Noise Committee meeting.
  - d) Limit days and times for live music.
- 3) Use the bylaw's Plainly Audible definition to provide a standardized noise measure and reduce noise levels. An objectively measurable and consistent limit is key to all aspects of noise management, including the above house systems, decibel monitors, and security details.

I'm also attaching copies of Nantucket's outdoor entertainment licenses from 2018, which are individualized for each venue and may be instructive.

Thank you very much.

Respectfully,  
Bob Cohn

## **INFORMAL HARWICH PORT NOISE SURVEY, 2019**

— Bob Cohn

The Noise Survey was conducted in order to document and increase awareness of noise levels and issues in Harwich Port. While there was a significant drop-off in noise levels from the highs of 2018, it could still often be quite noisy in 2019. The survey is far from perfect, but hopefully can shine some light on the situation.

### **How the Survey Was Conducted**

The survey was very informal. I didn't go out on a regular basis, but instead when I felt like it and/or when it was particularly noisy. By the beginning of August, I grew pretty tired of it, and did surveys less frequently.

I usually followed the same route, but not always:

- South from Pleasant St. through the Schoolhouse Rd. parking lot;
- to Perks and The Port to see which business was the source of any noise;
- South on Sea St. and then back up to Rt. 28;
- East along Rt. 28 to Freeman St./Snow Inn Rd.;
- North on Freeman to Pleasant;
- West on Pleasant and back to the start at Schoolhouse Rd.
- Except once or twice, I didn't go south of Rt. 28 on Bank or Bayview.

As I heard noise at various points along the way, I'd make a voice recording on my phone, which I'd later transcribe. I haven't yet finished transcribing the data.

I used the Noise Bylaw's plainly audible definition, but also noted relative loudness, songs, voices, crowd noise, and instruments.

### **Some things to keep in mind**

The survey data is *very incomplete* and forms a partial picture only.

- I didn't do the survey every day, but only:
  - 3 days in May
  - 4 days in June
  - 15 days in July
- Survey was conducted fairly randomly—only on days I felt inclined.
- I didn't survey very much south of Rt. 28.
- Measurements were generally not taken inside 150-foot limit.
- Wednesday night music events aren't shown.
- The summer of 2019 was far quieter than 2018:
  - The Mad Minnow had no outdoor entertainment.
  - There appears to have been increased awareness of noise issues and some scaling back. This may have been due in part to the Noise Committee being announced.
- All measurements in the survey are approximate.

## **Notes about the Map**

The map is intended to help visualize the survey data. Because it took a lot of time to put the map together, only the noise readings from Ember are so far shown. Thus, this is *an even more partial picture* than the survey spreadsheet itself.

A truer picture of the situation would:

- include readings from Perks and The Port, easily doubling the number of incidents;
- show readings all through the summer on a nightly basis, perhaps doubling again;
- include a fuller set of readings south of Rt. 28, adding still more; and
- include readings *inside* the blue and green circles.

Wednesday night music events might also be considered to gauge noise levels, adding another 15% on top of the above.

Further, had a 2018 version of the survey been done, it would have included readings from the Mad Minnow and a great deal more noise in general throughout the village, and would likely more than double again.

That is to say that at the peak noise levels of 2018, a map depicting an entire summer's survey might well show 8 or 10 times as many noise incidents. Perhaps more.

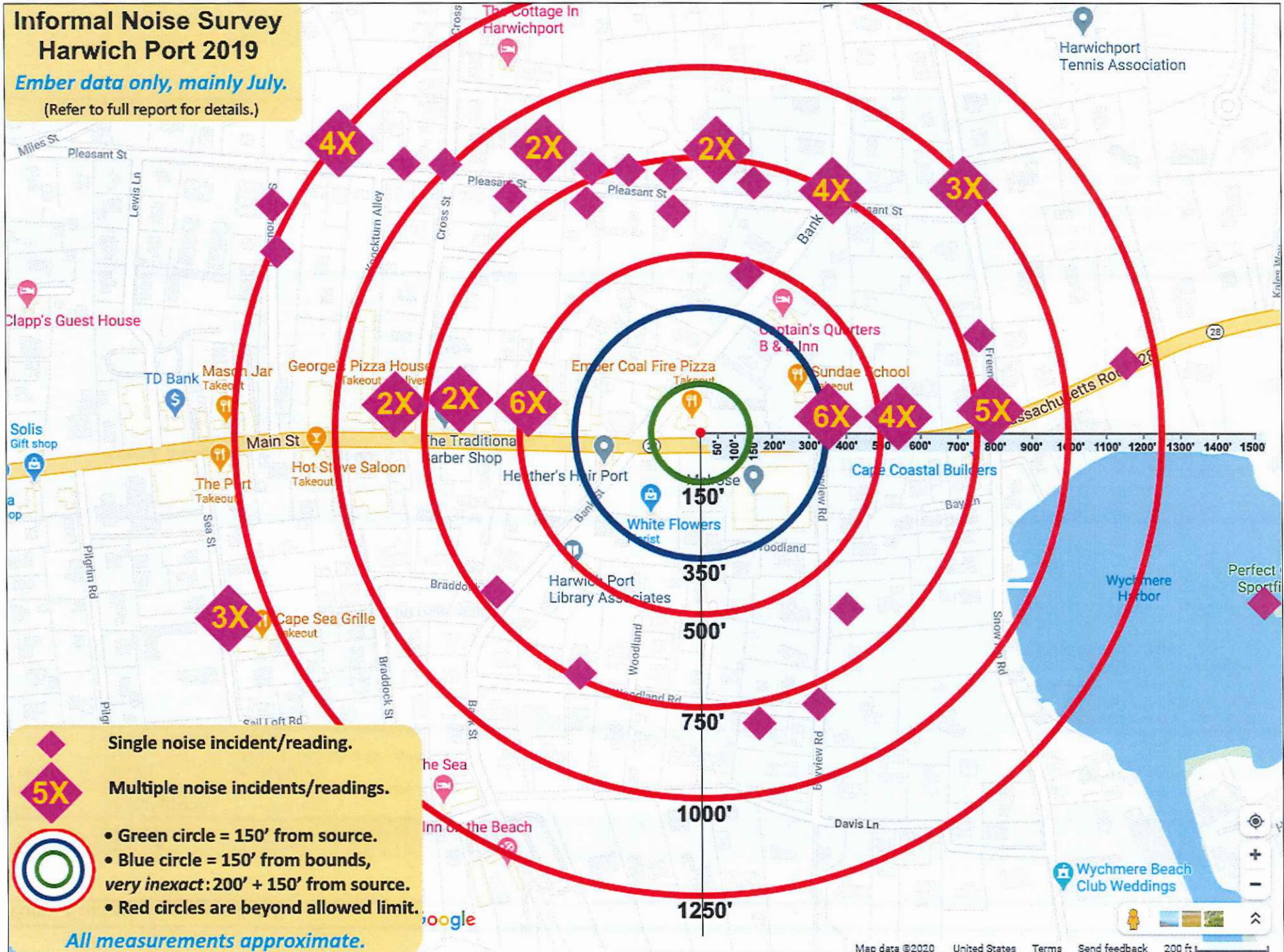
### Some details:

- Circles are all centered at Ember's performance area,
  - The interior green circle has a radius of 150' from the performance area.
  - The blue circle *only very roughly* depicts the area 150' beyond Ember's boundaries. As the property line to the east is roughly 200' from the performance area, a circle of radius 350' is used (200'+ 150').
  - The red circles (500', 750', 1000', 1250') are all beyond permitted limits.
- Some addresses have been merged for easier depiction on map, e.g.:
  - George's Pizza // Cross & 28
  - 28 & Snow Inn // 28 & Freeman
  - United Gas // Cumberland Farm
- All numbers and measurements on the map are approximate.

# Informal Noise Survey Harwich Port 2019

Ember data only, mainly July.

(Refer to full report for details.)



- Single noise incident/reading.
- Multiple noise incidents/readings.
- Green circle = 150' from source.
- Blue circle = 150' from bounds, very inexact: 200' + 150' from source.
- Red circles are beyond allowed limit.

All measurements approximate.

## Noise Survey, Summer 2019

Date & Time	Wind & Weather	The Port	Perks	Ember <i>Only Data Plotted on Map</i>	Notes
Fri. May 24 7:30p	<b>Quite Strong Wind North to South</b>  <b>Cool &amp; windy</b>	<ul style="list-style-type: none"> <li>• ~400 feet/ Halfway up Schoolhouse Rd. lot</li> <li>• ~1000 feet At bottom of Sea St., almost to water</li> </ul>			Friday of Memorial Day weekend <ul style="list-style-type: none"> <li>• Strong wind was pushing music away from Pleasant St., toward water</li> </ul>
Sat. May 25 9:15-9:45	<b>Light wind South to North</b>  <b>Nice</b>	<ul style="list-style-type: none"> <li>• @29 Pleasant /~800'</li> <li>— Music &amp; shouting</li> <li>• @Cross &amp; Pleasant ~1000' (faint but PA)</li> <li>• @Cape Sea Grille /~400'</li> <li>• @27 Sea St./~500'</li> <li>— crowd shouting &amp; carrying on</li> </ul>		Music PA <ul style="list-style-type: none"> <li>• @57 Pleasant/~725'</li> <li>— (not faint)</li> <li>• @Bank &amp; Pleasant ~700' (quite loud)</li> <li>• @Melrose /200+' (crowd noise PA)</li> <li>• @617 Rt 28/500' (fairly loud)</li> <li>• @Snow Inn &amp; 28 /800' (&amp; PA further east too)</li> <li>• @Cumby's /~450'</li> </ul>	Saturday of Memorial Day weekend <ul style="list-style-type: none"> <li>• Music loud from The Port &amp; Ember; — crowd noise was as well.</li> <li>• Performer at Perks not noticeable over noise from the Port.</li> </ul>
Sun. May 26	<b>South to North -Light</b>  <b>Sunny, pleasant</b>	<ul style="list-style-type: none"> <li>• 4:45p: @29 Pleasant/~800'</li> <li>— male voice plainly audible</li> <li>• 6:00p: @Schoolhouse Rd &amp; Anchorage driveway /~450'</li> <li>• @Cape Sea Grille /~400'</li> <li>• @27 Sea St./~500'</li> <li>• 7:30p: @29 Pleasant/~800'</li> <li>• 8:30: @29 Pleasant/~800'</li> <li>• Schoolhouse &amp; Pleasant/~850' (faint but PA, "Brown-eyed Girl")</li> <li>• 36 Cross St. PA @9:45/1175'</li> <li>• Lewis Lane &amp; Cape Cod 5 lot/~450'</li> </ul>		<ul style="list-style-type: none"> <li>• Freeman &amp; Pleasant /900'</li> <li>• Bank &amp; Pleasant /700'</li> <li>• 28 &amp; Bayview (female voice, slow music) /~325'</li> <li>• 28 &amp; Snow Inn /~800'</li> <li>• 28 &amp; Cross (female voice) / ~800'</li> </ul>	Sunday afternoon & evening of Memorial Day weekend — heard music from direction of Port/Perks while outside doing yardwork (male voice, was the same music style as heard an hour later from Port)
Wed. June 26 9:30-10pm	<b>Little Wind</b>  <b>Fair</b>			<ul style="list-style-type: none"> <li>• 29 Pleasant/~1200'</li> <li>— Music intermittently audible</li> <li>• Pleasant &amp; Bank /~700'</li> <li>• 67 Pleasant/~650'</li> <li>• 35 Pleasant/~1150'</li> <li>• 28 &amp; Bayview/~325'</li> <li>• 28 &amp; Freeman/~800'</li> <li>• @Traditional Barber Shop/~800'</li> <li>• @Cape Sea Grille /~1500'</li> </ul>	Wednesday night late <ul style="list-style-type: none"> <li>• Music from Ember audible all around neighborhood — venue lightly attended — single performer (I think) — singing fairly low, but amplified enough to be heard intermittently at significant distances</li> </ul>



Date & Time	Wind & Weather	The Port	Perks	Ember Only Data Plotted on Map	Notes
Thu. June 27 8:15p-8:45p	No Wind Cool, Foggy		<ul style="list-style-type: none"> <li>• @29 Pleasant/~800' — music light, but plainly audible</li> <li>• Schoolhouse lot &amp; Anchorage drive /~400'</li> <li>• @Cape Sea Grille /~450'</li> </ul>	<ul style="list-style-type: none"> <li>• @56 Pleasant/~750'</li> <li>• @74 Pleasant/~650'</li> <li>• Bank &amp; Pleasant /~700'</li> <li>• Pleasant &amp; Freeman /~900' (wailing guitar)</li> <li>• 28 &amp; Freeman/~800' (announcement/talking on PA &amp; music)</li> <li>• very plainly audible @617 Rt 28 /~500'</li> <li>• @Heather's Hair/~200'</li> <li>• @Cumby's /~475'</li> </ul>	<ul style="list-style-type: none"> <li>• Just 1 performer at Ember, but he uses generated backup music</li> <li>• Could hear music from Perks at 29 Pleasant, from about 8:15/8:30 on — light, intermittent, but audible — became louder from 9:30 on</li> </ul>
Fri. June 28 9:00 9:30 10:00p	No Wind Pleasant	<ul style="list-style-type: none"> <li>• @29 Pleasant back yard/800'</li> <li>• Top of Schoolhouse lot (edge of woods)/~625'</li> </ul>	<ul style="list-style-type: none"> <li>• 19 Schoolhouse Rd/550' (9:55 "Can't always get what you want.")</li> </ul>	<ul style="list-style-type: none"> <li>• Corner Braddock &amp; Bank/700'</li> <li>• 54 Pleasant/750'</li> <li>• 9:55p: Halfway up Schoolhouse Rd wooded lot/1300'</li> <li>• 6 Freeman St. 800'</li> <li>• 28 &amp; Bayview/335' (heavy rhythm w/bongos)</li> <li>• @Heathers Rt 28/~300' (bongos)</li> </ul>	<ul style="list-style-type: none"> <li>• Readings attributed to The Port may have been from Perks—walked the other direction, so not sure</li> </ul>
Sun. June 30 8:00p	Strong Wind— Variable, but mainly North to South  Nice night, but windy	<ul style="list-style-type: none"> <li>• Chamber of Commerce/275'</li> <li>• Anchorage driveway/450'</li> <li>• 39 Sea St./275'</li> <li>• Cape Sea Grille/450'</li> <li>• Port Pines Rd &amp; Sea St./850'</li> <li>• In back of Pilgrim Church, (30' away from Pilgrim Rd.) /375'</li> </ul>		<ul style="list-style-type: none"> <li>• 92 Bank St./~450' ("Only the good die young")</li> <li>• @28 &amp; Freeman/800'</li> <li>• @617 Rt 28 (heavy bass)/500'</li> <li>• @28 &amp; Bayview (pretty loud: Monkees "I'm a Believer")/335'</li> <li>• Cumby's: "Johnny B. Goode"/475'</li> <li>• George's Pizza/800'— can clearly hear bass line</li> <li>• @Cape Sea Grille, Sea St./1400'</li> </ul>	<ul style="list-style-type: none"> <li>• 4 piece band at Ember — but not that many customers—less than half full</li> <li>• Single male performer at Perks — <i>under umbrella</i> &amp; not audible even in front of venue</li> <li>• Female performer at the Port, voice carried, highly amplified</li> <li>• Minnow: recorded music w/empty</li> </ul>
Mon. July 1 7:30-10:00p	Fair amount of wind blowing South to North		<ul style="list-style-type: none"> <li>• 8:00p @29 Pleasant back yard/800'</li> <li>• Schoolhouse Rd &amp; Pleasant/800'—pretty loud</li> <li>• 9:15p: @19 Schoolhouse/600' — "Take a load off Fanny" etc.</li> <li>• Cape Sea Grille/450' — music is <i>intermittently</i> plainly audible</li> </ul>		<ul style="list-style-type: none"> <li>• Single male performer at Perks — no umbrella/coverage — soulful, moaning male voice</li> <li>• Sent text to Sarah &amp; Taylor Powell telling them that the music has been carrying up to Pleasant St.</li> <li>• Duet at Ember—pretty light, can't hear very far away</li> </ul>
Thu. July 4 7:45p		<ul style="list-style-type: none"> <li>• 7:45p @29 Pleasant/800'</li> <li>• 10:02p: @29 Pleasant /800'</li> <li>• Cape Sea Grille/400' — "Lord I was born a gambling man"</li> </ul>			<ul style="list-style-type: none"> <li>• Spoke w/Sarah &amp; Taylor Powell of Perks—music not very loud from Perks</li> </ul>

Date & Time	Wind & Weather	The Port	Perks	Ember Only Data Plotted on Map	Notes
Fri. July 5 8:00p		<ul style="list-style-type: none"> <li>• 8:00p @29 Pleasant/800': Music plainly audible inside our house</li> <li>• Schoolhouse Rd &amp; Pleasant/800'</li> <li>• Cape Sea Grille/400'</li> <li>"Rolling on the river"</li> <li>• 27 Sea St./650': "I'm a joker, I'm a toker..."</li> <li>• Sail Loft Rd &amp; Sea St./700'</li> </ul>		<ul style="list-style-type: none"> <li>• Freeman &amp; Pleasant/975' plainly audible (may have been from The Port)</li> <li>• @Heathers Rt 28/~200'</li> </ul>	<ul style="list-style-type: none"> <li>• Ember performer: single guy w/music/rhythm generator</li> </ul>
Sat. July 6 2:30				<ul style="list-style-type: none"> <li>• 7:15p: Harbor Rd. wharf /~1800'</li> <li>• Wychmere Harbor overlook / ~1200'</li> </ul>	<ul style="list-style-type: none"> <li>• Out driving around, could hear music from Ember all around Wychmere Harbor</li> </ul>
Sun. July 7 7:45		<ul style="list-style-type: none"> <li>• 8:00p @29 Pleasant /800' (plainly audible inside our house)</li> </ul>		<ul style="list-style-type: none"> <li>• 72 Pleasant/650'</li> <li>• 62 Pleasant /675'</li> <li>• Cross &amp; Pleasant/950' ("You're so vain you probably think this song is about you")</li> <li>• 8:30p 29 Pleasant /1200'(guy talking on PA)</li> <li>• 9:00p 29 Pleasant—music getting loud</li> <li>• 9:30p 29 Pleasant, still very loud</li> <li>• 9:45p called police again</li> <li>• 26 Bank St./~1100'</li> <li>• Bayview &amp; Woodland/900'</li> <li>• 10 Woodland/775'</li> <li>• 29 Woodland/775'</li> <li>• 25 Bayview/600'</li> <li>• Bayview &amp; Rt. 28/350':pretty loud</li> <li>• @Cape Sea Grille /~1500'</li> </ul>	<ul style="list-style-type: none"> <li>• A couple people playing at Port</li> <li>• Ember very loud all over HP <ul style="list-style-type: none"> <li>— called police @9:00pm</li> <li>— officer didn't come by house</li> <li>— no noticeable change in volume</li> <li>— got louder at @9:45p (trying to go to bed)</li> <li>— called police again and was told that the officer had asked them to turn it down</li> <li>— but if they music was turned down, it was only very briefly</li> <li>— and by 9:45p, it was still louder than before, and continued louder until 10pm</li> </ul> </li> <li>• made recording of music 1200' away</li> </ul>
Mon. July 8 9:20p			<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>—moany guy plainly audible</li> </ul>		<ul style="list-style-type: none"> <li>• Monday night: moaning guy at Perks</li> </ul>
Thu. July 11 from 7:30 on	A bit of wind blowing from the south	<ul style="list-style-type: none"> <li>• 29 Pleasant/~800'</li> <li>—intermittently plainly audible</li> <li>• Schoolhouse Rd &amp; Pleasant/800'</li> <li>—very clear: bass guitar riffs</li> <li>• 39 Sea St./275'</li> <li>—deeper male voice rhythmic/thumping component</li> <li>• 29 Pleasant 9:30p</li> <li>— music from The Port</li> <li>— intermittent guitar licks from Ember</li> </ul>		<ul style="list-style-type: none"> <li>• @Traditional Barber Shop/~800' (electric guitar licks)</li> <li>• 29 Pleasant 9:30p</li> <li>— intermittent guitar licks</li> </ul>	<ul style="list-style-type: none"> <li>• Port performer quite loud</li> <li>• Perks performer fairly quiet</li> <li>• Ember went on break as I went by</li> </ul>
Sun. July 14				<ul style="list-style-type: none"> <li>• 29 Pleasant St./1200'</li> <li>—music from Ember quite loud</li> </ul>	<ul style="list-style-type: none"> <li>• Music fairly loud from Ember, but didn't do survey</li> </ul>
Mon. July 15	No wind		<ul style="list-style-type: none"> <li>• 7:15p 29 Pleasant /~800'</li> <li>—moaning guy plainly audible inside house</li> <li>• 9:00p: ditto</li> </ul>		<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> Monday in a row w/Perks' moaning guy: sounds low, but w/amplification, voice carries and is quite loud</li> <li>—good bit louder than previously</li> <li>—could be heard inside house</li> </ul>

Date & Time	Wind & Weather	The Port	Perks	Ember Only Data Plotted on Map	Notes
Sat. July 20, 2019 7:30-on	Not much wind	<ul style="list-style-type: none"> <li>• Music plainly audible from <i>either Perks or The Port</i> for a couple/few hours /800'</li> <li>— periodically howling</li> <li>• From 9:30 to closing, music was loud enough that it was echoing off houses to the north of us and still further away</li> </ul>			<ul style="list-style-type: none"> <li>• Didn't do survey</li> </ul>
Thu. July 25, 2019 8:45p		<ul style="list-style-type: none"> <li>• 8:45p 29 Pleasant /~800'</li> <li>—electric guitar, wailing, almost steel guitar; intermittent, off &amp; on</li> <li>— 9:00p singing "Blue Morning"</li> <li>— 9:20p: quite loud in house; wailing electric guitar, male singer</li> <li>• 9:20p; Schoolhouse Rd &amp; Pleasant/800'</li> <li>—quite loud w/electric guitar licks</li> <li>• 9:50p 29 Pleasant/800'</li> <li>— getting louder as band goes into finale, heavy drums</li> <li>• 10:22p: music plainly audible</li> <li>• @Cape Sea Grille /~400'</li> <li>• Cape Sea Grille;</li> <li>• 39 Sea/275': quite/very loud</li> </ul>		<ul style="list-style-type: none"> <li>• 28 &amp; Bayview /~325'</li> <li>— plainly audible</li> <li>• @617 Rt 28/500'</li> <li>— guitar licks plainly audible</li> <li>• 49 Pleasant/850'</li> <li>(or might have been from the Port at 1050')</li> <li>• 19 Schoolhouse (in lot)/ ~1200: quite loud, people on PA system coming from Ember</li> <li>• @Cumby's /~450'</li> <li>— plainly audible</li> </ul>	
Fri. July 26, 2019 8:45p		<ul style="list-style-type: none"> <li>• 39 Sea St./275'</li> <li>— loud; "Stuck in the Middle with You"</li> <li>• 9:00pm @29 Pleasant/~800'</li> <li>— music plainly audible</li> <li>• Anchorage parking lot</li> <li>• 9:45pm @29 Pleasant/~800'</li> </ul>		<ul style="list-style-type: none"> <li>• 52-54 Pleasant/800'</li> <li>(or might have been from the Port at 1150')</li> <li>• @Cumby's /~450'</li> <li>— very plainly audible</li> <li>• 37 Bay View: ~350'</li> <li>— plainly audible</li> </ul>	
Sat. July 27 2019 6:15p		<p>(Port OR Perks—didn't do survey)</p> <ul style="list-style-type: none"> <li>• 6:15pm @29 Pleasant/~800'</li> <li>— not loud, but plainly audible</li> </ul>		<ul style="list-style-type: none"> <li>• 9:45pm @29 Pleasant/~1200'</li> <li>— plainly audible inside house—space age-y music; trying to go to bed</li> </ul>	
Sun. July 28 2019 8:30p	Wind coming from south	<p>(from Port OR Perks—couldn't be sure)</p> <ul style="list-style-type: none"> <li>• @Cape Sea Grille /~450' — "Stand by Me"</li> <li>— pretty loud, though wind is coming from the south</li> </ul>		<ul style="list-style-type: none"> <li>• Bank &amp; Pleasant /700'</li> <li>— plainly audible</li> <li>• 72 Pleasant/650'</li> <li>— "Ain't No Sunshine When She's Gone"</li> <li>• 66 Pleasant /675'</li> <li>• @United Gas /~550'</li> <li>— very plainly audible</li> </ul>	
Mon. July 29 2019 8:15			<ul style="list-style-type: none"> <li>• 8:15: @29 Pleasant/~800'</li> <li>— quite loud, male voice, moany</li> <li>• 9:00p: ditto</li> <li>• 9:30p: ditto</li> </ul>		

## Data Below *\*NOT\** Plotted on Map

Date & Time	Wind & Weather	The Port	Perks	Ember	Notes
Thu. Aug. 1		(Port OR Perks—didn't do survey) • from 7:30-9:30p: @29 Pleasant/~800' — hearing music inside our house • from 9:15 on: heavy drums off & on			• Didn't go out on survey
Sat. Aug. 3		(Port OR Perks—didn't do survey) • 29 Pleasant 9:45p/~800' — music loud enough that it's echoing from across the street — could hear crowd woo-hoing, echoing from across the street			• Didn't go out on survey
Mon. Aug. 5				• 29 Pleasant/~1200' 9pm - 10pm: music plainly audible inside house while trying to sleep	• Didn't go out on survey, quiet most of night;
Sat. Aug. 10		(Port OR Perks—didn't do survey) • 29 Pleasant/~800' 3:00p			• Didn't go out on survey
Mon. Aug. 12			• 29 Pleasant /~800' —7:15: moany guy plainly audible <i>inside house</i> • 7:30: echoing from across street • 9:00: going to bed, can still hear inside house		• Didn't go out on survey
Thu. Aug. 15				• 29 Pleasant /~1200' —6:45: electric guitar riffs —8:45: jazzy electric guitar still going • 8:45: Halfway down Schoolhouse Rd. wooded lot: guitar whining • United Gas: guitar can be heard between cars • Sundae School: very plainly audible • 28 & Bayview: very plainly audible	
Sun. Aug. 18		(Port OR Perks—didn't do survey) • from 8:15 on: @29 Pleasant/~800' — got a little louder after 9			• Didn't go out on survey

Date & Time	Wind & Weather	The Port	Perks	Ember	Notes
Mon. Aug. 19			<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>—7:15: moany guy plainly audible</li> <li>— 8:00: getting louder, periodically echoing off house across street</li> <li>— 8:45: got quiet for 20 minutes while raining, now resumes</li> <li>— 9:15: raining out, but getting louder: "Whoa whoa, whoa whoa"</li> <li>— 9:25: getting worked up, cracky voice</li> <li>— 9:30: raining more, moany guy finally stops</li> <li>— 9:50: rain stops, moany guy starts back up</li> </ul>		<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>
Tue Aug. 20		(Port OR Perks—didn't do survey)	<ul style="list-style-type: none"> <li>• 9:00: @29 Pleasant/~800': plainly audible</li> </ul>		<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>
Wed. Aug. 21		<ul style="list-style-type: none"> <li>• Cape Sea Grille: 9:30</li> <li>— music from both Perks &amp; Port</li> <li>— guitar from Port</li> </ul>	<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>— 9:05 music quite loud</li> <li>*after* Wed. night music stroll</li> <li>• 9:30: Schoolhouse &amp; Pleasant</li> <li>— Moany guy quite loud</li> <li>— shouting, hooting &amp; hollering at bars, trumpet, getting louder</li> <li>• Cape Sea Grille: 9:30</li> <li>— music from both Perks &amp; Port</li> <li>— moany guy from Perks</li> <li>• 9:45: Pleasant &amp; Cross:</li> <li>— moany guy plainly audible</li> <li>• 9:45: 36 Cross/~1100'</li> <li>— moany guy quite plainly audible</li> <li>• 9:45: 29 Pleasant</li> <li>— music echoing across street</li> </ul>		<ul style="list-style-type: none"> <li>• Music quite loud *after* Wed. night stroll</li> </ul>
Fri. Aug. 23		<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>—8:30: plainly audible</li> <li>—9:45: going to bed, can hear music inside house</li> </ul>			<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>
Sat. Aug. 24				<ul style="list-style-type: none"> <li>• 29 Pleasant /~1200'</li> <li>—8:30: plainly audible: guitar riffs, recognizable rhythms, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>
Mon. Aug. 26			<ul style="list-style-type: none"> <li>• 7:45: 29 Pleasant /~800'</li> <li>— moany guy: pretty faint, borderline plainly audible at 800'; most likely P.A. at 150'</li> </ul>	<ul style="list-style-type: none"> <li>• 29 Pleasant /~1200'</li> <li>—7:45: Hooting and hollering from Ember</li> </ul>	<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>

Date & Time	Wind & Weather	The Port	Perks	Ember	Notes
Thu. Aug. 29		<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>—8:20: absolutely plainly audible</li> <li>—9:15: plainly audible, pounding, thumping percussion</li> <li>• Pleasant &amp; Schoolhouse</li> <li>—9:15: quite loud, heavy music</li> <li>• 9:20: Cape Sea Grille</li> <li>— Port P.A. system, plainly audible, including harmonica</li> <li>• 29 Pleasant /~800'</li> <li>—9:40: can hear music from The Port inside the house</li> <li>—9:45: went to Port, music was incredibly loud</li> <li>—9:55: music continues to be very loud inside house as we get in bed—even with windows mostly closed; loud for a couple hours, not singing loudly, just amped</li> </ul>		<ul style="list-style-type: none"> <li>• 8:00pm: ~1400' /Bank St. beach, at edge of parking lot where sand begins</li> </ul>	
Fri. Aug. 30		<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>—8:45: hooting, hollering, a lot of screaming from one of the bars, out of control</li> <li>• Pleasant &amp; Schoolhouse</li> <li>— 9:05: music plainly audible, crowd shouting</li> <li>• 9:05: Cape Sea Grille:</li> <li>— singer w/gruff, shouting voice, seems to encourage partygoers to join in</li> </ul>			<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>
Sat. Aug. 31				<ul style="list-style-type: none"> <li>• 29 Pleasant /~1200'</li> <li>—9:15: plainly audible. Starting to get louder. Performer on P.A. system going back and forth w/audience</li> <li>—9:15: rap music, kind of unpleasant, getting louder, definite violation</li> <li>— 9:20: loud drum thumping</li> </ul>	<ul style="list-style-type: none"> <li>• Didn't go out on survey</li> </ul>
Thu. Sep. 5		<ul style="list-style-type: none"> <li>• 8:30: 50' into parking lot from Pleasant</li> <li>— drums, voices, plainly audible</li> <li>— can hear/feel drums inside house</li> </ul>		<ul style="list-style-type: none"> <li>• 29 Pleasant /~1200'</li> <li>— 8:30 whiny electric guitar</li> <li>• Barbershop on 28: music from Ember plainly audible between cars</li> <li>• Bayview &amp; 28: Electric guitar licks</li> <li>• 617 Rt. 28: plainly audible, but low</li> </ul>	

Date & Time	Wind & Weather	The Port	Perks	Ember	Notes
Sat. Sep. 7			<ul style="list-style-type: none"> <li>• 29 Pleasant /~800'</li> <li>— 8:00: sounds like moany guy</li> <li>— 8:15: music plainly audible &amp; crowd noise</li> <li>• 8:15: Schoolhouse Rd &amp; Anchorage driveway, still plainly audible</li> <li>— same @Mason's Tree Service</li> <li>• 39 Sea St.: plainly audible</li> <li>• 43 Sea St.: plainly audible</li> <li>• 29 Pleasant /~800'</li> <li>— 9:00: plainly audible inside house w/windows closed</li> <li>— 9:30: still plainly audible w/windows closed, constant drumming</li> </ul>		
Sat. Sep. 14			<ul style="list-style-type: none"> <li>• 8:30: @29 Pleasant /~800'</li> <li>— music plainly audible</li> <li>— @ Schoolhouse Rd &amp; Pleasant: getting louder</li> <li>— 19 Schoolhouse/~600: quite loud, maybe moany guy</li> <li>— Cross and Pleasant/~1000 ft: plainly audible</li> </ul>	<ul style="list-style-type: none"> <li>• 7:45: Lutz Gallery on 28</li> <li>— music from Ember</li> </ul>	





## Danielle Delaney

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**From:** mike heff <mheffty@gmail.com>  
**Sent:** Friday, March 19, 2021 10:05 AM  
**To:** Michael D. MacAskill; Larry Ballantine; Don Howell; Ed McManus; Stephen Ford; Joe Powers  
**Subject:** Embers and Port The time has come

Town of Harwich Port

Dear BOS:

Re: Embers and Port

Thank you for your time.

I understand that this hearing is about how the Port or Embers break all the rules during a national pandemic. It is not even a surprise. It is more a surprise that the town has done nothing to stop them. Even before this covid-19 pandemic the Port and Embers dodged town laws, rules and regulations like drunken cowboys.

Does the BOS not care about how a business operates within a town?

These owners of these establishments have made it obvious they have no intention of abiding by our town laws or regulations. The noise over the last few years is far louder than the town noise ordinance of 150 feet. It is the obligation of the town government, not its citizens, to police and punish people or businesses that break our laws and rules; Those same rules and regulations that are made for the good of the community. The Port and Embers are both known rule breakers by the BOS and everyone in town. The time has come for punishment. As a business owner I am stunned that they have not been shut down or at least fined for the infractions, no one breaks this many laws and survives.

The town should never reward bad behavior: it just leads to more bad behavior. This is exactly what the town has been doing. They ask for more and you keep allowing more bars, more liquor, more noise, more bad behavior.

A bad business establishment opens the door for more loud noisy, business establishments.

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The legitimate, law abiding, business owners in our town, that work so hard to operate in a safe, community, oriented way; must be incredulous that you have allowed these establishments to break the laws/rules of the town.

The time has come to Shut them down. It is not as harsh as one may think. First, another better owner will likely come in and take over and run a better community oriented establishment. As an owner you have to play by the rules. When you don't, *you know* your gambling with your business. These owners are not community oriented owners.

Thank You  
Mike Heffernan

## Danielle Delaney

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**From:** Joe Ganley <jganley@athenahealth.com>  
**Sent:** Monday, March 22, 2021 3:02 PM  
**To:** Joe Powers  
**Cc:** Larry Ballantine; Ed McManus; Don Howell; Stephen Ford; Michael D. MacAskill; gcorbo@k-plaw.com  
**Subject:** RE: Selectmen Packet  
**Attachments:** FW: Request for a Phone/Video Conversation

Mr. Powers:

Reference is hereby made to my email below of 3/19. I have just reviewed the packet posted on the website, and it does not appear that my testimony previously submitted to you and the committee has been included in its entirety. I would note that the testimony was submitted on 3/5/2021, some 17 days ago. I am once again respectfully requesting that the testimony be included, in its entirety, in the formal record of this evening's hearing.

Thank you for your attention to this matter.

Joe Ganley

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**From:** Joe Ganley  
**Sent:** Friday, March 19, 2021 6:46 PM  
**To:** Joe Powers <jpowers@town.harwich.ma.us>  
**Cc:** Larry Ballantine <lballantine@townofharwich.us>; Ed McManus <emcmanus@townofharwich.us>; Don Howell <dhowell@townofharwich.us>; Stephen Ford <sford@townofharwich.us>; Michael D. MacAskill <mmacaskill@townofharwich.us>  
**Subject:** Selectmen Packet

Mr. Powers:

I am writing regarding the upcoming hearing related to liquor and entertainment licenses for the establishment dba: The Port Restaurant 541 Route 28 Harwich Port. As you know, I submitted 8 and ½ pages of testimony to the Board on this matter at your direction, with assurances from you and the Chairman of the Board of Selectmen that such testimony would be included in the record.

In the version of the packet that was forwarded to me, it appears that only the first two pages were included. I am aware that these packets are updated in real time prior to the hearings. Still I am mindful that I submitted my testimony well in advance of the hearing. I assume this was a clerical oversight, but I am respectfully requesting that the entirety of my testimony be included in the record and minutes of the meeting. While I reserve the right to testify at the public hearing, my intention, in providing the comprehensive testimony in writing, was to be able to keep my comments brief at the public meeting, assuming the entirety of the testimony is included in the packet.

Thank you for your consideration to this matter.

**Joe Ganley**

## Danielle Delaney

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**From:** Marie Pasquale <pashport@aol.com>  
**Sent:** Monday, March 22, 2021 1:37 PM  
**To:** Michael D. MacAskill; Don Howell; Ed McManus; Stephen Ford; Joe Powers  
**Subject:** Fwd: Tonight's hearing regarding restaurants

Begin forwarded message:

**From:** Marie Pasquale <[pashport@aol.com](mailto:pashport@aol.com)>  
**Subject:** **Tonight's hearing regarding restaurants**  
**Date:** March 22, 2021 at 1:32:56 PM EDT  
**To:** [lballantine@townofharwich.us](mailto:lballantine@townofharwich.us)

Dear Mr. Ballantine,

Please submit this with all letters for tonights hearing.

We have been homeowners in Harwich Port since 1993 and as of 2016 are full time residents as well as registered voters. The purpose of this letter is to ask the board to carefully consider any change to the laws and their administration of such that would allow restaurants to have outdoor music before 6:00 pm and after 10:00 pm. There has been no legitimate attempt to curtail abuse to this rule in the past so we know that adding to the hours of outside music will be a tremendous burden on all the neighbors living near these establishments. While we appreciate the fact that restaurants enhance the community there should be a clear limit to the noise emanating from these establishments. From our house located 600 ft from route 28 in Harwich Port we can clearly hear outdoor music well past 10pm.

As mentioned, we appreciate having such establishments that are conveniently located for our use. However, it is our hope that those who are responsible for setting and enforcing the rules are considerate of the homeowners, taxpayers and voters in the area.

Sincerely,

Marie and Gene Pasquale  
7 Woodland Road  
Harwich Port

## Danielle Delaney

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**From:** Joe Ganley <jganley@athenahealth.com>  
**Sent:** Monday, March 22, 2021 7:03 PM  
**To:** rsacramone@tre.state.ma.us; kfoster@tre.state.ma.us; kyle.e.gill@tre.state.ma.us; rmelville@tre.state.ma.us; smwalsh@tre.state.ma.us  
**Cc:** gcorbo@k-plaw.com; Joe Powers  
**Subject:** Status of Liquor License

Gentlemen:

I am writing as a concerned abutter to understand the status of the liquor license for the establishment DBA: The Port Restaurant and Bar, 541 Main Street Harwich Port, MA.

Can you, or someone from your team answer the following questions:

1. What is the status of the liquor license for this establishment on record with the ABCC?
2. When does that license expire/when must it be renewed?

I am writing to the ABCC because the local licensing authority has been non-responsive to my requests for information, including a formal public records request currently under investigation by the Secretary of State's Supervisor of Public Records.

I am hoping that you might be able to provide an answer to these basic questions without the need for the formality of a public records request under M.G.L. Chapter 66, Section 10.

Thank you in advance for your attention to this matter.

**Joe Ganley**  
**617-893-8011**

## Danielle Delaney

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**From:** Julie Gibson <jagibson219@gmail.com>  
**Sent:** Thursday, March 25, 2021 6:24 PM  
**To:** Larry Ballantine; Michael D. MacAskill; Don Howell; Ed McManus; Stephen Ford; Joe Powers  
**Subject:** Noise containment in Harwich Port

Hello Board of Supervisors -

As long time residents of Harwich Port (my grandfather bought our house in 1938), I am sorry to say that the ambience in the town has disintegrated drastically in the last few years due 100% to excessive noise coming from several of the local establishments. I am specifically referring to Embers which directly affects our property, but I also understand there are other establishments in town, such as The Port, which directly impact other residents. Harwich Port has always been a small residential community known for its friendliness, safety & consideration for its neighbors. Our house at 29 Woodland Rd, is in a direct line for noise from Embers & there have been occasions when, even with all windows & doors closed, the noise has been unbearable.

I understand that people love music & it creates an atmosphere for communal gatherings, but the whole town should not have to put up with ear-splitting noise from these establishments. We residents are the tax payers, & Harwich Port's taxes are not cheap. We pay taxes year round including in summer. Why should we suffer just because the summer-only crowd wants to split their eardrums? Do any of you live in the downtown area? Are you even aware of the noise (not music, just noise when it's so loud) that Embers & others create? Would you buy a house in the immediate neighborhood? We residents have been living here & paying taxes long before Embers, The Port etc. were even thought of. It is becoming apparent that the BOS could care less about the permanent residents of Harwich Port & only is concerned about making revenue from summer visitors frequenting the bars & restaurants. The total lack of consideration on the part of the BOS & the establishments involved does not speak well for a community of any sort or for you as the town's leaders.

I hope you will take these comments into consideration when you discuss whether to allow unpleasant, abrasive & blasting music for 12 hours every day.

Julie Gibson  
29 Woodland Rd, Harwich Port

## Danielle Delaney

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**From:** Jeff Black <jeffreydblack@gmail.com>  
**Sent:** Friday, March 26, 2021 4:57 PM  
**To:** Patti Macura  
**Cc:** Danielle Delaney; Joe Powers; Meggan Eldredge  
**Subject:** Re: Town - Ember / Port

Thank you Patti. This whole situation is so terribly disappointing. What a tone deaf stance the Board of Selectman has staked out for themselves. We should do everything possible to support our restaurants and encourage a cultural cluster. As a homeowner, this is as angry as I've been since I moved here with my young family. Our entire social circle was established at these anchors of Main Street and we'd just as likely have skipped over Harwichport entirely had it not been for its downtown.

On Fri, Mar 26, 2021 at 1:19 PM Patti Macura <[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)> wrote:

Dear Jeff,

Thank you for your comments – we will share them with the Board of Selectmen.

Sincerely,

Patti

*Patricia Macura*

*Selectmen/Administrator's Office*

*Town of Harwich*

[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)

508-430-7513 x3319

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**From:** Jeff Black via Harwich MA [<mailto:cmsmailer@civicplus.com>]  
**Sent:** Thursday, March 25, 2021 10:54 PM  
**To:** Jamie Goodwin <[jgoodwin@town.harwich.ma.us](mailto:jgoodwin@town.harwich.ma.us)>  
**Subject:** Town

Submitted on Thursday, March 25, 2021 - 10:54pm

Submitted values are:

What does this comment regard: Town

Please include any questions or comments: I am writing to support the Brackett family and their extended families at The Port and Ember. This town buzzes with an energy that is hard to find anywhere else. Elected

officials are not the arbiters of culture and quietude. There is a new generation of families that has been pulled to this town because of small business owners such as the Bracketts. Make no mistake, this is a canary in the coal mine moment for this town. To see elected and non elected officials willfully interfere with a small business that was founded by, owned by and loved by locals is just so profoundly frustrating. Y'all watched the news in 2020, right? And now is the time that you decide "you know what the restaurant industry hasn't had enough of yet, having their livelihoods attacked and willfully disregarded after they risked everything to stay open... invested in systems, protocols, COVID testing, contact tracing, you can have a drink with a pretzel, oh wait no you can only have a drink with a hot dog, oh and the town is going to give you guidance that is in direct contradiction to Gov Baker." ENOUGH! If you wanted to inspire a whole new generation that feels wildly misrepresented by their current government to get involved in local government, mission accomplished. ==Please provide the following information==

Name: Jeff Black

Email Address: [jeffreydblack@gmail.com](mailto:jeffreydblack@gmail.com)

Address: [3 John Todd Way](#)

City: Harwichport

State: Massachusetts

Zip: 02646

Phone: 6175125440

Organization:

The results of this submission may be viewed at:

<https://www.harwich-ma.gov/node/1980/submission/20192>

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## Danielle Delaney

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**From:** Pam wise <pamelaewise@gmail.com>  
**Sent:** Friday, March 26, 2021 1:48 PM  
**To:** Patti Macura  
**Cc:** Joe Powers; Meggan Eldredge; Danielle Delaney  
**Subject:** Re: Town - Ember / Port

Thank you, Patti. Embers is such a great part of the Harwich and Chatham Community.  
Best,  
Pam

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**Pamela Wise**  
Sales Associate

[126 Newbury Street, 2nd Floor](#)  
[Boston MA 02116](#)  
m: [781.771.9515](#)



On Mar 26, 2021, at 12:52 PM, Patti Macura <[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)> wrote:

Dear Pam,  
Thank you for your comments – we will share them with the Board of Selectmen.  
Sincerely,  
Patti

*Patricia Macura*  
*Selectmen/Administrator's Office*  
*Town of Harwich*  
[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)  
508-430-7513 x3319

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**From:** Pam Wise via Harwich MA [<mailto:cmsmailer@civicplus.com>]  
**Sent:** Thursday, March 25, 2021 9:57 PM  
**To:** Jamie Goodwin <[jgoodwin@town.harwich.ma.us](mailto:jgoodwin@town.harwich.ma.us)>  
**Subject:** Website

Submitted on Thursday, March 25, 2021 - 9:57pm

Submitted values are:

What does this comment regard: Website

Please include any questions or comments: We love Embers and the Port and feel they are a vital part of our community. We want our communities to thrive and bring in new and young newcomers that want to build a summer and year round home.

==Please provide the following information==

Name: Pam Wise

Email Address: [pamelaewise@gmail.com](mailto:pamelaewise@gmail.com)

Address: 43 chatham heights rd

City: Chatham

State: Massachusetts

Zip: 02633

Phone: (781) 771-9515

Organization:

The results of this submission may be viewed at:

<https://www.harwich-ma.gov/node/1980/submission/20177>

<image002.jpg>

## Danielle Delaney

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**From:** Jonathan Bates <jmbates08@gmail.com>  
**Sent:** Tuesday, March 30, 2021 3:28 PM  
**To:** Patti Macura  
**Cc:** Joe Powers; Meggan Eldredge; Danielle Delaney  
**Subject:** Re: Town - Ember / Port

Thank you. Again, I am happy to share my personal experiences with whomever could benefit from hearing. But bottom line, my family didn't just feel safe - we were safe.

On Tue, Mar 30, 2021 at 3:11 PM Patti Macura <[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)> wrote:

Dear Jonathan,

Thank you for your comments – we will share them with the Board of Selectmen.

Sincerely,

Patti

*Patricia Macura*

*Selectmen/Administrator's Office*

*Town of Harwich*

[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)

508-430-7513 x3319

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**From:** Jonathan Bates via Harwich MA [<mailto:cmsmailer@civicplus.com>]  
**Sent:** Friday, March 26, 2021 4:10 PM  
**To:** Jamie Goodwin <[jgoodwin@town.harwich.ma.us](mailto:jgoodwin@town.harwich.ma.us)>  
**Subject:** Town

Submitted on Friday, March 26, 2021 - 4:09pm

Submitted values are:

What does this comment regard: Town  
Please include any questions or comments:  
To whom it may concern:

It has been made aware to me that the Harwich restaurants, The Port and Ember, have been accused of various violations pertaining to the COVID-19 pandemic. My family and I spend one month each summer in Orleans

and actively choose to drive 20 minutes to both of these locations regularly. Aside from the food and service being excellent, we enjoy the environment and service. We also understand this is a family-owned operation and we believe in supporting businesses with this approach.

Having dined at both establishments multiple times during the pandemic, I never once witnessed, was a part of, or saw any sort of misguidance or violations regarding COVID-19 protocols. I never once felt at risk of infection or had any issue with their procedures. In fact, I confidently believe this group went above and beyond to ensure my family was safe during this time.

I fully hope and expect this situation to be resolved in time for our annual June stay because I look forward to many more nights at both of these locations. If not, I will no longer support any establishment in the town of Harwich and fully intend to share my displeasures and disappointments with friends and colleagues whom frequent the area.

I would be more than happy to speak further about my experiences with anyone who feels differently.

Regards,

Jonathan Bates

==Please provide the following information==

Name: Jonathan Bates

Email Address: [jmbates08@gmail.com](mailto:jmbates08@gmail.com)

Address: 45 Stony Corners Circle

City: Avon

State: Connecticut

Zip: 06001

Phone: 3219481992

Organization:

The results of this submission may be viewed at:

<https://www.harwich-ma.gov/node/1980/submission/20251>

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## Danielle Delaney

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**From:** Jeff Black <jeffreydblack@gmail.com>  
**Sent:** Wednesday, March 31, 2021 6:05 PM  
**To:** Patti Macura  
**Cc:** Danielle Delaney; Joe Powers; Meggan Eldredge  
**Subject:** Re: Town - Ember / Port

Hi Patti, I am just following up to relay my ongoing concern and disappointment with the Board of Selectman's actions with respect to The Port and Ember. This is a profoundly disappointing and embarrassing spectacle by town management that is going to kill the Harwichport resurgence and scare away any small business owner that may have been drawn to our town. It's got to stop. I look forward to mobilizing voter turnout efforts to remedy this failure of leadership at the earliest opportunities afforded to us as residents.

On Fri, Mar 26, 2021 at 4:56 PM Jeff Black <[jeffreydblack@gmail.com](mailto:jeffreydblack@gmail.com)> wrote:

Thank you Patti. This whole situation is so terribly disappointing. What a tone deaf stance the Board of Selectman has staked out for themselves. We should do everything possible to support our restaurants and encourage a cultural cluster. As a homeowner, this is as angry as I've been since I moved here with my young family. Our entire social circle was established at these anchors of Main Street and we'd just as likely have skipped over Harwichport entirely had it not been for its downtown.

On Fri, Mar 26, 2021 at 1:19 PM Patti Macura <[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)> wrote:

Dear Jeff,

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Sincerely,

Patti

*Patricia Macura*

*Selectmen/Administrator's Office*

*Town of Harwich*

[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)

508-430-7513 x3319

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==Please provide the following information==

Name: Jeff Black

Email Address: [jeffreydblack@gmail.com](mailto:jeffreydblack@gmail.com)

Address: [3 John Todd Way](#)

City: Harwichport

State: Massachusetts

Zip: 02646

Phone: 6175125440

Organization:

The results of this submission may be viewed at:

<https://www.harwich-ma.gov/node/1980/submission/20192>

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## Danielle Delaney

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**Sent:** Wednesday, March 31, 2021 6:05 PM  
**To:** Patti Macura  
**Cc:** Danielle Delaney; Joe Powers; Meggan Eldredge  
**Subject:** Re: Town - Ember / Port

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On Fri, Mar 26, 2021 at 1:19 PM Patti Macura <[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)> wrote:

Dear Jeff,

Thank you for your comments – we will share them with the Board of Selectmen.

Sincerely,

Patti

*Patricia Macura*

*Selectmen/Administrator's Office*

*Town of Harwich*

[pmacura@town.harwich.ma.us](mailto:pmacura@town.harwich.ma.us)

508-430-7513 x3319

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**From:** Jeff Black via Harwich MA [<mailto:cmsmailer@civicplus.com>]  
**Sent:** Thursday, March 25, 2021 10:54 PM  
**To:** Jamie Goodwin <[jgoodwin@town.harwich.ma.us](mailto:jgoodwin@town.harwich.ma.us)>  
**Subject:** Town

Submitted on Thursday, March 25, 2021 - 10:54pm

Submitted values are:

What does this comment regard: Town

Please include any questions or comments: I am writing to support the Brackett family and their extended families at The Port and Ember. This town buzzes with an energy that is hard to find anywhere else. Elected officials are not the arbiters of culture and quietude. There is a new generation of families that has been pulled to this town because of small business owners such as the Bracketts. Make no mistake, this is a canary in the coal mine moment for this town. To see elected and non elected officials willfully interfere with a small business that was founded by, owned by and loved by locals is just so profoundly frustrating. Y'all watched the news in 2020, right? And now is the time that you decide "you know what the restaurant industry hasn't had enough of yet, having their livelihoods attacked and willfully disregarded after they risked everything to stay open... invested in systems, protocols, COVID testing, contact tracing, you can have a drink with a pretzel, oh wait no you can only have a drink with a hot dog, oh and the town is going to give you guidance that is in direct contradiction to Gov Baker." ENOUGH! If you wanted to inspire a whole new generation that feels wildly misrepresented by their current government to get involved in local government, mission accomplished.

==Please provide the following information==

Name: Jeff Black

Email Address: [jeffreydblack@gmail.com](mailto:jeffreydblack@gmail.com)

Address: [3 John Todd Way](#)

City: Harwichport

State: Massachusetts

Zip: 02646

Phone: 6175125440

Organization:

The results of this submission may be viewed at:

<https://www.harwich-ma.gov/node/1980/submission/20192>

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## Danielle Delaney

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**From:** Gary <garyconroy53@comcast.net>  
**Sent:** Thursday, April 15, 2021 3:31 PM  
**To:** Joe Powers  
**Cc:** Larry Ballantine; michael@northchathamoutfitters.com  
**Subject:** Two Comments

Joe,

I just wanted to chime in on two topics, first is the food fight between the town and the two restaurants in Harwich Port. I don't have the details why this has been going on, but the article in the paper leads one to ask if the town is being vindictive here? If these businesses are not open this summer it will be a very bad look for the town of Harwich. Also, the timing of this could not come at a worse time. I am just speaking as a town resident who doesn't have a horse in the race. Hope you can get this resolved quickly.

Another topic is concerning the maintenance and presentation of our public spaces as we head into spring. I have said before that the town could and should take better care of its public spaces and properties. Last year, I commented on the Route 39 rotaries and the town hall as examples of substandard care. The town has many properties that can and should reflect pride and excellence. Even our cemeteries need some help.

As Dennis and Orleans have made significant investments in their communities, Harwich needs to step up and compete. I hope the new Director of Planning and Community Development can add value on these issues. Additionally, I hope the town can make substantial progress this year on this topic vs what we have accomplished over the last number of years. This is not a Covid-19 one year observation.

Wishing you and the Town of Harwich much success as we navigate the balance of the year.

Best Regards,  
Gary Conroy

## Danielle Delaney

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**From:** Larry Ballantine  
**Sent:** Monday, April 26, 2021 9:33 AM  
**To:** Joe Powers; Meggan Eldredge  
**Subject:** Fw: The Port  
**Attachments:** Video.MOV

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**From:** Maura <maurasharry@aol.com>  
**Sent:** Sunday, April 25, 2021 7:52 PM  
**To:** Larry Ballantine  
**Cc:** Don Howell; macaskill@townofharwich.us; Stephen Ford; Ed McManus  
**Subject:** The Port

Town of Harwich Selectmen,

I took a picture and video just shy of midnight this past September 4th. I called the police regarding both the noise disturbance and the clear violations of Massachusetts covid restrictions at that time. The police suggested I contact the Harwich Board of Health, and send them the photo and video, which I did.

I hope they are helpful in someway.

Best,  
Maura Sharry



September 4, 2020  
11:50 PM

All Photos



## Danielle Delaney

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**From:** Laurel Beloin <laurelbeloin@icloud.com>  
**Sent:** Tuesday, April 27, 2021 9:42 AM  
**To:** Joe Powers  
**Subject:** Port hearing

Good morning Mr. Powers,

The Port hearing should have a Moderator, like Town Meeting has. It should not be Larry Ballantine. It should be a third party who runs the hearing, calls on people to speak, mute people who are out of order, put bully lawyers in their places etc. Someone to KEEP ORDER and keep the hearing moving forward. Would the town allow Michael Ford, if available, to keep order?

A Moderator is really the only way to avoid another train wreck like last night. Attorney Kelley took over the meeting and he will try it again. If i heard correctly, Attorney Kelley actually made a motion which was totally out of order! He's not a member of the BOS!

Regards,  
Laurel Beloin

Sent from my iPhone

## Danielle Delaney

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**From:** Laurel Beloin <laurelbeloin@icloud.com>  
**Sent:** Tuesday, April 27, 2021 3:08 PM  
**To:** Larry Ballantine; Don Howell; Michael D. MacAskill; Ed McManus  
**Cc:** Joe Powers; Chief David J. Guillemette  
**Subject:** Expanded outdoor table service

Chairman Ballantine and Selectmen,

We are writing in opposition of The Port being allowed in 2021 to have continued use of expanded outdoor table service in their parking lot area which was previously approved for 2020. We have found even after live entertainment ends at 10pm crowd noise has been an ongoing issue. The rowdy crowds of people who congregated under the tent have woken us up on many nights. It seems extremely unfair to residents who live near this bar to have to put up with the unruly patrons until they are closed for the night. We would like patron noise addressed by the Board of Selectmen prior to the vote.

Regards,  
Michael and Laurel Beloin

Sent from my iPad

## Danielle Delaney

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**From:** Michael D. MacAskill  
**Sent:** Thursday, April 29, 2021 2:11 PM  
**To:** Joe Powers  
**Subject:** Fw: Permission to Include in Tuesday's Packet  
**Attachments:** IMG\_6324.PNG

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**From:** Joe Ganley <jganley@athenahealth.com>  
**Sent:** Wednesday, April 28, 2021 10:47 PM  
**To:** Larry Ballantine; Ed McManus; Don Howell; Michael D. MacAskill  
**Cc:** Vranos MD, William  
**Subject:** Permission to Include in Tuesday's Packet

Mr. Chairman:

I look forward to testifying at Tuesday's hearing. Unfortunately developments have intervened. I would submit the following post from the Port Restaurant's Instagram account that includes the residential address of a resident who has raised concerns about the noise associated with this establishment. I would submit that this post is intended to garner harassment of the complainant. I would further suggest that this kind of activity should be considered by the Board as relevant evidence to the reputation of the applicant. (See Connolly v. Alcoholic Bevs. Control Comm'n., supra at 617-618, 138 N.E.2d 131)

Mr. Chairman, I recognize that reasonable people can disagree about matters of public policy, but intimidation, incitement of retribution and personal attacks on residents who are only raising reasonable concerns about noise have no place in an organized democracy. To wit, I have already submitted an email to the Chief of Police outlining my fears of retribution on my property.

I would suggest that the Board admonish the licensees for this behavior and they consider this behavior in the light least favorable to them as it considers future proceedings.

Respectfully,

Joe Ganley

## Danielle Delaney

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**From:** Jean & Joseph Foran <jnj4ncape@yahoo.com>  
**Sent:** Thursday, April 29, 2021 10:48 AM  
**To:** Larry Ballantine; Joe Powers  
**Subject:** Embers/The Port

Dear Mr. Powers and Mr. Ballantine:

Please share this email with the rest of the Board.

We have been residents of Harwich Port for over thirty years and have followed the changes in restaurants and how the Board has allowed outdoor drinking and entertainment. It appears that several years ago, restaurants were encouraged to have outdoor music and bars. With that change came complaints from neighbors about the noise level by The Port and Embers and their not adhering to the allowed hours or decibel level.

Over the years, we have read about and spoken to people who have had their quality of life negatively impacted because they have residential properties near each restaurant. Also, we know Bob Nickerson and have followed his efforts.

Again, over the years, more often than not, the Selectmen have **not** supported the residents living near these establishments and sided with The Port or Embers. We believe that this has been a poor investment and decision by the Selectmen.

Knowing people who have worked at these restaurants, it has been clear that they do not care about following rules regarding Covid or the restrictions that the Selectmen have imposed regarding entertainment.

We watched the Selectmen's Meeting on April 26th and it was absolutely disturbing to see how the lawyer, William Kelley, behaved by constantly interrupting and bullying people. It was equally disturbing and embarrassing to see how he was allowed to go on and on with this tactic for hours. It was clear to us that the Selectmen lost control of the meeting and that this was Mr. Kelley's intent.

When you allow businesses to have outdoor bars and music, it is a guaranteed formula for issues and complaints. In the case of The Port and Embers, they do not care about the Town or the people they impact. This has been made clear by the lawsuits and the behavior of the people that they have hired to represent them.

From our perspective, by allowing and supporting outdoor drinking and music in restaurants that are contiguous to residential properties, the Selectmen have created the situation that we find ourselves in today. This form of entertainment has not enhanced the reputation of Harwich Port, but rather harmed it. Simply said, you "reap what we sow".

Finally, after reading the article in The Cape Cod Times regarding Monday's meeting and the response by some of the Selectmen, it is again clear that Embers and The Port have "won" again. Sad day for those of us living in Harwich Port. Sad day for the reputation of our Town.

Jean and Joseph Foran  
32 Ridgeport Drive  
Harwich Port, MA  
508-685-5247





## Danielle Delaney

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**From:** Bob Cohn <bobcohn@broadpage.com>  
**Sent:** Thursday, April 29, 2021 8:17 PM  
**To:** Chief David J. Guillemette  
**Cc:** Deputy Chief Kevin Considine; Larry Ballantine; Michael D. MacAskill; Don Howell; Ed McManus; Joe Powers  
**Subject:** More social media attacks  
**Attachments:** IMG\_8151.jpg

Hi Chief,

I believe you talked with Bill Vranos and Joe Ganley today about social media issues, and it appears that it's my turn now--ironically, because I was misquoted in the Chronicle. Please see the attached Instagram screenshot, which reads:

WE GOT A LIST:

VRANOS ✓

GANLEY ✓

COHN ✓

Of course, this is unacceptable by any measure. That a business establishment of any nature, let alone one that holds a liquor license and is currently before the board for alleged violations, should be involved in inciting its patrons and followers against neighbors is beyond the pale.

I understand that people can get carried away on the internet. But actually targeting individuals crosses the line. If the Vranoses weren't already feeling driven from their house by the noise, what must they be feeling now?

I don't do social media, but I was forwarded quite a number of other screenshots and uploaded them to DropBox. If interested, you can view them here: [The Port's Instagram screenshots](#)

Could you please keep a closer than usual eye on my house at 29 Pleasant St.?

We've got a lot of issues to deal with off-Cape, and it's going to be a while before we can get back down. Like Joe, I think I'll be installing security cameras, but it may be some time before I'll be able to get to it.

Thank you very much for your help. I appreciate it,  
Bob



theportrestaurant 3h

🎵 Eminem · 'Till I Collapse (feat. N...



ajelliss747

WE GOT A LIST:



@THEPORTRESTAURANT

VRANOS ✓  
GANLEY ✓  
COHN ✓

@EMBERCOALFIREPIZZAWINGS

SUPPORT LOCAL BUSINESS  
CHECK THEIR STORIES



'Till I Collapse (feat. Nate Dogg)  
Eminem

@MAYOROFHARWICH

@MOLLLLLLLS

Send Message @PAUL A SAYS SO



## Danielle Delaney

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**From:** Bob Cohn <bobcohn@broadpage.com>  
**Sent:** Thursday, April 29, 2021 6:36 PM  
**To:** Larry Ballantine; Michael D. MacAskill; Don Howell; Ed McManus  
**Cc:** Joe Powers  
**Subject:** Port Hearing  
**Attachments:** Informal Noise Survey Including Map for The Port.doc

April 29, 2021

Larry Ballantine  
Harwich Board of Selectmen  
732 Main Street  
Harwich, MA 02645

Dear Chairman Ballantine and Board Members,

I'm writing in regard to the upcoming hearing for Port Restaurant and Bar, and hope you can include this letter and the attachment in the hearing packet. While I can't speak to after-hours disturbances and Covid-related violations, I can speak to entertainment noise issues.

In July 2019, I conducted an Informal Noise Survey, which is attached, and which I presented at the last Noise Containment Committee meeting prior to the pandemic. Based on the same data, I recently put together a new map which plots noise readings for The Port only, mainly in July with a few days from May and June. See attached.

Due to the route I followed while doing the survey, most of the readings are on the north-south axis formed by Schoolhouse Rd. and Sea St. Nevertheless, it seems a reasonable assumption that the same noise propagated to the east and west as well.

Again, these were readings for a single month. I basically stopped doing surveys at the end of July, but still recorded noise I heard from my house. Over the entire season, I recorded 15 nights when noise from the Port was plainly audible 800 or more feet away. The total number is likely larger as there were another 7 nights when noise was coming from either the Port or Perks, but I didn't determine which.

800 feet is almost the length of 3 football fields laid end to end, and more than 5 times the 150-foot nuisance limit established by the Noise Bylaw. It's an intolerable noise level for immediate neighbors, and reasonable people find it extreme.

Though the Port did seem to get quieter for a while in August 2019, by the next year, the excessive noise had resumed. For a full week in July 2020, we heard music from the Port on Pleasant St., now at 1000' away from their new performance area in the parking lot. One evening I called the restaurant three times asking them to turn it down, but to no avail. The music continued until 10pm, loud enough to keep us awake.

And none of this includes all the crowd noise, after-hours, and Covid violations others have reported.

One of the difficulties the Town has had in managing entertainment licenses is that there has been no mechanism in place to prevent noise and entertainment scope creep. In fact, I believe this is a good part of what happened to a number of outdoor entertainment venues over the last few years.

The Port is a prime example of this. In May 2017 The Port came before the Board to apply for an entertainment license. At that that time they said:

- that they were only going to have music to keep people entertained while waiting for their tables;

- that the music would be only minimal, acoustic, and wasn't going to be amplified or a rock band or anything of that nature;
- that they weren't going to have loud, powerful bands;
- that they weren't going to rely on entertainment as a source of revenue or business, and it was just something to stay relevant; and
- that they were going to do everything they could to keep it under control, because it was in the best interest of everyone.

These are all direct quotes, and you can see the video at this link:

[https://www.youtube.com/watch?v=qw7cdzw\\_zTA](https://www.youtube.com/watch?v=qw7cdzw_zTA) (starting at 19:47)

You can also see a condensed, two-minute version of the video with subtitles here:

<https://www.youtube.com/watch?v=98Prs7QBxBo>

Fast forward a few years, and unfortunately, The Port's good intentions were somehow mislaid, and noise levels had grown out of control.

Hopefully in the not distant future, the type of music that is being licensed can be specified as part of entertainment license and monitored.

I had originally planned to say of the Port as I already said of Ember, that I want their business to succeed, because they're important to the community, and I hope they find a way to be good neighbors.

Unfortunately, at this point I'm less hopeful that they can, in fact, be good neighbors based both on the belligerence at the hearing last week and various social media attacks since then.

There should be no place in this community for bullying and intimidation tactics, whether by lawyers and law suits, or by inciting people on Instagram.

Let me conclude by proposing the same license conditions I proposed last week, and which seem that much more necessary in The Port's case given last year's difficulties and the extreme closeness of a number of neighbors who have suffered for years.

If and when The Port is permitted to have outdoor entertainment again, I urge that it be done with the following restrictions:

- (1) That speakers be pointed away from neighbors.
- (2) That *live* outdoor entertainment be limited to evening hours  
— and that outdoor music at all other times be limited to ambient/background music.
- (3) That *live* music be played only through house systems.  
— The purpose of this is to help the venues better manage their performers—their speaker placement, volume, and so on.  
— I believe Perks recently purchased a house system for just this reason, and such a system seems necessary for all three venues due to the kind of entertainment they have and the proximity of neighbors.
- (4) That venues be required to self-regulate with security details and/or decibel monitors.
- (5) And finally, it's critical that the Plainly Audible standard be enforced properly, and I urge the Town to provide HPD the policy guidelines and directives to do so.  
— This is probably the most important condition, because without a well-enforced noise limit, none of the other provisions will work.

I appreciate your taking the time to consider this.

Thank you very much,  
Bob Cohn

## Danielle Delaney

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**From:** Larry Ballantine  
**Sent:** Friday, April 30, 2021 10:26 AM  
**To:** Anne Stewart; Joe Powers  
**Subject:** Re: Photos of back area of The Port

Thanks Anne,

I am forwarding to Joe to include in Tuesday's discussion.

Larry

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**From:** Anne Stewart <stewsanne@gmail.com>  
**Sent:** Thursday, April 29, 2021 5:10 PM  
**To:** Larry Ballantine  
**Subject:** Photos of back area of The Port

Although menu is very upscale, "Nauti Bar" and photos of their clients only look like they are looking for people who want to party. Not a gray hair in the batch. Appears parking area will be used for outdoor dining and they have set up what appears to be an outdoor bar. Many houses very close by. In your packet of a couple of weeks ago, there are many letters from residents. One includes video with sound showing how loud they are right in his backyard. I believe all of us want economic prosperity for Harwichport, but this situation seems very unfair.



















Sent from my iPhone

## Danielle Delaney

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**From:** Vranos MD, William <wvranos@CapeCodHealth.org>  
**Sent:** Friday, April 30, 2021 3:16 PM  
**To:** Larry Ballantine  
**Cc:** Michael D. MacAskill; Don Howell; Ed McManus; Joe Powers; Chief David J. Guillemette

Select board,

I'm sure by now you are well aware that The Port has taken to social media to attack myself and some other residents. Included in the posting was my name and address. Seems like an odd strategy when trying to curry favor with the community.

I'm sure you can imagine what this means to us as we try to relax and feel safe in our home, knowing that the patrons in a next door bar know our names and can associate them with an address.

You have broad discretion when issuing licenses and permits. All we ever asked is that they keep the noise down. Their behavior is not rational. Please act accordingly.

William Vranos  
43 Sea St

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This email and any files transmitted with it are confidential, and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error contact the Help Desk for Cape Cod Healthcare.

[Helpdesk@CapeCodHealth.org](mailto:Helpdesk@CapeCodHealth.org)

7 HARDY ROAD  
WELLESLEY, MA 02482

March 1, 2021

Mr. Larry Ballantine  
Chairman  
Board of Selectmen  
Town of Harwich  
Harwich Town Hall  
732 Main Street  
Harwich Center, MA 02645

VIA EMAIL

Dear Mr. Chairman:

I am writing to follow up on the recent enforcement hearing regarding violations of the COVID 19 regulations by the licensed establishment DBA *The Port Restaurant and Bar*, (hereinafter "The Port") 541 Route 28 Harwich Port, MA. It is my understanding that the Board of Selectmen will be conducting a public hearing on the topic of renewal of The Port's seasonal liquor license. While I reserve the right to offer testimony at such a hearing, I thought it would be efficient to send this information in advance of said hearing to 1) inform the Board of Selectmen's deliberations regarding the application for renewal of the establishment's license, and 2) to document a complete record in anticipation of further proceedings.

My family owns two properties on Sea Street in Harwich Port. We first became residents in 1975, so with respect to issues arising from operations at The Port, it cannot be said that "we knew what we were getting into". At the time our first home was purchased, the property, that is now The Port, was a clothing store.

In the past decades, the transformation of Harwich Port, and in particular, the commercial corridor between Lower County Road and Bank Street has been overwhelmingly positive. My family frequents many of the restaurants and shops in this area and we welcome the vibrant energy that these establishments have brought to our village. The nature of a mixed residential and commercial area such as Harwich Port requires cooperation between the commercial establishments and the residents.

Absent such good faith cooperation and mutual respect, a successful mixed-use area requires the appropriate town authorities to vigorously enforce the zoning, licensing and other regulations that were promulgated to ensure that the needs of commercial businesses are balanced with the desire of residents to quietly enjoy their property absent public nuisance.



## Summary

The public nuisance issues that have been raised related to operations at The Port have been well-documented and communicated to the Board, the Health Department, the Harwich Police, the Ad Hoc Noise Committee and the Town Administrator. They relate to traffic, noise, the size (ever expanding), and the sort of operation (also consistently evolving) that carries the license. These issues have been getting worse instead of better in recent years and have been largely unaddressed by the local licensing authority, with the exception of occasional minor penalties such as a license suspension during non-peak times.

The Town has allowed the operations of this establishment to transform from what was once a fine dining establishment to a rowdy outdoor bar that often operates in violation of state and local regulations and license requirements.

It is now appropriate for the Board, acting in its capacity as local licensing authority to use the tools at its discretion to 1) force this establishment to comply with these regulations and licensing requirements 2) impose appropriate conditions on the establishment's license to mitigate long-standing and well documented public nuisance issues, and 3) adopt a more open and transparent dialogue with residents who wish to engage with the Town's elected and appointed leadership to address these quality of life issues.

## Discussion

First and foremost, the Port routinely operates in open and flagrant violation of the Regulations of the Alcoholic Beverages Control Commission. 204 CMR 2.05 (2) I would suggest that a violation of this regulation could be identified on nearly any summer weekend inspection of the facility. Service of intoxicated persons, underage drinking, public nuisance noise, unruly crowds, are just some of the examples that have been personally witnessed by neighbors over the past several years.

Naturally then, the question becomes one of enforcement. As has been discussed at various public meetings, in considering an application for a liquor license or a renewal of a liquor license, the Board of Selectmen, acting in its capacity as local licensing authority, may consider the so-called "Ballarin Factors" arising from the Massachusetts Appellate Court in the *Ballarin, Inc v. Licensing Board of Boston* 49 Mass. App. Ct. 506 (2000).

In that decision, the Court ruled that local licensing authority's consideration may include: "...an assessment of public want and the appropriateness of a liquor license at a particular location..." (Id). The Court further held: "In making its discretionary determination, a licensing authority may take into account a wide range of factors - such as **traffic, noise, size, the sort of operation that carries the license, and the reputation of the applicant.**" (Emphasis added) See *Connolly v. Alcoholic Bevs. Control Commn.*, supra; *Great Atlantic & Pac. Tea Co. v. Board of License Commrs. of Springfield*, 387 Mass. 833 , 837 (1983); *Beacon Hill Civic Assn. v. Ristorante Toscano, Inc.*, supra; *Hub Nautical Supply Co. v. Alcoholic Bevs. Control Cominn.*, 11 Mass. App. Ct. 770 , 772-774 (1981).

At the Board of Selectmen meeting on February 16, 2021, the Board was advised by the Town's Counsel that although a license renewal generally carries a presumption that it will be granted, the Board may, at its discretion, reconsider the application (applying the Ballarin factors) to make a determination about whether to renew the license.

As the Board applies the Ballarin Factors, I would suggest it consider the following:

### **COVID Restrictions Violated**

Upon investigation by the Harwich Police (in response to resident complaints) and the Alcohol Beverages Control Commission (ABCC,) the Town Administrator, having been appointed hearing officer by the Board of Selectmen, acting in its capacity as local licensing authority, has found that violations of the state's COVID 19 restrictions did occur. I would suggest that the number of violations last summer were far greater than the current record reflects. First, The Port openly allowed the consumption of alcoholic beverages on premises during the early summer when it was prohibited by COVID restrictions. This has been well documented.

Furthermore, once consumption of alcohol was permitted with "food prepared on premises" The Port openly violated these restrictions. This too has been documented in the record. Throughout the summer large crowds gathered consuming alcohol, singing and chanting until the early hours of the morning. With respect to food, the crowd at The Port would typically intensify at 9:30 or 10:00 with groups of young people unloading from rideshare vehicles dressed for a night out. The crowd did not dissipate until 12:30 or 1:00 on the weekends. It is doubtful that many of these patrons were seeking dinner between 9:30pm and 1:00 am, and in fact a passerby would observe the very example that Governor Baker spoke about when he said: "Bars masquerading as restaurants" should also be closed." (See: <https://www.boston.com/food/restaurants/2020/08/14/bars-masquerading-as-restaurants> downloaded 3/1/2021)

The Port's bad faith strategy to maintain an appearance of compliance with the COVID restrictions was to deliver pizzas from its sister restaurant Ember and represent that this food (not prepared on premises) put them in compliance. Residents raised these concerns with the Harwich Police, the Harwich Health Department and the MA Attorney General's COVID hotline. There was little change throughout the summer.

### **Violations of the Noise Ordinance/Public Nuisance**

Noise issues associated with commercial establishments in Harwich Port have long been the subject of discussion over the past several years. Last summer, when the Board of Selectmen appropriately allowed for the expansion of outdoor dining, the noise issues associated with The Port were exponentially worse. I have recorded a number of videos documenting the noise issues associated with The Port here: <https://www.youtube.com/channel/UC5RGdNdx82uFHhuJUo5Y6A>

Clearly, this video and audio evidence does not depict people eating "food prepared on premises". Instead, it evidences a noisy crowded rowdy bar. It is worth noting that while there has been much discussion about the noise ordinance relative to entertainment licenses, the public nuisance noise caused by the establishment is not only attributable to live or amplified music but rather includes noise associated with rowdy, out-of-control crowds of intoxicated patrons.

This problem was exacerbated last summer by two factors: 1) the Board allowed the expansion of the establishment's service footprint into the rear parking lot, and 2) The Port management chose, in bad faith, to openly violate the COVID restrictions by permitting large crowds to gather and consume alcohol without ordering food served on premises. This practice must not be allowed to continue next season.

## **Public Nuisance**

In addition to the crowd noise from the establishment, which appears to be in violation of the Noise Ordinance, there is an ongoing issue with rowdy patrons in the parking lot behind the Port Centre causing a public nuisance. This parking lot is adjacent to residential homes and is posted as being parking for the Port Centre and the church. Yet every Friday and Saturday evening in the summer it fills with patrons headed to The Port. After The Port's outdoor bar finally empties out somewhere between 12:30 am and 1:00 am, the intoxicated patrons take their loud conversations to the parking lot. Occasionally they venture in the backyards of homes adjacent to parking lot to relieve themselves. This happens particularly on Saturday nights. When my wife politely asked one of the patrons to please not do so in our yard, the response was "[expletive] off lady".

On Saturday, August 8<sup>th</sup> 2020, patrons going to the Port had illegally parked cars on the shoulder in front of homes on Sea Street. Numerous residents contacted the Police. The following Saturday, there was some medical emergency at The Port that brought fire trucks with lights and sirens to the scene at around 10:00 pm. Police officers kindly stayed on the scene afterward and shooed away noisy patrons from the parking lot across Sea Street.

Perhaps most disturbing is the obvious fact that many of these patrons are driving from the parking lot under the influence of alcohol. It is not uncommon for the loud conversations from the parking lot to be arguments among patrons about who is "o.k. to drive."

Finally, there is the litter. The fence along the parking lot is cluttered each weekend evening with discarded liquor bottles including "nips" and beer cans to say nothing of clothing and paper debris. Occasionally beer cans and wine glasses (presumably removed from The Port) are discarded over the fence into our backyard where our children play. Our family typically goes out once a week to clean the area along the fence of rubbish.

## **Traffic**

In addition to the flagrant violations of COVID restrictions, and the outrageous noise levels and public drunkenness associated with the establishment is the paralytic traffic that occurs. This comes in three varieties.

First there are the constant deliveries many of which often occur as early as 6:30 am in the morning. Refrigerated trucks idling in the parking lot has come to be a constant reminder that it's Monday morning. Often these vehicles idle for some time because another truck is double-parked on Sea Street also idling and unloading. Surely the town must have restrictions on idling vehicles and what time deliveries can be made, but like other restrictions, these are flagrantly ignored.

Trucks delivering to The Port, often travel the length of Sea Street, dodging pedestrian residents walking to the beach, in order to turn around on Sail Loft Road, Port-O-Pines Road, or Sea Street Extension. Last summer, a delivery truck associated with The Port demolished several limbs of a tree on our property while traversing North on Sea Street. The driver's reaction was to pick up the large broken branch that he struck and deposit it on our front yard. This has been documented, as the town DPW kindly came and disposed of the limb.

Second are the vehicles from the staff of The Port, which routinely park on the side of Sea Street adjacent to the building's parking lot entrance. These vehicles block part of the lane of what is already a narrow street, needlessly clog the intersection of Route 28 and Sea Street and create a risk for pedestrians walking from Sea Street to the commercial district along Route 28. Last summer one of the staff of The Port had a hose and was washing his truck in front of the business, blocking almost a whole lane of traffic and making it impossible for one vehicle, let alone two to pass.

Finally, there are the drop offs. As The Port was perhaps the only establishment operating in such flagrant disregard of the COVID restrictions, the crowd size grew as word got out. Friday and Saturday nights last summer would see ride shares stacked up at the intersection of Route 28 and Sea Street dropping off or picking up groups of young people. While I certainly appreciate patrons opting for ride sharing instead of driving under the influence, the frequency and intensity of ride-share drop offs at this intersection presents a hazard to pedestrians, and unnecessary clogging of a busy intersection.

It should go without saying that Sea Street is a narrow residential street with significant pedestrian traffic to the beach at the end of the street. While we appreciate that trucks need to deliver to the commercial establishments, including the Port and the Cape Sea Grille, truck should be required to use the parking lots of these establishments to turn around.

#### **Sort of Operation that Carries the License and Reputation of the Applicant**

As discussed above, there has been no shortage of public nuisance issues associated with this establishment over the past number of years, never worse than this past summer. In considering the "sort of operation that carries the license and the reputation of the applicant" it is relevant for the Board to consider both the number and frequency of violations, as well as the behavior of the applicant in response to concerns from neighbors.

The applicant has shown little desire to peacefully coexist with its residential neighbors, and in fact a disregard for the Board's licensing authority. There are many examples of the management's rude behavior toward abutters who have raised concerns directly. Moreover, the applicant's and their counsel's documented attempts to, in bad faith, avoid public hearings related to these issues should be considered in the light least favorable to them.

Most recently, a manager of The Port wrote a letter to the editor of the Cape Cod Times, noting that the establishment "was successful" at adhering to COVID restrictions. This despite the documented findings of the hearing officer, and sworn testimony by the Harwich Police and the ABCC.

The Town is dealing with an establishment that has expressed no willingness to work with residents to address their concerns. Contrast this with the Cape Sea Grille, a restaurant that directly abuts residences and about which there have been few if any complaints. The Sea Grille does not play outdoor music, and even with expanded outdoor seating last year, (which we support) there was little if any audible noise from the patrons' conversations, and the whole operations buttoned up around 10:30 pm. Simply put, one establishment has respect for its neighbors and one does not.

## Suggested Remedies

In the interest of offering concrete recommendations for how this establishment could continue to operate as a licensed establishment, while reducing the public nuisance I respectfully recommend the following provisions that could be associated with the Board's decision to grant a license renewal:

- 1. Return to Original Footprint:** The Town of Harwich is to be applauded for working collaboratively with local restaurants to support ongoing operations in response to the COVID restrictions. Specifically, the expansion of restaurant footprints, and the expansion of outdoor dining was appropriate and, in many cases, should be made permanent. That said, allowing The Port to use its parking lot to operate an outdoor bar is an obvious exception to this principle. The Port took advantage of the Town's benevolence by openly and flagrantly violating state and local law. They should be offered no further accommodation, and The Port's footprint and capacity should be returned to what it was during the Summer of 2019.
- 2. No Parking in Port Centre Parking Lot:** The Port should be required to limit its parking to the parking lot behind its establishment. Parking in the Port Centre lot for patrons of The Port should be prohibited (as currently posted) and enforced.
- 3. Paid Detail on Friday/Saturday Nights:** In order to enforce the parking prohibition outlined above, and to prevent other public nuisances associated with patrons in the residential neighborhood, the establishment should be required, at its own expense, to pay a detail of the Harwich Police Department, or other appropriate security personnel to monitor the exterior of the establishment and the adjacent parking lot behind The Port Centre.
- 4. Enforcement of the Noise Ordinance:** The Town of Harwich should aggressively enforce the noise ordinance with respect, not only to noise from amplified music, but also from patrons' unreasonably loud revelry. The same authority that would cause Police to break up a loud outdoor party in a backyard should be brought to bear to prevent public nuisance associated with noise at the Port. To the extent that zoning and licensing permits outdoor service of food and alcohol, it must be conducted in a way that does not create a public nuisance and intrude on the quiet enjoyment of nearby properties. Violations should be enforced, citations issued, and enforcement escalated with real economic consequences.
- 5. Delivery Plan:** The establishment should be required to submit to the Licensing Authority a plan for all food and alcohol deliveries that is approved by the Licensing Authority with consideration given to the disruption to the surrounding residential neighborhood. Specifically, vehicles should be prohibited from idling while making deliveries, and delivery schedules should be limited to after 8:00 a.m. on weekdays only. Delivery vehicles should be required to use the parking lot to the rear of The Port and prohibited from "double" parking on Sea Street, and/or using the parking lot at the Port Centre.

These are reasonable conditions that should enable the establishment and the nearby residents to peacefully coexist. Violations of the above provisions should be enforced with discipline commensurate with the violation, and appropriately escalating as additional violations are documented.

## Failure of the Town Administrator to Address Residents' Concerns

Finally, I would be remiss if I did not address the approach that has been taken to these matters by the Town Administrator. When I first began talking to my neighbors over a year ago, I was told that "reaching out to the Town Administrator is a waste of time, he doesn't return calls."

Unfortunately, this sentiment has been confirmed by my own experience in the last several months. I have attempted to have a substantive conversation with the Town Administrator and the head of the health department regarding my concerns for many months. Despite multiple emails, submission of testimony and evidence and questions for clarification, I have received exactly two emails from the Town Administrator. The first indicated that I should watch for a notice of public hearing regarding the Port's COVID violations. The second email told me that my testimony and evidence was not "germane" to the enforcement hearing and would not be allowed.

This was despite the following statements at various Board of Selectmen Meetings:

**Mr. Powers:** *"If the public is willing to participate in the hearing, in some level, to talk to what they've experienced first-hand, I can incorporate that into the process, and by extension, offer it to you with any decisions that are rendered from those hearings."*

Board of Selectmen Meeting 10/26/2020 available at:

<http://harwich18.dyndns.org/cablecast/public/Search.aspx?ChannelID=1&SimpleSearch=Selectmen> (downloaded 3/1/2021)

**Mr. Ganley:** *"Is there an opportunity for the public to present evidence at those hearings?"*

**Mr. Powers:** *"Yes if it's germane."*

**Mr. Ballantine:** *"Mr. Ganley mentioned the ability to testify at the hearing. The answer is yes."*

Board of Selectmen Meeting 11/2/2020 available at:

<http://harwich18.dyndns.org/cablecast/public/Search.aspx?ChannelID=1&SimpleSearch=Selectmen> (downloaded 3/1/2021)

Finally, in an email on November 5, 2020 from you to me. You indicated that the Board was trying to figure out how to ***"deal with those who are obviously abusing their responsibility to control noise."*** (emphasis added) Later in the same email, you assured me as follows: ***"We will certainly keep you appraised of both upcoming hearings and BOS discussions to ensure you have a chance to participate."*** (emphasis added) Email attached.

I also specifically asked Mr. Powers on several occasions to let me know when the enforcement hearing was scheduled for. His only reply was to tell me to watch for the notice. I did watch for the local notices. The hearing set for January 12 was noticed on New Year's Eve December 31<sup>st</sup> in the Cape Cod Chronicle. (This is precisely when you would notice a hearing that you wanted the public to be aware of!!)

I was prepared to offer public testimony at the enforcement hearing (in reliance on the statements made by the hearing officer and the Chairman of the Board of Selectmen). I was told by the Town Administrator that my testimony was not germane (without any discussion of what the testimony was). When I objected that my testimony was germane because it was related to COVID-19 regulations violations, I received no reply to my email. In fact, I filed COVID-19 regulation complaints against the

establishment with the Harwich Health Department, the ABCC, the Governor's COVID Task Force, and the Harwich Police Department. Nevertheless, despite this well-documented record, Mr. Powers determined that my testimony *did not relate to COVID* and was therefore not germane. This determination was an abuse of discretion by Mr. Powers as it is not justified by the facts of the testimony which were in his possession at the time of the therefore arbitrary ruling.

Additionally, I have posted publicly, videos of the Port's operation depicting rowdy crowd noise occurring on multiple occasions long after any food prepared on premises was being served. (<https://www.youtube.com/channel/UC5RGdNdjX82uFHhuJUo5Y6A> referenced above).

This evidence has been made available to the Town administrator as part of the COVID violations hearing, particularly as one of the videos was taken on one of the dates that was a subject of the enforcement. I have heard nothing from the Town Administrator and the videos are not referenced in the findings of the hearing, nor were the videos entered into evidence during the hearing.

Against this backdrop, one may only conclude that the statements that public testimony would be accepted, made during the Board of Selectmen's meetings on 10/26 and 11/2 by the Town Administrator and the Chair of the Board of Selectmen were, at best, incorrect and at worst, misleading.

What's more, the Town Administrator hasn't been willing to discuss these matters with me personally. As recently as Monday, March 1, 2021 I wrote to Mr. Powers asking him if he would entertain a live (virtual) conversation so I could understand better the procedure that would govern the public hearing. As has been his custom, he had neither the professionalism, nor the courtesy to even reply to my email.

Instead, I have been assured, by you personally, that my voice would be heard, then told by the Town Administrator that what I have to say is not germane. His conduct through this process has been, at best, unprofessional.

### **Conclusion**

I am supportive of the commercial establishments along the Route 28 corridor and frequent many of these businesses as a customer. I am also mindful of the challenges posed by the COVID-19 pandemic on these independent businesses, including and, in particular, restaurants. I want them to succeed and thrive and have in fact made a conscious effort to get takeout from these establishments during the period of the pandemic.

That said, it certainly appears that The Port has exploited the current situation to further its transformation from a fine dining establishment to a rowdy outdoor bar. As the Board is aware, residents have long expressed concerns about this transformation for several years. In particular, the addition of outdoor seating and dining, live music, bocce courts, the "naughti bar" and now what appears to be the construction of a second outdoor bar have all contributed to a meaningful change in the character of the establishment. The transformation of The Port from quiet restaurant to rowdy bar has been nearly completed.

The Town has both the ability and the authority to remedy this situation. Reasonable conditions on the establishments license, coupled with enforcement of violations and escalating penalties that have real consequence would I'm sure cause the establishment to reexamine its ongoing noncompliance.

Unfortunately to date, the Town's response has been both delayed and inadequate given the seriousness and the tenure of these ongoing issues.

As residents, we will continue to report license violations and public nuisances in the appropriate venues. We will call the Police when the noise and public drunkenness becomes unbearable, but I would suggest that the situation requires a higher-level involvement by the Board of Selectmen who have allowed this establishment, through approvals of license and zoning changes to completely morph from what was originally intended, and what could again be appropriate for the location.

Thank you for your attention to this matter and I would, of course, welcome the opportunity to discuss this with you. I can be reached at 617-893-8011 or [jganley1@gmail.com](mailto:jganley1@gmail.com)

Sincerely,

Joseph M. Ganley



To Whom It May Concern,

2/20/2021

My name is Patricia A. Iafrate and I have been a Registered Nurse in Massachusetts for 44 years. I have worked at Cape Cod Hospital for 38 years, spending 12 of those years in the Infectious Disease Control Office as an Infectious Disease Control RN specialist. I am writing in emphatic support of The Port Restaurant in Harwichport. I have been a patron of this establishment for many years, and this past summer of 2020 was no exception. Aside from many dinners out at The Port this summer, I also hosted two parties at The Port; my daughters 37<sup>th</sup> birthday and also a retirement party for a colleague at CCH. As a registered nurse with a background in Infectious Disease Control, I was very aware of my surroundings this past year everywhere I went. Each time I patronized The Port I was extremely impressed with the precautions being taken by the staff. I observed all employees wearing their masks properly at all times, there was hand sanitizer available all over the place and signs advising state guidelines were clearly posted, menus were largely digital and what paper menus there were available was thrown out after a table touched it. Tables and seats were wiped down repeatedly, lines of people were addressed by staff reminding them of staying spaced apart and discussing state rules prior of their entrance to the restaurant property. I was advised by staff each time I went to The Port that we had a time limit, that there would be no entertainment, that we had to have food ordered in order to be served drinks. Both times I held parties at The Port we were split into different groups to maintain 6 people per table and were not allowed to stand and mingle between tables. I observed staff working tirelessly to relay these very rules to many other patrons who were trying to express they felt exempt from the state guidelines. The staff was patient (though steadfast) beyond measure in the face of much backlash from vacationers who wanted a 'normal' Cape Cod experience and were often unkind when discovering there would be no special exemptions for anyone. The retirement party I mentioned was a group of Registered Nurses who had been entrenched in battling COVID-19 for 6 months at Cape Cod Hospital. If there had been anything amiss, anything overlooked, anything lax in The Ports handling of this pandemic, WE were the patrons who would have picked it out. There was nothing, I repeat NOTHING, that this group of hard-working young people missed. I am seriously disappointed to see a thinly veiled political situation playing out in Harwichport. It would seem to me from the outside looking in, (and with the personal insight I have into the climate at The Port during a wildly difficult time for the restaurant industry) that there are some folks who have publicly had it out for this business, for some time now, are exploiting complex moment in time to operate a restaurant as a platform to destroy a business. How sad and petty? There are 20 RN's watching this play out who are calling 'BS'.

Regards, Patricia A. Iafrate R.N. [REDACTED]

**TOWN ADMINISTRATORS**  
**RECOMMENDATION**  
**PACKET**

# OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Town Administrator*

732 MAIN STREET, HARWICH, MA



## MEMO

TO: Board of Selectmen

FROM: Joseph F. Powers, *Town Administrator*

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

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

DATE: February 8, 2021

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

### **Violations alleged:**

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

### **Hearing summary:**

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

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

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

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

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

**Legal Standard:**

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

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

**Statement of findings:**

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

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

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

**Recommended disciplinary action:**

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

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

**Present**

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

**Hearing Overview**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Hearing is closed 9:52AM.

Respectfully Submitted,

Danielle Delaney  
Executive Assistant – Licensing

**OFFICE OF THE TOWN ADMINISTRATOR**

Joseph F. Powers, *Interim Town Administrator*

Phone (508) 430-7513

Fax (508) 432-5039

732 MAIN STREET, HARWICH, MA



December 28, 2020

VIA HAND-DELIVERY AND EMAIL

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

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

Dear Mr. Bracket:

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

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

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

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

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

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

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

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

Very truly yours,

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

Joseph F. Powers  
Interim Town Administrator

## OFFICE OF THE TOWN ADMINISTRATOR

Phone (508) 430-7513

Fax (508) 432-5039

Joseph F. Powers, *Interim Town Administrator*

732 MAIN STREET, HARWICH, MA



January 7, 2021

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

Dear Attorney Tomlinson:

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

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

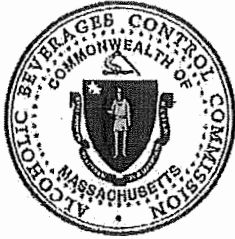
I have gone to great lengths to provide you with a reasonable opportunity to participate in these hearings, only to have you obstruct the process at every turn. Therefore, I plan to proceed with the hearings as originally scheduled on January 12, 2020. Although I have made arrangements for you and your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

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

Thank you for your attention to this matter.

Sincerely,

Joseph F. Powers  
Interim Town Administrator



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

**Investigative Report**

**To:** Chief Investigator Frederick Mahony

**From:** Investigator Nicole Smith

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

**Date:** Friday, July 17, 2020

---

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully Submitted,

*Nicole Smith*

---

Special Investigator Nicole Smith

For Date: 05/22/2020 - Friday

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

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

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





Harwich Police Department  
Incident Report

Page: 1  
05/29/2020

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

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

Reporting Officer: Patrol Supervisor Neil Nolan

Signature: \_\_\_\_\_

EVENTS(S)

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

1 LIQUOR LAW VIOLATIONS

PERSON(S)      PERSON TYPE      SEX      RACE      AGE      SSN      PHONE

1 THE PORT      BUSINESS  
541 RT 28  
HARWICH MA 02645

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

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

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

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

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

For Date: 05/24/2020 - Sunday

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

Refer To Incident: 20-5567-OF



Incident Report

05/27/2020

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

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

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

EVENTS(S)

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

1 COVID-19 GUIDANCE VIOLATION

PERSON(S)      PERSON TYPE      SEX      RACE      AGE      SSN      PHONE

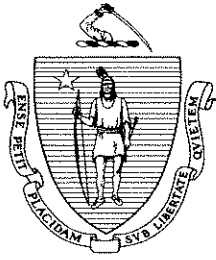
1 THE PORT      BUSINESS  
541 RT 28  
HARWICH MA 02645

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

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

For Date: 05/24/2020 - Sunday

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



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

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

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

COVID-19 Order No. 13

**WHEREAS**, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

**WHEREAS**, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

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

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

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

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

therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; and

**WHEREAS**, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over public assemblages in order to protect the health and safety of persons, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

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

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

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

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

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

2. Temporary Closing of Other Businesses and Organizations

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



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

3. Limitations on Gatherings

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

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

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

4. Exceptions

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

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

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

5. Implementing Guidance and Enforcement

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

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

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

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

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

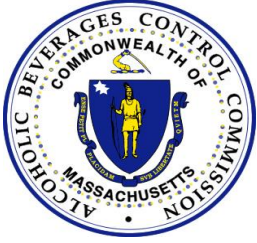
If any provision of this Order or the application thereof to any person or entity or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or the application thereof to other persons, entities, and circumstances.

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

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

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

CHARLES D. BAKER  
GOVERNOR  
Commonwealth of Massachusetts



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

**Jean M. Lorizio, Esq.**  
Chairman

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

Today, April 3, 2020, Governor Charlie Baker signed a bill authorizing on-premises licensees to sell malt beverages and wine for off-premises consumption for the duration of the Governor's declared state of emergency, issued March 10, 2020.<sup>1</sup>

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

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

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

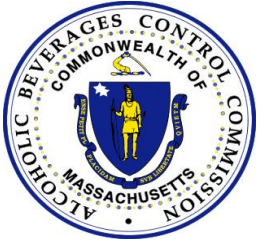
All sales must be accompanied by a receipt reflecting the purchase of food along with alcohol, and licensees must keep copies of all receipts for inspection by licensing authorities.

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

(Issued April 3, 2020)

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



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

**Jean M. Lorizio, Esq.**  
Chairman

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

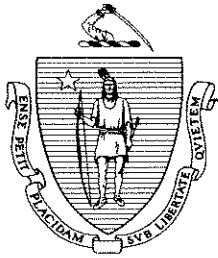
On May 18, 2020, Governor Charlie Baker issued a plan, Reopening Massachusetts, which provides a four-phase reopening of businesses in the Commonwealth including retail alcohol licensees for on-premises consumption. The text of the Governor's Plan can be found [HERE](#).

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

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

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

(Issued May 18, 2020)



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

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

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

COVID-19 Order No. 35

**WHEREAS**, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

**WHEREAS**, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

**WHEREAS**, the Federal Centers for Disease Control have advised that COVID-19 is spread mainly by person to person contact and that the best means of slowing the spread of the virus is through practicing social distancing and protecting oneself and others by minimizing personal contact with environments where this potentially deadly virus may be transmitted;

**WHEREAS**, on March 23, 2020, in order to restrict all non-essential person-to-person contact and non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order, temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services, and prohibited gatherings of more than 10 people;

**WHEREAS**, on March 31, 2020, April 28, 2020, and May 15, 2020, I issued COVID-19 Orders No. 21, 30, and 32, respectively, which extended the period in which COVID-19 Order No. 13 would continue to restrict the operation of businesses and organizations that do not provide COVID-19 Essential Services;

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

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

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

**WHEREAS**, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and household articles, variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies or political subdivisions, and policing, protection, and preservation of public and private property;

**NOW, THEREFORE**, I hereby order the following:

**1. Advance Preparations by Phase II Enterprises**

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

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

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

**2. Designation of Phase II Enterprises**

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

They are

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

	All Phase II, III, and IV enterprises will be required to comply with general and, where applicable, sector-specific COVID-19 workplace safety rules administered by DPL, DPH, and local boards of health. Workplace safety rules will include a variety of mandatory context-specific COVID-19 safety measures such as occupancy limitations, operational modifications, social distancing rules, and specialized cleaning requirements.
Phase II	<p>Enterprises that meet all of the conditions specified above and including</p> <ul style="list-style-type: none"> <li>• Retail Stores including stores in enclosed shopping malls</li> <li>• Restaurants providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000, including beer gardens/wineries/distilleries meeting these criteria</li> <li>• Hotels, motels, inns, and other short-term lodgings (no events, functions, or meetings)</li> <li>• Limited organized youth and adult amateur sports activities and programs—no contact and no games or scrimmages, and indoor facilities limited to youth programs</li> <li>• Professional sports practice and training programs--no inter-team games and no admission for the public</li> <li>• Personal Services provided at a fixed place of business or at a client location             <ul style="list-style-type: none"> <li>○ Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.)</li> <li>○ Step 2: Services involving close personal contact (massage, nail salons, personal training for individuals or no more than 2 persons from same household, etc.)</li> </ul> </li> <li>• Non-athletic instructional classes in arts/education/life skills for youths under 18 years of age in groups of fewer than 10</li> <li>• Driving schools and flight schools</li> <li>• Outdoor historical spaces—no functions or gatherings and no guided tours</li> <li>• Funeral homes—increased capacity to permit 40% occupancy for one service at a time within the facility</li> </ul>



	<ul style="list-style-type: none"> <li>• Warehouses and distribution centers</li> <li>• Golf facilities including outdoor driving ranges</li> <li>• Other outdoor recreational facilities <ul style="list-style-type: none"> <li>○ pools, playgrounds and spray decks</li> <li>○ mini golf, go karts, batting cages, climbing walls, ropes courses</li> </ul> </li> <li>• Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools <ul style="list-style-type: none"> <li>○ for the limited purposes of permitting students to complete a degree, program, or prerequisite for employment, or other similar requirement for completion, for summer youth programming including athletic facilities, and any necessary supporting services</li> </ul> </li> <li>• Day Camps including sports and arts camps</li> <li>• Public libraries</li> </ul>
Phase III	<ul style="list-style-type: none"> <li>• Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations</li> <li>• Casino gaming floors</li> <li>• Horse racing simulcast facilities (no spectators)</li> <li>• Indoor recreational and athletic facilities for general use (not limited to youth programs)</li> <li>• Fitness centers and health clubs including <ul style="list-style-type: none"> <li>○ cardio/weight rooms/locker rooms/inside facilities</li> <li>○ fitness studios (yoga, barre, cross-fit, spin classes, general fitness studios)</li> <li>○ indoor common areas</li> <li>○ indoor swimming pools</li> <li>○ indoor racquet courts and gymnasiums</li> <li>○ locker rooms/shower rooms</li> <li>○ excluding saunas, hot-tubs, steam rooms</li> </ul> </li> <li>• Museums</li> <li>• Indoor historic spaces/sites</li> <li>• Aquariums</li> <li>• Outdoor theatres and performance venues of moderate capacity</li> <li>• Indoor theatres, concert halls, and other performance venues of moderate capacity</li> <li>• Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching)</li> <li>• Fishing and hunting tournaments and other amateur or professional derbies</li> <li>• Weddings/events/gatherings in parks, reservations, and open spaces with allowance for moderate capacity</li> <li>• Overnight camps</li> <li>• Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older</li> <li>• Indoor recreational businesses: batting cages, driving ranges, go karts, bowling alleys, arcades, laser tag, roller skating rinks, trampolines, rock-climbing</li> </ul> <p>This listing is subject to amendment.</p>
Phase IV	<ul style="list-style-type: none"> <li>• Amusement parks, theme parks, indoor or outdoor water parks</li> <li>• Saunas, hot-tubs, steam rooms at fitness centers, health clubs, and other facilities</li> <li>• Bars, dance clubs, and nightclubs—venues offering entertainment, beverages, or dancing and not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000</li> <li>• Beer gardens/breweries/wineries/distilleries not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000</li> <li>• Large capacity venues used for group or spectator sports, entertainment, business, and cultural events including</li> </ul>

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

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

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

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

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

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

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

#### **4. Preparations and Accommodation for Outdoor Restaurant Dining Service**

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

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

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

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

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

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

**5. Sector-Specific Rules**

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

**6. Limitations on Gatherings**

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

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

**4. Exceptions**

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

- a. Any municipal legislative body, the General Court, or the Judiciary
- b. Federal governmental entities
- c. Any health care facility or provider licensed by the Department of Public Health or the Board of Registration in Medicine
- d. Any of the following workplaces or facilities with specialized functions and populations:
  - Public and private elementary and secondary (K-12) schools
  - Residential and day schools for special needs students

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

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

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



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CHARLES D. BAKER  
GOVERNOR  
Commonwealth of Massachusetts



OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
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**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

**ORDER AUTHORIZING THE RE-OPENING OF PHASE II ENTERPRISES**

COVID-19 Order No. 37

**WHEREAS**, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

**WHEREAS**, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

**WHEREAS**, the Federal Centers for Disease Control and Prevention have advised that COVID-19 is spread mainly by person to person contact and that the best means of slowing the spread of the virus is through practicing social distancing and protecting oneself and others by minimizing in-person contact with others and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of limited ventilation or numbers of persons present or passing through who may spread the virus through respiratory activity or surface contacts;

**WHEREAS**, on March 23, 2020, in order to restrict all non-essential person-to-person contact and non-essential movement outside the home as a means of combatting the spread of COVID-19 within the Commonwealth, I issued COVID-19 Order No. 13, which designated certain COVID-19 Essential Services, as defined in the Order, temporarily closed the brick-and-mortar premises of businesses and organizations that do not provide COVID-19 Essential Services, and prohibited gatherings of more than 10 people;

**WHEREAS**, on March 31, 2020, April 28, 2020, and May 15, 2020, I issued COVID-19 Orders No. 21, 30, and 32, respectively, which extended the period in which COVID-19 Order No. 13 would continue to restrict the operation of businesses and organizations that do not provide COVID-19 Essential Services;

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

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

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

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

**WHEREAS**, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and household articles, variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies or political subdivisions, and policing, protection, and preservation of public and private property;

**NOW, THEREFORE**, I hereby order the following:

**1. Opening of Phase II Enterprises Generally**

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

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

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

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

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

## **2. Two-Step Progression of Phase II Openings**

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

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

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

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



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

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

### **3. Sector-Specific Rules and Self-Certification**

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

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

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

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

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

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

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

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

#### **4. Enforcement and Authority**

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

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

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

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

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

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

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

If any provision of this Order or the application thereof to any person or entity or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or its application to other persons, entities, and circumstances.

## **5. Exceptions**

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

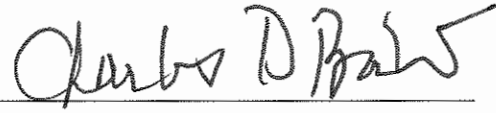
- a. Any municipal legislative body, the General Court, or the Judiciary
- b. Federal governmental entities
- c. Any health care facility or licensed health care provider
- d. Any of the following workplaces or facilities with specialized functions and populations, provided that DPH shall in each case consult with the responsible authority and provide COVID-19 health and safety guidance as needed:
  - Public and private elementary and secondary (K-12) schools
  - Residential and day schools for special needs students
  - Licensed, approved, or exempt child care programs and any emergency child care centers and emergency residential programs operating under emergency authorization
  - Facilities operated by the Department of Correction or any Sheriff
  - Facilities operated, contracted, or licensed by the Department of Youth Services, Department of Mental Health, Department of Public Health, or the Department of Developmental Services
  - Facilities that provide safe spaces for the unstably housed such as homeless and domestic violence shelters

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

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

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

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



CHARLES D. BAKER  
GOVERNOR

Commonwealth of Massachusetts

Schedule A to COVID-19 Order No. 37

	<p>All Phase I, II, III, and IV enterprises are required to comply with general and, where applicable, sector-specific COVID-19 workplace safety rules administered by DPL, DPH, and local boards of health. Workplace safety rules include a variety of mandatory context-specific COVID-19 safety measures such as occupancy limitations, operational modifications, social distancing rules, and specialized cleaning requirements.</p>
<p>Phase I</p>	<p>As specified in COVID-19 Order No. 33:</p> <ul style="list-style-type: none"> <li>• Businesses and other organizations providing products and services identified as “COVID-19 Essential Services” in COVID-19 Order No. 13</li> <li>• Manufacturing</li> <li>• Construction</li> <li>• Places of Worship</li> <li>• Firearms retailers and shooting ranges</li> <li>• General Use Offices</li> <li>• Car Washes</li> <li>• Hair Salons and Barber Shops</li> <li>• Pet Groomers</li> <li>• Drive-In Movie Theaters</li> <li>• Laboratories</li> <li>• Certain Outdoor Recreational Facilities and Activities as specified in <u>Exhibit 1</u> to COVID-19 Order No. 33</li> </ul>
<p>Phase II</p>	<ul style="list-style-type: none"> <li>• Retail Stores including stores in enclosed shopping malls</li> <li>• Restaurants providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000, including beer gardens/wineries/distilleries meeting these criteria             <ul style="list-style-type: none"> <li>○ Step 1: outdoor table service</li> <li>○ Step 2: indoor table service</li> </ul> </li> <li>• Hotels, motels, inns, and other short-term lodgings (no events, functions, or meetings)</li> <li>• Limited organized youth and adult amateur sports activities and programs—no contact and no games or scrimmages, and indoor facilities limited to youth programs</li> <li>• Professional sports practice and training programs--no inter-team games and no admission for the public</li> <li>• Personal Services provided at a fixed place of business or at a client location             <ul style="list-style-type: none"> <li>○ Step 1: Services involving no close personal contact (photography, window washers, individual tutoring, home cleaning, etc.)</li> <li>○ Step 2: Services involving close personal contact (massage, nail salons, personal training for individuals or no more than 2 persons from same household, etc.)</li> </ul> </li> <li>• Non-athletic instructional classes in arts/education/life skills for youths under 18 years of age in groups of fewer than 10</li> <li>• Driving schools and flight schools</li> <li>• Outdoor historical spaces—no functions or gatherings and no guided tours</li> <li>• Funeral homes—increased capacity to permit 40% occupancy for one service at a time within the facility</li> <li>• Warehouses and distribution centers</li> <li>• Golf facilities including outdoor driving ranges</li> <li>• Other outdoor recreational facilities             <ul style="list-style-type: none"> <li>○ pools, playgrounds and spray decks</li> <li>○ mini golf, go karts, batting cages, climbing walls, ropes courses</li> </ul> </li> <li>• Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools</li> </ul>

	<ul style="list-style-type: none"> <li>○ for the limited purposes of permitting students to complete a degree, program, or prerequisite for employment, or other similar requirement for completion, for summer youth programming including athletic facilities, and any necessary supporting services</li> <li>• Day Camps including sports and arts camps</li> <li>• Public libraries</li> </ul>
Phase III	<ul style="list-style-type: none"> <li>• Post-Secondary/Higher Ed/Vocational-Tech/Trade/Occupational Schools—general operations</li> <li>• Casino gaming floors</li> <li>• Horse racing tracks and simulcast facilities (no spectators)</li> <li>• Indoor recreational and athletic facilities for general use (not limited to youth programs)</li> <li>• Fitness centers and health clubs including <ul style="list-style-type: none"> <li>○ cardio/weight rooms/locker rooms/inside facilities</li> <li>○ fitness studios (yoga, barre, cross-fit, spin classes, general fitness studios)</li> <li>○ indoor common areas</li> <li>○ indoor swimming pools</li> <li>○ indoor racquet courts and gymnasiums</li> <li>○ locker rooms/shower rooms</li> <li>○ excluding saunas, hot-tubs, steam rooms</li> </ul> </li> <li>• Museums</li> <li>• Indoor historic spaces/sites</li> <li>• Aquariums</li> <li>• Outdoor theatres and performance venues of moderate capacity</li> <li>• Indoor theatres, concert halls, and other performance venues of moderate capacity</li> <li>• Sightseeing and other organized tours (bus tours, duck tours, harbor cruises, whale watching)</li> <li>• Motion picture, television, and video streaming production, except for activities specifically permitted in Phases I and II</li> <li>• Fishing and hunting tournaments and other amateur or professional derbies</li> <li>• Weddings/events/gatherings in parks, reservations, and open spaces with allowance for moderate capacity</li> <li>• Overnight camps</li> <li>• Indoor non-athletic instructional classes in arts/education/life skills for persons 18 years or older</li> <li>• Indoor recreational businesses: batting cages, driving ranges, go karts, bowling alleys, arcades, laser tag, roller skating rinks, trampolines, rock-climbing</li> </ul> <p>This listing is subject to amendment.</p>
Phase IV	<ul style="list-style-type: none"> <li>• Amusement parks, theme parks, indoor or outdoor water parks</li> <li>• Saunas, hot-tubs, steam rooms at fitness centers, health clubs, and other facilities</li> <li>• Bars, dance clubs, and nightclubs—venues offering entertainment, beverages, or dancing and not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000</li> <li>• Beer gardens/breweries/wineries/distilleries not providing seated food service prepared on-site and under retail food permits issued by municipal authorities pursuant to 105 CMR 590.000</li> <li>• Large capacity venues used for group or spectator sports, entertainment, business, and cultural events including <ul style="list-style-type: none"> <li>○ Theaters and concert halls</li> <li>○ Ballrooms</li> <li>○ Stadiums, arenas, and ballparks</li> <li>○ Dance floors</li> <li>○ Exhibition and convention halls</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>• Private party rooms</li><li>• Street festivals and parades and agricultural festivals</li><li>• Road races and other large, outdoor organized amateur or professional group athletic events</li></ul> <p>This listing is subject to amendment.</p>
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OFFICE OF THE GOVERNOR  
**COMMONWEALTH OF MASSACHUSETTS**  
STATE HOUSE • BOSTON, MA 02133  
(617) 725-4000

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

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

COVID-19 Order No. 40

**WHEREAS**, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”);

**WHEREAS**, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

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

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

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



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

**WHEREAS**, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, transportation and travel by any means or mode, regulating the sale of articles of food and household articles, variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies or political subdivisions, and policing, protection, and preservation of public and private property;

**NOW, THEREFORE**, I hereby order the following:

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

Effective upon the commencement of Step 2

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

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

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



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CHARLES D. BAKER  
GOVERNOR

Commonwealth of Massachusetts



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

**Jean M. Lorizio, Esq.**  
Chairman

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

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

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

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

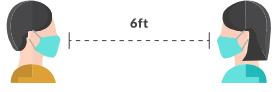
(Issued June 19, 2020)



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

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

## MANDATORY SAFETY STANDARDS



### SOCIAL DISTANCING

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

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

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

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

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

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

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

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

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

#### Recommended best practices

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

Customers may remove face coverings while seated at tables



### HYGIENE PROTOCOLS

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

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

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

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

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

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

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

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

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

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



## STAFFING & OPERATIONS

### MANDATORY SAFETY STANDARDS

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

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

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

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

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

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

Workers should not appear for work if feeling ill

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

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

Anyone showing signs of illness may be denied entry

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

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

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

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

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

#### Recommended best practices

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

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

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

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

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



## CLEANING & DISINFECTING

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

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

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

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

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



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

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**Purpose**

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

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

**Standards for Responsible Restaurants in Massachusetts**

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

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

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

**I. Social Distancing**

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

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

## **II. Hygiene Protocols**

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

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

### **III. Staffing and Operations**

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

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

#### **IV. Cleaning and Disinfecting**



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

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

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

[OSHA – COVID-19 Webpage](#)

[OSHA – Enforcement Guidelines Webpage](#)

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

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

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

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

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

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

**Additional Information:**

Massachusetts State Coronavirus (COVID-19) Website  
[mass.gov/covid19](https://mass.gov/covid19)

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

# **2020 LICENSES**

NUMBER  
19-09S

THE COMMONWEALTH OF MASSACHUSETTS  
TOWN OF HARWICH

FEE  
\$75.00

**LICENSE FOR INNOLDERS, COMMON VICTUALLERS  
AND OTHER KEEPERS OF RESTAURANTS AND OTHER ESTABLISHMENTS**

In accordance with the provisions of Chapter 140 of the General laws as amended by Chapter 299 of the Acts of 1926, and amendments thereto, LICENSE is hereby granted to:

The Port Restaurant

to conduct the amusements as herein described in connection with his regular business of innholder, common victualler, or owner, manager or controller of a café, restaurant or other eating or drinking establishment, on the premises owned by Same

of Harwich located at 541 Route 28, Harwich Port

Description of Premises: Same

Description of amusements to be conducted: Recorded or live music with amplification.

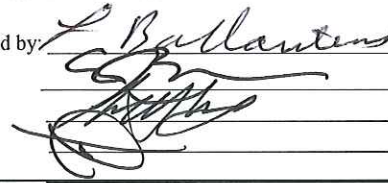
To be conducted on week days between the hours of: 6:00 PM – 10:00 PM Outside

Mondays to Saturdays

This LICENSE is granted as subject to the provisions of the General Laws, chapter one hundred and forty, sections twenty-two to thirty-two inclusive, and of chapter two hundred and seventy-two, sections twenty-five to twenty-seven inclusive, and amendments thereto, and shall not be valid for a location other than as herein described.

Date: 1/13/2020

License granted by:



**EXPIRES DECEMBER 31, 2020**

**THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE**

**Inside Entertainment - Noise from entertainment may not create a nuisance or 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.**

***Suggested Minimum Regulations which will be required by the Licensing Authorities before approval of Licenses issued in accordance with the provisions of Chapter 299, Acts of 1926 and amendments thereto.***

1. This license is granted and approved subject to compliance with the laws of this Commonwealth relative to the exposing, sale and keeping of liquor or other intoxicating beverages and with compliance with the following conditions: —
2. The premises shall be open at all times to inspection by any police officer or constable of the town, or by any State Police Officer.
3. No person or persons under the influence of intoxicating liquor or other intoxicating beverage, or having the appearance thereof, shall be granted admittance to or be permitted to remain in or upon any of the premises described in this license.
4. No dialogue, gesture, song, language or conversation of any description which is directly or indirectly obscene, lascivious or suggestive, shall be permitted to be used by any person or persons while in or upon the premises.
5. Muscle or suggestive dancing or any description or form is prohibited.
6. Gaming of any description, games at which a prize is offered, any game where money is exposed as a prize or inducement, wheels of change and jingle boards are prohibited.
7. Private dining rooms, booths or enclosures for the accommodation of less than four persons shall not be permitted and not less than four persons shall be allowed or permitted to occupy any such room or enclosure.
8. Rooms used for dining rooms and for dancing shall be so lighted as to render it possible to distinguish any person by every other person therein at all times.
9. The license will be suspended for non-compliance with any of the laws of this Commonwealth relating to this particular establishment, and may, after a hearing, be revoked.
10. Non-compliance with the provisions of any of the above regulations will be sufficient cause for suspension, and after hearing the license may be revoked.

By authority of and in compliance with the provisions of Chapter 299, Acts of 1926, and amendments thereto, the above minimum rules and regulations are hereby prescribed and approved.

Board of Selectmen

THE COMMONWEALTH OF MASSACHUSETTS  
TOWN OF HARWICH

State Fee, \$50 1PM-12AM/\$100 prior to 1PM

Municipal Fee, \$85 1PM-12AM/\$175 prior to 1PM

# LICENSE

For

**PUBLIC ENTERTAINMENT ON SUNDAY**

The Name of the Establishment is **Port Restaurant and Bar Inc - 541 Route 28, Harwich Port**

in or on the property at No.

(address)

The Licensee or Authorized representative, **Justin Brackett**

in

accordance with chapter 136 of the General Laws, as amended, hereby request a license for the following program or entertainment:

DATE	TIME	Proposed dancing or game, sport, fair, exposition, play, entertainment or public diversion
Sunday	10am-12am	Live Entertainment Inside
Sunday	10am-10pm	Live Entertainment Outside

Hon. *L. Badantino* Mayor/ Chairman of Board of Selectman, **Harwich** (City or Town)

**Fees per occurrence (Individual Sunday(s)): Regular Hours (Sunday 1:00pm – Midnight): \$2.00 Special Hours (Sunday 12:00 am- Midnight): \$5.00. Annual Fee (For Operating on every Sunday in calendar year): Regular Hours (Sunday 1:00pm – Midnight): \$50.00 Special Hours (Sunday 12:00 am- Midnight): \$100.00**

This license is granted and accepted, and the entertainment approved, upon the understanding that such entertainment that the licensee shall comply with the laws of the Commonwealth applicable to licensed entertainments, and also to the following terms and conditions: The licensee shall at all times allow any person designated in writing by the Mayor, Board of Selectmen, or Commissioner of Public Safety, to enter and inspect his place of amusement and view the exhibitions and performances therein; shall permit regular police officers, detailed by the Commissioner of Public Safety or Chief of the local Police Department to enter and be about this place of amusement during performances therein; may employ to preserve order in his place of amusement only regular or special police officers designated therefore by the Chief of Police, and shall pay to said Chief of Police for the services of the regular police officers such amount as shall be fixed by him; shall permit at all times to enter and be about his place of amusement such members of the Fire Department as shall be detailed by the Chief of the Fire Department to guard against fire; shall keep in good condition, go as to be easily accessible, such standpipes, hose, axes, chemical extinguishers and other apparatus as the fire department may require; shall allow such members of the fire department in case of any fire in such place, to exercise exclusive control and direction of his employees and of the means and apparatus provided for extinguishing fire therein; shall permit no obstruction of any nature in any aisle, passageway or stairway of the licensed premises, nor allow any person therein to remain in any aisle passageway or stairway during an entertainment; and shall conform to any

other rules and regulations at any time made by the Mayor or Board of Selectmen. This license shall be kept on the premise where the entertainment is to be held, and shall be surrendered to any regular police officer or authorized representative of the Department of Public Safety. This license is issued under the provisions of Chapter 136 of the General Laws, as amended, and is subject to revocation at any time by the Mayor, Board of Selectmen, or Commissioner of Public Safety.

**Do not write in this box**

**This application and program must be signed by the licensee or authorized representative of entertainment to be held. No Change to be made in the program without permission of the authorities granting and approving the license.**

**THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE ON THE PREMISES**

No.: 00095-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: Port Restaurant and Bar**

Date: 03/27/2020

License Duration Type: Seasonal All Alcohol

Manager: Justin Brackett

**License Conditions (description of premise)**

541 Route 28, Harwich

First floor, exterior deck and exterior seating along Route 28. Three entrances/exits, one along Route 28, one off kitchen adjacent to parking and one to exterior deck. Capacity: 84

:99

**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 **January 15, 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 – 1:00AM SUNDAYS & HOLIDAYS**

LICENSE  
granted by:

\_\_\_\_\_  
  
 \_\_\_\_\_  
 Justin Brackett  
 \_\_\_\_\_  
 \_\_\_\_\_

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

LICENSING AUTHORITIES