Town and County of Nantucket
Board of Selectmen • County Commissioners

James R. Kelly, Chairman
Rick Atherton
Robert R. DeCosta
Matt Fee
Dawn E. Hill Holdgate

16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
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www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

AGENDA FOR THE MEETING OF THE
BOARD OF SELECTMEN
OCTOBER 19, 2016 - 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS

I. CALL TO ORDER

II. BOARD ACCEPTANCE OF AGENDA

III. ANNOUNCEMENTS

1. The Board of Selectmen Meeting is Being Video/Audio Recorded.

2. Pursuant to Mass. Division of Fisheries and Mass. Department of Public Health, All Approved and Conditionally Approved Areas in the Municipality of Nantucket are Closed to Shellfishing due to Toxic Plankton Bloom; Nantucket Natural Resources Department and Department of Public Health Recommend Scallops can be Harvested During this Closure, but Opening and Consumption is at Your Own Risk.

3. Easy Street Bulkhead Reconstruction Project Ongoing; Easy Street Closed through End of December.

4. Town Clerk: Early Voting for the 2016 State Election will Occur at the Town Building, 16 Broad Street from Monday, October 24, 2016 to Thursday, November 3, 2016 from 8:30 AM to 3:30 PM and Friday, November 4, 2016 from 8:30 PM to 4:00 PM. Early Voting by Mail Ends November 4, 2016 at Noon. The Central Tabulation Facility will be at the Nantucket High School, 10 Surfside Road on Tuesday, November 8, 2016 from 8:00 AM to 8:00 PM.

5. 2017 Annual Town Meeting Warrant is Open for Citizen Warrant Article Submittals through November 21, 2016 at 4:00 PM.

*IV. PUBLIC COMMENT**

*V. NEW BUSINESS**

VI. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of September 23, 2015 at 6:00 PM; February 29, 2016 at 4:00 PM.

2. Approval of Payroll Warrants for Weeks Ending October 9, 2016; October 16, 2016.

3. Approval of Treasury Warrants for October 12, 2016; October 19, 2016.

4. Approval of Pending Contracts for October 19, 2016.

VII. CONSENT ITEMS

1. Nantucket Land Council, Inc.: Request for Approval of Conservation Restriction Donated by The Nature Conservancy, to be Held by Nantucket Land Council for 130 Eel Point Road (Previously Approved May 25, 2016; Re-vote Required do to Non-Substantive Technical Changes).

2. Town Clerk: Request for Adoption of Warrant for November 8, 2016 State Election.

VIII. CITIZEN/DEPARTMENTAL REQUESTS

1. Request for Execution of MassDOT Event Notification Form for "Run for Robin 5K" Event to be Held Sunday, November 6, 2016 at 10:00 AM along Milestone Road.

2. Affordable Housing Trust: Request for Board of Selectmen to Assign Town's Right of First Refusal for Property in Abrem Quary 40B to the Affordable Housing Trust Fund and Authorize Affordable Housing Trust to Expend Necessary Funds to Purchase the Property to Preserve Subsidized Housing Inventory (SHI) Status if Needed.

3. Acceptance of Surrender of Seasonal All-Alcoholic Beverages Restaurant License for Island Gourmet Corp. d/b/a The Club Car, Located at 1 Main Street, Nantucket.

IX. PUBLIC HEARINGS

1. Public Hearing to Consider Application for New Seasonal All-Alcoholic Beverages License for Nantucket Club Car LLC d/b/a The Club Car, Tanya J. McDonough, Manager, for Premises Located at 1 Main Street; Request for Determination that the Premises is Not Detrimental to the Spiritual Activities of a Church Pursuant to Section 16C of MGL Chapter 138.

2. Public Hearing to Consider Application for New Entertainment License for Nantucket Club Car LLC d/b/a The Club Car, Tanya J. McDonough, Manager, for Premises Located at 1 Main Street.

3. Public Hearing to Consider Application for New Seasonal All-Alcoholic Beverages Restaurant License and Change of Manager for EGB Enterprises, Inc. d/b/a The Rose and Crown, Debra L. Pitcock, Manager,

for Premises Located at 23 South Water Street (Currently Holds Annual License); Request for Determination that the Premises is Not Detrimental to the Spiritual Activities of a Church Pursuant to Section 16C of MGL Chapter 138.

X. TOWN MANAGER'S REPORT

1. Traffic Safety Work Group Recommendation: Curb Cut at 29 Jefferson Avenue Resulting in Elimination of One On-Street Parking Space.

2. Request for Authorization to Execute State Revolving Fund Documents in Connection with Nantucket Harbor/Shimmo/Plus Parcels Sewer Projects.

XI. SELECTMEN'S REPORTS/COMMENT

1. Harbor and Shellfish Advisory Board: Request to Schedule Public Hearing Regarding Proposed Amendments to Chapter 250 Harbors and Town Pier Regulation.

2. Committee Reports.

XII. ADJOURNMENT

** Identified on Agenda Protocol Sheet*

Board of Selectmen Agenda Protocol:

- *Roberts Rules: The Board of Selectmen follows Roberts Rules of Order to govern its meetings as per the Town Code and Charter.*

- *Public Comment: For bringing matters of public interest to the attention of the Board. The Board welcomes concise statements on matters that are within the purview of the Board of Selectmen. At the Board's discretion, matters raised under Public Comment may be directed to Town Administration or may be placed on a future agenda, allowing all viewpoints to be represented before the Board takes action. Except in emergencies, the Board will not normally take any other action on Public Comment. Any personal remarks or interrogation or any matter that appears on the regular agenda are not appropriate for Public Comment.*

  Public Comment is not to be used to present charges or complaints against any specifically named individual, public or private; instead, all such charges or complaints should be presented in writing to the Town Manager who can then give notice and an opportunity to be heard to the named individual as per MGL Ch. 39, s 23B.

- *New Business: For topics not reasonably anticipated 48 hours in advance of the meeting.*

- *Public Participation: The Board welcomes valuable input from the public at appropriate times during the meeting with recognition by the Chair. For appropriate agenda items, the Chair will introduce the item and take public input. Individual Selectmen may have questions on the clarity of information presented. The Board will hear any staff input and then deliberate on a course of action.*

- *Selectmen Report and Comment: Individual Selectmen may have matters to bring to the attention of the Board. If the matter contemplates action by the Board, Selectmen will consult with the Chair and/or Town Manager in advance and provide any needed information by the Thursday before the meeting. Otherwise, except in emergencies, the Board will not normally take action on Selectmen Comment.*

EXHIBIT 1
AGREEMENTS TO BE EXECUTED BY TOWN MANAGER
UNLESS RESOLUTION OF DISAPPROVAL BY BOARD OF SELECTMEN
October 19, 2016

Type of Agreement/Description	Department	With	Amount	Other Information	Source of Funding
Professional Services Agreement	DPW	Nantucket Septic, Inc.	Not to exceed $210,000	3-year contract for annual supply, service and maintenance of portable toilets at Madaket Beach, Children's Beach, Miacomet Beach, Cisco Beach, Nobadeer Beach, Nobadeer Athletic Fields; and septic system/holding tank pump our service for Tom Nevers Park, Delta Fields Park, Dionis Beach, Surfside Beach, Police Dormitories, Lifeguard housing	Various Town Dept. Budgets
Professional Services Agreement	DPW	Robert B. Our, Inc.	$24,999	Replacement of broken sewer pipe at Flora and Union Streets	Sewer Budget
Amendment to Purchase and Supply Agreement	Various Town Departments	Outdoor Power, LLC	Increase of $8,500 for a total of $42,500	Misc. supplies and repair services for Town Departments	Various Town Departments

TOWN OF NANTUCKET DEPARTMENT OF NATURAL RESOURCES

JEFF CARLSON
NATURAL RESOURCES COORDINATOR
jcarlson@nantucket-ma.gov

2 Bathing Beach Road
Nantucket, MA 02554
508-228-7230

Press Release 10/13/2016

*****Nantucket shellfishery to remain closed until further notice*****

The Town of Nantucket Natural Resources Department in consultation with the Department of Public Health are recommending the continued closure of Nantucket waters to all shell fishing in response to the Toxic Plankton Bloom Closure issued by the Massachusetts Division of Marine Fisheries on October 9, 2016. This closure is due to the abundance of Pseudo-Nitzschia in the water which has been known to produce Domoic Acid and can cause Amnesic Shellfish Poisoning (ASP).

The Natural Resources Department and the Department of Public Health feel there is a possible risk associated with the removal of the adductor muscle and the exposure of the muscle to the contents of the scallop gut or other viscera that could possibly contain the toxin.
**If you choose to consume bay scallop adductor muscles it is purely at your own risk.*

All other shellfish species continue to be closed at this time.

The Town is working closely with the Division of Marine Fisheries to open the shellfishery as soon as possible.

We thank you for your cooperation with this closure.

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400
Boston, Massachusetts 02114
(617)626-1520
fax (617)626-1509

David E. Pierce
Director

Charles D. Baker
Governor
Karyn E. Polito
Lieutenant Governor
Matthew A. Beaton
Secretary
George N. Peterson, Jr.
Commissioner
Mary-Lee King
Deputy Commissioner

October 9, 2016

Board of Selectmen of the following towns: Falmouth, Mashpee, Barnstable, Yarmouth, Dennis, Harwich, Chatham, Orleans, Aquinnah, Chilmark, West Tisbury, Tisbury, Oak Bluffs, Edgartown and Nantucket.

RE: EMERGENCY CLOSURE

Ladies and Gentlemen:

The Division of Marine Fisheries has determined that all approved and conditionally approved areas in the municipalities of Falmouth, Mashpee, Barnstable, Yarmouth, Dennis, Harwich, Chatham, Orleans, Aquinnah, Chilmark, West Tisbury, Tisbury, Oak Bluffs, Edgartown and Nantucket, SC1-SC58, NS1-NS4, V1-V36, NT1-NT14, no longer meet the established criteria for a status of "OPEN TO SHELLFISHING" due to a potentially toxic phytoplankton bloom in the waters of Vineyard Sound, Nantucket Sound and south of Cape Cod, which can cause Amnesiac Shellfish Poisoning (ASP). This closure takes effect at sunrise on October 10, 2016.

Under the authority of Massachusetts General Laws, Chapter 130, Sections 74A, and 75, the status of the below defined areas shall be changed to "**CLOSED TO SHELLFISHING**". Digging, harvesting or collecting and/or attempting to dig, harvest or collect shellfish and the possession of shellfish from the below defined areas are prohibited.

Under authority of 322 CMR 7.01 (7) all permits issued thereunder are hereby conditioned to prohibit the taking, selling or possession of shellfish from the below defined areas.

CLASSIFICATION: APPROVED AND CONDITIONALLY APPROVED
TOXIC PLANKTON BLOOM CLOSURE
Status: Closed To Shellfishing with the exception of bay and sea scallop adductor muscles and carnivorous snails

RECEIVED
OCT 13 2016
NANTUCKET TOWN ADMINISTRATION

SC1-SC58, NS1-NS4, V1-V36, NT1-NT14
Nantucket Sound and south of Cape Cod

"The waters, flats and all tributaries of Vineyard Sound, Nantucket Sound and south coast of Cape Cod."

The preceding areas shall remain in the closed status until examined by the Division of Marine Fisheries and notification is made that the areas have been placed in the OPEN status.

OVER

Sincerely,

David E. Pierce,
Director

cc: J. McGinn, B. Perrin, P. Moran, DELE
D. McKiernan, M. Hickey, TY. Shields, DMF
G. Peterson, Jr., M. King, DFG
WPC. DEP
FDA
DPH
Shellfish Constables of the above City and Towns

RECEIVED
OCT 13 2016
MASSACHUSETTS TOWN ADMINISTRATION

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400
Boston, Massachusetts 02114
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David E. Pierce
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Deputy Commissioner

October 10, 2016

Board of Selectmen of the following towns: Falmouth, Mashpee, Barnstable, Yarmouth, Dennis, Harwich, Chatham, Orleans, Aquinnah, Chilmark, West Tisbury, Tisbury, Oak Bluffs, Edgartown and Nantucket.

RE: EMERGENCY CLOSURE

Ladies and Gentlemen:

CORRECTION.

The previous notice on October 9, 2016 contains an error. The closure does NOT include SC52 through SC58. The Division of Marine Fisheries has determined that all approved and conditionally approved areas in the municipalities of Falmouth, Mashpee, Barnstable, Yarmouth, Dennis, Harwich, Chatham, Orleans, Aquinnah, Chilmark, West Tisbury, Tisbury, Oak Bluffs, Edgartown and Nantucket, SC1-SC51, NS1-NS4, V1-V36, NT1-NT14, no longer meet the established criteria for a status of "OPEN TO SHELLFISHING" due to a potentially toxic phytoplankton bloom in the waters of Vineyard Sound, Nantucket Sound and south of Cape Cod, which can cause Amnesic Shellfish Poisoning (ASP). This closure takes effect at sunrise on October 10, 2016.

Under the authority of Massachusetts General Laws, Chapter 130, Sections 74A, and 75, the status of the below defined areas shall be changed to "**CLOSED TO SHELLFISHING**". Digging, harvesting or collecting and/or attempting to dig, harvest or collect shellfish and the possession of shellfish from the below defined areas are prohibited.

Under authority of 322 CMR 7.01 (7) all permits issued thereunder are hereby conditioned to prohibit the taking, selling or possession of shellfish from the below defined areas.

CLASSIFICATION: APPROVED AND CONDITIONALLY APPROVED
TOXIC PLANKTON BLOOM CLOSURE
Status: Closed To Shellfishing with the exception of bay and sea scallop adductor muscles and carnivorous snails including conchs and whelks

SC1-SC51, NS1-NS4, V1-V36, NT1-NT14
Nantucket Sound and south of Cape Cod

"The waters, flats and all tributaries of Vineyard Sound, Nantucket Sound and south coast of Cape Cod."

The preceding areas shall remain in the closed status until examined by the Division of Marine Fisheries and notification is made that the areas have been placed in the OPEN status.

OVER

Sincerely,

David E. Pierce,
Director

cc: J. McGinn, B. Perrin, P. Moran, DELE
D. McKiernan, M. Hickey, TY. Shields, DMF
G. Peterson, Jr., M. King, DFG
WPC. DEP
FDA
DPH
Shellfish Constables of the above City and Towns

Easy Street Bulkhead Construction
October 17 to December 30

No parking on the south side to allow for truck traffic

No parking to allow for two-way traffic

No parking to allow trucks room to turn

No parking to allow for truck traffic

No parking to allow for two-way traffic to SSA

Easy Street Bulkhead Construction Area
No Vehicle or Pedestrian Access

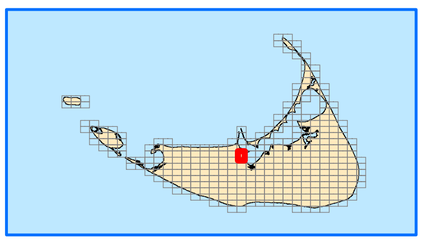
Traffic Reversed
No parking on the north side of the street

SYLVIA
N BEACH ST
CT
UNKNOWN
CORNISH ST
WILLARD ST
EASTON ST
HARBOR VIEW WAY
MACKAY WY
KITE HILL LN
CLIFF RD
WAY
NORTH AV
WYERS LN
W CHESTER ST
CHESTER ST
GULL ISLAND LN
S BEACH ST
CHURCH CT
STEP LN
LILY ST
CENTER ST
ASH ST
ASH LN
WHALERS LN
STEAMBOAT WF
ACADEMY LN
BROAD ST
S BEACH ST EXT
WESTMINSTER ST
GAY ST
OAK ST
EASY ST
FEDERAL ST
CAMBRIDGE ST
STILL DOCK
HUSSEY ST
DOCK ST
STRAIGHT WF
CANDLE ST
SALEM ST
THURSTONS CT
ROSE
LIBERTY ST
WALNUT LN
MAIN ST
WASHING
LIBERTY LN
WINTER ST
GARDNERS CT
STONE AL
UNION ST
FAIR ST
ORANGE ST
GARDNER ST
RAYS CT
TRADERS LN
PINE ST
JUDITH CHASE LANE
BUNKERS CT

1 inch = 91 feet
170 85 0 170 Feet

Legend

- Signs
- Closed To All Traffic
- No Parking
- Traffic Reversed
- Parcels



Data Sources:

The planimetric data on this mapsheet is based primarily upon interpretation of April, 2013 aerial photography. It was compiled to meet the ASPRS Standard for Class I Map Accuracy for 1"=100' scale maps.

The parcel boundaries are based primarily upon the Tax Assessor's data through December, 2014.

Please send identification of any errors and corresponding corrections to:

GIS Coordinator
Town of Nantucket
2 Fairgrounds Rd
Nantucket, MA 02554

Town of Nantucket
GIS Mapsheet

Nantucket governmental agencies will not necessarily approve applications based soley on GIS data. Applicants for permits and licensesmust inquire of the relevant agency for applicable requiements.

The presence of information of this mapsheet does not necessarily imply public right-of-way or the right of public access.

The data on this mapsheet represents the efforts of the Town of Nantucket and other cooperating organizations to record and compile pertinent geographical and related information utilizing the capabilities of the Nantucket Geographic Information System (GIS). The GIS staff maintains an ongoing program to record and correct errors in these data that are brought to its attention. The Town of Nantucket makes no claims as to the absolute validity or reliability of these data or their fitness for any particular use.

9/19/2016

Easy Street Construction

Town of Nantucket

OFFICE OF THE
TOWN & COUNTY CLERK
16 Broad Street
NANTUCKET, MASSACHUSETTS 02554-3590

RECEIVED
OCT - 7 2016
NANTUCKET TOWN ADMINISTRATION

Catherine Flanagan Stover, MMC, CMMC
Town & County Clerk

(508) 228-7216
FAX (508) 325-5313
Home: (508) 228-7841
Email: cstover@nantucket-ma.gov
townclerk@nantucket-ma.gov

WEBSITE: http://www.nantucket-ma.gov

October 7, 2016

Dear Mr. Kelly:

Would you please place the following announcement on the agenda for the Selectmen's meetings of October 12th, 19th, and 26th:

The Town Clerk has designated the site for Early Voting for the 2016 State Election will be the Nantucket Town & County Building at 16 Broad Street. The Early Voting period will be from Monday, October 24th through Friday, November 4th. Hours will be Monday through Friday from 8:00 AM until 4:00 PM. Mail-in ballots must be received by Noon on November 4th.

The Town Clerk has designated a Central Tabulation Facility be established at the Nantucket High School at 10 Surfside Road on November 8th from 7 AM until 8 PM.

Many thanks for your kind assistance and support.

From: Vicki Marsh
To: Libby Gibson
Cc: Erika Mooney; John Giorgio
Subject: Conservation Restriction - 130 Eel Point Road
Date: Tuesday, October 04, 2016 3:15:27 PM
Attachments: KP-#565537-v1-NANT-_Conservation_REstriction_-_130_Eel_Point_Road.DOC
KP-#565537-v2-NANT-_Conservation_Restriction_-_130_Eel_Point_Road.DOC

Libby-

Enclosed please find for review red-lined and clean versions of the Conservation Restriction from The Nature Conservancy, Inc. to the Nantucket Land Council, Inc. for property at 130 Eel Point Road, Nantucket. This Conservation Restriction was initially reviewed by Attorney John Goldrosen of my office, who as you may know has recently retired. The Conservation Restriction was then reviewed by the State's Conservation Restriction Reviewer and she made a few additional revisions. I subsequently included a few revisions for purposes of consistency and clarification of the document as well as references to the attached plans in Paragraph 1.

I approve of the form of the Conservation Restriction as approved. I was informed that the Board of Selectmen already voted to approve of the Conservation Restriction. If that is the case, and the Board of Selectmen approves of this revised version, then it is my opinion that they may execute the Conservation Restriction as a consent item at a Board meeting since these revisions in my opinion are not substantive in nature.

I have requested that Mr. Cormier deliver the executed Conservation Restriction to the Town for the Board's approval and signature.

If you have any questions concerning this matter, please do not hesitate to contact me.

Vicki

Vicki S. Marsh, Esq.
KP | LAW
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Boston, MA 02110
O: (617) 556 0007
F: (617) 654 1735
vmarsh@k-plaw.com
www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately

CONSERVATION RESTRICTION

Grantor: The Nature Conservancy. Boston, MA
Grantee: Nantucket Land Council, Inc.
Nantucket, MA
Property Address: 130 Eel Point Road Nantucket, MA
Title Reference: Book 0504 Page 187

The Nature Conservancy, a non-profit corporation organized under the laws of the District of Columbia ("Grantor"), with its offices located at 4245 North Fairfax Drive, Suite 100, Arlington, VA 22203-1606, and with Massachusetts Chapter offices at 99 Bedford Street, Fifth Floor, Boston, MA 02111, its successors and assigns, acting pursuant to Sections 31, 32, and 33 of Chapter 184 of Massachusetts General Laws, for One Dollar and other good and valuable consideration, grants with quitclaim covenants, to the Nantucket Land Council, Inc., a Massachusetts non-profit corporation, whose purposes include conservation of land in Nantucket County, Massachusetts, with its offices located at 6 Ash Lane, Nantucket, Massachusetts, its successors and permitted assigns ("Grantee") in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction on the entirety of an approximately 18.3 acre parcel of land located in the County of Nantucket, Massachusetts (the "Premises"), which Premises is shown on Land Court Plan No. 15400A1 attached hereto as Exhibit A and incorporated herein and shown as "Restricted Area" on a plan entitled "Conservation Restriction Plan in Nantucket, MA, Prepared for Nantucket Land Council," dated June 15, 2015, prepared by Blackwell & Associates, Inc. attached hereto as Exhibit B and incorporated herein.

For Grantor's title see Book 0504 Page 187 at the Nantucket Registry of Deeds.

Grantee warrants that Grantee is a charitable organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code"), whose primary purpose is "To encourage, support and engage in research, study, and education regarding land in the County of Nantucket …and to engage in, institute, defend and to support in any legal manner or way any litigation or administrative procedures regarding such

land, its ownership and utilization; and to engage in such other activities as are necessary or reasonably appropriate thereto."

Grantee represents that Grantee is a "qualified organization," as that term is defined in Section 170(h) (3) of the Code; and
Grantee has received a determination letter from the Internal Revenue Service dated November 24, 2003, to the effect that Grantee is a "publicly-supported" organization described in Section 509(a)(1) and Section 170(b)(A)(vi) of the Code, and is not a private foundation under Section 509(a)(1) of the Code; and

Grantee holds a Conservation Restriction on 264 acres of abutting registered land owned by the Linda Loring Nature Foundation (the "Foundation") and Linda Loring, said restriction being filed on April 4, 2007 as Document # 120125 in the Nantucket Registry District of the Land Court. Grantee acknowledges Grantor's intent to donate the fee interest in the Premises to the Foundation immediately following the recording of this instrument; and

Grantor and Grantee recognize the natural, scenic, and special character of the Premises and have the common purpose of the conservation and protection in perpetuity of the Premises through the use of restrictions on the Premises;

NOW, THEREFORE, KNOW ALL PERSONS BY THESE PRESENTS, in consideration of the above and mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to Section 170(h) of the Code and the laws of the Commonwealth of Massachusetts, including Massachusetts General Laws Chapter 184, Sections 31-33, Grantor hereby voluntarily grants and conveys to Grantee and its successors and permitted assigns a conservation restriction (the "Restriction" or "Conservation Restriction") in perpetuity and for conservation purposes over the Premises. Grantor herein declares that the Premises shall be held, mortgaged, encumbered, transferred, sold, conveyed, used, and occupied subject to the covenants, conditions, and restrictions hereinafter set forth, which covenants, conditions, and restrictions shall be deemed to run with the land in perpetuity and to burden the Premises in perpetuity.

A. <u>Purposes.</u>

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained substantially in its current condition in perpetuity and for conservation purposes, predominantly in a natural, scenic and undeveloped

condition, and to prevent any use or change that would materially impair or interfere with its conservation and preservation values.

The specific conservation values of the Premises are documented in a report to be kept on file at the offices of Grantee and incorporated herein by this reference, which documentation ("Baseline Documentation") the parties agree provides an accurate representation of the Premises as of the effective date of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant,.

This Conservation Restriction is intended to protect the aforementioned natural and scenic resources of the Premises and Nantucket by restricting the size and extent of buildings; by prohibiting practices such as commercial agriculture and raising of animals which can damage or alter natural plant communities; and by encouraging conservation of the land in its predominantly vacant and undeveloped condition. These values include the following:

- **Open Space Preservation.** The protection of the Premises contributes to the protection of the scenic and natural character of surrounding and abutting permanently protected land and other Nantucket protected lands, and the protection of the Premises will enhance the open-space value of these lands, provide significant open space corridors and improve the overall public benefit and value of open space in the neighborhood.

- **Water Quality**. The Premises are located on Nantucket Island which has an EPA designated sole source aquifer for the use of its inhabitants. Protection of the Premises will further protect the water quality of the aquifer and surrounding wells. Protection of the premises will also reduce nutrient and pollutant leaching and runoff which will protect down gradient water sources including the Nantucket Sound to the north and Head of Long Pond to the southeast.

- **Protection of Wildlife Habitat.** The entire Premises falls within an area designated as "Priority Habitat for State-Protected Rare Species" by the Massachusetts Natural Heritage Program. The Premises provide a unique natural habitat for a wide variety of plant and animal species. The Premises are comprised of a globally rare sandplain grassland and coastal heathland, with a mix coastal shrub understory consisting of huckleberry, viburnum, black cherry, low bush blueberry and scrub oak which provides unique foraging and nesting habitat to bird, mammal and insect species.

- **Furtherance of Government Policy.** Preservation of the Premises is pursuant to clearly delineated conservation policy expressed in Nantucket's Master Plan, adopted by Nantucket's voters at the Annual Town Meeting in April 2009, which states in the Town of Nantucket 2007 Open Space and Recreation Plan as Goal/Objectives 1C: "The town should encourage the use of creative

regulatory and non-regulatory land protection tools such as conservation restrictions, tax abatements, gifts and zoning measures.”; and in *The Nantucket Comprehensive Community Plan* (NCCP), including the following objectives therein: Objective 4.1, “To aggressively acquire land and conservation restrictions to protect natural ecosystems;” Objective 4.2, “To encourage land management activities by the Land Bank and nonprofit entities to provide permanent resource protection;”

Preservation of the Premises as open space is further pursuant to clearly delineated governmental conservation policy in accordance with "Nantucket's Goals and Objectives for Balanced Growth" which was adopted in November 1990 by Town Meeting and states as Objective A-1: "To identify and acquire critical open spaces through outright ownership or by less-than-fee means, such as conservation restrictions, scenic easements, and the purchase of development rights, in order to complete the Island's open space network.”

B. Prohibited Uses:

Except for reserved rights as set forth in Paragraph C below, neither Grantor, nor the heirs, devisees, successors or assigns of Grantor, will perform or give permission to others to perform the following acts or uses which are prohibited on, under, or above the Premises:

(1) The construction or placement of any temporary or permanent building, landing strip, helicopter landing area, tennis court, mobile home, swimming pool, asphalt or concrete pavement, stadium, bleachers, outdoor lighting equipment, ropes course, sign, billboard, or other advertising display, utility pole, utility tower, utility conduit or utility line, windmills, septic system, or any other temporary or permanent structure on, above, or under the Premises;

(2) Excavating, mining, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit except as necessary for proper drainage or soil conservation and then only in a manner which does not impair the Purpose of this Conservation Restriction;

(3) Placing, filling, storing or dumping on the Premises of soil, refuse, trash, boats, trailers, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground tanks;

(4) Cutting, removing or otherwise destroying trees, grasses or other vegetation on the Premises;

(5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control or soil conservation;

(6) The use of motorcycles, motorized trail bikes, snowmobiles and all other motorized vehicles and activities;

(7) The placement and maintenance of bee hives;

(8) Division or subdivision of the Premises, except for transfer for all or a portion of the land to a conservation organization, and no portion thereof or any other parcel to be used for building or zoning requirements;

(9) All commercial and municipal structures and all commercial or industrial activities and uses;

(10) Any work, including, but not limited to, filling and/or construction of roads, in wetlands as defined by the Wetlands Protection Act (Chapter 131, Section 40) or the Nantucket Wetlands Bylaw (Chapter 136 of the Nantucket Code);

(11) The use of the Premises for more than *de minimis* commercial recreation, business, residential or industrial use of the Premises.

(12) The use of pesticides and fertilizers; and

(13) Any other use of the Premises or activity which would materially impair conservation interests unless necessary for the protection of the conservation interests that is the subject of this Conservation Restriction.

C**.** Reserved Rights:

The provisions of Paragraph B notwithstanding, the following acts and uses by Grantor and the heirs, devisees, successors and assigns of Grantor are permitted provided they do not materially impair the conservation interests or purposes of this Conservation Restriction or are not considered inconsistent with the intent of this grant:

(1) The right to excavate and remove soil, gravel or other mineral resource or natural deposit only as may be necessary for the conduct of those uses and activities permitted in this Conservation Restriction, or for the maintenance of good drainage, soil conservation practices or other permissible use of the Premises; provided that following the completion of such use or activity any disturbed area shall be restored to its prior undisturbed condition;

(2) The right to excavate a known archaeological site identified by and under the direction of the Massachusetts Historical Commission and if applicable a qualified organization such as according to Massachusetts Regulations 950 CMR 70;

(3) The clearing, maintenance and use of fire breaks, trails, clearings, and unpaved roads on the Premises as reasonable necessary for the uses herein permitted; trails, clearings or unpaved roads shall not in the reasonable opinion of the Grantee, substantially alter the present condition of the Premises or harm wildlife habitat or natural vegetation nor place at risk the habitat of any rare or endangered species as identified by the Massachusetts Natural Heritage Program or its successors. The construction of new trails or roads are allowed subject to a plan approved by Grantee in accordance with Paragraph E hereof;

(4) Hunting in accordance with then applicable local, state and federal regulations;

(5) The right to conduct any activity, such as selective cutting, grazing, mowing or burning, which is used to manage the habitat of any threatened or rare species, as identified by the Massachusetts Natural Heritage Program or its successors, and/or any other natural plant community on Nantucket and/or to enhance or manage wildlife. Such activity shall be undertaken only with the express written permission of Grantee in accordance with Paragraph E and under the guidance of Grantee, which may include conditions or limitations to protect wildlife, natural vegetation and environmental systems, and such activity may include the limited erection of nest boxes or osprey poles;

(6) The right to control noxious or invasive plant and animal species by mechanical and/or chemical means on the Premises only pursuant and subject to a plan approved by Grantee in accordance with Paragraph E hereof;

(7) The right to walk and conduct other passive educational and recreational activities on foot;

(8) The right to remove diseased and dead trees only in a manner that maintains the character of the natural vegetation existing on the Premises on the date of this Conservation Restriction;

(9) The right to survey and to conduct scientific research, including but not limited to, the maintenance, repair, and replacement of existing solar panels to generate power for atmospheric deposition water quality testing;

(10) The right to erect signs which are no greater than twelve (12) inches square, to inform and educate the public;

(11) The use of motor vehicles only as necessary and solely for exercising any of the reserved rights in this Paragraph C or as necessary by the police, firefighters, Board of Health agents, Department of Environmental Protection personnel, or other governmental agents in carrying out their lawful duties.

(12) Maintenance, repair, and improvement, by the Town or County of Nantucket or by others with pre-existing rights of access and use, of the existing traveled way known as Eel Point Road (including both the northern and southern sections of said way located within the Premises), as identified on Exhibit C, including widening of the existing sections of the way to the extent reasonably necessary for public safety and convenience; provided, however, that any improvement by paving shall occur only within the northern section, and if the northern section is improved with paving, the use of the southern section shall be discontinued.

Certain reserved rights under this Paragraph C may require permits from one or more public agencies. The inclusion of any such rights herein does not imply that Grantee or the Commonwealth takes any position on whether any such permit should be issued.

D. Prior Notice to Grantee. Grantor agrees to notify Grantee, in writing, before exercising any right reserved herein, the exercise of which may have a significant impact upon the conservation interests associated with the Premises.

E. Notice and Approval. Whenever notice to or approval by Grantee is required under the provisions of Paragraphs B, C, or D, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question; however, Grantee may waive or lessen the required period of time, provided said waiver is obtained in writing prior to the initiation of such activity. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty (60) days of the receipt of Grantor's written request. Grantor's written request shall specifically recite the length of time provided by this Conservation Restriction for review and response by Grantee. Grantee’s approval shall not be unreasonably withheld, but it shall only be granted upon a showing that the proposed activity shall not materially impair the purposes of this Conservation Restriction. Failure of Grantee to respond in writing within sixty (60) days shall be deemed to constitute approval by Grantee of the request as submitted, so long as there exists no violation hereunder and the request sets forth the provisions of this section relating to deemed approval after sixty (60) days in the notice.

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: The Nature Conservancy

99 Bedford Street, 5th Floor
Boston, MA 02111
Attn: Legal Department

To Grantee: Nantucket Land Council, Inc.
Post Office Box 502
Nantucket, Massachusetts 02554
Attn: Cormac Collier

or to such other address as either party from time to time shall designate by written notice to the other.

F. Breach by Grantor.

In the event that a potential breach of this Conservation Restriction by the Grantor, by a third party employed by the Grantor, or by a party under contract to the Grantor, comes to the attention of Grantee, and Grantee in the exercise of its best professional judgment concludes that a breach may have occurred or is occurring, Grantee shall notify Grantor in writing of such an alleged breach. Except in the event of an emergency which requires immediate action, Grantor shall have thirty (30) days - or such additional time as Grantee deems reasonably necessary depending on the circumstances of the alleged breach - after delivery of such notice to initiate corrective actions, including restoration of the Premises, that are reasonably calculated to correct swiftly the conditions constituting such a breach. If Grantor fails to initiate such corrective action within such time, Grantee may in its discretion undertake such actions, including appropriate legal proceedings as are reasonably necessary to effect the correction of each such alleged breach. If a court of competent jurisdiction determines, or the Grantor acknowledges, that such correction resulted from Grantor's violation of this Conservation Restriction, then Grantee's costs of each such correction, including Grantee's expenses, court costs, survey costs and legal fees, shall be paid by Grantor.

G. Acts Beyond Grantor's Control; Third Party Breach.

Nothing contained in this Conservation Restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Premises resulting from causes beyond Grantor's control, including, but not limited to, fire, flood, storm, earth movement, and acts caused by trespass on the Premises not contributed to by acts or omissions of Grantor, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Premises resulting from such causes. Parties to this Conservation Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it is desirable that the Premises be

restored, the parties will cooperate in attempting to restore the Premises if feasible.

H. Extinguishment

(1) If circumstances arise in the future such as render the Purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of this Conservation Restriction under applicable law, then Grantee, on the first subsequent sale of the Premises following termination or extinguishment, shall be entitled to a portion of the proceeds in accordance with subparagraphs (2) and (3) of this Paragraph H, subject, however, to any applicable law which expressly provides for a different disposition of proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds to advance the conservation of Nantucket lands and waters in a manner consistent with the conservation purposes set forth herein.

(2) Grantor and Grantee agree that the grant of this Conservation Restriction gives rise to a real property right, immediately vested in Grantee, with a value that is determined by the ratio of the consideration recited herein for this Conservation Restriction to the assessed value ascribed by the Nantucket Assessor to the Premises on the effective date of this grant. Such ratio (hereinafter, the “proportionate value”) shall be included in the Baseline Documentation and shall remain constant over time.

(3) Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds (including, for purposes of this subparagraph, proceeds from any lawful sale of the Premises unencumbered by the restrictions hereunder) shall be distributed between the Grantor and the Grantee in shares equal to said proportionate value, after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

I. Access. The Conservation Restriction hereby conveyed does not grant to the Grantee, to the public generally, or to any other person any right to enter upon the Premises, except as follows: there is hereby granted to the Grantee and its representatives the right to enter the Premises at reasonable times and in a reasonable manner, for the purpose of inspecting the Premises to determine compliance herewith, of enforcing this Conservation Restriction, and after thirty (30) days prior written notice of taking any and all actions with respect to the Premises as may be necessary or appropriate with or without order of court, to remedy, abate or otherwise enforce any violation hereof. Nothing herein, however, shall impair any rights of others or of the public generally now existing in any portion of the Premises, and shall in no way limit, amend or alter the legal authority of the Grantee to access the Premises of the Grantor, its successors and assigns.

J. Legal and Equitable Remedies of Grantee. The rights hereby granted shall include the right to enforce this Conservation Restriction in accordance with its terms, including by appropriate legal proceedings and to obtain injunctive and other equitable relief against violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that Grantee shall have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. Grantee shall attempt to resolve issues concerning violations through negotiations with Grantor prior to resorting to legal means. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and permanent monumentation of the boundaries.

Grantor covenants and agrees to reimburse Grantee for those reasonable costs and expenses (including without limitation counsel fees) incurred by Grantee in enforcing this Conservation Restriction or in remedying or abating any violation thereof, provided Grantor has been determined by final judgment (after all appeal periods have passed) of a court of competent jurisdiction or by mutual agreement of Grantor and Grantee to be responsible for any such violations which resulted in Grantee's incurring enforcement, remediation or abatement costs.

By its acceptance of this Conservation Restriction, Grantee does not undertake any liability or obligation relating to the condition of the Premises not caused by the Grantee or Grantee's agents pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts which are not caused by the Grantee or anyone acting under the direction of the Grantee.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any forbearance by Grantee in the manner and timing of

its rights to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

K. Severability. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected and shall remain in full force and effect.

L. Duration and Assignability. The burdens of this Conservation Restriction shall run with the Premises in perpetuity and shall be enforceable in perpetuity against the original Grantor, all successors and assigns of the original Grantor holding any interest in the Premises, and third parties as described in this Conservation Restriction. Grantee is hereby authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction, and the original Grantor, and all successors in title or interest to the Premises, to the extent permissible under applicable law, appoints Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the original Grantor and all successors in title or interest to the Premises, agrees to execute any such instruments upon request.

The benefits of this Conservation Restriction shall be in gross and assignable, but only to an entity or governmental unit able and authorized to enforce such restrictions, which entity shall also have purposes similar to those of Grantee and which encompass the purposes set forth in this Conservation Restriction. Such entity or governmental unit must qualify under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the Massachusetts General Laws as an eligible donee to receive this Conservation Restriction directly. Any assignment of benefits by Grantee (or successor) must require the transferee to carry out the purposes of this Conservation Restriction. Furthermore, no assignment by the Grantee of this Conservation Restriction shall be effective unless previously approved in writing by the Nantucket Selectmen and by the Grantor, whose approval will not be unreasonably withheld. Any assignment shall be in accordance with Article 97 of the Amendments to the Massachusetts Constitution if applicable.

M. Effective Date. While the Grantor may execute this instrument prior to obtaining title to the Premises and the receipt of final acceptance and approvals of this Conservation Restriction, this Conservation Restriction shall be effective only when Grantor has obtained such title, Grantor and Grantee have both executed this Conservation Restriction, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded at the Nantucket Registry of Deeds.

N. Subsequent Transfers. Grantor agrees:

(1) to incorporate by reference the terms of this Conservation Restriction into any deed or other legal instrument which divests Grantor of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest, and

(2) to make reference to this Conservation Restriction in any executory contract for the transfer of any interest in the Premises. Grantor further agrees to give written notice to Grantee of all transfers of any interest in all or a portion of the Premises and to provide such notice forthwith upon every transfer if such notice has not been given prior to a transfer. Such notice to Grantee shall include the name, address and telephone number of the transferee and his/her legal representative, if any. Failure of Grantor to comply with this Paragraph N shall not impair the validity of this Conservation Restriction or limit its enforceability in any way. Any transfer will comply with Article 97 of the Amendments to the Massachusetts Constitution , if applicable.

O. Estoppel Certificates. Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor any document which certifies the status of Grantor's compliance with any obligation of Grantor contained in this Conservation Restriction and which otherwise evidences the status of this Conservation Restriction, as may be reasonably requested by Grantor, including a so-called estoppel certificate if applicable in form suitable for recording at the Nantucket Registry of Deeds

P. Limitation of Grantor Liability. The Grantor shall not be liable for violations occurring after its, his or her ownership. Liability for any acts or omissions not excepted by operation of Paragraphs F or G hereof occurring prior to any transfer and liability preceding any transfer if in violation of this Conservation Restriction and not excepted by operation of Paragraphs F or G hereof shall survive the transfer. Irrespective of the above, any new owner of the Premises shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s).

Q. Non Merger. The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner to ensure that merger does not occur and that the Conservation Restriction continues to be enforceable. If it is determined that a transfer or assignment of any interest will result in a merger, no deed shall be effective until this Conservation Restriction has been assigned to a non-fee owner or other action taken to avoid a merger and preserve the terms and enforceability of this Conservation Restriction. It is the intent of the parties that

the Premises will be subject to the terms of this Conservation Restriction in perpetuity, notwithstanding any merger.

R. Successor Grantee. If Grantee shall cease to exist or to be a qualified organization under Section 170(h) of the Internal Revenue Code of 1986, as amended, or to be authorized to acquire and hold conservation restrictions under Massachusetts General Laws Chapter 184, Section 32, as amended, and a prior assignment of this Conservation Restriction has not been made, then Grantee's rights and obligations under this Conservation Restriction shall become vested in and fall upon the first (by order of listing) of the below-named organizations which agrees to acceptance of the assignment and which qualifies for assignment under the terms of this paragraph, and such vesting shall have been previously approved in writing by the Nantucket Board of Selectmen:

(a) Nantucket Conservation Foundation, Inc., Nantucket, Massachusetts
(b) Nantucket Islands Land Bank, Nantucket, Massachusetts
(c) The Nature Conservancy, Boston, Massachusetts

In the event that none of the above-named organizations agrees to acceptance and qualifies for assignment, Grantee's rights and obligations shall become vested in such other organization, previously approved in writing by the Nantucket Board of Selectmen and by the Grantor, whose approval will not be unreasonably withheld, as a court of competent jurisdiction shall direct under the doctrine of cy pres.

S. Restriction in Perpetuity. The provisions hereof shall inure to and be binding upon the heirs, executors, devisees, administrators, successors and assigns as the case may be of the parties hereto and shall be restrictions running with the land in perpetuity. The term “Grantor” herein, unless the context or wording otherwise requires, shall include all successors and assigns. The term “Grantee” herein, unless the context or wording otherwise requires, shall include all successors and assigns of the original Grantee Nantucket Land Council, Inc.

T. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any amendments to this Conservation Restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be

consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and the Town of Nantucket, and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Massachusetts Constitution, and any gift, grant or funding requirements. Any amendment shall be recorded at the Nantucket Registry of Deeds.

U. Controlling Law The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

V. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to affect the purpose of this Conservation Restriction and the policy and purposes of Massachusetts General Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

W. Recordation. The Grantee shall record this instrument in timely fashion at the Nantucket Registry of Deeds.

X. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

Y. Pre-Existing Public Rights. Approval of this Conservation Restriction pursuant to Massachusetts General Laws Chapter 184, Section 32 by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

Z. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor
Grantee Acceptance
Approval by the Board of Selectmen of the Town of Nantucket
Approval of the Secretary of Energy and Environmental Affairs.

Exhibits:

Exhibit A: Land Court Plan 15400 A1
Exhibit B: Conservation Restriction Sketch Plan
Exhibit C: GIS Plot Plan

The foregoing Conservation Restriction is hereby executed by the undersigned, as a sealed instrument under Massachusetts law.

WITNESS my hand and seal this day of 2016.

THE NATURE CONSERVANCY

_____

By:

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss. , 2016.

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____ , to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

_____

Notary Public (Print Name)

My Commission Expires:

ACCEPTANCE OF GIFT BY THE NANTUCKET LAND COUNCIL, INC.

The gift of the above Conservation Restriction from The Nature Conservancy is hereby accepted this __day of ____, 2016.

Nantucket Land Council, Inc.
By:

_____ _____
Officer's Name Officer's Name

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss.

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____ , to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

_____
(Print Name) Notary Public

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS
Nantucket, ss.

On this ___ day of _____, 2016, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which were_____ , to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose.

_____
(Print Name) Notary Public
My Commission Expires:

APPROVAL BY BOARD OF SELECTMEN OF THE TOWN OF NANTUCKET

We, the undersigned members of the Board of Selectmen of the Town of Nantucket, Massachusetts, hereby certify that at a meeting held on _____, 2016, the Board of Selectmen voted to approve the foregoing Grant of Conservation Restriction by The Nature Conservancy to the Nantucket Land Council, Inc., pursuant to Massachusetts General Laws, Chapter 184, Section 32, as being in the public interest.

Board of Selectmen of the
Town of Nantucket

_____

_____

_____ _____

_____

COMMONWEALTH OF MASSACHUSETTS

NANTUCKET, ss. _____, 2016

On this _____ day of _____, 2016, before me, the undersigned notary public, personally appeared James R. Kelly, Dawn E. Hill Holdgate, Rick Atherton, Robert DeCosta and Matthew G. Fee, as members of the Board of Selectmen of the Town of Nantucket, proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, as members of the Board of Selectmen for the Town of Nantucket.

_____
Notary Public

My Commission Expires: _____

APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from The Nature Conservancy, Inc. to Nantucket Land Council, Inc. has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: _____, 20___

_____
MATTHEW A. BEATON
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____ , 20___, before me, the undersigned notary public, personally appeared MATTHEW A. BEATON, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

_____
Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

WARRANT FOR THE STATE ELECTION
Tuesday, November 8, 2016

SS.
To the Constables of the City/Town of NANTUCKET

GREETINGS:
In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said city or town who are qualified to vote in the State Election to vote at

NANTUCKET HIGH SCHOOL, 10 SURFSIDE ROAD

on **TUESDAY, THE EIGHTH DAY OF NOVEMBER, 2016,** from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the State Election for the candidates for the following offices and questions:

ELECTORS OF PRESIDENT AND VICE PRESIDENT. . . . . .FOR THIS COMMONWEALTH
REPRESENTATIVE IN CONGRESS. . . . . ……NINETH DISTRICT
COUNCILLOR . . . . . ……..FIRST DISTRICT
SENATOR IN GENERAL COURT . . . . . ….CAPE & ISLANDS DISTRICT
REPRESENTATIVE IN GENERAL COURT . . . .BARNSTABLE, NANTUCKET & DUKES DISTRICT
SHERIFF. . . . . ……. NANTUCKET COUNTY

QUESTION 1: LAW PROPOSED BY INITIATIVE PETITION
Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2016?

SUMMARY
This proposed law would allow the state Gaming Commission to issue one additional category 2 license, which would permit operation of a gaming establishment with no table games and not more than 1,250 slot machines.
The proposed law would authorize the Commission to request applications for the additional license to be granted to a gaming establishment located on property that is (i) at least four acres in size; (ii) adjacent to and within 1,500 feet of a race track, including the track's additional facilities, such as the track, grounds, paddocks, barns, auditorium, amphitheatre, and bleachers; (iii) where a horse racing meeting may physically be held; (iv) where a horse racing meeting shall have been hosted; and (v) not separated from the race track by a highway or railway.

A YES VOTE would permit the state Gaming Commission to license one additional slot-machine gaming establishment at a location that meets certain conditions specified in the law.

A NO VOTE would make no change in current laws regarding gaming.

QUESTION 2: LAW PROPOSED BY INITIATIVE PETITION
Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2016?

SUMMARY
This proposed law would allow the state Board of Elementary and Secondary Education to approve up to 12 new charter schools or enrollment expansions in existing charter schools each year. Approvals under this law could expand statewide charter school enrollment by up to 1% of the total statewide public school enrollment each year. New charters and enrollment expansions approved under this law would be exempt from existing limits on the number of charter schools, the number of students enrolled in them, and the amount of local school districts' spending allocated to them.

If the Board received more than 12 applications in a single year from qualified applicants, then the proposed law would require it to give priority to proposed charter schools or enrollment expansions in districts where student performance on

statewide assessments is in the bottom 25% of all districts in the previous two years and where demonstrated parent demand for additional public school options is greatest.

New charter schools and enrollment expansions approved under this proposed law would be subject to the same approval standards as other charter schools, and to recruitment, retention, and multilingual outreach requirements that currently apply to some charter schools. Schools authorized under this law would be subject to annual performance reviews according to standards established by the Board.

The proposed law would take effect on January 1, 2017.

A YES VOTE would allow for up to 12 approvals each year of either new charter schools or expanded enrollments in existing charter schools, but not to exceed 1% of the statewide public school enrollment.

A NO VOTE would make no change in current laws relative to charter schools.

QUESTION 3: LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2016?

SUMMARY

This proposed law would prohibit any farm owner or operator from knowingly confining any breeding pig, calf raised for veal, or egg-laying hen in a way that prevents the animal from lying down, standing up, fully extending its limbs, or turning around freely. The proposed law would also prohibit any business owner or operator in Massachusetts from selling whole eggs intended for human consumption or any uncooked cut of veal or pork if the business owner or operator knows or should know that the hen, breeding pig, or veal calf that produced these products was confined in a manner prohibited by the proposed law. The proposed law would exempt sales of food products that combine veal or pork with other products, including soups, sandwiches, pizzas, hotdogs, or similar processed or prepared food items.

The proposed law's confinement prohibitions would not apply during transportation; state and county fair exhibitions; 4-H programs; slaughter in compliance with applicable laws and regulations; medical research; veterinary exams, testing, treatment and operation if performed under the direct supervision of a licensed veterinarian; five days prior to a pregnant pig's expected date of giving birth; any day that pig is nursing piglets; and for temporary periods for animal husbandry purposes not to exceed six hours in any twenty-four hour period.

The proposed law would create a civil penalty of up to $1,000 for each violation and would give the Attorney General the exclusive authority to enforce the law, and to issue regulations to implement it. As a defense to enforcement proceedings, the proposed law would allow a business owner or operator to rely in good faith upon a written certification or guarantee of compliance by a supplier.

The proposed law would be in addition to any other animal welfare laws and would not prohibit stricter local laws.

The proposed law would take effect on January 1, 2022. The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

A YES VOTE would prohibit any confinement of pigs, calves, and hens that prevents them from lying down, standing up, fully extending their limbs, or turning around freely.

A NO VOTE would make no change in current laws relative to the keeping of farm animals.

QUESTION 4: LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2016?

SUMMARY

The proposed law would permit the possession, use, distribution, and cultivation of marijuana in limited amounts by persons age 21 and older and would remove criminal penalties for such activities. It would provide for the regulation of commerce in marijuana, marijuana accessories, and marijuana products and for the taxation of proceeds from sales of these items.

The proposed law would authorize persons at least 21 years old to possess up to one ounce of marijuana outside of their residences; possess up to ten ounces of marijuana inside their residences; grow up to six marijuana plants in their residences; give one ounce or less of marijuana to a person at least 21 years old without payment; possess, produce or transfer hemp; or make or transfer items related to marijuana use, storage, cultivation, or processing.

The measure would create a Cannabis Control Commission of three members appointed by the state Treasurer which would generally administer the law governing marijuana use and distribution, promulgate regulations, and be responsible for the licensing of marijuana commercial establishments. The proposed law would also create a Cannabis Advisory Board of fifteen members appointed by the Governor. The Cannabis Control Commission would adopt regulations governing licensing qualifications; security; record keeping; health and safety standards; packaging and labeling; testing; advertising and displays; required inspections; and such other matters as the Commission considers appropriate. The records of the Commission would be public records.
The proposed law would authorize cities and towns to adopt reasonable restrictions on the time, place, and manner of operating marijuana businesses and to limit the number of marijuana establishments in their communities. A city or town could hold a local vote to determine whether to permit the selling of marijuana and marijuana products for consumption on the premises at commercial establishments.

The proceeds of retail sales of marijuana and marijuana products would be subject to the state sales tax and an additional excise tax of 3.75%. A city or town could impose a separate tax of up to 2%. Revenue received from the additional state excise tax or from license application fees and civil penalties for violations of this law would be deposited in a Marijuana Regulation Fund and would be used subject to appropriation for administration of the proposed law.

Marijuana-related activities authorized under this proposed law could not be a basis for adverse orders in child welfare cases absent clear and convincing evidence that such activities had created an unreasonable danger to the safety of a minor child.

The proposed law would not affect existing law regarding medical marijuana treatment centers or the operation of motor vehicles while under the influence. It would permit property owners to prohibit the use, sale, or production of marijuana on their premises (with an exception that landlords cannot prohibit consumption by tenants of marijuana by means other than by smoking); and would permit employers to prohibit the consumption of marijuana by employees in the workplace. State and local governments could continue to restrict uses in public buildings or at or near schools. Supplying marijuana to persons under age 21 would be unlawful.

The proposed law would take effect on December 15, 2016.

A YES VOTE would allow persons 21 and older to possess, use, and transfer marijuana and products containing marijuana concentrate (including edible products) and to cultivate marijuana, all in limited amounts, and would provide for the regulation and taxation of commercial sale of marijuana and marijuana products.

A NO VOTE would make no change in current laws relative to marijuana.

Hereof fail not and make due return of this Warrant with your doings thereon to the Town Clerk at the time and place of meeting and election aforesaid.

Given under our hands this _____ day of OCTOBER in the year Two Thousand Sixteen.

_____
James R. Kelly, Chairman

_____
Dawn E. Hill Holdgate, Vice Chairman

_____
Rick Atherton

_____
Robert DeCosta

_____
Matthew G. Fee

SELECTMEN OF NANTUCKET, MA

Pursuant to Chapter 39, section 10 of the General Laws of the Commonwealth and the Warrant adopted _____ I have notified and warned the inhabitants of the Town of Nantucket qualified to vote in Town affairs to appear at the times and place and for the purposes within mentioned by posting said notification on BULLETIN BOARDS at the Stop & Shop stores on Pleasant Street & Harbor Square, the Town and County Building at 16 Broad Street; and at the corner of Main and Federal Streets, and Siasconset Square.

Sworn to under pains and penalties of perjury,

_____
Catherine Flanagan Stover, Constable

Warrant must be posted by **November 1, 2016,** (at least *seven days prior* to the **November 8, 2016** State Election).

October 14, 2016

Harvey Foundation Inc.
5 Meadowview Drive
Nantucket, MA
02554

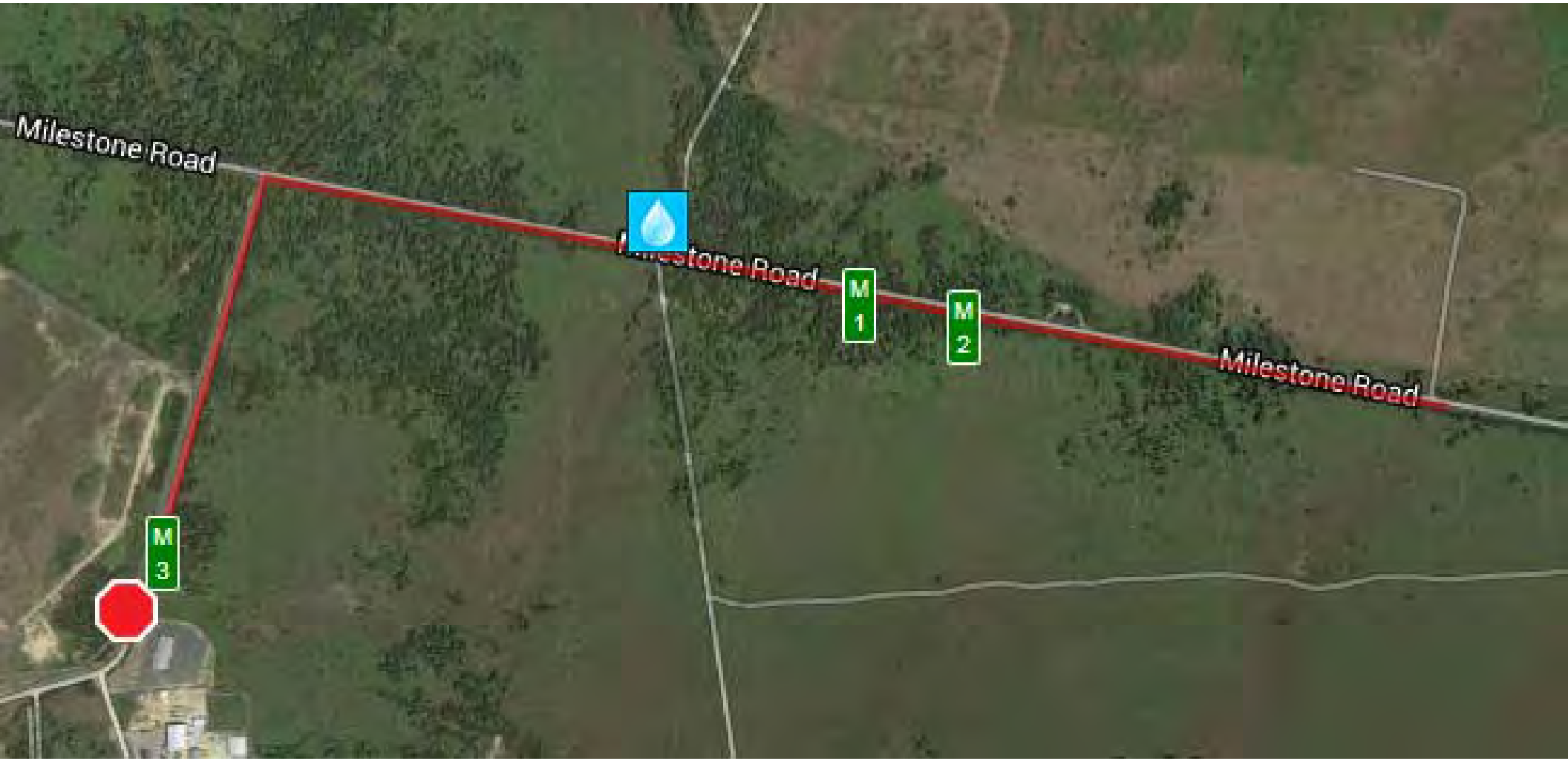
Town of Nantucket
Board of Selectmen
16 Broad St.
Nantucket, MA
02554

Dear Board of Selectmen,

We are requesting that you approve the attached MASS DOT event notification form for the Run for Robin 5K event to be held on Sunday, November 6th, 2016 at 10:00am along the Milestone Road. The event will mirror the run we held last year.

Thank you for your consideration,

Travis Lombardi
Board Member
Harvey Foundation Inc.


Milestone Road
Milestone Road
M
1
M
2
Milestone Road
M
3

EVENT NOTIFICATION FORM

Date: 10-4-16

Mrs. Mary-Joe Perry
District Highway Director, District Five
MassDOT, Highway Division
1000 County Street
Taunton, MA 02780

Dear Sir:

Please be advised that the City/Town of Nantucket has notified the Board of Selectmen/City Council, Local Police Department, Local Fire Department and if applicable the State Police of its intention to conduct road work/parade/race/or other events impacting State Highways on Route(s) N. South Rd / Milestone Rd in or through the City/Town(s) of Nantucket Sun. 11/6/16 benefiting The Run for Robin 5K Harvey Foundation

The Board of Selectmen/City Council understands that it must give the Police and Fire Departments at least 48 hours notice before the commencement of the proposed work or event.

The Grantee must supply a Traffic Management Plan when the roadway is occupied and for all detours associated with said events to this Department and to all officials listed below. The Grantee(s) must notify the local and/or state police to set up a detour of this area with appropriate signs and barricades. The local Fire Department must be notified of the detour to ensure that measures will be taken to minimize disruption to the Fire Department's emergency service during the event. The Grantee(s) must also notify local media (newspapers, radio) of this proposed event.

The following signatures are required prior to the issuance of the Permit. All officials listed below shall assume all responsibility and liability for all activity associated under their jurisdiction.

LOCAL POLICE DEPARTMENT

Signed: [signature]

Title: LT

City/Town: NANTUCKET

FIRE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

BOARD OF SELECTMEN/CITY COUNCIL

Signed: _____

Title: _____

City/Town: _____

STATE POLICE DEPARTMENT

Signed: _____

Title: _____

City/Town: _____

Event Notification.doc

AFFORDABLE HOUSING TRUST FUND

2 Fairgrounds Road
Nantucket, MA 02554
(508)325-7587
www.Nantucket-ma.gov

Date: October 14, 2016

To: Libby Gibson, Town Manager and the Board of Selectmen

From: Affordable Housing Trust Fund

RE: 2 Sasemin Way – Request for Authorization

Please see accompanying memo from Lee Smith of KP Law.

In order to preserve the Subsidized Housing Inventory status of 2 Sasemin Way, at its meeting on October 4th, 2016, the Affordable Housing Trust Fund ("AHTF") voted to request the Board of Selectmen ("BOS") to:

- Assign the Town's rite of first refusal / ability to purchase / ability to hold a lottery under the 2 Sasemin Way documentation to the AHTF so that the AHTF can act on the Town's behalf and in the Town's interest and enter in to a contingent offer to purchase with the Seller of 2 Sasemin Way;
- The BOS contingently authorize, if needed to preserve the unit on the SHI list, the AHTF to expend the necessary funds ($272,880 --the maximum resale price -- plus associated transaction costs); and
- Noting that authorization of the expenditure, if needed, includes authorizing the AHTF to expend over $100,000 from the Trust and includes spending up to $50,000 of the $1,000,000 appropriated at 2016 ATM.

KP | LAW
The Leader in Public Sector Law

101 Arch Street, Boston, MA 02110
Tel: 617.556.0007 | Fax: 617.654.1735
www.k-plaw.com

October 13, 2016

Lee S. Smith
lsmith@k-plaw.com

Hon. James R. Kelly and
Members of the Board of Selectmen
Nantucket Town Hall
16 Broad Street
Nantucket, MA 02554

Re: 2 Sasemin Way

Dear Members of the Board of Selectmen:

You have asked for a summary of the rights of the Town relative to the property located at 2 Sasemin Way and the timing associated with exercising such rights. Two Sasemin Way (the "Unit") is an "affordable" housing unit by virtue of the Comprehensive Permit that was issued pursuant to G.L. c.40B for the Abrem Quarry project. The Unit is subject to the restrictions set forth in the Quitclaim Deed to the Unit, the corresponding Deed Rider, the Regulatory Agreement, the Comprehensive Permit, and the other applicable documents of record.

Under the Deed Rider, when the current owner desires to sell the Unit, she must first notify: (1) the Monitoring Agent (NHA Properties, Inc., d/b/a Housing Nantucket), (2) the Nantucket Housing Authority (as Secondary Monitoring Agent), and (3) the Town of her intent to sell the Unit. The notice must include an appraisal of the full fair market value of the property, and the Maximum Resale Price at which the Unit may be sold to an Eligible Purchaser. An Eligible Purchaser is a 4-person household earning not more than 80% of the median income for Nantucket County. The Monitoring Agent is responsible for determining the Maximum Resale Price and for determining the eligibility of a purchaser.

In this case, following the delivery of an appraisal of the Unit, the Town received proper notice of the owner's intent to sell as of September 30, 2016, the date that Housing Nantucket issued the Resale Price Certificate setting forth a Maximum Resale Price of $272,880 (the "Notice").

The Deed Rider provides that the Town shall, within 30 days of its receipt of the Notice, notify the owner in writing as to whether: (1) the Town will proceed to locate an Eligible Purchaser for the Unit, or (2) the Town will exercise its right of first refusal ("RFR") to purchase the Unit, or (3) the Town will neither proceed to locate an Eligible Purchaser nor purchase the Unit.

If the Town notifies the Unit owner that it will proceed to locate an Eligible Purchaser, the Eligible Purchaser must purchase the Unit within 90 days of the date of the Town's notice. If more than one Eligible Purchaser is located, the Town must conduct a lottery to select the purchaser of the Unit.

If the Town notifies the Unit owner that it will exercise its RFR to purchase the Unit, the Town must purchase the Unit within 90 days of the date of the Town's notice to the owner. The purchase price of the Unit would be the Maximum Resale Price of $272,880.

If the Town provides notice to the Unit owner that it will either locate an Eligible Purchaser and/or purchase the Unit pursuant to its RFR, but the sale does not close within 90 days, then the Unit owner may sell the Unit to any third party at its full fair market value without restriction, meaning that the affordability requirements on the Unit would be extinguished, and the Unit will be removed from the Subsidized Housing Inventory ("SHI"). However, if the owner receives sale proceeds in excess of the Maximum Resale Price, such excess proceeds must be paid to the Town and used for affordable housing purposes.

If the Town notifies the Unit Owner that it will not locate an Eligible Purchaser, and it will not purchase the Unit pursuant to its RFR, (or if the Town fails to provide such notice within 30 days), then the Unit owner must use diligent efforts to find an Eligible Purchaser within 120 days from the date that she puts the Unit on the market and first advertises it for sale. The Owner must advertise the Unit in the local newspaper for three consecutive weeks. The advertisement must include the Maximum Sale Price and the affordability restrictions on the Unit. The Unit owner may sell the Unit to the first Eligible Purchaser that is located. There is no lottery requirement if multiple parties are found. If an Eligible Purchaser is located and they close on the purchase within the 120 day period, the Unit will be sold with a new form of Deed Rider applicable to the purchaser (and their successors) and will remain restricted as an affordable unit and will remain on the SHI.

The Deed Rider includes no provision requiring (or explicitly allowing) the Unit owner to offer the Unit to the Town under a second RFR in the event she cannot locate an Eligible Purchaser within 120 days. Rather, the Deed Rider provides that if she cannot locate an Eligible Purchaser within 120 days, she may sell the Unit to any third party at its full fair market value without restriction. However, there is a conflicting provision in the Regulatory Agreement that does require that the owner provide the Town with a second RFR if the Owner is unsuccessful in locating an Eligible Purchaser. While it is not clear whether the Regulatory Agreement language would be given deference, whereas any excess sale proceeds above the Maximum Resale Price received from a third party would be required to be paid to the Town, it seems unlikely that the Owner would object to providing the Town with a second chance to purchase the Unit.

It is my understanding that the Town may prefer that, if it is to exercise its right to purchase the Unit, such purchase be made by the Affordable Housing Trust ("AHT") rather than the Town. In order for the AHT to be able to exercise the Town's RFR, the Selectmen would need to vote to assign its rights to exercise the right of first refusal to the AHT. Upon request, I can provide a proposed motion for the Selectmen's consideration for this assignment.

Once assigned by vote of the Selectmen, the AHT would then have the authority to vote to exercise the RFR to purchase the Unit within the current 30-day "window" which expires on October 30, 2016 (note that this date is a Sunday- I recommend providing notice hereunder on or before Friday, October 28, 2016) and to provide such notice of intent to purchase to the owner.

Alternatively, the written notice to the owner given by October 28 could include a contingent offer to purchase the Unit pursuant to a proposed second RFR in the event that she cannot timely locate an Eligible Purchaser.

Attached please find a summary of the relevant dates applicable to this matter. Note that in the event that the Selectmen elect to assign the RFR to the AHT, sufficient time should be allotted in order to enable the requisite meetings and votes of the Board of Selectmen and AHT to occur and to facilitate timely delivery of the relevant notices and performance of the applicable obligations.

Please let me know if I can be of further assistance.

Very truly yours,

Lee S. Smith

LSS/jmp
Enc.
cc: Mr. Andrew Vorce, Director of Planning
Mr. Tucker Holland, Consultant

566155/NANT/0001

SUMMARY TIMELINE

Notice of Owner's Intent to Sell Received: September 30, 2016

Deadline for Town to Notify Owner of its Intentions: October 28, 2016

(a) Intent to locate Eligible Purchaser; or
(b) Intent to exercise right of first refusal to purchase Unit; or
(c) Intent to do neither

If the Town elects to locate an Eligible Purchaser, deadline to sell to Eligible Purchaser is 90 days from date notice is given by Town to Owner

If the Town elects to exercise right of first refusal to purchase Unit, deadline to purchase is 90 days from date notice is given by Town to Owner

If the Town elects to neither locate Eligible Purchaser nor exercise right of first refusal to purchase Unit, Owner deadline to locate and sell to Eligible Purchaser is 120 days from first date of advertisement for sale

If Owner does not sell to Eligible Purchaser within 120 days, and Owner gives Town a second right of first refusal to purchase Unit, deadline to purchase should be 90 days from date notice is given by Town to Owner

If Town does not elect to purchase Unit pursuant to proposed second RFR, Owner may sell to any third party at full fair market value. Affordability restrictions will terminate and Unit will come off SHI

VAUGHAN, DALE, HUNTER AND BEAUDETTE
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
WHALER'S LANE
P.O. BOX 659
NANTUCKET, MASSACHUSETTS 02554
TEL: (508) 228-4455
FAX: (508) 228-3070

EDWARD FOLEY VAUGHAN
KEVIN F. DALE
RICHARD P. BEAUDETTE

LORI D'ELIA
BRYAN J. SWAIN

WILLIAM F. HUNTER
OF COUNSEL

October 14, 2016

HAND DELIVERY

James Kelly, Chairman
Nantucket Board of Selectmen
Town and County Building
16 Broad Street
Nantucket, MA 02554

RE: Island Gourmet Corp. d/b/a The Club Car Restaurant
Surrender of Liquor License

Dear Chairman Kelly:

As a supplement to my letter to you in the above matter dated October 7, 2016 (copy enclosed), this letter will serve to confirm that my client, Island Gourmet Corp. d/b/a The Club Car Restaurant, hereby surrenders its current all-alcoholic beverages license to the Town of Nantucket unconditionally. Should you have any questions or concerns, please call me at 508-228-4455. Thank you.

Sincerely,

KFD/ksw

cc: Michael Wilson, Esq.
Joseph Pantorno
Ms. Amy Baxter, Nantucket Licensing Agent

RECEIVED
OCT 14 2016
NANTUCKET TOWN ADMINISTRATION

VAUGHAN, DALE, HUNTER AND BEAUDETTE
PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
WHALER'S LANE
P.O. BOX 659
NANTUCKET, MASSACHUSETTS 02554
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LORI D'ELIA
BRYAN J. SWAIN

WILLIAM F. HUNTER
OF COUNSEL

October 7, 2016

HAND DELIVERY

James Kelly, Chairman
Nantucket Board of Selectmen
Town and County Building
16 Broad Street
Nantucket, MA 02554

RE: Island Gourmet Corp. d/b/a The Club Car Restaurant
Surrender of Liquor License

Dear Chairman Kelly:

I represent Island Gourmet Corp., d/b/a The Club Car Restaurant, the holder of an all alcoholic beverage license for the restaurant located at One Main Street, Nantucket, Massachusetts 02554. My client hereby agrees to surrender the liquor license at the time a new liquor license for the premises is issued to the prospective buyer of the restaurant, Nantucket Club Car, LLC c/o 2 Hillers Lane, Nantucket, Massachusetts 02554 and Island Gourmet d/b/a The Club Car Restaurant consummates the sale of the restaurant business to Nantucket Club Car, LLC.

Should you have any questions or concerns, please call me at 508-228-4455. Thank you.

Sincerely,

KFD/ksw

cc: Michael Wilson, Esq.
Joseph Pantorno
Ms. Amy Baxter, Nantucket Licensing Agent

RECEIVED
OCT - 7 2016
NANTUCKET TOWN ADMINISTRATION

Board of Selectmen Liquor License Public Hearing Process

……..

Liquor License Public Hearing Process

1. The chairman opens the public hearing and may outline the procedure to be followed.

2. The applicant reviews their pending application.

3. Public comment is taken.
   - If applicable, read into record any written objections received from school, church or hospital located within 500 feet.

4. The chairman invites questions from the Board and closes the public hearing.

5. The Board makes a decision to approve or deny.

6. Pursuant to MGL c. 138, §23 and Ballarin v. Licensing Board of Boston, denials must be based on reasonable grounds; ABCC and courts prefer findings based on:
   -- the appropriateness of a liquor license at a particular location
   -- the number of existing dispensaries in Town
   -- the views of the inhabitants of the locality in which a license is sought
   -- traffic, noise, size (typically applies to a new location)
   -- the sort of operation that carries the license
   -- the reputation of the applicant

7. A written decision is required to be sent to the applicant. No need for reasons if the application if simply approved, but if there is a denial or conditions are imposed, the reasoning for this is required to be in the decision. Therefore, the Board should vote on basis for denial or conditions as well [concerns with traffic, another licensee located adjacent to property, limiting hours, etc.].

LIQUOR LICENSE APPLICATION

Applicant:	Nantucket Club Car, LLC d/b/a The Club Car
License Type:	Seasonal/Restaurant/All Alcohol
Location of Premises:	1 Main Street
BOS Review Date:	October 19, 2016

Background:

Applicant is taking over ownership of The Club Car at 1 Main Street. The application is for the same Class and Category as the existing Liquor License. The current owners of the establishment, Island Gourmet Corp., surrendered the Liquor License #076200031 on Friday, October 14, 2016.

Fingerprint clearance for the proposed License Manager, Tanya McDonough has been received.

Licensing Recommendation:

There are no objections to continue with the terms of the current license with the new ownership pending final approval by the Massachusetts ABCC and final Town of Nantucket Inspections.

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

APPLICATION FOR A RETAIL ALCOHOLIC BEVERAGES LICENSE

Please complete this entire application, leaving no fields blank. If field does not apply to your situation, please write N/A.

1. NAME OF PROPOSED LICENSEE (Business Contact)

Nantucket Club Car LLC

This is the corporation or LLC which will hold the license, not the individual submitting this application. If you are applying for this license as a sole proprietor, not an LLC, corporation or other legal entity, you may enter your personal name here.

2. RETAIL APPLICATION INFORMATION

There are two ways to obtain an alcoholic beverages license in the Commonwealth of Massachusetts, either by obtaining an existing license through a transfer or by applying for a new license.

Are you applying for a new license or the transfer of an existing license? (•) New ( ) Transfer

If applying for a new license, are you applying for this license pursuant to special legislation?

( ) Yes (•) No Chapter [ ] Acts of [ ]

If transferring, please indicate the current ABCC license number you are seeking to obtain: [ ]

If transferring, by what method is the license being transferred? [ ]

3. LICENSE INFORMATION / QUOTA CHECK

City/Town: Nantucket

On/Off-Premises: On-Premises

TYPE	CATEGORY	CLASS
§12 Restaurant	All Alcoholic Beverages	Seasonal

4. APPLICATION CONTACT

The application contact is required and is the person who will be contacted with any questions regarding this application.

First Name: Tanya Middle: Jill Last Name: McDonough

Title: Authorized Representative Primary Phone: 857-234-1327

Email: tanya.mcdonough@gmail.com

5. OWNERSHIP

Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the license's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.
B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.
C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest
Michael McKeigue	Other	6.8	
Todd Dambrauskas	Other	6.8	

For additional space, please use next page

5. OWNERSHIP (continued)

Name	Title / Position	% Owned	Other Beneficial Interest
Dwyer Maloney	Other	6.8	
Paradox Development, LLC	Other	6.8	
River Glen Holdings, LLC	Other	6.8	
Synergy Funding, LLC	Other	6.8	
Ty Costa	LLC Member	5	

6. PREMISES INFORMATION

Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: One

Street Name: Main Street

Unit:

City/Town: Nantucket

State: MA

Zip Code: 02554

Country: United States

Description of Premises

Please provide a complete description of the premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage.

Floor Number	Square Footage	Number of Rooms
1	2598	9
2	1269	9

Patio/Deck/Outdoor Area Total Square Footage:

Indoor Area Total Square Footage: 3867

Number of Entrances: 8

Number of Exits: 8

Proposed Seating Capacity: 136

Proposed Occupancy: 136

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises: Lease

Landlord Name: Nantucket Island Resorts

Landlord Phone: 508-228-0220

Landlord Address: 19 South Water Street Nantucket MA 02554

Lease Beginning Term: January 1, 2017

Lease Ending Term: December 31, 2026

Rent per Month: 12500.00

Rent per Year: 150000.00

If leasing or renting the premises, a signed copy of the lease is required.

If the lease is contingent on the approval of this license, and a signed lease is not available, a copy of the unsigned lease and a letter of intent to lease, signed by the applicant and the landlord, is required.

Please indicate if the terms of the lease include payments based on the sale of alcohol: (•) Yes ( ) No

7. BUSINESS CONTACT

The Business Contact is the proposed licensee. If you are applying as a Sole Proprietor (the license will be held by an individual, not a business), you should use your own name as the entity name.

* Please see last page of application for required documents based on Legal Structure *

Entity Name: Nantucket Club Car LLC

FEIN: 81-3356589

DBA: The Club Car

Fax Number:

Primary Phone: 857-234-1327

Email: tanya.mcdonough@gmail.com

Alternative Phone: 508-560-5160

Legal Structure of Entity: LLC

Business Address (Corporate Headquarters) ☒ *Check here if your Business Address is the same as your Premises Address*

Street Number: One

Street Name: Main Street

City/Town: Nantucket

State: MA

Zip Code: 02554

Country: United States of America

Mailing Address ☒ *Check here if your Mailing Address is the same as your Premises Address*

Street Number:

Street Name:

City/Town:

State:

Zip Code:

Country:

Is the Entity a Massachusetts Corporation? ○ Yes ◉ No

If no, is the Entity registered to do business in Massachusetts? ◉ Yes ○ No

If no, state of incorporation

Other Beneficial Interest

Does the proposed licensee have a beneficial interest in any other Massachusetts Alcoholic Beverages Licenses? ○ Yes ◉ No *If yes, please complete the following table.*

Name of License	Type of License	License Number	Premises Address

Prior Disciplinary Action:

Has any alcoholic beverages license owned by the proposed licensee ever been disciplined for an alcohol related violation?

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

7. MANAGER CONTACT

The Manager Contact is required and is the individual who will have day-to-day, operational control over the liquor license.

Salutation [ ] First Name [Tanya] Middle Name [Jill] Last Name [McDonough] Suffix [ ]

Social Security Number [redacted] Date of Birth [redacted]

Primary Phone: 857-234-1327 Email: tanya.mcdonough@gmail.com

Mobile Phone: [ ] Place of Employment The Club Car

Alternative Phone: 508-560-5160 Fax Number [ ]

Citizenship / Residency / Background Information of Proposed Manager

Are you a U.S. Citizen? (•) Yes ( ) No

Have you ever been convicted of a state, federal, or military crime? ( ) Yes (•) No

If yes, attach an affidavit that lists your convictions with an explanation for each

Have you ever been Manager of Record of a license to sell alcoholic beverages? ( ) Yes (•) No

If yes, please list the licenses for which you are the current or proposed manager: [ ]

Do you have direct, indirect, or financial interest in this license? (•) Yes ( ) No

If yes, percentage of interest 5

If yes, please indicate type of interest (check all that apply):

- [ ] Officer
- [ ] Stockholder
- [x] LLC Member
- [ ] Partner
- [x] Contractual
- [ ] Management Agreement
- [ ] Sole Proprietor
- [ ] LLC Manager
- [ ] Director
- [ ] Landlord
- [ ] Revenue Sharing
- [ ] Other

Please indicate how many hours per week you intend to be on the licensed premises 70

Employment Information of Proposed Manager

Please provide your employment history for the *past 10 years*

Date(s)	Position	Employer	Address	Phone
5/2007	Sommelier	Straight Wharf Restaurant	6 Harbor Square Nantucket Ma	5082284499
5/2011	Wine Director	Ventuno & Straight Wharf Re	21 Federal Street Nantucket Ma	5082284242
5/2010	Wine Director	Boston Harbor Hotel	70 Rowes Wharf Boston Ma	6174397000
10/2008	Sommelier	Grill23	161 Berkeley Street Boston MA	6175422255
09/2009	Assistant General Man	Post 390	406 Stuart Street Boston MA	6173990015

Prior Disciplinary Action of Proposed Manager

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

9. FINANCIAL INFORMATION

Please provide information about associated costs of this license.

Associated Costs

A. Purchase Price for Building/Land	
B. Purchase Price for any Business Assets	400,000.00
C. Costs of Renovations/Construction	97,000.00
D. Purchase Price of Inventory	
E. Initial Start-Up Costs	325,000.00
F. Other (Please specify)	
G. Total Cost (Add lines A-F)	822,000.00

Please note, the total amount of **Cash Investment** (top right table) plus the total amount of **Financing** (bottom right table) must be equal to or greater than the **Total Cost** (line G above).

Please provide information about the sources of cash and/or financing for this transaction

Source of Cash Investment

Name of Contributor	Amount of Contribution
Radar Beach Investments LLC	1,100,000.00
Total:	1,100,00.00

Source of Financing

Name of Lender	Amount	Does the lender hold an interest in any MA alcoholic beverages licenses?	If yes, please provide ABCC license number of lender
		Total:	

10. PLEDGE INFORMATION

Are you seeking approval for a pledge? ○ Yes ◉ No

Please indicate what you are seeking to pledge (check all that apply)

☐ License ☐ Stock / Beneficial Interest ☐ Inventory

To whom is the pledge is being made:

Does the lender have a beneficial interest in this license? ○ Yes ◉ No

Does the lease require a pledge of this license? ○ Yes ◉ No

ADDITIONAL SPACE

The following space is for any additional information you wish to supply or to clarify an answer you supplied in the application.

If referrencing the application, please be sure to include the number of the question to which you are referring.

5. OWNERSHIP (continued)

NAME	TITLE / POSITION	% OWNED	OTHER BENEFICIAL INTEREST
Tanya McDonough	LLC Member	5	
Mayumi Hattori	LLC Member	5	
Robin Mack	LLC Member	5	
Michael McKeigue	LLC Member	5	
Christian B. Sullivan	Other	3.4	
Keith Wallace	Other	3.4	
One Main CC, LLC	Other	3.4	
Theodore Lee	Other	3.4	
Neil Higgins	Other	3.4	
Brian Joynt	Other	3.4	
CM Farkas, LLC	Other	3.4	
Jordon Doran	Other	3.4	
Brian Borgeson	Other	1.7	
Douglas Leighton	Other	1.7	
Michael Greeley	Other	1.7	
Thomas Greeley	Other	1.7	

Certificate of Completion

This Certificate of Completion of

eTIPS On Premise 2.0

For coursework completed on May 30, 2015

provided by Health Communications, Inc.

is hereby granted to:

Tanya McDonough

Certification to be sent to:

Ventuno & Straightwharf Restaurants

21 Federal St

Nantucket MA, 02554-3572 USA

HEALTH COMMUNICATIONS INC.

LICENSE #: **076200031** LICENSE FEE: **$2,900.00**

THE LICENSING BOARD *for the* TOWN OF NANTUCKET, MASSACHUSETTS

HEREBY GRANTS AN

SEASONAL RETAIL RESTAURANT LICENSE

TO EXPOSE, KEEP FOR SALE, AND TO SELL

ALL ALCOHOLIC BEVERAGES

TO BE CONSUMED ON THE PREMISES

BUSINESS: **Island Gourmet Corp.**
DBA: **THE CLUB CAR**
PREMISES: **1 Main Street**
Nantucket, MA 02554
MANAGER: **Joseph Pantorno**

ON PREMISES DESCRIBED AS:
First Floor: Dining Room, Bar, Service Area, Kitchen.

Maximum Occupancy:
Dining room 73
Bar 45
Second floor 4

The hours during which alcoholic beverages may be sold: In accordance with MGL Chapter 138 and amendments thereto with the local provision that patrons shall not be served alcoholic beverages before 8:00AM Monday through Saturday and 11:00AM on Sunday. **No alcohol service is permitted after 1:00AM** and patrons must be off the license premises and said **premises must be closed by 1:30AM**. Any restrictions apply as are on file with the local licensing authority. In accordance with Article 40 ATM 2001, Chapter 86.1 Board of Health Regulations Prohibit Smoking in Certain Places within the Town of Nantucket.

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 Massachusetts General Laws, as amended and any rules or regulations made thereunder by the licensing authorities, including, but not limited to Chapter 250 of the Town of Nantucket Rules and Regulations Governing Alcoholic Beverages.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed his official signature on this 16th day of March, 2016.

Robert De Costa
Chairman, Board of Selectmen

THIS LICENSE IS VALID APRIL 1, 2016 - JANUARY 15, 2017

**Unless earlier suspended, cancelled, or revoked*

This License Shall Be Displayed On the Premises in a Conspicuous Place Where it May Be Easily Seen.

Town and County of Nantucket
Board of Selectmen • County Commissioners

James R. Kelly, Chairman
Rick Atherton
Robert R. DeCosta
Matt Fee
Dawn E. Hill Holdgate

16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

At its meeting held Wednesday, October 16, 2016, the Nantucket Board of Selectmen approved an application for a new seasonal all-alcoholic beverages restaurant license for Nantucket Club Car LLC d/b/a The Club Car, Tanya J. McDonough, Manager, for the premises located at 1 Main Street, Nantucket, MA 02554. The Board determines that this new liquor license is not detrimental to the spiritual activities of St. Mary's Rectory located at 6 Orange Street and St. Mary's Catholic Church located at 3 Federal Street, Nantucket MA. These abutters are located within 500 feet of the premises of 1 Main Street (Section 12 liquor license holder).

_____
James R. Kelly, Chairman

_____
Dawn E. Hill Holdgate, Vice Chairman

_____
Rick Atherton

_____
Robert R. DeCosta

_____
Matthew G. Fee

Board of Selectmen
Nantucket, MA

The General Laws of Massachusetts

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PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XX. PUBLIC SAFETY AND GOOD ORDER

CHAPTER 140. LICENSES

THEATRICAL EXHIBITIONS, PUBLIC AMUSEMENTS, ETC.

Chapter 140: Section 181. Theatrical exhibitions, etc.; licenses; fees; applications; suspension or revocation; workers' compensation coverage

Section 181. The mayor or selectmen may, except as provided in section one hundred and five of chapter one hundred and forty-nine, grant and set the fee for, upon such terms and conditions as are described hereinafter, a license for theatrical exhibitions, public shows, public amusements and exhibitions of every description, to be held upon weekdays only, to which admission is obtained upon payment of money or upon the delivery of any valuable thing, or in which, after free admission, amusement is furnished upon a deposit of money in a coin controlled apparatus, but in no event shall any such fee be greater than one hundred dollars. Notwithstanding the limitations of this paragraph, a license granted to a movie theater, including any drive-in theater, for the exhibition of motion pictures shall permit such exhibition seven days per week. The fee for such license shall not exceed the total amounts paid by a licensee for licenses issued in 1997 under this section and section 4 of chapter 136 then in effect; provided, however, that the fee for such license shall not be greater than $500.

The application for such a license shall be in writing and shall fully and specifically describe the conditions of the proposed exhibition, show, or amusement and the premises upon which the proposed exhibition, show, or amusement is to take place, to the extent that such conditions or premises would affect the public safety, health or order. Upon written request of the mayor or selectmen, the applicant shall in addition furnish reasonable information concerning the conditions of the premises and actions to be taken in order to prevent danger to the public safety, health, or order. Within thirty days following receipt of such application, the mayor or selectmen shall grant a license or shall order a hearing preceded by at least ten days written notice to the applicant. Within forty-five days next following the close of such hearing, the mayor or selectmen shall grant such license or shall deny such license upon a finding that issuance of such a license would lead to the creation of a nuisance or would endanger the public health, safety or order by:

if denying must use this criteria

(a) unreasonably increasing pedestrian traffic in the area in which the premises are located or

(b) increasing the incidence of disruptive conduct in the area in which the premises are located or

(c) unreasonably increasing the level of noise in the area in which the premises are located.

Notice of such a denial shall be delivered to the applicant in writing and shall be accompanied by a statement of the reasons therefor. No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote. The mayor or selectmen may impose conditions upon a license but said conditions may only relate to compliance with applicable laws or ordinances, or to public safety, health or order, or to steps required to be taken to guard against creation of a nuisance or

to insure adequate safety and security for patrons or the affected public.

No applicant having been denied a license as aforesaid shall submit the same or a similar application within one year of said denial without including in said new application facts showing that the circumstances upon which the original denial was based have substantially changed.

The mayor or selectman may revoke or suspend a license granted pursuant to the provisions of this section upon finding, after a hearing preceded by ten days written notice to the licensee, that conditions exist which would have justified denial of the original application for such license provided, that the mayor or selectmen may petition the superior court department of the trial court to enjoin any violation of this section.

No license shall issue, however, for a traveling carnival, circus or other such traveling amusement which does not have its principal place of business within the commonwealth unless the licensee certifies that he has provided by insurance for the payment of compensation and the furnishing of other benefits under chapter one hundred and fifty-two to all persons to be employed by said licensee and that such insurance shall continue in full force and effect during the term of the license; and the licensee further certifies that he has obtained a policy of public liability insurance in the amount of at least twenty-five thousand dollars to pay any claims or judgments rendered against the licensee in favor of patrons or others to recover damages resulting from the negligence of the licensee. The amount of insurance of the policy hereinbefore required or in effect shall not limit or impair any right of recovery to which any plaintiff may be entitled in excess of such amount.

ENTERTAINMENT APPLICATION

Applicant:	Nantucket Club Car, LLC d/b/a The Club Car
Location of Premises:	1 Main Street
BOS Review Date:	October 19, 2016

Background:

Applicant is taking over ownership of The Club Car at 1 Main Street. The application is for the same conditions as the current Entertainment License with the sole addition of (2) Televisions.

Licensing Recommendation:

The current license is in good standing with a valid COI until May 2017. As there are no requests to expand the license or add amplification, there is not an objection to continue with the terms of the current license.

However, it should be noted that the Town is currently reviewing the current conditions of every Entertainment License and updating requirements per Local and State regulations. Some of these requirements include, but are not limited to: addition of sprinkler systems and/or fire alarm systems. Per the Nantucket Fire Department, this facility appears to fall under the MGL Chapter 148 Section 26G ½ which would require them to install a sprinkler system under the statement in the section "capacity of 100 persons or more" and "used as a nightclub, dance hall, discotheque, bar, or for similar entertainment purposes" This will be determined along with other similar establishments through the renewal and inspection process for 2017. All those required to follow these guidelines will be given the requirements and a timeline to comply.

Additionally with the number listed for occupancy (over 100) they will be required to have Crowd Managers on staff – a free class through the Department of Fire Services (http://www.mass.gov/eopss/agencies/dfs/nightclub-safety.html)

TOWN AND COUNTY OF NANTUCKET
NEW ENTERTAINMENT LICENSE APPLICATION
APPLICATION FOR LIVE AND NON-LIVE ENTERTAINMENT LICENSE

Please complete this application, sign, date and return with all requested documents to
LICENSING OFFICE, 4 FAIRGROUNDS ROAD, NANTUCKET MA 02554
Office hours: Monday-Friday 8:00AM – 4:00PM
508-325-4137
amcandrew@police.nantucket-ma.gov

1. Describe specifically where on the premises you wish to have Entertainment (Indoors? Outdoors?)

Indoors - Bar area - Same conditions as current license

2. Telephone number for business establishment: 508-560-5160

Please check below: Categories of Entertainment for which you are applying:

3. Instrumental Music [✓] Types of Instruments: Piano
Total Number of Instruments? _____

4. Vocal Music [✓] Number of Vocalists? _____

5. Disc Jockey [ ] Karaoke [ ] 6. **Dancing by Patrons** [ ] **Describe Size/Location of Dance Floor on premises:** _____

Hours of Dancing by Patrons: _____

7. Exhibition or Trade Show [ ] Describe _____

8. Movie Theatre [ ] Number of Screens? _____

9. Stage Plays [ ] Number of Stages? _____

10. Radio [✓] DMX [ ] CD Player [✓] i-Pod [✓] Other _____

11. Number of Widescreen TV's and Locations ? (3) Televisions: (2) Bar Area (1) Main Dining Room

12. Floor Shows [ ] Describe Type/Hours (i.e.Comedian, etc.) _____

13. Will Entertainment be **AMPLIFIED** via speakers, sound system, other? Yes [ ] No [✓]

If **YES**, please explain details _____

14. If athletic event(s) are to be held, please describe _____

15. Will an Admission/Cover fee be charged? Yes ☐ No ☑

If YES, describe types of Entertainment and $ Amount of Cover Charge: _____

15. Hours during which Entertainment will be offered (A.M. and P.M.)?

Monday	From 8:00 pm	To 12:30 am
Tuesday	From 8:00 pm	To 12:30 am
Wednesday	From 8:00 pm	To 12:30 am
Thursday	From 8:00 pm	To 12:30 am
Friday	From 8:00 pm	To 12:30 am
Saturday	From 8:00 pm	To 12:30 am
Sunday	From 8:00 pm	To 12:30 am

16. Please list all other business licenses associated with the premises (Liquor, CV, Sunday Entertainment License from State, etc.):

Seasonal All Alcohol Liquor; CV; Sunday Entertainment

LICENSE MANAGER OF RECORD

1. Proposed Manager of Record Tanya McDonough Email: tanya.mcdonough@gmail.com

2. Home Address 47 Main Street, 2nd Floor

3. Telephone/Cell Phone 857-234-1327 / _____ SSN [redacted]

4. Date of Birt[redacted] Place of Birth [redacted]

5. Mother's Maiden Name [redacted]

WITHIN THE PAST SEVEN (7) YEARS, HAS THE PROPOSED MANAGER BEEN CONVICTED OF A FELONY OR A VIOLATION OF A STATE OR FEDERAL NARCOTICS LAW?

Yes: (Please explain)_____

No: ☑

OPERATIONS

1) Proposed capacity of premises: Current approved capacity per COI: Dining Room: 73; Bar: 45

2) Number of Restrooms 4 Number of Egresses 8 Entrances 8 Exits

3) Days/Hours of Operation for Liquor License? 8:00 am - 1:00 am Mon-Sat. 11:00 am - 1:00 am Sun

4) Days/Hours of Operation for CV License? 8:00 am - 1:00 am Mon-Sat. 11:00 am - 1:00 am Sun

5) a. Number of employees on premises during peak hours? 14

b. Number of employees on premises at any given time? 5

c. Number of Managers or designated person in charge at any given time? 2

BUSINESS ORGANIZATION

Please check the applicable section:

1. The business for which this application is being filed is a:

☐ Sole Proprietorship (Please state owner's name) _____
DBA _____

☐ Partnership (List Partner names) _____
DBA _____

☑ Corporation, LLC (If the applicant is a corporation, give the name and home address of each Officer, Director and Shareholder and the % of stock held by each person) See Liquor License App for full list
Nantucket Club Car, LLC
DBA The Club Car

2. Employer EIN/FID: 81-3356589

3. If new ownership, please indicate previous d/b/a, owner and date you assumed ownership _____
The Club Car; Nov. 1, 2016

4. Was there an approved transfer of an Alcoholic Beverages or CV license within the past 12 months?
☐ Y ☑ N If YES, when? The Club Car; Nov. 1, 2016

5. Do you have any financial or corporate relationship with the prior owner? No
If YES, please describe: _____

6. Does any person who holds direct or indirect interest in this premises hold direct or indirect Interest in any other premises which has an Entertainment license in the Town of Nantucket?
No **If YES, please describe:** _____

7. Has any person who holds direct or indirect interest in the premises ever been denied an Entertainment license or had an Entertainment license suspended, revoked, or voluntarily surrendered an Entertainment license in any jurisdiction? No If **YES**, please attach an explanation on a separate page with dates and the name of the person with the aforementioned interest.

8. Has the applicant, or officer of the applicant: (If **YES**, please attach an explanation.
   a. Been convicted of a felony in the past seven (7) years? No
   b. Held any interest in an Alcoholic Beverage or CV license which has been suspended or revoked or voluntarily surrendered? No
   c. Have any knowledge of illegal activity by its principals which may effect this license or the licensed premises? No

STATEMENT OF APPLICANT

Under the pains and penalties of perjury, I affirm that the preceding answers are true to the best of my knowledge and belief, and that there are no other indirect interests in this license other than those indicated in this application.

Signature of Applicant: Tanya McDonough Date: 10-7-16

Print Applicant's Full Name: Tanya J. McDonough

Applicant's Relationship to Business Entiy: License Manager, LLC member

TOWN OF NANTUCKET BOARD OF SELECTMEN

Approved: **YES** ☐ **NO** ☐ Date: _____

Town Manager Signature: _____

Licensing Board Conditions/Restrictions/Comments: _____

_____

_____

LICENSE FEE: **$100.00**

THE LICENSING BOARD *for the* TOWN OF NANTUCKET, MASSACHUSETTS

HEREBY GRANTS AN

ENTERTAINMENT LICENSE

▶ SEVEN DAYS ◀

BUSINESS: **Island Gourmet Corp.**
DBA: **THE CLUB CAR**
PREMISES: **1 Main Street**
Nantucket, MA 02554
MANAGER: **Joseph Pantorno**

ON PREMISES DESCRIBED AS:
First Floor: Dining Room, Bar, Service Area, Kitchen.

Maximum Occupancy:
Dining room 73
Bar 45
Second floor 4

Approved Entertainment:

- **VOCAL MUSIC**
- **INSTRUMENTAL MUSIC**
- **RADIO; CD; IPOD**

Conditions of License:

- **HOURS: 8:00 pm to 12:30 am; 7 Days**
- All Entertainment must end by 12:30 am.
- **NO AMPLIFICATION**

2016

This license is granted and accepted upon the express condition that the licensee shall, in all respects, conform to all the provisions of Section 183A, Chapter 140 of the Massachusetts General Laws, and any rules or regulations made thereunder by the licensing authorities.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed his official signature on this 9th day of February 2016.

Robert De Costa
Chairman, Board of Selectmen

THIS LICENSE IS VALID APRIL 1, 2016 – JANUARY 15, 2017

**Unless earlier suspended, cancelled, or revoked*

This License Shall Be Displayed On the Premises in a Conspicuous Place Where it May Be Easily Seen.

Board of Selectmen Liquor License Public Hearing Process

……..

Liquor License Public Hearing Process

1. The chairman opens the public hearing and may outline the procedure to be followed.

2. The applicant reviews their pending application.

3. Public comment is taken.
   - If applicable, read into record any written objections received from school, church or hospital located within 500 feet.

4. The chairman invites questions from the Board and closes the public hearing.

5. The Board makes a decision to approve or deny.

6. Pursuant to MGL c. 138, §23 and Ballarin v. Licensing Board of Boston, denials must be based on reasonable grounds; ABCC and courts prefer findings based on:
   -- the appropriateness of a liquor license at a particular location
   -- the number of existing dispensaries in Town
   -- the views of the inhabitants of the locality in which a license is sought
   -- traffic, noise, size (typically applies to a new location)
   -- the sort of operation that carries the license
   -- the reputation of the applicant

7. A written decision is required to be sent to the applicant. No need for reasons if the application if simply approved, but if there is a denial or conditions are imposed, the reasoning for this is required to be in the decision. Therefore, the Board should vote on basis for denial or conditions as well [concerns with traffic, another licensee located adjacent to property, limiting hours, etc.].

LIQUOR LICENSE APPLICATION

Applicant:	EGB Enterprises, Inc d/b/a The Rose and Crown
License Application Type:	Annual to Seasonal/Restaurant/All Alcohol
Location of Premises:	23 South Water Street
BOS Review Date:	October 19, 2016

Background:

Applicant is requesting a Change of License Class from Annual to Seasonal for License #076200167. The Seasonal License will be effective from April 1 – January 15.

Licensing Recommendation:

There are no objections to this request pending final approval of the Massachusetts ABCC.

September 23, 2016

Town of Nantucket BOS
16 Broad Street
Nantucket, MA 02554

RECEIVED
SEP 23 2016
BY: AC 2:40

To Whom It May Concern:

Please accept this letter as a request to make the following changes to our business licenses for EGB Enterprises, INC, DBA The Rose & Crown, 23 South Water ST, Nantucket, MA 02554.:

We formally request to make a change of manager to our existing liquor license from Frederick Ulmer to Debra Pitcock. We also request to make a change of class from our current annual license to a seasonal license. We are making these requests based on the fact that I am no longer living on Nantucket in a full time capacity.
Thank you for your time and consideration of this matter.

Sincerely,

Frederick Ulmer
Owner, The Rose & Crown

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

APPLICATION FOR MULTIPLE AMENDMENTS

Please complete Name of Licensee and Application Contact sections completely, leaving no fields blank.

NAME OF LICENSEE (Business Contact): EGB Enterprises, Inc

ABCC License Number: 076200167

City/Town of Licensee: Nantucket

APPLICATION CONTACT

The application contact is required and is the person who will be contacted with any questions regarding this application.

First Name: Debra Middle: Lynn Last Name: Pitcock

Title: Employee Primary Phone: 5082215826

Email: ackdebba@gmail.com

AMENDMENT OPTIONS

Please check off all of the amendments for which you are applying below. You will only be required to complete the sections of this amendment application that correspond to the amendments you check. Next to each amendment is the page that you will find the necessary application questions to complete. Please see the instructions page for additional required documents based on transaction.

If there are ANY financial considerations for the transactions for which you are applying, you must complete the financial section on page 2 of this application.

- ☐ Change in Business Contact Information - Page 2
  This is only to change a mailing or business address (corporate headquarters, NOT premises address), phone number or email.
- ☒ Change of Manager - Page 3
- ☐ Alteration of Premises / Change of Location - Page 4
- ☐ Change of Beneficial Interest / Transfer or Issuance of Stock - Page 5
- ☐ Pledge of Collateral (License, Inventory, Beneficial Interest) - Page 6
- ☐ Change of Corporate Name - Page 6
- ☐ Change of DBA - Page 6
- ☐ Change of Corporate Structure (i.e. Corporation to LLC, Sole Proprietor to LLC) - Page 6
- ☐ Change of Category (i.e. Wine and Malts to All Alcohol) - Page 6
- ☒ Change of Class (i.e. Seasonal to Annual) - Page 6
- ☐ Change of Type (i.e. Restaurant to General on Premises) - Page 6

FINANCIAL INFORMATION

Complete this section if there are financial consideration for any of the amendments for which you are applying.

Associated Costs

A. Purchase Price for Building/Land	
B. Purchase Price for any Business Assets	
C. Costs of Renovations/Construction	
D. Purchase Price of Inventory	
E. Initial Start-Up Costs	
F. Other (Please specify)	
G. Total Cost (Add lines A-F)	

Please note, the total amount of **Cash Investment** (top right table) plus the total amount of **Financing** (bottom right table) must be equal to or greater than the **Total Cost** (line G above).

You are required to provide all documents relating to financing and/ or loans you receive for this transaction

Please provide information about the sources of cash and/or financing for this transaction

Source of Cash Investment

Name of Contributor	Amount of Contribution
Total:	

Source of Financing

Name of Lender	Amount	Does the lender hold an interest in any MA alcoholic beverages licenses?	If yes, please provide ABCC license number of lender
		Total:	

BUSINESS CONTACT

Complete this section ONLY if there are changes to the Licensee phone number, business address (corporate headquarters), or mailing address. If you are changing your premises location, you must also complete the premises section on page 4.

Primary Phone: _____ Fax Number: _____

Alternative Phone: _____ Email: _____

Business Address (Corporate Headquarters)

Street Number: _____ Street Name: _____

City/Town: _____ State: _____

Zip Code: _____ Country: _____

Mailing Address ☐ *Check here if your Mailing Address is the same as your Business Address*

Street Number: _____ Street Name: _____

City/Town: _____ State: _____

Zip Code: _____ Country: _____

MANAGER CONTACT

Complete this section if you are requesting a change of manager.
The Manager Contact is the individual who will have day-to-day, operational control over the liquor license.

Salutation [ ] First Name [Debra] Middle Name [lynn] Last Name [Pitcock] Suffix [ ]

Social Security Number [redacted] Date of Birth [redacted]

Primary Phone: 5082215826 Email: ackdebba@gmail.com

Mobile Phone: 5082215826 Place of Employment The Rose & Crown

Alternative Phone: 5083257194 Fax Number 5082285923

Citizenship / Residency / Background Information of Proposed Manager

Are you a U.S. Citizen? (•) Yes ( ) No

Have you ever been convicted of a state, federal, or military crime? ( ) Yes (•) No

If yes, attach an affidavit that lists your convictions with an explanation for each

Have you ever been Manager of Record of a license to sell alcoholic beverages? ( ) Yes (•) No

If yes, please list the licenses for which you are the current or proposed manager:

Do you have direct, indirect, or financial interest in this license? ( ) Yes (•) No

If yes, percentage of interest [ ]

If yes, please indicate type of Interest (check all that apply):

- [ ] Officer
- [ ] Stockholder
- [ ] LLC Member
- [ ] Partner
- [ ] Contractual
- [ ] Management Agreement
- [ ] Sole Proprietor
- [ ] LLC Manager
- [ ] Director
- [ ] Landlord
- [ ] Revenue Sharing
- [ ] Other

Please indicate how many hours per week you intend to be on the licensed premises 65

Employment Information of Proposed Manager

Please provide your employment history for the *past 10 years*

Date(s)	Position	Employer	Address	Phone
5/1/2005-present	General Manager	The Rose & Crown	23 South Water St, Nantucket, MA	5082282595

Prior Disciplinary Action of Proposed Manager

Have you ever been involved directly or indirectly in an alcoholic beverages license that was subject to disciplinary action? If yes, please complete the following:

Date of Action	Name of License	State	City	Reason for suspension, revocation or cancellation

APPLICATION FOR MULTIPLE AMENDMENTS

PREMISES INFORMATION

Please complete this section if you are altering your premises or changing your premises location.
Please enter the address where the alcoholic beverages are sold.

Premises Address

Street Number: Street Name: Unit:

City/Town: State: Zip Code:

Country:

Description of Premises

Please provide a complete description of the premises, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage.

Floor Number	Square Footage	Number of Rooms

Patio/Deck/Outdoor Area Total Square Footage

Indoor Area Total Square Footage

Number of Entrances

Number of Exits

Proposed Seating Capacity

Proposed Occupancy

Occupancy of Premises

Please complete all fields in this section. Documentation showing proof of legal occupancy of the premises is required.

Please indicate by what right the applicant has to occupy the premises

Lease Beginning Term

Lease Ending Term

Rent per Month

Rent per Year

Landlord Name

Landlord Phone

Landlord Address

If leasing or renting the premises, a signed copy of the lease is required.

Please indicate if the terms of the lease include payments based on the sale of alcohol: ◯ Yes ◯ No

CHANGE IN BENEFICIAL INTEREST / TRANSFER or ISSUANCE OF STOCK

CURRENT OWNERSHIP (Before Change in Beneficial Interest)

Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license. This pertains to the current licensee (before change in beneficial interest occurs).

Name	Title / Position	% Owned	Other Beneficial Interest

PROPOSED OWNERSHIP (After Change in Beneficial Interest)

Please list all individuals or entities with a direct or indirect, beneficial or financial interest in this license.

An individual or entity has a direct beneficial interest in a license when the individual or entity owns or controls any part of the license. For example, if John Smith owns Smith LLC, a licensee, John Smith has a direct beneficial interest in the license.

An individual or entity has an indirect beneficial interest if the individual or entity has 1) any ownership interest in the license through an intermediary, no matter how removed from direct ownership, 2) any form of control over part of a license no matter how attenuated, or 3) otherwise benefits in any way from the license's operation. For Example, Jane Doe owns Doe Holding Company Inc., which is a shareholder of Doe LLC, the license holder. Jane Doe has an indirect interest in the license.

A. All individuals listed below are required to complete a Beneficial Interest Contact - Individual form.
B. All entities listed below are required to complete a Beneficial Interest Contact - Organization form.
C. Any individual with any ownership in this license and/or the proposed manager of record must complete a CORI Release Form.

Name	Title / Position	% Owned	Other Beneficial Interest

APPLICATION FOR MULTIPLE AMENDMENTS

AMENDMENT APPLICATION FOR:
Change of Corporate Name, Change of DBA, Change of Legal Structure, Change of Class, Change of Category

Please check the amendment that you are applying for and complete the corresponding section. Please refer to the requirements page for required documents.

PLEDGE INFORMATION

Are you seeking approval for a pledge? ◯ Yes ◯ No

To whom is the pledge is being made: _____

Please indicate what you are seeking to pledge (check all that apply)

☐ License ☐ Stock / Beneficial Interest ☐ Inventory

Does the lender have a beneficial interest in this license? ◯ Yes ◯ No

Does the lease require a pledge of this license? ◯ Yes ◯ No

☐ **Change of Corporate Name**

This is the License Entity Name or the Business Contact

Last-Approved Corporate Name: _____

Requested New Corporate Name: _____

☐ **Change of DBA**

Last-Approved DBA: _____

Requested New DBA: _____

☐ **Change of Corporate Structure**

LLC, Corporation, Sole Proprietor, etc

Last-Approved Corporate Structure _____

Requested New Corporate Structure _____

☐ **Change of License Category**

All Alcohol, Wine and Malt, Wine Malt and Cordials

Last-Approved License Category _____

Requested New License Category _____

☒ **Change of License Class**

Seasonal or Annual

Last-Approved License Class: Annual

Requested New License Class: Seasonal

☐ **Change of License Type***

i.e. Restaurant to Club
Package Store to Supermarket

Last-Approved License Type _____

Requested New License Type _____

CAN NOT change from an on-premise to an off-premises license type.

CERTIFICATE OF VOTE

We, FREDERICK W. ULMER III and TRACY M. ULMER, officers of EGB Enterprises, Inc., hereby appoint DEBRA PITCOCK, as manager of EGB Enterprises, Inc.

Frederick W. Ulmer III

Tracy M. Ulmer

We, FREDERICK W. ULMER III and TRACY M. ULMER, officers of EGB Enterprises, Inc., hereby vote to change the licensing class to seasonal from annual.

Frederick W. Ulmer III
October 3, 2016

Tracy M. Ulmer
October 3, 2016

iPS

ued: 05/24/2016 Expires: 06/01/2017

#: 50816 Trainer Year: 08

Debra L Pitcock

31 Hummock Pond Rd

Nantucket, MA 02554-2634

FOR ONLINE USE ONLY
NOT VALID IF PRINTED

Trainer Certification Card

LICENSE #: **076200167** LICENSE FEE: **$2,750.00**

THE LICENSING BOARD *for the* TOWN OF NANTUCKET, MASSACHUSETTS

HEREBY GRANTS AN

ANNUAL RETAIL RESTAURANT LICENSE

TO EXPOSE, KEEP FOR SALE, AND TO SELL

ALL ALCOHOLIC BEVERAGES

TO BE CONSUMED ON THE PREMISES

BUSINESS: EGB Enterprises, Inc.
DBA: The Rose and Crown
PREMISES: 23 S. Water Street
Nantucket, MA 02554
MANAGER: Rick Ulmer

ON PREMISES DESCRIBED AS:
Kitchen, dining room, lounge, storage area, office, two restrooms.

The hours during which alcoholic beverages may be sold: In accordance with MGL Chapter 138 and amendments thereto with the local provision that patrons shall not be served alcoholic beverages before 8:00AM Monday through Saturday and 11:00AM on Sunday. **No alcohol service is permitted after 1:00AM** and patrons must be off the license premises and said **premises must be closed by 1:30AM**. Any restrictions apply as are on file with the local licensing authority. In accordance with Article 40 ATM 2001, Chapter 86.1 Board of Health Regulations Prohibit Smoking in Certain Places within the Town of Nantucket.

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 Massachusetts General Laws, as amended and any rules or regulations made thereunder by the licensing authorities, including, but not limited to Chapter 250 of the Town of Nantucket Rules and Regulations Governing Alcoholic Beverages.

IN TESTIMONY WHEREOF, the undersigned have hereunto affixed his official signature on this 16th day of December 2015.

Robert De Costa
Chairman, Board of Selectmen

THIS LICENSE WILL EXPIRE DECEMBER 31, 2016

**Unless earlier suspended, cancelled, or revoked*

This License Shall Be Displayed On the Premises in a Conspicuous Place Where it May Be Easily Seen.

Town and County of Nantucket
Board of Selectmen • County Commissioners

James R. Kelly, Chairman
Rick Atherton
Robert R. DeCosta
Matt Fee
Dawn E. Hill Holdgate

16 Broad Street
Nantucket, Massachusetts 02554

Telephone (508) 228-7255
Facsimile (508) 228-7272
www.nantucket-ma.gov

C. Elizabeth Gibson
Town & County Manager

At its meeting held Wednesday, October 16, 2016, the Nantucket Board of Selectmen approved an application for a new seasonal all-alcoholic beverages restaurant license for EGB Enterprises, Inc. d/b/a The Rose and Crown, Debra L. Pitcock, Manager, for the premises located at 23 South Water Street, Nantucket, MA 02554. The Board determines that this new liquor license is not detrimental to the spiritual activities of St. Mary's Catholic Church located at 3 Federal Street, Nantucket MA. This abutter is located within 500 feet of the premises of 23 South Water Street (Section 12 liquor license holder).

James R. Kelly, Chairman

Dawn E. Hill Holdgate, Vice Chairman

Rick Atherton

Robert R. DeCosta

Matthew G. Fee

Board of Selectmen
Nantucket, MA

MEMO

TO: Town Manager

FROM: Traffic Safety Work Group

DATE: October 5, 2016

RE: Recommendation Requiring Board of Selectmen Action

At its September 20, 2016 meeting, Traffic Safety reviewed a request for a curb cut at 29 Jefferson Avenue which will result in the elimination of one on-street parking space. Traffic Safety recommends approval of the curb cut application.

bpc
ARCHITECTURE

26 August 2016

Mike Burns
Traffic Safety Work Group
16 Broad Street
Nantucket, MA 02554

RE: 29 Jefferson Ave

Dear Mr. Burns,

This application is for a curb cut at 29 Jefferson Ave which would eliminate a parking space. We have received HDC approval for the new driveway and apron, see a copy of COA#66141 attached.

Please don't hesitate to call with questions.

Thank you,

Douglas Mills, Architect

RECEIVED
AUG 26 2016
NANTUCKET TOWN ADMINISTRATION

BPC Architecture
2 Broad Street
Nantucket, MA 02554
p 508.228.2722
info@bpc-architecture.com
bpc-architecture.com

Town of Nantucket Department of Public Works

Application for Curb Cut/Driveway Access Permit

Date: _____

Property Owner: JOHN MAXWELL Tel.: 508-228-2722

Address: 2 BROAD ST NANTUCKET MA 02554

On-Island Agent: BPC ARCHITECTURE Tel.: 508-228-2722

Address: 2 BROAD ST NANTUCKET MA 02554

Location of Proposed Work: 29 JEFFERSON AVE Map & Parcel: 30/125

Proposed Improvements: NEW DRIVEWAY

Plot plan showing proposed improvements must be attached. Site must be marked prior to inspection. No permit will be issued unless complete plans showing driveway location and drainage control are attached.

If curb cut will eliminate a legal parking space, approval from the Board of Selectman is required.

Parking Space Eliminated: ✓ B.O.S. Approved: _____

All proposed work must comply with Chapter 139 (Zoning Bylaw), Section 139-20.1, Curb Cut and Driveway Access, of the Code of the Town of Nantucket.

Drainage improvements associated with the installation of the driveway on the subject property are the sole responsibility of the property owner.

This permit will be subject to the following conditions. All conditions must be met before certificate of occupancy is issued.

1. Any required pipe and/or appurtenances shall be installed at the owner's expense.
2. Stormwater run-off shall be prevented from discharging onto the public right-of-way.
3. Where applicable, an apron shall be installed by the property owner as per Ch. 139-20.1 B(2)(d).
4. Any granite or stone curbing removed shall be returned to the Department of Public Works garage.
5. Additional Conditions *if any)*: _____

_____

Applicant Signature: _____ Issue Date: _____

Approved by DPW: _____ Expiration Date: _____

CERTIFICATE NO: 66141 DATE ISSUED: 7/19/16

Application to the HISTORIC DISTRICT COMMISSION, Nantucket, Massachusetts, for a

CERTIFICATE OF APPROPRIATENESS

for structural work.

All blanks must be filled in using BLUE OR BLACK INK (no pencil) or marked N/A.

NOTE: It is strongly recommended that the applicant be familiar with the HDC guidelines, *Building with Nantucket in Mind*, prior to submittal of application. Please see other side for submittal requirements. Incomplete applications will not be reviewed by the HDC.

This is a contractual agreement and must be filled out in ink. An application is hereby made for issuance of a Certificate of Appropriateness under Chapter 395 of the Acts and Resolves of Mass., 1970, for proposed work as described herein and on plans, drawings and photographs accompanying this application and made a part hereof by reference.

The certificate is valid for three years from date of issuance. No structure may differ from the approved application. Violation may impede issuance of Certificate of Occupancy.

PROPERTY DESCRIPTION

TAX MAP N°: 30 PARCEL N°. 125

Street & Number of Proposed Work: 29 JEFFERSON AVE

Owner of record: JOHN MAXWELL

Mailing Address: 2 BROAD ST
NANTUCKET MA 02554

Contact Phone #: 508-228-2722 E-mail:

AGENT INFORMATION (if applicable)

Name: BPC ARCHITECTURE

Mailing Address: 2 BROAD ST
NANTUCKET MA 02554

Contact Phone #: 508-228-2722 E-mail:

FOR OFFICE USE ONLY CK# 2196

Date application received: 7/12/16 Fee Paid: $ 50

Must be acted on by: 9/12/16

Extended to:

Approved: ✓ Disapproved:

Chairman: [signature]

Member:

Member:

Member:

Member: CONSENT

Notes - Comments - Restrictions - Conditions

DESCRIPTION OF WORK TO BE PERFORMED

See reverse for required documentation.

☐ New Dwelling ☐ Addition ☐ Garage ☑ Driveway/Apron ☐ Commercial ☐ Historical Renovation ☐ Deck/Patio ☐ Steps ☐ Shed
☐ Color Change ☐ Fence ☐ Gate ☐ Hardscaping ☐ Move Building ☐ Demolition ☐ Revisions to previous Cert. No.
☐ Pool (Zoning District ____) ☐ Roof ☐ Other

Size of Structure or Addition: Length: Sq. Footage 1st floor: Decks/Patio: Size: ☐ 1st floor ☐ 2nd floor
Width: Sq. footage 2nd floor: Size: ☐ 1st floor ☐ 2nd floor
Sq. footage 3rd floor:

Difference between existing grade and proposed finish grade: North South East West

Height of ridge above final finish grade: North South East West

Additional Remarks

Historic Name:

Original Date:

Original Builder:

Is there an HDC survey form for this building attached? ☐ Yes ☐ N/A

REVISIONS* (describe)
1. East Elevation
2. South Elevation
3. West Elevation
4. North Elevation

BELGIAN BLOCK APRON & PEASTONE DRIVEWAY

*Cloud on drawings and submit photographs of existing elevations.

DETAIL OF WORK TO BE PERFORMED

Foundation: Height Exposed ☐ Block ☐ Block Parged ☐ Brick (type) ☐ Poured Concrete ☐ Piers

Masonry Chimney: ☐ Block Parged ☐ Brick (type) ☐ Other

Roof Pitch: Main Mass /12 Secondary Mass /12 Dormer /12 Other

Roofing material: ☐ Asphalt: ☐ 3-Tab ☐ Architectural
☐ Wood (Type: Red Cedar, White Cedar, Shakes, etc.)

Fence: Height:
Type:
Length:

Skylights (flat only): Manufacturer Rough Opening Size Location
Manufacturer Rough Opening Size Location

Gutters: ☐ Wood ☐ Aluminum ☐ Copper ☐ Leaders (material)

Leaders (material and size):

Sidewall: ☐ White cedar shingles ☐ Clapboard (exposure: inches) Front ☐ Side ☐
☐ Other

Trim: A. Wood ☐ Pine ☐ Redwood ☐ Cedar ☐ Other
B. Treatment ☐ Paint ☐ Natural to weather ☐ Other
C. Dimensions: Fascia Rake Soffit (Overhang) Corner boards Frieze
Window Casing Door Frame Columns/Posts: Round Square

Windows*: ☐ Double Hung ☐ Casement ☐ All Wood ☐ Other
☐ True Divided Lights(muntins), single pane ☐ SDL's (Simulated Divided Lights) Manufacturer

Doors* (type and material): ☐ TDL ☐ SDL Front Rear Side
Garage Door(s): Type Material

Hardscape materials: Driveways PEASTONE Walkways Walls

* Note: Complete door and window schedules are required.

COLORS

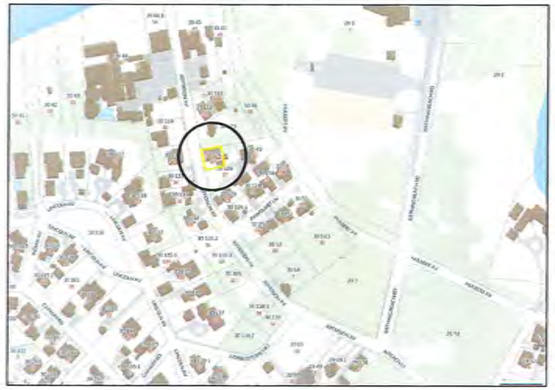
Sidewall Clapboard (if applicable) Roof
Trim Sash Doors
Deck Foundation Fence Shutters

* Attach manufacturer's color samples if color is not from HDC approval list.

I hereby authorize the agent named above to act on my behalf to make changes in the specifications or the plans contained in this application in order to bring the application into compliance with the HDC guidelines. I hereby agree to abide by and comply with the terms and conditions of this application. I hereby agree that the submission of any revisions to this application will initiate a new sixty-day review period.

Date 7/12/16 Signature of owner of record [signature] Signed under penalties of perjury

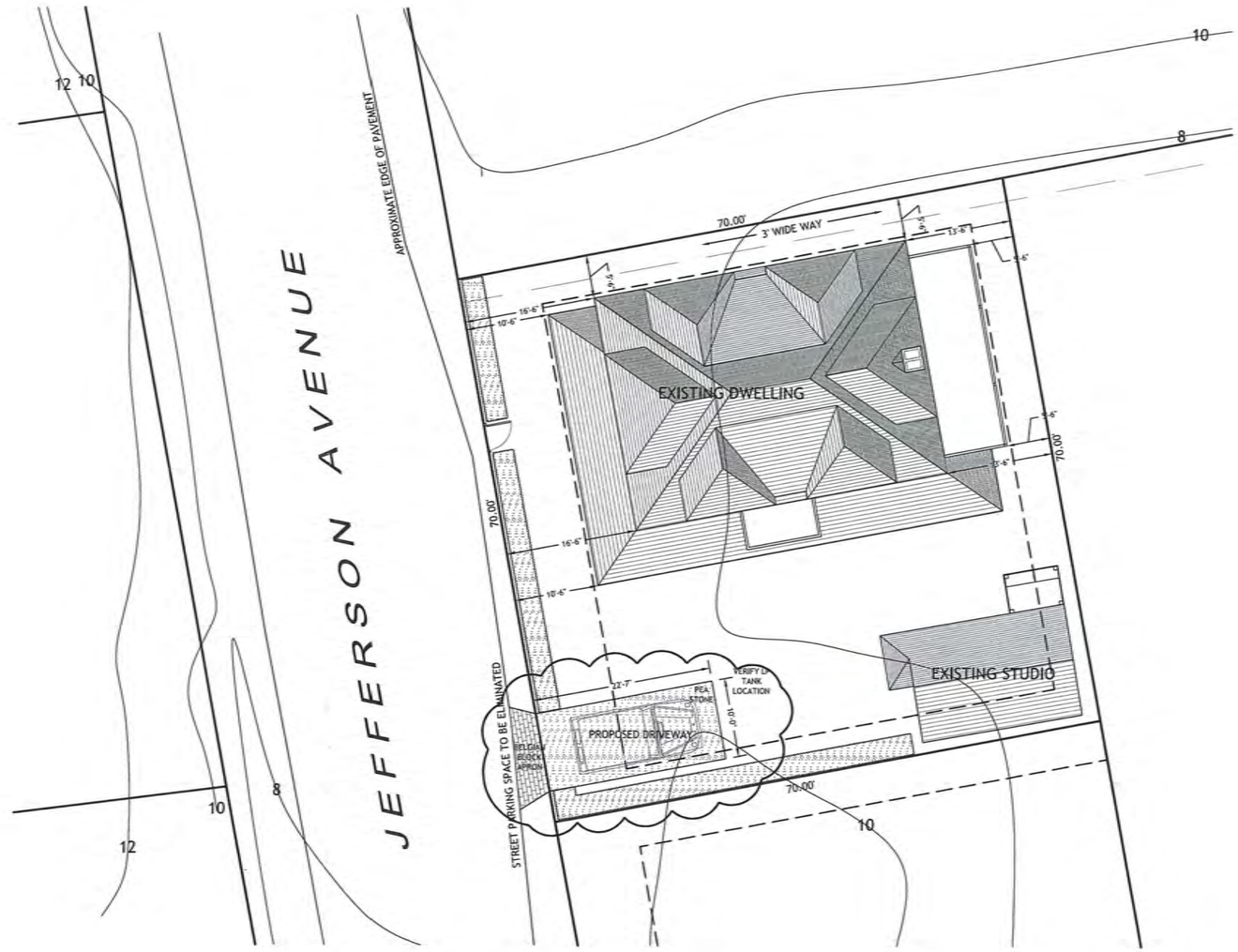
MAXWELL 29 JEFFERSON AVE



LOCUS MAP: NOT TO SCALE

BELGIAN BLOCK SAMPLE

PEASTONE SAMPLE



SITE PLAN: 1/8"=1'-0"

bpc ARCHITECTURE + INTERIOR DESIGN
2 BROAD STREET
NANTUCKET, MA 02554
P 508 228 2722
F 508 374 8498

MAXWELL
29 JEFFERSON AVENUE
NANTUCKET, MA 02554
MAP: 30 PARCEL: 125

HDC - DRIVEWAY

SITE PLAN

C1.1
11 JULY 2016

AUTHORITY TO FILE

Whereas, the Massachusetts Department of Environmental Protection (the "MassDEP") and the Massachusetts Clean Water Trust (the "Trust") of the Commonwealth of Massachusetts, pursuant to Chapter 21 and Chapter 29C of the General Laws of the Commonwealth ("Chapter 21" and "Chapter 29C") are authorized to make loans to municipalities for the purpose of funding planning and construction activities relative to Water Pollution Abatement Projects; and

Whereas, the Applicant has examined the provisions of the Act, Chapter 21 and Chapter 29C, and believes it to be in the public interest to file a loan application.

NOW, THEREFORE, BE IT RESOLVED by Nantucket Board of Selectmen
(Governing Body)
as follows:

1. That Town Manager is hereby authorized on behalf
(Title of Official)
of the Applicant to file applications and execute agreements for grant and/or loan assistance as well as furnishing such information, data and documents pertaining to the applicant for a grant(s) and/or loan(s) as may be required; and otherwise to act as the authorized representative of the Applicant in connection with this application;

2. That the purpose of said loan(s), if awarded, shall be to fund construction activities.

3. That if said award is made the Applicant agrees to pay those costs which constitute the required Applicant's share of the project cost.

CERTIFYING AUTHORITY TO FILE

I hereby certify that the Board of Selectmen for the Town of Nantucket, Massachusetts
(Name of Governing Body) (Corporate Name of Local Government Unit)

(hereinafter referred to as the "Applicant"), at a meeting noticed and conducted in accordance with all applicable legal requirements, duly voted to authorize the

Town Manager
(Title of Local Government Unit Official)

to act on behalf of the Applicant, as its agent, in filing applications for, executing agreements regarding, and performing any and all other actions necessary to secure for the Applicant such loan(s) for construction or planning of Water Pollution Abatement Projects as may be made available to the Applicant pursuant to the provisions of the Massachusetts Clean Waters Act (M.G.L. c.21, section 27-33E, inclusive, as amended) and the Water Pollution Abatement Revolving Loan Program (M.G.L. c.29C) for the following project:

Nantucket Harbor Shimmo and PLUS Parcels Sewer Extensions
(describe project)

I hereby certify that C. Elizabeth Gibson is the present incumbent of the position
(Name of Person)

referenced above, and do hereby certify:

1. That the attached resolution is a true and correct copy of the resolution as finally adopted at a meeting of the governing body held on the ____ day of _____, 2016, and duly recorded in my office:

2. That said meeting was duly convened and held in all respects in accordance with law and to the extent required by law, due and proper notice of such meeting was given; and a legal quorum was present throughout the meeting, and a legally sufficient number of members of the governing body voted in the proper manner and for the adoption of said resolution; that all other requirements and proceedings under the law incident to the proper adoption or passage of said resolution, including publication, if required, have been duly fulfilled, carried out, and otherwise observed; and that I am authorized to execute this certificate:

3. That if an impression of a seal has been affixed below, it constitutes the official seal of the Applicant and this certificate is hereby executed under such official seal; but if no seal has been affixed, the Applicant does not have an official seal:

IN WITNESS WHEREOF, I have hereunto set my hand this ___ day of _____, 2016

_____
Catherine Flanagan Stover, MMC, CMMC
Town Clerk

COST AND EFFECTIVENESS CERTIFICATION

I C. Elizabeth Gibson, Town Manager, hereby
(name) (title/position)

certify that Town of Nantucket Massachusetts has studied and evaluated the cost and
(local governmental unit)

effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity; and has selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account:

(i) the cost of constructing the project or activity;

(ii) the cost of operating and maintaining the project or activity over the life of the project or activity; and

(iii) the cost of replacing the project or activity.

_____ _____
(signature) (date)

WATER RESOURCES AND WASTEWATER PLANNING CERTIFICATION

I, the undersigned, being duly authorized to act on behalf of the Applicant, certify that to the best of my knowledge this project is consistent with current existing state, regional, and local water resource and wastewater planning requirements including but not limited to:

1. river basin water quality management plans pursuant to section 303(e) of the Federal Clean Water Act;
2. nonpoint source management plans pursuant to section 319 of the Federal Clean Water Act;
3. estuaries management plans pursuant to section 320 of the Federal Clean Water Act;
4. local water resource management plans pursuant to regulations of the Water Resources Commission;
5. water emergency planning pursuant to c.21G of the Massachusetts General Laws;
6. Phase II Storm Water General Permit.

Town of Nantucket, Massachusetts
Applicant

C. Elizabeth Gibson — Town Manager
Type Name — Title

Signature — Date

LAND USE CERTIFICATION

I, the undersigned, being duly authorized to act on behalf of the Applicant, certify that the land use regulations, zoning and other controls identified below are consistent with the wastewater system service populations as projected in the Applicant's wastewater management plan:

Town of Nantucket, Massachusetts
Applicant

C. Elizabeth Gibson — Town Manager
Type Name — Title

Signature — Date

PROTECTION OF WATER SUPPLIES

The project is within a defined Zone II approved by the Massachusetts Department of Environmental Protection Drinking Water Program (DWP). I, the undersigned, being duly authorized to act on behalf of the Applicant, certify to the best of my knowledge that the Nantucket Harbor Shimmo and PLUS Parcels Sewer Extensions, CWSRF No. 4096, has been designed and specified for maximum water tightness in accordance with DWP Policy #BRP/DWM/WS/P03-1, as follows:

- Force Mains or Pressure Sewers: shall be tested at 150% above maximum operating pressure or 150 pounds per square inch (psi). whichever is greater. Testing shall conform to the requirements of the American Water Works Association (AWWA) standard C 600.
- Gravity Sewers: shall be tested by approved methods which will achieve test results for infiltration or exfiltration of less than 100 gallons per inch-diameter-mile per 24 hours.
- Manholes: in the Zone I shall be installed with watertight covers with locking or bolted and gasketed assembles. Testing for infiltration/exfiltration shall conform to the same standard as the maximum allowed for pipes in the manhole as required for gravity sewers, indicated above.
- Satisfactory test results for Force Mains, Manholes and Gravity Sewers shall be performed prior to the expiration of the contractor's one year guarantee period.
- All pumping stations within this zone shall have standby power high water alarms telemetered to an appropriate location that is manned at all times. An emergency contingency plan must be developed by the pumping station owner and approved by the Department.
- A minimum of Class B bedding as defined by Water Pollution Control Federation-Manual No.9 must be used for all piping.
- Service connections (laterals and house connections) shall be rigidly inspected by the appropriate municipal official. Certified inspection reports shall be submitted to the Department.

Town of Nantucket, Massachusetts
Applicant

C. Elizabeth Gibson — Town Manager
Type Name — Title

Signature — Date

DISPLACEMENT OF PERSONS OR BUSINESSES CERTIFICATION

As required by the Uniform Relocation and Real Property Assistance Policies Act of 1970, I

C. Elizabeth Gibson, Town Manager, hereby certify that the
(name) (title/position)

Town of Nantucket, Massachusetts Nantucket Harbor Shimmo and PLUS Parcels Sewer Extensions (CWSRF Project No. 4096), has not and will not cause the displacement of any individual, family business, or farm.

_____ _____

(signature) (date)

ENFORCEMENT RELATED TO NUTRIENTS CERTIFICATION

I, the undersigned, being duly authorized to act on behalf of the Applicant, certify that the Town of Nantucket, Massachusetts is not currently subject to a Massachusetts Department of Environmental Protection enforcement order, administrative consent order or unilateral administrative order or enforcement action by the United States Environmental Protection Agency due to a violation of a nutrient-related Total Maximum Daily Load standard or other nutrient-based standard or otherwise subject to a state or federal court order relative to the Nantucket Harbor Shimmo and PLUS Parcels Sewer Extensions project (CWSRF Project No. 4096).

Town of Nantucket, Massachusetts
Applicant

C. Elizabeth Gibson — Town Manager
Type Name — Title

Signature — Date

(12) The Applicant's implementation of the Project, including the procurement of related contracts, shall comply with all applicable requirements of state and local laws, ordinances, by-laws, rules and regulations.
(13) MassDEP representatives shall have access to Project work whenever it is in preparation or progress, and shall be provided proper facilities for such Project access and inspection. All of the Applicant's construction and other relevant contracts shall contain the above provision.
To the best of my knowledge and belief, data provided in this application is true and correct; the documentation has been duly authorized by the governing body of the applicant. Furthermore, the applicant certifies that it possesses the legal authority to apply for the loan, and to finance and construct the proposed facilities. A resolution, motion, or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application. The same resolution, motion, or similar action is directing and authorizing the person identified below as the authorized representative of the applicant to act in connection with the application and to provide such additional information as may be required.

Name of Representative (Type) **C. Elizabeth Gibson**	Title **Town Manager**
Signature of Representative	(Date)

Libby Gibson

From: Pittman, William (pd520) [wpittman@police.nantucket-ma.gov]
Sent: Thursday, September 08, 2016 4:22 PM
To: Libby Gibson
Cc: Sheila Lucey; Charles Gibson; Gregg Tivnan; Erika Mooney; 'John Giorgio'
Subject: RE: Harbor & Town Pier regulations

Libby,

Got it, we can comfortably work with that schedule. Thanks...

William J. Pittman
Chief of Police
Nantucket Police Department
4 Fairgrounds Road
Nantucket, MA 02554
Tel: (508) 228-1212
Fax: (508) 228-7246

This electronic message and any files attached hereto contain confidential or privileged information from the Nantucket Police Department. This information is intended to be for the use of individuals or entities to whom it is addressed only. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is strictly prohibited. If you have received this transmission in error, please notify the sender by reply e-mail and destroy all copies of this message.

From: Libby Gibson [mailto:LGibson@nantucket-ma.gov]
Sent: Thursday, September 08, 2016 4:22 PM
To: Pittman, William (pd520)
Cc: Sheila Lucey; Charles Gibson (pd105); Gregg Tivnan; Erika Mooney; 'John Giorgio'
Subject: RE: Harbor & Town Pier regulations

Okay, so timing-wise that means that we should get the internal recommendations back by October 17 so that during that week we can review them with Town Counsel and/or SHAB if need be; at its 10/19 meeting ask BOS to schedule hearing for 11/16, advertise for the hearing on 10/28, 11/3, 11/10. And, we'll need a written recommendation by 11/7.

Okay?

C. Elizabeth Gibson
Town Manager
Town of Nantucket
(508) 228-7255

From: Pittman, William (pd520) [mailto:wpittman@police.nantucket-ma.gov]
Sent: Thursday, September 08, 2016 11:05 AM
To: Libby Gibson

From:	Peter B.Brace
To:	Libby Gibson
Cc:	Erika Mooney; Jim Kelly; William Pittman; Sheila Lucey
Subject:	Harbor & Town Pier regulations
Date:	Tuesday, September 06, 2016 10:30:21 AM
Attachments:	Slip-mooring hearing request.docx BOS intro for Proposed Slip & Mooring Regs Revision.docx Regulations2016redlinecomments2TLF3-31-Final revisions.docx

---

Libby,

The Harbor & Shellfish Advisory Board requests a public hearing for its recommended amendments to the town's Harbor & Town Pier Regulations in Chapter 250.

Attached to this email is the HSAB's letter of request for the public hearing, a narrative briefly explaining the proposed changes and the regulations with the proposed changes in them.

Call or email if you have any questions.

Peter B. Brace,
Chairman

Sept. 6, 2016

Rick Atherton
Bobby DeCosta
Matt Fee
Dawn Hill-Holdgate
Jim Kelly

Mr. Kelly,

At its April 5, 2016 meeting, the Harbor & Shellfish Advisory Board voted 5-1 to recommend that the Board of Selectmen make amendments to the town's Chapter 250 Harbors and Town Pier Regulations. These recommended amendments are largely housekeeping in nature, but there are several substantive changes that the HSAB is proposing as well. We are requesting that you hold a public hearing during the Board of Selectmen's next available public hearing meeting to hear and vote on our recommendations.

We arrived at these recommendations by spending part of the past winter reviewing the regulations as amended by the Board of Selectmen on April 22, 2015 with a lot of help from one of our members, island attorney Ken Gullicksen. Mr. Gullicksen wrote a narrative that should be helpful to the Board of Selectmen in understanding the Harbor & Shellfish Advisory Board's reasoning behind its proposed amendments to these regulations.

Briefly, we're proposing to clarify mooring permit regulations, delete certain sections of the regulations already in the corresponding by-law, move certain sections to make the regulations easier to understand, remove sections and text not deleted by the last amendment to these regulations by the selectmen in 2015 and slightly expand the use of moorings.

Attached to this email letter are the Chapter 250 Harbors and Town Pier Regulations with our board's proposed changes in the text of the regulations and Mr. Gullicksen's narrative. We made the proposed changes using Microsoft Word's Track Changes editing function. The proposed changes are in blue text highlighted in yellow. Deleted text is red. Should you have any problems viewing the changes on your end, we can provide your board with the hard copy version upon request. Also, if you require a more detailed explanation of these proposed changes, I can have Mr. Gullicksen write one.

Thank you for your time and patience.

Sincerely,

Peter B. Brace,
Chairman, Harbor & Shellfish Advisory Board

Harbor & Town Pier Regulations – Proposed changes

To be effective, laws and regulations must be clear and unambiguous. If challenged, a Judge will review and interpret them by the plain meaning of the words, not what was intended or in accordance with historical practice. By their terms, the mooring regulations applied to slips, floats, trailers and "other type(s) of docking facility. No distinctions or exceptions were for rental moorings.

The most significant proposed changes clarify that mooring permits are only applicable to private moorings, not for example boats in the boat basin, regardless of how long they are there. Rental mooring are proposed to be treated differently, with the moorings themselves subject to regulation, but no separate permits required for the boat on them, consistent with current practice, but not the existing regulations.

A number of sections were deleted, not because they are not important, but because those matters are already set forth in a town by-law (137-2). Some sections were moved, to make the regulations more coherent, e.g. the requirement that moorings be registered was moved from the Mooring Equipment section to the Mooring Permit section.

In a few instances the regulations were cleaned up, e.g. when new mushroom weights were inserted in 2015 the old ones were not deleted.

A substantive change is a limited expansion of the ability to allow the use of a mooring by another. The intent was to allow better use of existing moorings. It is a very limited change which allows someone who, through the lottery, gets a slip at the time pier to, without receiving payment, allow someone to use their mooring, which would otherwise not be used for the season.

Except for that shared use, the proposed changes do not alter past practice. Except for short term anchoring, all boats in the harbor, whether a live aboard or not, are required to be docked or on a permitted mooring.

CHAPTER 250

HARBORS AND TOWN PIER REGULATIONS

TOWN OF NANTUCKET

Adopted April 23, 2014
Amended April 22, 2015
Further Amended _____, 2016

The following Rules and Regulations are adopted pursuant to Nantucket Town By-Law Chapter 137 Section, as amended.

These Rules and Regulations shall be effective on ~~May 14, 2015~~ _____ 2016 and all previous rules and regulations of the Board of Selectmen hereunder, are repealed as of said date~~, subject, however, to the foregoing limitations~~.

250.1 DEFINITIONS

"COMMERCIAL USE", a vessel engaged in commercial trade or that carries passengers for hire.

"COMMERCIAL FISHING BOAT", a vessel which is used to engage in the industry or occupation devoted to the catching, processing, or selling of fish, shellfish, or other aquatic animals.

"DINGHY", a small self-propelled Vessel used for transportation to and from a dock or wharf, and/or between Vessels moored in the harbor.

"DIVER", includes swimmers using fins and/or masks and/or snorkel tubes or self-contained underwater breathing devices and may include those diving without aids, where the circumstances are appropriate.

"GRAY WATER", in Nantucket waters as defined above, gray water is a vessel's water/soap discharge, which is derived from galley, bath, showers, dishwashing and laundry equipment~~.~~

"IMMEDIATE FAMILY", parents, grandparents, children, sister, brother, and spouse.

"HARBOR MASTER", officer appointed by the Town to perform the duties of Harbor Master.

"LIVEABOARD", a liveaboard is a person who sleeps aboard a vessel and the vessel is considered as a residence for any period of time as determined by the Harbor Master.

"Moor", attach a Vessel in or on Nantucket Waterways to any permanent or seasonal fixture including a Mooring, piling, dock, wharf, Raft, Float or other type of docking facility.

"MOORING", ground tackle used to secure Vessels, usually consisting of a mushroom anchor (but including helix), chain to a buoy and pennant to attach to a Vessel, intended to be left in place and used seasonally. ~~any space wherein a vessel is confined by wet-slip, float, mooring, buoy, rack, sling, haul-out, trailer or other type of docking facility.~~

"MOORING PERMIT", annual permit issued by the Town of Nantucket for the

Comment [KG1]: Need to redefine Mooring to reflect that Mooring regulations do not apply to boats in slips, racks, trailers, etc.

placement and use of a Mooring in Nantucket Waterways. Mooring Permit does not include the Mooring License Agreement permitting the installation of Rental Moorings.

"NANTUCKET WATERWAYS or WATERWAYS", includes all of the navigable waters within the boundaries of Nantucket County, which shall include all harbors, rivers, bays or ponds, including waterways which, from time to time, may be temporarily non-navigable by reason of low tides, drought or seasonal weather and water conditions.

"PERSONS", includes an individual, corporations, societies, associations, partnerships, trusts or other business or corporate entity recognized by law as having the standing of a person.

"RAFT" or "FLOAT", a non-propelled floating craft, not intended for transportation purposes.

"RECREATIONAL VESSEL ", a vessel manufactured or operated primarily for pleasure.

"RENTAL MOORING". Mooring installed and maintained by the Mooring Licensee pursuant to a Mooring License Agreement between the Mooring Licensee and the Town.

"TOWN", Town of Nantucket, Massachusetts.

"TOWN PIER", municipal pier located at 34 Washington Street, to include timber pier and floating dock.

"VESSEL", ships and boats of all kinds, including barges, sailing vessels, watercraft and powerboats of any type or kind by whatever means propelled; every structure, designed, adapted, or capable of being navigated, towed or operated on water from place to place for the transportation of merchandise, people or for any other purpose.

"WAITING LIST", the official list of names of mooring permit applicants managed by the Town.

"WATER-DEPENDENT USES", those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including but not limited to: marinas, recreational uses, navigational and commercial fishing and boating facilities, water-based recreational uses, navigation aids, basins, and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an inland site.

250.2 Town Wharf Prohibited Activities

~~250.2.1 Except in an emergency, no Vessels shall be made fast to any of the Town's wharves, floats or piers without the permission of the Harbor Master.~~

~~250.2.2 No person shall leave any Vessel, fishing equipment, fish or any other personal property upon Town landing places, floats, wharves or pier for longer than is necessary in the act of loading or unloading the same to and from Vessels or vehicles.~~

~~250.2.3 The Town shall not be responsible for any loss or damage to Vessels at the Town wharves, floats, pier or moorings. Owners will be held responsible for damage caused by them or their vessels to structures and pilings and related facilities owned by the Town.~~

~~250.2.4 No warp or line shall be passed across the channels or any dock so as to obstruct or interfere with vessels navigating in the area.~~

~~250.2.5 Except in an emergency, no Vessel shall fuel at any of the Town's wharves, floats or piers without the permission of the Harbor Master.~~

250.2.1 Tug boats, cargo boats and any other Vessel used for commercial purposes (other than charter boats and commercial fishing boats) shall not be permitted to Moor~~moor~~ at the Nantucket Town pier or wharves in Madaket, except in a designated slip or by permission of the Board of Selectmen or Harbor Master, as appropriate.

250.2.2 Commercial or business use of any Vessel or watercraft docked at any Town-owned dock, pier or wharf is prohibited, except that Charter or commercial fishing boats or other uses defined as "water dependent" as herein defined and provided that such uses and the vessels employed in such uses are first allocated dock space in accordance with these regulations.

250.2.3 There shall be no Liveaboards at any Town Pier or Wharf.

250.3 Waterways

250.3.1 All Vessels using the ~~Town wharves~~Nantucket Waterways shall observe all police, fire, health and sanitary regulations of the Town, and the owners or operators of such Vessels shall not permit acts contrary to good order, public safety or public health, including public profanity or obscene language or indecent exposure. Unnecessary noise, loud talking or playing of musical instruments between the hours of 11:00 p.m. and 8:00 a.m. is not permitted. No person upon such Vessels shall throw garbage, paper, refuse or debris of any kind into the harbor.

~~250.3.2 Commercial or business use of any Vessel or watercraft docked at any Town-owned dock, pier or wharf is prohibited, except that Charter or commercial fishing boats or other uses defined as "water dependent" as herein defined and provided that such uses and the vessels employed in such uses are first allocated dock space in accordance with these regulations.~~

~~250.3.3 No Vessel or watercraft of any kind whatsoever which is painted with paints containing butyltin compounds shall be permitted to moor in Town waters or tie up at the Town wharves, whether private or public.~~

~~250.3.4~~250.3.2 Between October 15 and April 15, all Dinghies not servicing Vessels presently moored in the harbor shall be removed from any Town property.

~~250.3.5~~250.3.3 The Town may remove after October 30, any Dinghy left on Town property. Following such removal, the Harbor Master shall give notice of the removal as follows:

(a) if the owner is known, then by mail or hand-delivery;

(b) if the owner is unknown, then by publication in a newspaper of general circulation within the Town;

(c) if, after thirty (30) days following the publication or written notice, the owner has failed to claim the Dinghy and reimburse the Town for removal costs, the Dinghy may then, at the discretion of the Harbor Master, be

Comment [KG2]: These provisions are in by-law 137-2 and should not be duplicated in regulations.

Comment [KG3]: Moved to 250.2.2

Comment [KG4]: This provision is in by-law 137-3 and should not be duplicated in regulations.

sold at public auction to cover the costs of removal. If said auction produces surplus proceeds after payment of the costs of removal, said surplus shall be held in a separate account and be paid over to the owner upon proof of ownership.

~~250.3.6~~250.3.4 ~~There shall be no Liveaboards at any Town Pier or Wharf. Liveaboards shall only be allowed in Nantucket Waterways if the Vessel is tied to a Mooring that is authorized by the Town pursuant to these regulations. Vessels used as Liveaboards that are anchored are prohibited.~~

Comment [KG5]: The old language would prohibit liveaboards at the Boat Basin as well as transient liveaboards. All matters originally covered by this section have been moved or are otherwise addressed in other sections, e.g. see 250.2.3 and 250.4.2.1.

250.4 Moorings

250.4.1 Mooring Equipment

~~250.3.1.1 All Moorings must be registered and a permit for the Mooring must be approved prior to the placement of the Mooring. No Mooring shall be placed by any person or Mooring Handler unless a Mooring Permit has been issued. The Harbor Master may authorize a temporary Mooring placement on a case by case basis pending issuance of a Mooring permit.~~

Comment [KG6]: Moved to permit section (250.4.2), and revised.

250.4.1.1 The location of all Moorings shall be determined from time to time by the Harbor Master. No Mooring shall be located in the main stream or any channel of any of the harbors of the Town, unless, in the opinion of the Harbor Master, the particular circumstances require it. Moorings shall be located so that Vessels lying on them shall not block any channel or approach to wharves or other Moorings in the vicinity or create any other hazard to navigation.

250.4.1.2 No Vessel shall use a Mooring within the Nantucket Waterways~~Town~~ unless the Mooring is in good condition and meets the following minimum standards unless otherwise determined by the Harbor Master:

Length of	Mushroom Mooring	Concrete Block Mooring
Under 14'	~~50 lbs~~. 75 lbs.	Subject to individual approval by the Harbor Master
15' to 18'	~~75 lbs.~~ 150 lbs.	
19' to 22'	~~100 lbs.~~ 200 lbs.	
23' to 26'	~~150 lbs.~~ 300 lbs.	
27' to 32'	~~200 lbs.~~ 500 lbs.	
Over 32'	Subject to individual approval by the Harbor Master	

Comment [KG7]: These old weights should have been deleted as part of April, 2015 amendments.

250.4.1.3 No Vessel shall use a M~~m~~ooring unless the ~~Mooring~~ chain is in good condition and that the length is at least the vertical height above the sea bottom to four feet above mean high water. Maximum length of chain shall be no more than 2.5 times the maximum depth of the water, except where the Harbor Master determines otherwise. All Mooring chains shall be of a grade suitable for Moorings and meet the following minimum size standards:

Length of Boat	Chain Minimum Size
10' to 23'	~~3/8"~~ 1/2"
24' to 32'	~~1/2"~~ 5/8
Over 33'	~~5/8"~~ 3/4" - 1" as determined by the Harbormaster

Comment [KG8]: These old sizes should have been deleted as part of April, 2015 amendments.

250.4.1.4 No Vessel shall use a Mooring pennant unless it is in good condition and of a type suitable for Moorings. The length shall be no longer than half the length of the Vessel. Pennant line size shall be:

Length of Boat	Line Minimum Size
Up to 10′	~~3/8″~~ **7/16″**
11′ to 23′	~~7/16″~~ **1/2″**
24′ to 32′	~~1/2″~~ **5/8″**
Over 33′	~~5/8″~~ **3/4"**

NOTE: The use of synthetic lightweight high-strength pennant lines such as Dyneema and Spectra may be used in lesser dimensional sizes

provided that such use provides equal or greater tensile strength than the standard line sizes listed above.

250.4.1.5 Moorings shall be inspected by the Harbor Master, or by a designated representative at least once every three (3) ~~**two (2)**~~ years to determine their compliance with the regulations herein. Proof that the Mooring has been inspected is a requirement for a Mooring permit to be issued. If a permit is not issued pending an inspection, and ~~a period of thirty (30) days elapses from the date that the permit is requested to be issued~~ the inspection is not completed within a reasonable time period, the Harbor Master shall notify the permit holder by certified mail at the address appearing on the permit application that if the permit holder fails to provide proof of inspection within thirty (30) days, the Mooring permit will be forfeited.

250.4.1.6 The Harbor Master may remove or relocate, or order the removal or relocation, of any Mooring not in compliance with these regulations. The expense of such removal or relocation shall be the responsibility of the owner.

250.4.1.7 The Harbor Master may remove or relocate, or order the removal or relocation, of any Mooring whenever, in the judgment of the Harbor Master, the safety of other Vessels or the optimum use of the area requires such action. The expense of such removal or relocation shall be the responsibility of the owner. Except when immediate removal is deemed necessary by the Harbor Master, an owner shall have at least fourteen (14) days to relocate or remove a Mooring when so ordered by the Harbor Master.

250.4.1.8 All ~~private~~ Moorings shall be removed from areas designated by the Harbor Master as shell fishing areas prior to October 15. If the Mooring is a Helix type, then the Mooring must be removed or outfitted with a cap approved by the Harbor Master prior to October 15.

250.4.1.9 All ~~small mooring~~Mooring buoys shall be ~~painted~~ white and have a minimum one-inch blue band visible above the water. Buoys shall be marked with the permit number~~s~~ assigned by the Harbor Master Department and the permit holder's name. The numbers and~~/or~~ letters shall be a minimum of three inches in height and be clearly visible at all times. Mooring buoys shall be of customary shape and materials as determined by the Harbor Master.

250.4.1.10 Spar buoys shall be upright at all times and not less than 40° at

Comment [KG9]: These old sizes should have been deleted as part of April, 2015 amendments.

Comment [KG10]: Former period is adequate with larger sizes required by 2015 amendments.

Comment [KG11]: Revised because payment is now due in January and inspection within 30 days may not be possible.

any period of tide and not less than 18 inches exposed.

250.4.1.11 The Harbor Master may order the removal of any buoy deemed to be inappropriate in form, appearance or construction.

250.4.1.12 No Helix type Mooring shall be installed in Nantucket Waterways after January 1, 2015.

250.4.1.13 The prohibition of Helix type Moorings in 250.1.13 may be waived by the Harbormaster provided that:

250.4.1.13.1 A Nantucket based Mooring handler has ~~acquired~~ the required equipment to properly install, remove, relocate and service Helix Moorings;

250.4.1.13.2 The Helix Mooring handler is in regular business and operation and has on staff personnel capable of operating the Helix equipment, and;

250.4.1.13.3 The Helix Mooring handler has demonstrated to the Harbormaster suitable capabilities and facilities to handle Helix Moorings.

250.4.1.14 Any waiver granted by the Harbormaster under 250.3.1.14 shall be valid for a one (1) year period and may be continually renewed by the Harbormaster provided that the conditions for waiver remain in force.

250.4.1.15 Any Helix Mooring installed under 250.3.1.14 must be equipped with a Hazelett Conservation Elastic Mooring System or similar device approved by the Harbormaster if the Harbormaster determines that such use is practicable and bottom conditions warrant such use.

~~250.4.1.16 Any Helix Mooring located within the bounds of a designated scallop fishing area must be removed prior to October 15 of each year.~~

~~Any pre-existing Helix Mooring that does not have a current Mooring Permit shall be removed.~~

Comment [KG12]: Covered by 250.4.1.8

Comment [KG13]: Covered by 250.4.2.2 (2nd paragraph)

250.4.2 Mooring Permits

250.4.2.1 No Vessel, except a Dinghy and those Moored to a dock, pier or Rental Mooring, shall remain in or on Nantucket Waterways for 14 or more consecutive days without a current~~Any vessel habitually moored in Nantucket shall obtain a~~ Mooring Permit~~from the Harbor Master~~.

250.4.2.2 All Moorings must be registered and a Mooring Permit for the Mooring must be approved prior to the placement of the Mooring. No Mooring, except a Rental Mooring, shall be placed, used or maintained in Nantucket Waterways by any person or Mooring Handler unless a current Mooring Permit has been issued for such Mooring and any Mooring without a current Mooring Permit shall be removed by the owner, or by the Harbor Master at the owner's expense. The Harbor Master may authorize a temporary Mooring placement on a case by case basis pending issuance of a Mooring Permit.

Comment [KG14]: Regulations must reflect that Vessels at Boat Basin, Town Pier, on Rental Moorings, etc. do not require Mooring Permits regardless of length of stay.

250.4.2.3 All applications for a Mooring space in any Nantucket harbor or

waterway shall be submitted to the Town on the Mooring Permit Application form. All information requested on the form must be supplied or the application may be rejected.

250.4.2.4 The Mooring Permit decal issued by the Town shall be firmly affixed to boat on the port side of the bow, or in the case of classic-design wooden sail boats, the port side of the mast.

250.4.2.5 Only the registered boat, displaying a current and valid mooring permit decal, which ~~is owned by the person to whom~~ the Mooring Permit holder owns or is lawfully entitled to possession or use of~~was issued~~, shall fasten to the Mooring.

250.4.2.6 At the time of application if the applicant does not own a Vessel or is not a person lawfully entitled to possession and use of a Vessel for the season for which a ~~mooring is~~Mooring Permit would be granted, no Mooring Permit will be issued. The applicant will have twelve (12) months to obtain a Vessel. If, at the end of twelve (12) months, the applicant has not obtained a Vessel no Mooring Permit shall issue and the applicant will be removed from the waiting list.

250.4.2.7 If an individual holds a valid Mooring Permit and sells his/her rights to the boat with the intention of replacing it, he/she will have twelve (12) months to replace the Vessel. If, at the end of twelve (12) months, the Vessel has not been replaced, the Mooring Permit shall be forfeited.

250.4.2.8 If the Harbor Master determines that a Mooring is not being used the Harbor Master shall inform the Mooring Permit holder that the Mooring Permit will be forfeited unless:

- the registered boat is placed upon the Mooring within fourteen days;
- the use of the Mooring by another is arranged with the Harbor Master as provided below;
-the Mooring Permit holder obtained a slip at the Town Pier for the registered boat; or
- the Harbor Master excuses the non-use of the Mooring, which, except in extraordinary circumstances shall be not be valid for more than one year.

~~250.4.2.8~~250.4.2.9 No Mooring Permit ~~for a Mooring~~ shall be transferable to another person, except to a person within the immediate family of the permit holder ~~upon approval of the Harbor Master~~.

250.4.2.10 The sale, rental or subletting of a Mooring by a Mooring Permit holder is prohibited. However the Harbor Master may permit the time sharing of Moorings upon payment of the Mooring Permit fee in order to maximize the usage of the Mooring fields. Time sharing of a Mooring shall be subject to the following conditions:

-No time sharing of a Mooring shall continue during two consecutive years, unless the Vessel of the owner of the Mooring Permit registered to the Mooring was awarded a slip at the Town Pier in the slip lottery for at least one of those years.

~~- be limited only to registered Mooring Handlers for Vessels less than 26' in length.~~ -Vessels engaged in a time share situation shall be registered with the Town and comply with all marking and reporting requirements. ~~as determined by the Harbor Master.~~

–No payment may be made to the Mooring Permit holder but the owner of the Vessel using the Mooring may pay, directly to the mooring handler, the costs of placing and hauling the Mooring.

Comment [KG15]: Language added to be consistent with following paragraph.

Comment [KG16]: Language not changed but separated from paragraph above to distinguish sale of boat by permit holder from wait list applicant with no boat.

~~250.4.2.9~~250.4.2.11 Mooring Permits ~~for the use of Mooring spaces~~ shall be for a period of one year, or any fraction thereof, terminating on December 31 of each year, unless earlier revoked by the Harbor Master, and shall be renewable annually for one year. All Mooring Permit holders shall ensure annually that their Vessel information, contact information, Mooring Handler and other information as required by the Town is current and up to date. Failure to update and/or review the information annually may result in the non-renewal of the Mooring Permit until such information is verified.

~~250.4.2.10 Payment for the annual Mooring Permit shall be paid in full by January 1. If payment is not received by this date, the Town shall:~~

~~250.4.2.10.1 Assess a late fee of $25.00;~~

~~250.4.2.10.2 Send notice of non-payment by first class mail to the address that the permit holder currently has on file advising them that the permit will be forfeited if payment is not received by February 15.~~

~~250.4.2.10.3 If payment is not received by March 15, the Town shall send notice by certified mail advising the Permit holder that their Mooring Permit has been revoked.~~

~~250.4.2.10.4 If the Permit holder responds to the certified mail notice by April 15, the Permit shall be reinstated for a $100 fee and also upon payment of the applicable Mooring Permit fee.~~

~~250.4.2.10.5 If no response is received, or full payment of late fees and all Permit fees is not made by April 15, the Permit is forfeited and the Mooring location will be offered to the next person on the waiting list.~~

Comment [KG17]: Moved to fee section (250.5.1.5).

~~250.4.2.11~~250.4.2.12 In areas where no additional Mooring spaces are available, applicants shall be placed on a waiting list maintained by the Town.

~~250.4.2.12~~250.4.2.13 The waiting list shall include the names of applicants waiting for Moorings in chronological order of application, regardless of the applicant's preference for a particular Mooring location. The person at the top of the official waiting list shall have priority to obtain the next available location, but may waive the right to the next available location if it is not in a place convenient for him without losing his place at the top of the waiting list. In the event of a waiver, the next person on the list shall be offered the location, and if that person waives the right to the location, the next successive person shall be offered the location until someone in succession on the list elects to take the Mooring location. Notice to the person entitled to the next available Mooring shall be in writing or by any reasonable method.

~~250.4.2.13~~250.4.2.14 It shall be the responsibility of wait list applicants to notify the Town of any address or information change. Notification of mooring availability to wait list applicants shall be only to the information supplied to the Town on the Mooring Permit application. The Town is under no obligation to seek out wait list applicants who fail to respond to notice of mooring space availability.

~~250.4.2.14 Dinghies of less than 10' attached to permitted Moorings shall be exempt from the Permit requirements herein provided that the Mooring is properly permitted and there is a primary Vessel regularly attached to the Mooring which bears a valid Mooring Permit decal.~~

Comment [KG18]: Covered by 250.4.2.1

250.4.3 Waterfront Moorings

250.4.3.1 Moorings which are currently permitted and owned by property owners whose property has direct frontage and reasonable access to a Nantucket Waterway as determined by the Harbor Master, may transfer such Mooring to subsequent purchasers of the property. The transfer of the Mooring Permit shall only occur upon approval of the Harbor Master with considerations to Vessel type, size and coordination with other existing Moorings and upon payment of any applicable fees.

250.4.4 **Town Pier**

250.4.4.1 **Capacity and Slip Assignments**

250.4.4.1.1 The Standing or Fixed Pier has 55 slips which can accommodate recreational Vessels up to and including 30 feet in length. Three slips are designated for the Town for the pump-out and patrol boats. The Harbor Master may designate additional spaces for Town purposes as needed.

250.4.4.2 **Slip Assignments Revocable License**

250.4.4.2.1 Slips assignments to Vessels will be subject to a revocable license agreement between the Town and the Vessel owner. The revocable license agreement shall contain the terms of the agreement for the slip assignment. Failure to comply with the terms of the license agreement shall result in the termination of the license and forfeiture of the slip without refund.

250.4.4.2.2 Only Vessels with mechanical power are eligible for the slip lottery **and slip assignment.**

250.4.4.2.3 The term of any revocable slip assignment license will be from May 1st through September 30th whether or not the revocable license is automatically renewable from year to year.

250.4.4.2.4 No Vessel may be placed in a slip prior to May 1st, and no Vessel may remain in a slip after September 30th without permission of the Harbor Master. The permission of the Harbor Master notwithstanding, no additional rights or term of occupancy is to be implied as a result of the Harbor Master allowing early arrival or late departure from a licensed slip.

250.4.5 **Recreational Vessels**

250.4.5.1 Recreational Vessel slips are divided into two categories, 'A' and 'B'. Fifty (50) percent of the available slips will be designated as category 'A', and fifty (50) percent of the available slips will be designated as category 'B' for Vessels less than 30'. The Harbormaster shall determine the percentage of eligible slips available for a class 'A' or 'B' based on Vessel length. The intent is to evenly distribute the percentage available 'A' or 'B' classes based upon Vessel length recognizing that most slip locations are determined by Vessel size.

250.4.5.2 Category 'A' recreational slip assignments shall be awarded by lottery and be allowed a two (2) year slip license. The category 'A' revocable slip license will be renewable for the second year without participation in the lottery as long as the slip holder remains current with payments and is in compliance with all applicable rules, regulations and

by-laws or unless otherwise cancelled by the Town of Nantucket or the license holder. When a category 'A' slip becomes available, its initial assignment shall be by lottery pursuant to paragraph 250.4.3.4.

250.4.5.3 Category 'B' recreational slip assignments shall annually be awarded by lottery. The category 'B' revocable slip license will expire each year. They will not be renewable and any previous category 'B' holder must participate in the annual slip lottery.

250.4.5.4 The annual lottery will be held in October of each year. The date of the lottery shall be advertised for at least two (2) weeks to the lottery date. The names of current year Category 'B' slip holders shall be automatically entered. Names of new applicants shall be entered based upon information provided to the Town on the slip assignment application form. Slip applications shall be accepted up to twenty-four (24) hours prior to the lottery provided that the new slip application fee has been paid.

250.4.6 **Commercial Use/Commercial Fishing Vessels**

250.4.6.1 Commercial Use/Fishing Vessels slips are divided into two categories, 'A' and 'B'. Six (6) slips on the floating dock will be designated for each category for Vessels less than 40'. Commercial fishing Vessels 40' and greater and transient fishing Vessels will Moor at the end of the fixed pier and will not participate in the lottery. There is no guarantee of space on the fixed pier for commercial fishing Vessels 40' and greater or transient fishing Vessels. Accommodation of space for these Vessels will be made upon the determination of availability by the Harbor Master.

250.4.6.2 Category A

250.4.6.2.1 Six (6) Available spaces: Initial slip space is drawn at lottery. The revocable license will be renewable each year without participation in the lottery as long as the slip holder remains current with payments and is in compliance with all applicable rules, regulations and by-laws or unless otherwise cancelled by the Town of Nantucket or the license holder.

250.4.6.2.2 Eligibility: Any person wishing to apply for a Category 'A' Commercial Use slip must provide sufficient information which proves beyond a reasonable doubt that the applicant spends a major portion of their annual work time in water-based commercial industry and that greater than 60% of their annual income is derived from the commercial business. Proof of eligibility may include, but not necessarily be limited to:

- Coast Guard Licenses and Inspection
- Federal Tax Identification number and tax returns
- State and Federal Commercial Fishing License
- Vessel size and equipment
- Catch reports or fish sale reports
- Other information that the Harbor Master may require

250.4.6.3 Category B

250.4.6.3.1 Six (6) Available spaces: Category 'B' Vessel is drawn in the lottery annually pursuant to the procedures in paragraph 250.4.2.4. The

revocable license is for one year.

250.4.6.3.2 Eligibility: Any person wishing to apply for a Category 'B' Commercial Use slip must provide sufficient information which proves beyond a reasonable doubt that the applicant's Vessel spends a portion of their annual work time in the water- based commercial industry and that a portion of their annual income is derived from the commercial business. The applicant must provide a fishing license or equivalent and the Vessel must be registered or documented as Commercial.
Proof of eligibility may include, but not necessarily be limited to:

- Coast Guard Licenses and Inspection
- Federal Tax Identification number and tax returns
- State and Federal Commercial Fishing Licenses
- Vessel size and equipment
- Catch reports or fish sale reports
- Other information that the Harbor Master may require

250.4.6.4 Eligibility for a handicap accessible slip requires the applicant be eligible for a State issued handicap parking sticker.

250.4.6.5 The Town may assess a commercial use user fee for Vessels utilizing the Town Pier, Children's Beach ramp and Barrett Pier in Madaket as a primary loading and off-loading point for customers and/or wares. The Town will require that any Commercial users subject to this fee be required to obtain an insurance liability policy naming the Town as an additional insured.

250.4.7 **Slip Assignment Wait list**

250.4.7.1 For Recreational Vessels, a wait list of twenty (20) will be drawn at the annual lottery. For Category B Commercial Use Vessels, a waitlist of three will be drawn at the annual slip lottery.

250.4.8 **Floats and Rafts**

250.4.8.1 No Raft or Float shall be moored in Nantucket Waterways unless the location of said Float or Raft has been approved by the Harbormaster and a Mooring Permit issued by the Town.

250.4.8.2 Any vessel which is tied to a Raft or Float as a Moored Vessel shall have a Mooring Permit for each individual Vessel so tied.

250.4.8.3 The Harbormaster shall make the determination of the maximum allowable Vessels which may be tied to a Raft or Float. The Harbormaster may fine~~find~~ either the Vessels~~vessels~~ so tied and/or the Raft or Float owner in violation if the number of Vessels so approved is exceeded.

250.5 Fees

250.5.1 **Mooring Fees**

250.5.1.1 Mooring Permit Renewal Fees per Season:

Comment [KG19]: Fees should be reviewed by town counsel to ensure they do not violate state law (c.91)

Length of Boat	Annual Fee
up to 16'	**$80.00**
17' to 23'	**$100.00**
24' to 32'	**$200.00**
33' to 49'	**$300.00**

Over 50'	**$500.00**
Commercial Fishing	**$80.00**
Livery/Rental	**$200.00**
Boat Handler/Repair	**$175.00**

250.5.1.2 Raft or Floats shall be based upon the table in 250.5.1.1

250.5.1.3 Mooring Permit Application: $25.00 payable at the time of Mooring Permit application.

250.5.1.4 Mooring Permit Wait List: $10.00 annually by those applicants wishing to remain on the official waiting list.

250.5.1.5 Payment for the annual Mooring Permit shall be paid in full by January 1. If payment is not received by this date, the Town shall:

- Assess a late fee of $25.00;
- Send notice of non-payment by first class mail to the address that the permit holder currently has on file advising them that the permit will be forfeited if payment is not received by February 15.
- If payment is not received by March 15, the Town shall send notice by certified mail advising the Permit holder that their Mooring Permit has been revoked.
- If the Permit holder responds to the certified mail notice by April 15, the Permit shall be reinstated for a $100 fee and also upon payment of the applicable Mooring Permit fee.
- If no response is received, or full payment of late fees and all Permit fees is not made by April 15, the Permit is forfeited and the Mooring location will be offered to the next person on the waiting list.

Comment [KG20]: This provision should be reviewed by town counsel. It may violate state law.

~~250.5.1.4~~250.5.1.6

250.5.2 **Town Pier Slip- Recreational Vessels**

250.5.2.1 Category 'A' $100.00 per foot per season.

250.5.2.2 Category 'B' $80.00 per foot per season.

250.5.2.3 Minimum per foot charge per season is twenty-two (22) feet.

250.5.2.4 Payment for Recreational 'A' slips shall be received by January 1 of each year.

250.5.2.5 Payment for Recreational 'B' slips shall be received within thirty (30) days following the date of the lottery. If payment is not received by this date, the applicant will forfeit his slip and the next person on the waiting list will be chosen.

250.5.3 **Town Pier Slip- Commercial Use:**

250.5.3.1 Category A: **$150.00** per foot per season.

250.5.3.2 Commercial Use Category B: **$125.00** per foot per season.

250.5.3.3 50% of payment for Commercial ‘A’ and ‘B’ slips shall be received by June 1; the remaining 50% payment is due by August 1.

250.5.3.4 Refunds will not be provided.

250.5.4 **Other Fees:**

250.5.4.1 Commercial use Vessel fee for Town ramps and piers: $100.00 per year.

250.5.4.2 Non-Resident Commercial Off-Load Fee: $100.00 per year.

250.5.4.3 Transient Rate: $15.00 per hour or $75.00 per day.

250.5.4.4 Commercial fishing transient 50’ or less: .75¢ cents per foot per night.

250.5.4.5 Commercial fishing transient 51’ or greater: $1.50 per foot per night.

250.5.4.6 Slip Lottery Application Fee: No Fee

250.6 Enforcement

250.6.1 **Enforcement**

250.6.1.1 Harbor Master, Assistant Harbor Masters, Mooring Enforcement Officers and any Police Officer are authorized to enforce these Rules and Regulations.

250.6.2 **Non-Criminal Violation Citation**

250.6.2.1 Officers authorized to enforce these Rules and Regulations may use the Standard Town Non-Criminal Violation Notice for violations.

250.6.3 **Severability**

250.6.3.1 The provisions of these Rules and Regulations are hereby declared to be severable; and if any provision of the Rules and Regulations is invalid, such invalidity shall not affect or impair any other provision hereof.

250.6.4 **Penalties**

250.6.4.1 Whoever violates any of the provisions of the Rules and Regulations shall be punished by a fine amount of one hundred dollars ($100.00) each day of continual violation constituting a separate offense.