

# Town and County of Nantucket Select Board – County Commissioners

Dawn E. Hill Holdgate, Chair  
Jason Bridges  
Matt Fee  
Kristie L. Ferrantella  
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C. Elizabeth Gibson  
Town & County Manager

***AGENDA FOR THE MEETING OF THE  
SELECT BOARD  
MARCH 18, 2020 - 5:00 PM  
PUBLIC SAFETY FACILITY COMMUNITY ROOM  
4 FAIRGROUNDS ROAD  
NANTUCKET, MASSACHUSETTS  
\*EMERGENCY MEETING PER MGL C. 30A, Section 20\****

***I. CALL TO ORDER***

***II. OFFICIAL EMERGENCY BUSINESS***

1. Request for Select Board to Ratify State of Emergency Declaration in Response to Corona Virus COVID-19 Global Pandemic.
2. Request for Select Board Endorsement of Emergency Order #1 Pursuant to State of Emergency Declaration for Temporary Moratorium on All Construction Projects on Nantucket.
3. Affirmation of Vote of Select Board to File Special Legislation in Connection with Rescheduling April 14, 2020 Annual Town Election.

***III. ADJOURNMENT***

**TOWN OF NANTUCKET**  
**EMERGENCY DECLARATION**

**WHEREAS**, a sudden, generally unexpected occurrence or set of circumstances demanding immediate public action has arisen within the Town of Nantucket, which incident it generally describes as follows; Global Coronavirus Pandemic, and

**WHEREAS**, the Chair of the Select Board upon advice of the Director of the Town's Office of Emergency Management has determined that the aforesaid incident poses a present and reasonable imminent danger to public health, safety or general welfare of the people or their property so that it has become necessary for the Director to utilize and coordinate the services, equipment, supplies and facilities of existing departments, offices and agencies of the Town of Nantucket for the purposes of emergency management and emergency functions; and

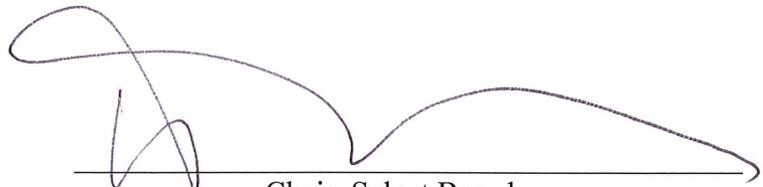
**WHEREAS**, the Chair of the Select Board has determined that the immediate public action is needed to prevent, minimize, or mitigate damage to the public health, safety or general welfare of the people of Nantucket or their property which may otherwise result from the above described incident and that taking the time required to comply with the various state and local procurement laws would endanger the health or safety of the people or their property; and

**WHEREAS**, the Director of Emergency Management has recommended that a state of emergency be declared in the Town of Nantucket; and

**WHEREAS**, the people of the Town of Nantucket should be able to depend upon guidance from their chief executive officer, C. Elizabeth Gibson, Town Manager.

**NOW THEREFORE**, I, Dawn Hill-Holdgate, Select Board Chair of the Town of Nantucket, Massachusetts, hereby declare that as of March 18, 2020, a state of emergency exists in the Town of Nantucket. This declaration of emergency shall remain in effect until further notice is given, pursuant to my judgment, that the state of emergency no longer exists.

Date: 3/18/2020

  
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Chair, Select Board

## EMERGENCY ORDER No. 1 Temporary Moratorium on all construction projects on Nantucket.

In consideration of the State of Emergency declared in the Town of Nantucket, upon the recommendation of Emergency Management and Public Health Officials, and the need to protect the health of the inhabitants of the Town of Nantucket, the following order shall be implemented until such time as the state of emergency has been lifted.

Effective Friday, March 20, 2020 the Town is suspending all regular activity at construction sites on Nantucket, including but not limited-to all work authorized by building permits and street opening permits. Upon issuance of this order, all active construction sites shall be secured to prevent unauthorized entry, damage to equipment and/or work-in-progress and to protect public safety. Operators shall employ the necessary crews and labor to complete the work necessary to secure their sites by 5:00 p.m. on Friday, March 20, 2020. After that time, only skeleton crews will be permitted to enter construction sites for the remainder of the moratorium and such entry shall be limited to what is necessary to ensure safety and security.

The only work that will be permitted after March 20, 2020 will be emergency work, which will need to be approved by the Town of Nantucket Planning and Land Use Services Department.

For purposes of this Order, Emergency Work Includes only the minimum work necessary to prevent damage to persons or property and/or to ensure the habitability of existing residential structures until such time as this order is lifted, including the following:

- Emergency Utility, road or building work, such as to repair water leaks and sinkholes.
- New Utility connections to occupied buildings where prior connections are no longer functioning.
- Mandated building or utility work to protect public health and safety.
- Work at health care facilities, shelters, including temporary shelters and other facilities that support vulnerable populations or that provide emergency services.
- Work which ensures the reliability of the transportation network.
- Other work necessary to render occupied residential building fully habitable.

In addition to the list of emergency construction projects, the Town will, on a case-by-case basis, review requests for exceptions to the temporary construction moratorium. These may be granted by the Building Commissioner for building related work or the Public Works Director for street-related work. These will be granted only if they support increased public health and safety.

This order is effective Friday, March 20 and will be reviewed at regular intervals by the Town's Incident Management Team and Public Health Officials. New projects cannot be started at this time, and no new permits will be issued unless they meet the criteria above.

Any currently permitted and/or active construction project/work must be in a secure situation by 5:00 p.m. on Friday, March 20, 2020.

Any person who violates this Order will be subject to issuance of an immediate Stop Work Order and an assessment of the maximum penalty authorized by law.

So Ordered by the Nantucket Select Board;

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Dawn Hill-Holdgate, Chair

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Rita Higgins, Vice-Chair

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Matt Fee, Member

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Jason Bridges, Member

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Kristie Ferrantella, Member

In Concurrence with;

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Town Manager

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Director, Office of Emergency Management

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Director, Department of Public Health

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Nantucket Building Commissioner

[Insert Town Letterhead]

March \_\_\_\_, 2020

His Excellency Charlie Baker  
Governor of the Commonwealth  
State House, Rm. 360  
Boston, MA 02133

Dear Governor Baker:

Please accept this letter as a request, pursuant to Article II, Section 8, Paragraph 1, Clause (2) of the Amendments to the Massachusetts Constitution, as amended by Article LXXXIX, that you file legislation with the General Court on behalf of the Town of Nantucket. The purpose of the legislation is to authorize the postponement of the Town's annual election to a date later in the fiscal year, or, if necessary to protect the public health and safety, to a date in the first two months of the next fiscal year. Enclosed herewith, please find a copy of the Select Board's vote to request the filing of special legislation, as well as a proposed special act.

As you are well aware, the Commonwealth is in a State of Emergency. Cities and towns throughout the state have closed schools and public buildings, cancelled meetings and gatherings, and taken proactive steps to limit the opportunity for the transmission of the novel coronavirus COVID-19. We are experiencing an unprecedented interruption in our day-to-day lives, as individuals across the state have been told to work from home, public and private entities, including professional sports leagues, universities, school districts, cultural institutions and events, and more, have been cancelled, closed, or temporarily suspended, and the World Health Organization has identified the current crisis as a pandemic.

For all the same reasons, and because elections require participation by Town officials and staff, volunteers and pollworkers, many of whom fall into the category deemed most vulnerable to COVID-19, Department of Public Works assistance to set up and break down polling places, a Police Officer at each polling location, the use of schools and other public buildings, as well as substantial numbers of voters, there exists significant concern as to the safety of all those involved.

While there are various statutory mechanisms for delaying the date of a town meeting, no similar authority exists with respect to elections scheduled pursuant to a charter or bylaw, or that otherwise have been called. In most cases, the need for such rescheduling or postponing of an election is created by an actual or anticipated snowstorm or other natural disaster. There is a general consensus, however, that it is important to provide regularity with respect to elections, and typically, the only option available to reschedule or postpone an election is pursuant to a court order addressing various issues. In this case, we are facing an emergency, one that is not predictable or typical, and we are concerned that proceeding with our Annual Town Election at this time will force our staff, employees, public safety personnel, and voters, to choose between doing their jobs or participating in the democratic process, respectively, and protecting their health and well-being.

His Excellency Charlie Baker  
Governor of the Commonwealth  
March \_\_\_\_, 2020  
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The calling and holding of elections is subject to an interlocking web of statutes, some found in G.L. c.39, some in G.L. c.51, and others in G.L. c.53 and 54. Suffice it to say, however, that delaying the date of an election requires attention to many aspects of the conduct of election. For example, what date will appear on the ballots? What voting list will be used? When will voter registration close? How will absentee ballots be treated? Will voters that were ineligible to participate in an earlier election now be able to participate? Will early voting by mail be permitted? We have thus prepared a draft special act that addresses these issues to the best of our ability. While we are in unpredictable times, we have attempted to anticipate the various issues that require special permission from the General Court.

In our view, voters will not be harmed by this requested postponement authority. Instead, the special legislation will promote enfranchisement of voters and will allow the Select Board,, in consultation with the Town Clerk, Board of Health, and public safety officials, to ensure that persons who want to participate in the election can do so. The protections against fraud found in the election laws of the Commonwealth remain in place, and authorization of early voting by mail for this election will allow those who are still concerned about being in public places and in large crowds to participate in the election. The proposed legislation provides a reasonable timeframe for notice to be provided to the public of the date of the postponed election, and encourages voter participation by making a like change to the voter registration deadline.

In summary, swift approval of this act will ensure that the Town is able to respond appropriately to the current COVID-19 crisis, avoid the diversion of important municipal resources at this unsettled time, and protect the rights of the voters of the Town of Nantucket to participate fully in the selection of their elected representatives at the Annual Town Election. Please note that the Select Board also is supportive of the adoption of generally applicable legislation allowing towns to delay their annual town elections this year, or of any other relief that could be provided by executive order.

For all these reasons, the Select Board of the Town of Nantucket, as well as the undersigned, respectfully request that you submit the enclosed special legislation on behalf of the Town.

Thank you for your willingness to consider the Town's request and for your consideration in this important matter. If you need further information, please contact the Town Manager, Elizabeth Gibson, at 508-228-7200 x 7305.

Respectfully submitted,

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Dawn E. Hill Holdgate, Chair  
Nantucket Select Board

His Excellency Charlie Baker  
Governor of the Commonwealth  
March \_\_\_\_, 2020  
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Rita Higgins, Vice Chair  
Nantucket Select Board

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Jason Bridges  
Nantucket Select Board

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Matt Fee  
Nantucket Select Board

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Kristie L. Ferrantella  
Nantucket Select Board

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Nancy L. Holmes  
Nantucket Town Clerk

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Hon. Julian Cyr  
State Senator

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Hon. Dylan A. Fernandes  
State Representative

Enc.  
714682/NANT/0001

## **An Act Relative to the Postponement of the 2020 Annual Election in the Town of Nantucket**

Section 1. Notwithstanding the provisions of section 9 of chapter 39, sections 26 and 28 of chapter 51, and chapters 53 and 54 of the general laws, or of any other general or special law, regional school district agreement, or by-law to the contrary, in order to protect the rights of eligible voters and avoid disruption of local governmental processes and waste of municipal resources, the select board of the town of Nantucket hereby shall be authorized to postpone its annual town election, scheduled for April 14, 2020, to a date certain during the last quarter of fiscal year 2020, and, further, to conduct such election in accordance with the provisions of this act. To the extent this act is silent on any issues, such postponed election shall be held in accordance with all applicable election laws.

Section 2. The select board of the town of Nantucket shall, following consultation with the town clerk and town manager as to logistics and feasibility, vote to reschedule the annual town election, and post on the official town website a copy of this act, the vote of the board, and a sample ballot, no later than 20 days prior to the date of the postponed election. Notice of such action shall be provided to the public in other ways reasonably calculated to enable eligible voters to learn of the postponed election date and to cast ballots therein, which notice may include but is not limited to a so-called “reverse-911” call, municipal list-serve notifications, advertisement on local cable television, or issuance of a press release sent to local news media.

Section 3. The last day to register to vote for such postponed election shall be ten days prior to the date of the election, and the board of registrars shall hold a registration session on that date, at a minimum, from two to four o’clock in the afternoon and from seven to eight o’clock in the evening. The voting list to be used at such postponed election shall include all eligible voters registered as of that date.

Section 4. The election materials, including but not limited to absentee and official ballots originally prepared for the April 14, 2020 election, and bearing that date, shall be used for the rescheduled election to the extent practicable; if additional ballots must be printed, they shall be identical in form to those prepared for the April 14, 2020 election.

Section 5. Absentee ballots cast in connection with the April 14, 2020 election, whether returned prior to April 14, 2020, or otherwise, and received by the town clerk prior to the close of polls on the date of the postponed election shall be processed in accordance with applicable law; provided, however, that any voter who chooses to vote in person on the date of the postponed election may do so if their absentee ballot has not yet been counted. Completed applications to vote by absentee ballot in the postponed election shall be accepted by the board of registrars until 12:00 noon on the last business day prior to said election.

Section 6. If after consultation with the board of health, police and fire chiefs, town clerk, and the town manager, the select board determines that such election cannot, consistent with public health and safety, be held during fiscal year 2020, said board shall make a separate and specific finding with respect thereto. Said board may schedule such postponed election to be held during the first two months of fiscal year 2021, provided that the calling and holding of such postponed election shall comply with all other provisions of this act.

Section 7. Consistent with the provisions of section 107 of chapter 41 of the general laws, any incumbent elected official whose term would otherwise expire at the April 14, 2020 annual town election shall continue to serve in such position until a successor is elected and qualified.

Section 8. Notwithstanding the provisions of section 25B of chapter 54 of the General Laws, or of any other general or special law to the contrary, any eligible voter may vote early by mail. Any eligible voter wanting to vote early by mail may file with the town clerk an application for an early voting ballot. Any form of written communication evidencing a desire to have an early voting ballot be sent for use for voting at such postponed election shall be given the same effect as an application made in the form prescribed by the state secretary or the town. No application shall be deemed to be seasonably filed unless it is received in the office of the town clerk or registrars of voters before noon on the last business day prior to the date of the postponed election. All early voting ballots voted by mail shall be received by the town clerk before the hour fixed for closing the polls at such postponed election. Early voting ballots cast under the authority of this section shall be processed at the polls in a manner consistent with that set forth in said section 25B.

Section 9. In the event that this act does not take effect until after April 14, 2020, the actions of the select board, board of registrars, and town clerk to postpone the annual town election shall be ratified, validated, and confirmed as if this act had been in place prior thereto.

Section 10. This act shall take effect upon its passage.