



MEETING POSTING

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TOWN OF NANTUCKET

Pursuant to MGL Chapter 30A, § 18-25

All meeting notices and agenda must be filed and time stamped with the Town Clerk's Office and posted at least 48 hours prior to the meeting (excluding Saturdays, Sundays and Holidays)

Committee/Board/s	Nantucket Board of Health – EMERGENCY MEETING
Day, Date, and Time	Thursday, April 2, 2020, 3:30 pm
Location / Address	<p>□</p> <p>REMOTE PARTICIPATION VIA ZOOM AND YOU TUBE Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law (Attached)</p> <p>Information on viewing the meeting can be found at https://www.nantucket-ma.gov/138/Boards-Commissions-Committees</p>
Signature of Chair or Authorized Person	Stephen Visco

WARNING: IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML STATUTE, NO MEETING MAY BE HELD!

Nantucket Board of Health

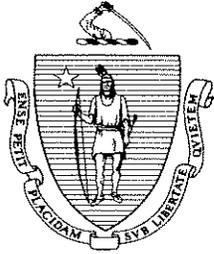
3 East Chestnut Street
Nantucket, MA 02554

Commissioners: Stephen Visco (Chair), Malcolm MacNab (Vice-Chair),
Rita Higgins, Helene Weld, James Cooper

AGENDA:

Please list below the topics the chair reasonably anticipates will be discussed at the meeting

1. Call to Order
2. Public Announcement – This meeting is being audio and video recorded
3. Vote on Amendment to March 30, 2020 Supplemental Emergency Order
4. Board Member updates and concerns
5. Adjourn



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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

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

WHEREAS, many important functions of State and Local Government are executed by “public bodies,” as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”) have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

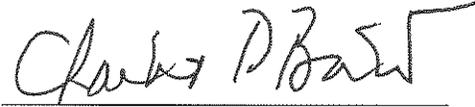
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in cursive script, reading "Charles D. Baker". The signature is written in black ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

SUPPLEMENTAL EMERGENCY ORDER

WHEREAS, effective Friday, March 20, 2020 the Town of Nantucket issued an Emergency Order temporarily suspending all regular activity at construction sites on Nantucket, including but not limited to all work authorized by building permits and street opening permits (Emergency Order No. 1).

WHEREAS, the Town of Nantucket issued an Emergency Stay-at-Home Order on March 22, 2020 seeking cooperation of all residents to limit possible transmission of COVID-19 (Emergency Order No. 3).

WHEREAS, the situation involving the COVID-19 crisis continues to evolve, with additional guidance being issued daily by the Federal and State governments.

WHEREAS, on March 23, 2020, Governor Baker issued an order identifying certain essential and non-essential businesses and directed the Department of Public Health to issue a stay-at-home advisory.

WHEREAS, on March 24, 2020 Governor Baker, through his Chief Legal Counsel, issued guidance interpreting the March 23, 2020 order with respect to the scope of authority of local governments to regulate matters in the order, particularly with respect to construction.

WHEREAS, on March 25, 2020, the Town of Nantucket and all of the towns on Martha's Vineyard requested that the Governor and Lieutenant Governor clarify such order based upon circumstances including but not limited to the Islands' unique circumstances.

WHEREAS, on March 26, 2020, officials from Nantucket participated in a conference call with the Secretary of the Executive Office of Public Safety and Security, among others, and indicated their concern about continued construction on the island for purposes including but not limited to travel to and from the island, limited public safety personnel, limited hospital capacity, and more.

WHEREAS, on March 29, 2020, officials from the Town of Nantucket participated in a telephone conference with the Governor's Legal Counsel, Legislative Director and Chief Secretary, who affirmed that local governments retain the authority to enact regulations that are more stringent than the Governor's orders, to regulate activities within their jurisdictions based on their individual circumstances.

WHEREAS, we wish to re-affirm the unique circumstances facing the Town and island of Nantucket that require a strict limitation on all non-essential business, including construction and commercial landscaping projects, and to re-affirm that all non-emergency construction work and all commercial landscaping work is prohibited until the expiration of the applicable orders or they are sooner rescinded.

WHEREAS, Nantucket is uniquely situated insofar as it is only accessible by boat or airplane. In this regard, the primary method for travel to and from the island by many construction and landscape workers will be by boat. It is customary and expected that workers will travel together from the mainland and once they arrive, they will travel together to and from work sites. Due to the group nature of this type of travel, it is unlikely that sufficient physical distancing can be maintained.

WHEREAS, Nantucket has only one hospital, Nantucket Cottage Hospital. While the doctors, nurses and staff have done and continue to perform outstanding work in the face of this crisis, they have limited resources and cannot handle an influx of illness spread by failure to comply with social distancing protocols. Of particular concern are the facts that the Hospital has only fourteen licensed beds, three ventilators, and it does not have an intensive care unit. Thus, anyone needing such care will be required to be airlifted to a hospital on the mainland, further diminishing the capabilities on hospital staff.

WHEREAS, the Nantucket Cottage Hospital President Gary Shaw has said time and again that given the small size and the geographic isolation of the Islands and limited access to PPE and other emergency equipment, failure to limit exposure will necessarily result in the overburdening of each hospital's resources and lead to a further health crisis emergency. Hospital leaders have further indicated that their ethics teams are now analyzing how the hospitals will make decisions as to who should receive treatment and who should not, or cannot. This is our reality today.

WHEREAS, during this state of emergency, Nantucket does not have sufficient resources to provide emergency police, fire and ambulance service above what it is providing to Island residents during this unusual period. Indeed, as an island community of just one municipality, Nantucket has no opportunities to call on the mutual aid of its neighbors to assist should its resources become overwhelmed.

WHEREAS, during this state of emergency, Nantucket does not have sufficient staffing to ensure that job sites are safe, insofar as it cannot commit emergency first-responders to performing construction detail work, it cannot monitor job sites to ensure that physical distancing requirements are met, and it cannot provide adequate support in the event of an emergency.

WHEREAS, it is essential that visitors to the Island be limited to only those who absolutely have to be here so that the Town's limited resources do not become overwhelmed and insufficient to protect the health and safety of its residents, first responders and essential workers.

NOW THEREFORE, based on the conditions cited above, and other well-known adverse effects of the COVID-19 crisis, the Nantucket Board of Health, upon the recommendation of Emergency Management and Public Health Officials, the Director of the Nantucket Cottage

Hospital, and the Select Board, and the need to protect the health of the inhabitants of the Town of Nantucket, hereby reaffirms and supplements Emergency Orders Nos. 1 and 2, as follows:

There hereby continues in effect an Emergency Order imposing a temporary moratorium on all non-essential construction work until such time as the State of Emergency declared due to the outbreak of COVID-19 is lifted, as well as an Emergency Stay-at-Home Order that limits, among other things, landscaping.

As of the date of this Supplemental Emergency Order, all non-essential construction and landscaping shall continue to be prohibited in the Town of Nantucket and must immediately cease until further order, except as provided herein. This Order applies to all work sites, including but not limited to all work authorized by building permits and street opening permits previously issued. This Order also prohibits work by commercial landscaping and other similar businesses performing work that is not essential as defined below.

This Order shall apply as follows:

Existing and newly permitted projects which comprise essential construction may be undertaken in a manner that is consistent with this Order and any further orders of the Commonwealth, the Board of Health and/or the Building Commissioner, to the extent that such orders are more restrictive than what is set forth herein.

For purposes of Emergency Order Nos. 1 and 3, and this Supplemental Emergency Order, essential construction includes only the following work:

- Work to build or repair roads, bridges, transit facilities, utilities, hospitals or health care facilities, or homeless shelters.
- Emergency Utility, road or building work, such as to repair water or sewer leaks and sinkholes.
- New Utility connections to occupied buildings where prior connections are no longer functioning.
- Site-specific building or utility work ordered by a Governmental entity 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 buildings fully habitable.

Under no circumstance will the term emergency work include construction on unoccupied residential or commercial structures unless it is in a class of work described above.

Consistent with action already taken, all active construction sites shall be secured to prevent unauthorized entry, damage to equipment and/or work-in-progress and to protect public safety. Only skeleton crews will be permitted to enter construction sites for the remainder of the moratorium and period of this Supplemental Emergency Order, and such entry shall be limited to what is necessary to ensure safety and security.

At every site where essential construction activity continues under one of the categories authorized above, operators shall ensure that all activity is undertaken in a manner consistent with the Commonwealth of Massachusetts COVID-19 Guidelines and Procedures for all Construction Sites and Workers at all Public Work as issued by the Governor on March 25, 2020 and attached to this Order (the "Guidelines"). The Operator shall ensure that the work site and activities undertaken therein are and shall remain in compliance with the Guidelines. All permissive language (e.g. phrases with "please" or "should") are hereby deemed mandatory obligations.

At every site where construction activity continues, one or more site-specific COVID-19 liaison officer(s) shall be identified who shall maintain a daily compliance log and shall certify that the contractor, subcontractors and all workers are in full compliance with this Order and the Guidelines.

~~For purposes of this Order construction work does not include a single worker, who is the sole employee/worker on a job site other than at an occupied property and work done by individuals on their own property, provided further that such job site or property is not otherwise subject to additional state and federal workplace laws and regulations, and, further, that such work can be performed without delivery of additional materials, including tools, parts, paint, lumber, and the like.~~

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So Ordered by the Nantucket Board of Health:

Board of Health

Stephen J. Visco. *Chair*

Malcolm W. MacNab, MD, PhD, *Vice Chair*

James A. Cooper, *Member*

Rita Higgins, *Member*

Helene M. Weld, RN, *Member*

In concurrence with action taken by the Select Board:

Dawn Hill-Holdgate, Chair
Rita Higgins, Vice-Chair
Matt Fee, Member
Jason Bridges, Member
Kristie Ferrantella, Member

As well as Town Staff and representative of Nantucket Cottage Hospital:

C. Elizabeth Gibson, Town Manager
William Pittman, Director, Office of Emergency Management
Roberto Santamaria, Director, Department of Public Health
Paul Murphy, Nantucket Building Commissioner
Gary A. Shaw, President, Nantucket Cottage Hospital