

Town of Nantucket
2001 Special Town Meeting Warrant
with Recommendations

7:00 PM, Monday, January 8, 2001
Nantucket High School Auditorium

TOWN OF NANTUCKET

**16 Broad Street
Nantucket, MA 02554
508-228-7255
www.town.nantucket.ma.us**

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**Town of Nantucket
2001 Special Town Meeting**

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ARTICLE 1

(Zoning Bylaw Amendment: Town and Country Overlay District)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, by establishing two new zoning districts, the Town and the Country Overlay Districts, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions) as follows:

Insert after the definition of "TIME SHARE" and before the definition of "TRANSACTION":

TOWN OVERLAY DISTRICT -- The overlay district described in Chapter 139 §12C.

Second, insert after the definition of "CONSTRUCTION" and before the definition of "CPI":

COUNTRY OVERLAY DISTRICT -- The overlay district described in Chapter 139 §12D.

Third, amend Chapter 139 §3E (Overlay Districts) by adding the following new districts:

Country Overlay District	COD
Town Overlay District	TOD

Fourth, insert a new §12C to Chapter 139 entitled "Town Overlay District" as follows:

§12C. There is hereby established in the Town of Nantucket an overlay district entitled Town Overlay District as follows:

- (1) The Town Overlay District shall be located as depicted on the map entitled "Town and Country Designations", dated May 15, 2000, prepared by Nantucket Planning and Economic Development Commission, incorporated by reference and made a part hereof.**
- (2) The purpose of the Town Overlay District is to create a district in which to direct growth consistent with the traditional settlement pattern epitomized by the settled portion of Nantucket Town and the village portion of Siasconset.**
- (3) Additional Requirements for Town Overlay District**
 - (a) Applications for building permits shall be entitled to points assigned under the Town's Interim Growth Rate Limits as set forth in Chapter 139 §24 C (6).**

Fifth, amend Chapter 139 §24 C (6) by inserting, under "Criteria" as a new first item under the heading "Location":

Sixth, insert a new §12D to Chapter 139 entitled “Country Overlay District” as follows:

§12D. There is hereby established in the Town of Nantucket an overlay district entitled Country Overlay District as follows:

- (1) The Country Overlay District shall be all the land within the limits of the Town of Nantucket, including the greenbelt areas, other than land designated within the Town Overlay District as depicted on the map entitled "Town and Country Designations", dated May 15, 2000, prepared by Nantucket Planning and Economic Development Commission, incorporated by reference and made part hereof.
- (2) The purpose of the Country Overlay District is to create a district in which development is discouraged in order to separate Town Overlay Districts and distinguish Town Overlay Districts from Country by intervening areas of largely undeveloped rural land.
- (3) Additional requirements for Country Overlay District
 - a. Applications for Building Permits shall be entitled to points assigned under the Town’s Interim Growth Rate Limits as set forth in 139 §24 C(6).
 - b. Secondary dwellings shall be limited as set forth in Chapter 139 §24C(2)a.

Seventh, amend the caption of Chapter 139 §12 to read:

Overlay Districts: Flood Hazard (FHD), Public Wellhead Recharge (PWR), Multifamily (MF), Country (COD), and Town (TOD).

Eighth, amend Chapter 139 §24 C (6) by inserting, under “Criteria” under the heading “Open Space Preservation” the words “located in the Country Overlay District” immediately following the words “Conservation restriction to be placed on land...” and by adding the words “in the Country Overlay District” immediately after the words “Permanent Restriction against secondary dwelling...”

Ninth, amend Chapter 139 §24 C (2) (c) (1) as follows “No more than twelve (12) building permits may be issued in any calendar year for secondary dwellings located in the Country Overlay District distributed on the basis of one (1) permit per month, beginning July 1, 2001, provided that the secondary dwelling does not exceed 1200 square feet in gross floor area, and provided that the second dwelling complies with all other requirements of this zoning bylaw. ”

(The Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 1.1, Recommendation 1; Objective 1.9, Recommendation 1b)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket is amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions) as follows:

Insert after the definition of “GARAGE” and before the definition of “GROUND COVER RATIO” :

GREENBELT – The boundaries of an area delineated on a map entitled: ‘Nantucket Comprehensive Community Plan, Town and Country Overlay Districts’ dated October 13, 2000, revised November 29, 2000, that is part of the Country Overlay District, intended to provide clear definition between Town and Country. The Greenbelt is comprised of conserved land used for open space, recreation, and/or agriculture.

Insert after the definition of “TIME SHARE” and before the definition of “TRANSACTION”:

TOWN OVERLAY DISTRICT -- The overlay district described in Chapter 139 §12C.

Second, insert after the definition of “CONSTRUCTION” and before the definition of “CPI”:

COUNTRY OVERLAY DISTRICT -- The overlay district described in Chapter 139 §12D.

Third, amend Chapter 139 §3E (Overlay Districts) by adding the following new districts:

Country Overlay District	COD
Town Overlay District	TOD

Fourth, insert a new §12C to Chapter 139 entitled “Town Overlay District” as follows:

§12C. There is hereby established in the Town of Nantucket an overlay district entitled Town Overlay District as follows:

(1) The Town Overlay District shall be located as depicted on the map entitled "Nantucket Comprehensive Community Plan, Town and Country Overlay Districts", dated October 13, 2000, revised November 29, 2000, prepared by Nantucket Planning and Economic Development Commission, incorporated by reference and made a part hereof.

(2) The purpose of the Town Overlay District is to create a district in which to direct growth consistent with the traditional settlement pattern epitomized by the settled portion of Nantucket Town and the village portion of Siasconset.

(3) Additional Requirements for Town Overlay District

- (a) Applications for building permits shall be entitled to points assigned under the Town's Interim Growth Rate Limits as set forth in Chapter 139 §24 C (6).**

Fifth, amend Chapter 139 §24 C (6) by inserting, under "Criteria" as a new first item under the heading "Location":

Within Areas Designated Town Overlay District 20

Sixth, insert a new §12D to Chapter 139 entitled "Country Overlay District" as follows:

§12D. There is hereby established in the Town of Nantucket an overlay district entitled Country Overlay District as follows:

- (1) The Country Overlay District shall be all the land within the limits of the Town of Nantucket, including the greenbelt areas, other than land designated within the Town Overlay District as depicted on the map entitled "Nantucket Comprehensive Community Plan, Town and Country Overlay Districts", dated October 13, 2000, revised November 29, 2000, prepared by Nantucket Planning and Economic Development Commission, incorporated by reference and made part hereof.**

- (2) The purpose of the Country Overlay District is to create a district in which development is discouraged in order to separate Town Overlay Districts and distinguish Town Overlay Districts from Country by intervening areas of largely undeveloped rural land.**

(3) Additional requirements for Country Overlay District

- a. Applications for Building Permits shall be entitled to points assigned under the Town's Interim Growth Rate Limits as set forth in 139 §24 C(6).**
- b. Building permits for new secondary dwellings shall be limited to 12 per year.**
- c. New secondary dwellings permitted in the Country Overlay District shall not exceed 1,200 s.f. of gross floor area.**

Seventh, amend the caption of Chapter 139 §12 to read:

Overlay Districts: Flood Hazard (FHD), Public Wellhead Recharge (PWR),

Multifamily (MF), Country (COD), and Town (TOD).

Eighth, amend Chapter 139 §24 C (6) by inserting, under “Criteria” under the heading “Open Space Preservation” the words “located in the Country Overlay District” immediately following the words “Conservation restriction to be placed on land...” and by adding the words “in the Country Overlay District” immediately after the words “Permanent Restriction against secondary dwelling...”

Ninth, amend Chapter 139 §24 C (2) (c) (1) as follows: No more than twelve (12) building permits may be issued in any calendar year for secondary dwellings located in the Country Overlay District distributed on the basis of one (1) permit per month, beginning January 8 , 2001.

Tenth, amend the caption of Chapter 139 §7 to read: ~~All districts, including Limited Use General 1, 2 and 3 but excluding special and overlay districts.~~ All districts listed in Section 139-3 under categories A, B, C.

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ARTICLE 2

(Home Rule Petition: Resident Commitment Housing Program)

To see if the Town will vote to request its representatives in the General Court to introduce legislation to create and implement a Resident Commitment Housing Program as set forth below and to authorize the Board of Selectmen of the Town to make constructive changes in perfecting the language of this legislation in order to secure passage, it being the intent to authorize the Board of Selectmen and the General Court to vary the specific text of the requested legislation within the scope of the general objectives of this home rule petition; such legislation to read substantially as follows:

AN ACT CREATING AND IMPLEMENTING A HOUSING PROGRAM ON NANTUCKET ISLAND

Section 1. There is a housing crisis on Nantucket Island arising from the housing demand created by seasonal visitors purchasing or renting housing in competition with the demand created by seasonal employees which competition then adversely affects the ability of current or prospective residents to obtain housing.

Section 2. Notwithstanding any law to the contrary, the Town of Nantucket is authorized to adopt bylaws creating a NANTUCKET HOUSING PROGRAM on Nantucket Island utilizing NANTUCKET HOUSING NEEDS COVENANTS. The Covenant authorized by this Act shall be executed by property owner and recorded in the Registry of Deeds or Registry District of the Land Court, for property in Nantucket County, shall run with the land, and shall be enforceable by the Town of Nantucket without any limitation as to the duration thereof. This covenant shall give first preference for occupancy of a dwelling unit subject to the Covenant to persons who earn up to 150% of the median annual Nantucket income, and who either commit to become year-round residents or who commit to become temporary seasonal employees. Any person, whether currently a resident or not, without regard to race, religion, national origin, sex, sexual orientation, age, or physical disability shall be eligible to make such a commitment. In the event that there are no such eligible persons who come forward within a thirty (30) day period after publication of availability for any housing restricted by this Covenant, the Covenant shall not further apply until the next vacancy in occupancy.

Section 3. The Town of Nantucket is further authorized to enact bylaws creating a Nantucket Housing Office, which shall be the Nantucket Housing Authority or its designee, and which shall have the power and responsibility to monitor and enforce the terms of the covenant and the affordability requirements of said covenants.

Section 4. This Act shall take effect upon its passage.

(Board of Selectmen for Nantucket Planning & Economic Development Commission, and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.1, Recommendation 1; Objective 2.2, Recommendation 2; Objective 2.5, Recommendation 1)

NOTE: *This article is a companion article to articles 3, 4 and 12.*

FINANCE COMMITTEE RECOMMENDATION: Moved to request the Town's representatives in the General Court to introduce legislation to create and implement a Resident

Commitment Housing Program as set forth below and to authorize the Board of Selectmen of the Town to make constructive changes in perfecting the language of this legislation in order to secure passage, it being the intent to authorize the Board of Selectmen and the General Court to vary the specific text of the requested legislation within the scope of the general objectives of this home rule petition; such legislation to read substantially as follows:

**AN ACT CREATING AND IMPLEMENTING A HOUSING PROGRAM
ON NANTUCKET ISLAND**

Section 1. There is a housing crisis on Nantucket Island arising from the housing demand created by seasonal visitors purchasing or renting housing in competition with the demand created by seasonal employees which competition then adversely affects the ability of current or prospective residents to obtain housing.

Section 2. Notwithstanding any law to the contrary, the Town of Nantucket is authorized to designate the Nantucket Housing Authority as the agency authorized to adopt bylaws creating a Nantucket Housing Program on Nantucket Island utilizing Nantucket Housing Needs Covenants in a form to be adopted and approved by the Nantucket Housing Authority. The Covenant authorized by this Act shall be executed by property owners and recorded in the Registry of Deeds or Registry District of the Land Court, for property in Nantucket County, shall run with the land either in perpetuity or for a specified number of years, and shall be enforceable by the Town of Nantucket acting through the Nantucket Housing Authority or its designated non-profit affiliate. This restriction shall be placed on property featuring For Rental and For Sale housing that is occupied by households earning less than 150% of Nantucket County median household income as set forth in guidelines currently in effect or as may hereafter be amended by the United States Department of Housing and Urban Development. Any person, whether currently a resident of the Town of Nantucket or not, without regard to race, religion, national origin, sex, sexual orientation, age, or physical disability shall be eligible to live in such housing.

Section 3. The Town of Nantucket is further authorized to designate the Nantucket Housing Authority or its designated nonprofit affiliate as the Nantucket Housing Office, which shall have the power and responsibility to monitor and enforce the terms of the covenant and the affordability requirements of said covenants.

Section 4. This Act shall take effect upon its passage.

ARTICLE 3

(Zoning Bylaw Amendment: Nantucket Housing Needs Covenant)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, in §2A (Definitions) insert after the definition of "MULTI-FAMILY DWELLING" and before the definition of "NONCONFORMING" the following definition:

NANTUCKET HOUSING NEEDS COVENANT -- a housing covenant that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that runs with the land, that is enforceable by the Town of Nantucket, and that gives a first preference during a period of at least 30 years for the occupancy of a dwelling unit within the limits of the Town of Nantucket to persons who earn up to 150% of the median annual Nantucket income, and who either commit to become year-round Nantucket residents or who commit to become temporary Nantucket seasonal employees. Any person, whether currently a resident of the Town or not, without regard to race, religion, color, national origin, sex, sexual orientation, age, or physical disability, shall be eligible to make such a commitment. Relief from this restriction shall be identical for procedures for relief from a Covenant under Phased Development, Chapter 139 §24B(2) and (3). In the event that there are no such eligible persons who come forward within a thirty (30) day period after publication of availability for any housing restricted by this Covenant, the Covenant shall not further apply until the next vacancy in occupancy.

And, amend Chapter 139 §11J (Major Commercial Development MCD) as follows:

Add a new subsection (11) as follows:

(11) New inclusionary units permitted after July 1, 2001 shall be subject to a Nantucket Housing Needs Covenant as defined in Chapter 139 §2A, notwithstanding the sales price limitations of Chapter 139 §2A, "INCLUSIONARY UNITS".

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.3, Recommendation 4)

PLANNING BOARD RECOMMENDATION: Moved not to adopt the article.

PLANNING BOARD COMMENT: This article has been consolidated into Article 10.

ARTICLE 4

(Zoning Bylaw Amendment: Interim Growth Rate)

To see if the Town will vote to amend Chapter 139 (Zoning) as it pertains to the Interim Growth Rate, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend §2A of the Zoning Bylaw (Definitions) by adding the following:

Insert after the definition of "BUILDING INSPECTOR" and before the definition of "BUILDING

PRINCIPAL” the following definition:

BUILDING PERMIT ALLOCATION SYSTEM - The system established in Chapter 139 §24C(6) to determine priority in the awarding of building permits.

Insert after the definition of “COMMERCIAL WECS” and before the definition of “CONSTRUCT” the following definition:

CONSERVATION RESTRICTION - a recorded restriction that runs with the land, established pursuant to General Laws, Chapter 184, §31-33, and enforceable by the Conservation Restriction holder or the Town of Nantucket, that perpetually restricts the land.

Insert after the definition of “INCLUSIONARY” and before the definition of “KENNEL” the following definition:

INTERIM GROWTH RATE LIMIT - the maximum number of building permits for new dwelling units that may be granted in any calendar year for dwelling units that are not exempted pursuant to § 139-24C(2).

Insert after the definition of “MULTI-FAMILY DWELLING” and before the definition of “NONCONFORMING” the following definition:

NANTUCKET HOUSING NEEDS COVENANT - a housing covenant that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that runs with the land, that is enforceable by the Town of Nantucket, and that gives a first preference during a period of at least 30 years for the occupancy of a dwelling unit within the limits of the Town of Nantucket to persons who earn up to 150% of the median annual Nantucket income, and who either commit to become year-round Nantucket residents or who commit to become temporary Nantucket seasonal employees. Any person, whether currently a resident of the Town or not, without regard to race, religion, color, national origin, sex, sexual orientation, age, or physical disability, shall be eligible to make such a commitment. Relief from this restriction shall be identical for procedures for relief from a Covenant under Phased Development, Chapter 139 §24B(2) and (3). In the event that there are no such eligible persons who come forward within a thirty (30) day period after publication of availability for any housing restricted by this Covenant, the Covenant shall not further apply until the next vacancy in occupancy.

Second, amend Chapter 139 §24C (Interim Growth Rate) as follows:

C. Interim Growth Rate.

(1) ~~Intent and p~~**Purposes**:

This ~~Sec.~~ **Chapter** 139 §24C is adopted pursuant to Article 89 of the Massachusetts Constitution, and ~~pursuant to~~ Chapter 40A of the Massachusetts General Laws, for the following purposes:

- (a) to ensure that residential growth occurs in an orderly manner, and in a manner that meets Nantucket's need for more year-round housing; consistent with recent average growth rates, so that the local economy, can be insulated from large year-to-year variations in the development rate;
- (b) to strive to maintain stable levels of construction employment and cushion the Nantucket economy from the impacts of building cycles by extending the long-term residential build-out over time; to ensure that the Town can continue to provide adequate municipal services and ministerial support to new residential development, and to allow for orderly planning for infrastructure and other community investment, while at the same time allowing for reasonable residential growth;
- (c) to channel housing construction into those areas supported by existing infrastructure, thus reducing infrastructure costs, auto dependency and minimizing environmental impacts; to provide the Town with reasonable time to study the effect of residential growth on the municipality's infrastructure, character, municipal services and fragile natural environment, and to guard against short-term patterns that may be inconsistent with or impede effective implementation of the Town's anticipated new Comprehensive Plan; and
- (d) to preserve and enhance the unique and perishable qualities of Nantucket Island, including the historic community character and the natural environment.
- (e) (d) to provide an orderly and systematic mechanism for reviewing and evaluating building permit applications that is fair and equitable.

(2) Applicability, Exemptions, and Effect and definitions

- (a) For the purposes of computing the annual number of building permits for new dwellings in calendar year 1998, the effective date of this amendment shall be January 1, 1998, but nNo building permit for a new dwelling unit or dwelling units, as defined herein, shall be issued after the date of adoption July 1, 2001 unless in accordance with the requirements of this Section 139-24C, or unless exempted by Section 139-24C(4) herein. Applications received prior to July 1, 2001 shall be governed by the Interim Growth Rate Bylaw in effect prior to that date.
- (b) This Section 139-24C will remain in effect until expressly amended or repealed by action of Town Meeting, or until January 1, 2002, whichever occurs first.
- (e) (b) For the purposes of this Sec. 139-24C, the following terms shall have the following meaning:

[1] "Interim growth rate limit" shall mean the maximum number of building permits for new dwelling or dwelling units that may be authorized in a one-year period, which period shall be based on the calendar year, and which shall be ~~one hundred eighty (180) permits in 1998, one hundred forty-four (144) permits in 1999, and one hundred twenty (120) permits in each succeeding year~~; provided that, such applications are made to the Building Commissioner; and provided that, said applications for building permits comply with all applicable requirements of law.

[2] "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw, for which one or more building permits will be sought.

(b) (c) The allocation restrictions on building permits in this Section 139-24C shall not apply to the following types of building permits, which shall be considered exempt, and shall not be counted in computing the interim growth rate limit:

[1] Dwellings or dwelling units within any subdivision approved under the Subdivision Control Law, General Laws, Chapter 41, Section 81L, et seq., during the exemption period provided in General Laws, Chapter 40A, Section 6.

[2] Restoration, renovation, reconstruction, or enlargement of any dwelling or dwelling unit lawfully in existence at the time of application for such building permit, provided that no additional dwelling unit is created.

[3] Dwelling units to be constructed or sponsored by:
(i) the Nantucket Housing Authority
(ii) a government instrumentality including but not limited to the Town of Nantucket
(iii) anyone who maintains the units as affordable housing.

[4] Dwelling units constructed as employer dormitory units.

[5] Accessory apartments under Section 139-7C.

[6] Inclusionary units in connection with a Major Commercial Development (MCD).

[7] Single or multiple dwelling units built for occupancy primarily for those needing assisted / independent living facilities.

[8] Dwelling units intended to be occupied by first-time homebuyers as defined by the Nantucket Land Bank Act (Chapter 669 of the Acts of 1983, as amended), as defined in § 139-24C(4)(c).

[9] Dwelling units relocated to another lot, provided the existing residential structure remains substantially intact and is not expanded to include additional dwelling units.

(c) This Section 139-24C shall remain in effect for a period of five (5) years expiring September 30, 2006.

(3) Establishment of Interim Growth Rate

(a) Commencing in calendar year 2001, the interim growth rate limit shall be, one hundred twenty (120) permits; provided that, such applications are made to the Building Commissioner; and provided that, said applications for building permits comply with all applicable requirements of law. Of these 120 permits, no more than twelve (12) may be secondary dwellings within the Country Overlay District. These twelve dwelling units shall be subject to a Nantucket Housing Needs Covenant, and shall not exceed 1200 square feet in gross floor area. ~~Whenever the number of building permits issued for new dwellings or dwelling units equals the applicable interim growth rate limit, thereafter the Building Inspector shall not issue building permits for any additional dwellings or dwelling units unless such dwellings or dwelling units are exempt from the provisions of this Sec. 139-24C(4) below.~~

~~(b) Proposed dwellings or dwelling units for which building permits are issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in computing the applicable interim growth rate limit.~~

~~(c) The Building Inspector shall not authorize more than one dwelling to be constructed on a lot at a time; and a building permit for a new dwelling which is a second dwelling on a lot shall not be issued prior to the issuance of a certificate of occupancy for the first dwelling. This restriction shall not prohibit the issuance of a building permit for multiple dwelling units within a building such as a duplex; nor shall it apply to the construction of dwellings on a lot which, together, have a total ground cover of less than 3000 SF.~~

~~(4) Exemptions~~

~~(a) Building permits for dwellings and dwelling units to be constructed within any subdivision approved under the Subdivision Control Law, General Laws, c. 41, Sec. 81 L et seq., during the exemption period provided in General Laws, c. 40A, Sec. 6 are specifically exempt from the Interim~~

~~Growth Rate provisions of this Sec. 139-24C.~~

- ~~(b) The provisions of this Subsection C shall not be applicable to any application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this Sec. 139-24C, provided that no additional residential dwelling unit is created.~~
- ~~(c) The provisions of this Subsection C shall not be applicable to dwelling units constructed or sponsored by the Nantucket Housing Authority, or a non-profit entity, or the Town or County of Nantucket, to be maintained as affordable housing, or housing exclusively for elderly or disabled residents or residents of a senior housing facility as defined in chapter 139§2A; nor to employer dormitory units, or inclusionary units built in conjunction with Major Commercial Development (MCD) as provided in Sec. 139-11J of the zoning bylaw; nor to units intended to be occupied by first-time homebuyers as defined by the Nantucket Land Bank Act (Chapter 669 of the Acts of 1983, as amended), conditional upon proof of residency on Nantucket for a period of two (2) years, as defined in Sec. 139-24C.~~

(5 4) Procedures.

The Building Commissioner shall utilize the following procedures for issuing building permits for ~~nonexempt permits under the interim growth rate limit~~ new dwelling units:

- ~~(a) Building permits for dwelling units exempt under the provisions of §139-24C(4) shall be issued in accordance with time periods set forth in the State Building Code, provided that they that otherwise comply with all applicable requirements of law.~~
- (a b) One-twelfth (1/12) of the number of applications for non-exempt building permits authorized annually by Sec. 139-24C(32)(a) shall be issued in equal amounts on, or about, the first day of each month. Each month, the building permit applications received during the prior month, and those applications not granted in previous months **due** solely by reason of this one-twelfth (1/12) limitation, and subsequently resubmitted, shall be reviewed, ~~scored according to the Building Permit Allocation System set down in §139-24C(6), and~~ considered for issuance of permits, **and scored according to the Building Permit Allocation System described in subsection (5) below;** **and** provided that **said** applications **for building permit** of sufficient number are made to the Building Commissioner; and provided further that said applications for building permits comply with all applicable requirements of law.
- (b) Building permits issued for new non-exempt dwelling units that are revoked shall not be counted toward the Interim Growth Rate Limit.**
- (c) Any proof of **a commitment to year-round** residency required by this section

shall be in a form satisfactory to the Building Commissioner, and which shall include a sworn statement in accordance with [1], below, plus one of the remaining proofs of commitment, as follows: the following: proof of enrollment of children in Nantucket School system; Massachusetts Income Tax filing with Nantucket address; proof of Nantucket residential tax exemption, or proof of two (2) continuous years of employment on Nantucket.

- [1] A sworn statement of such commitment by any person, whether currently a resident of the Town or not, without regard to race, religion, color, national origin, sex, sexual orientation, or physical disability; and
- [2] Proof of present or prospective enrollment of children in the Nantucket School system; or
- [3] A Massachusetts income tax return with Nantucket address; or,
- [4] Proof of Nantucket residential tax exemption; or
- [5] Proof of present or prospective residency in a dwelling unit with a Nantucket Housing Needs Covenant; or
- [6] Proof of present or prospective employment on Nantucket.

The Zoning Board of Appeals may grant a Special Permit for relief from the terms of this subsection (c) [1] through [6], regarding proofs of residency.

(d) ~~No dwelling unit salvaged from a lot shall be exempt from the building cap limits, unless otherwise exempt under Sec. 139-24C(4). A dwelling unit replacing a salvaged dwelling shall be exempt.~~

6- 5. Building Permit Allocation Point System

In determining eligibility for approval of a building permit, applications shall be scored according to the following point system. Points are assigned for each criterion satisfied, and are added together to determine a total point score. Building Permits shall be issued each month for those applications in priority order of the highest scores to the limit of the monthly allocation. In the event that two or more applications have equal point scores, priority will shall be given according to the first to be filed those applications filed first.

Criteria	Points
Location	
Access to Served by public water and or public sewer service	15-5
Within Cluster Development, Section 139-7B or Major Residential Development, Section 139-7F	10
Within Public Wellhead Recharge District, §139-4C, with no public sewer and water	-5 10
Within Areas Designated Town Overlay District*	20

Within an Open Space Development Under §139-7F	10
Within 1/4 mile of NRTA stop	15
Size Criteria	
Dwelling Unit that has 2000 s.f. or less gross floor area	30
Dwelling Unit that has 2000 s.f. to 5,000 s.f. gross floor area	15
Dwelling Unit that has over 5,000 s.f. gross floor area	0
Housing Need/Historic Preservation Criteria	
Dwelling Unit, Present or Prospective Year-round Occupied resident	20
Dwelling Unit Affordable**	30
Nantucket Housing Needs Covenant	30
Dwelling Unit which replaces a house permanently relocated to a permanent foundation	20
Dwelling Unit on a lot on which a house has been demolished (but not first condemned) since January 1, 1997	0
Open Space Preservation/ Density Reduction Criteria	
Conservation restriction to be placed on land located in the Country Overlay District, and provided that the placement of the restriction results in the avoidance of at least one building lot (points per restricted-acre buildable lot reduction)	10
Permanent Restriction against prohibiting secondary dwelling in the Country Overlay District	20
Previous Application	
Application for Building Permit for which Building Permits for the same dwelling have been previously denied under the provisions of this § 139-24C (per each month denied)	(primary) 2 (secondary) 1

* Applicants must present proof of residency consistent with that for qualification for first-time homebuyer exemption as set down in §139-24C(4)(c) and §139-24C(5)(b).

**The affordable unit must be consistent with the definition of "affordable" housing at §139-2, and be subject to deed and use restrictions as prescribed for "inclusionary units" as contained in §139-11J(7) and (8), the terms of which may be modified by the Planning Board on a case-by-case basis for the purposes of this section based on the most current assessment of the Island's housing needs. An affordable unit shall also be deemed to be one restricted pursuant to §139-32A(3).

*Those areas designated Town and Country Overlay Districts as defined in Chapter 139-§2A.

6. Nantucket Housing Needs Covenant

No Building Permit shall be issued by the Building Commissioner for a property for which points are claimed by the applicant for such permit based on the existence of a Nantucket Housing Needs Covenant unless the applicant provides proof of the recording of the covenant.

7. Building Permits for More Than One Dwelling on a Lot

The Building Commissioner shall not authorize the issuance of building permits for more than one dwelling on a lot unless a certificate of occupancy has been issued for one of the two dwellings. This restriction shall not apply to Building Permits for:

- (a) dwelling units exempt under the provisions of Chapter 139 §24C(2)(b).
- (b) multiple dwelling units in a building, such as duplex units
- (c) dwelling units on a lot which, taken together, have a total ground cover of less than 3000 s.f.

Third, amend Chapter 139 §24C to renumber Chapter 139 §24C (8) to Chapter 139 §24C (9).

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as recommended by the Nantucket Comprehensive Community Plan, Objective 1.6, Recommendation 1; Objective 1.8, Recommendation 1; Objective 1.10, Recommendation 2; Objective 2.3, Recommendations 3 and 5)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket is amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend §2A of the Zoning Bylaw (Definitions) by adding the following:

Insert after the definition of “AFFORDABLE HOUSING” and before the definition of “AGRICULTURE” the following definition:

AGRICULTURAL PRESERVATION RESTRICTION –a recorded restriction that runs with the land established pursuant to General Laws, Chapter 184, §31-33, and enforceable by the Agricultural Preservation Restriction holder or the Town of Nantucket, that perpetually restricts the land.

Insert after the definition of “BUILDING INSPECTOR” and before the definition of “BUILDING PRINCIPAL” the following definition:

BUILDING PERMIT ALLOCATION SYSTEM - The system established in Chapter 139 §24C(6) to determine priority in the awarding of building permits.

Insert after the definition of “COMMERCIAL WECS” and before the definition of “CONSTRUCT” the following definition:

CONSERVATION RESTRICTION - a recorded restriction that runs with the land, established pursuant to General Laws, Chapter 184, §31-33, and enforceable by the Conservation Restriction holder or the Town of Nantucket, that perpetually restricts the land.

Insert after the definition of “INCLUSIONARY” and before the definition of “KENNEL” the following definition:

INTERIM GROWTH RATE LIMIT - the maximum number of building permits for new dwelling units that may be granted in any calendar year for dwelling units that are not exempted pursuant to § 139-24C(2).

Insert after the definition of “MULTI-FAMILY DWELLING” and before the definition of “NONCONFORMING” the following definition:

NANTUCKET HOUSING NEEDS COVENANT - a housing covenant that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that runs with the land, as described in Section 139-7H

Insert after the definition of “OPEN LAND” and before the definition of “RECHARGE” the following definition:

PRESERVATION RESTRICTION - a recorded restriction that runs with the land, established pursuant to General Laws, Chapter 184, §31-33, and enforceable by the Preservation Restriction holder or the Town of Nantucket, that perpetually restricts the land.

Second, amend Chapter 139 §7 by adding a new Section 7H, as follows:

H. Nantucket Housing Program

(1) **Purpose:** to make available housing that is affordable to people who provide year-round services essential to the Nantucket economy and earn less than 150% of the Nantucket County median household income; to maintain Nantucket’s diversity and unique sense of community; to encourage moderate-income families to continue to reside on Nantucket; and to generate a supply of housing that is available to the children and grandchildren of Nantucketers.

(2) Definitions: the following definitions only apply to this Section 7.H of Chapter 139:

“Essential Service Occupation”: The year-round performance of services that are essential to the economy of Nantucket including, but not limited to, Town employees such as teachers, firefighters, and police officers; people involved in the building trades, people working in home occupations, retail employees, child and elderly care providers, and health care providers including doctors and nurses.

“For Sale Housing”: Condominiums, cooperatives, and housing owned in fee simple.

“Maximum Rental Price”: For units rented to households above 100% and below 150% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 150% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size. For units sold to households below 100% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 100% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size.

“Maximum Resale Price”: For units sold to households above 100% and below 150% of the Nantucket County median income, the greater of 30% of the annual income of a household earning 150% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size or the price at which the unit was purchased increased by the Consumer Price Index, but in no event shall the resale price exceed the owner’s purchase price plus 5% per annum compounded annually. For units sold to households below 100% of the Nantucket County median income the greater of 30% of the annual income of a household earning 100% of the median income of Nantucket County as set forth in HUD Guideline, adjusted for household sizes or the price at which the unit was purchased increased by the Consumer Price Index, but in no event shall the resale price exceed the owner’s purchase price plus 5% per annum compounded annually.

“Rental Housing”: Housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing.

(3) Applicability: The provisions of this §7H, including the Nantucket Housing Needs Covenant, shall apply to housing that is exempted or given points

pursuant to the Interim Growth Rate Cap (Chapter 139 §24(C) and to Affordable Housing, Inclusionary Units or housing restricted pursuant to the Nantucket Housing Needs Covenant as these types of housing are referenced in Major Residential Development Special Permit (Chapter 139 §7F(7)(b); Major Commercial Development Special Permit (Chapter 139 §11J); and Large Residential Development (Chapter 139 §7G). Wherever there is a reference in Chapter 139 to the Nantucket Housing Needs Covenant, all of the provisions in this Section 7H shall apply.

- (4) **Eligible Households:** Households earning less than 150% of the Nantucket County median household income, as set forth in HUD Guidelines, at least one member of whom is gainfully employed in an “Essential Service Occupation”.
- (5) **Nantucket Housing Needs Covenant:** a restriction that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that is enforceable by the Nantucket Housing Authority (NHA) or its designee that runs with the land for at least thirty years and at most, in perpetuity. This restriction shall be placed on Rental and For Sale housing that is occupied by households earning less than 150% of the Nantucket County median household income, as set forth in HUD Guidelines, at least one member of whom is gainfully employed in an “Essential Service Occupation”.
- (6) **Additional Requirements for Nantucket Housing Needs Covenant for For Sale Units:** Upon resale the NHA or its designee shall have a right of first refusal or an option to purchase a unit at the Maximum Resale Price. If the owner actively markets the unit and a purchaser cannot be located within 120 days of the time the unit is put on the market, the unit may be sold to a household that does not comply with the income and employment limits established by this restriction and the proceeds of the sale over and above the Maximum Resale Price shall be paid to the NHA or its designee.
- (7) **Additional Requirements for Nantucket Housing Needs Covenant for Rental Units:** The owner of the Rental unit or units shall provide the NHA or its designee with an annual certification of compliance with the terms of the restriction. If at the end of the lease it is determined that the tenant’s income is more than the 100 or 150% of median-income-limit, the tenant will be required to pay the full fair market rent and the owner, shall make available to another Eligible Household a unit of a similar size at Maximum Rental Price.
- (8) **Monitoring and Administration:** The NHA or its designee shall be charged with monitoring and administering the Nantucket Housing Needs Program.

(9) Program Requirements:

(a) If units restricted by the Nantucket Housing Needs Covenant are part of a development:

i. They shall be integrated into the development and their exterior appearance shall be indistinguishable from the other units in the development.

ii. No more than 80% of the building permits for the market-rate units shall be issued for the development until construction has commenced on all of the units restricted by the Nantucket Housing Needs Covenant and no more than 80% of the occupancy permits for the market-rate units shall be issued until all of the occupancy permits for the restricted units have been issued.

iii. If units are condominiums, the condominium documents shall include provisions ensuring that owners of the restricted units will not be required to pay for capital improvements they cannot afford and that they have voting rights sufficient to ensure they have an effective role in condominium decision-making.

iv. All legal documentation (such as the restriction, the condominium or cooperative documents, leases, or monitoring agreements) shall be submitted to the NHA or its designee for its review and approval.

~~Second~~ Third, amend Chapter 139 §24C (Interim Growth Rate) as follows:

C. Interim Growth Rate.

(1) Intent and pPurposes:

This ~~Sec.~~ **Chapter** 139 §24C is adopted pursuant to Article 89 of the Massachusetts Constitution, and pursuant to Chapter 40A of the Massachusetts General Laws, for the following purposes:

(a) to ensure that residential growth occurs in an orderly manner, and in a manner that meets Nantucket's need for more year-round housing; consistent with recent average growth rates, so that the local economy, can be insulated from large year-to-year variations in the development rate;

(b) to make available housing that is affordable to people who provide year-round services essential to the Nantucket economy and earn less

than 150% of the Nantucket County median household income; to maintain Nantucket's diversity and unique sense of community; to encourage moderate income families to continue to reside on Nantucket; and to generate a supply of housing that is available to the children and grandchildren of Nantucketers.

- (bc) to strive to maintain stable levels of construction employment and cushion the Nantucket economy from the impacts of building cycles by extending the long-term residential build-out over time; to ensure that the Town can continue to provide adequate municipal services and ministerial support to new residential development, and to allow for orderly planning for infrastructure and other community investment, while at the same time allowing for reasonable residential growth;
- (ed) to channel housing construction into those areas supported by existing infrastructure, thus reducing infrastructure costs, auto dependency and minimizing environmental impacts; to provide the Town with reasonable time to study the effect of residential growth on the municipality's infrastructure, character, municipal services and fragile natural environment, and to guard against short-term patterns that may be inconsistent with or impede effective implementation of the Town's anticipated new Comprehensive Plan; and
- (d) to preserve and enhance the unique and perishable qualities of Nantucket Island, including the historic community character and the natural environment.
- (e) to provide an orderly and systematic mechanism for reviewing and evaluating building permit applications that is fair and equitable.

(2) Applicability, Exemptions, and Effect and definitions

- (a) For the purposes of computing the annual number of building permits for new dwellings in calendar year 1998, the effective date of this amendment shall be January 1, 1998, but no building permit for a new dwelling unit or dwelling units, as defined herein, shall be issued after the date of adoption January 8, 2001 unless in accordance with the requirements of this Section 139-24C, or unless exempted by Section 139-24C(4) herein. Applications received prior to January 8, 2001 shall be governed by the Interim Growth Rate Bylaw in effect prior to that date.
- (b) This Section 139-24C will remain in effect until expressly amended or repealed by action of Town Meeting, or until January 1, 2002,

~~whichever occurs first.~~

(e) **(b)** For the purposes of this Sec. 139-24C, the following terms shall have the following meaning:

[1] "Interim growth rate limit" shall mean the maximum number of building permits for new dwelling or dwelling units that may be authorized in a one-year period, which period shall be based on the calendar year, and which shall be ~~one hundred eighty (180) permits in 1998, one hundred forty-four (144) permits in 1999, and one hundred twenty (120) permits in each succeeding year;~~ provided that, such applications are made to the Building Commissioner; and provided that, said applications for building permits comply with all applicable requirements of law.

[2] "Development" shall mean a single parcel or set of contiguous parcels of land held in common ownership at any time on or after the date of adoption of this bylaw, for which one or more building permits will be sought.

(b) (c) The allocation restrictions on building permits in this Chapter 139 §24C shall not apply to the following types of building permits, which shall be considered exempt, and with the exception of subsection [10], shall not be counted in computing the interim growth rate limit:

[1] **Dwellings or dwelling units within any subdivision approved under the Subdivision Control Law, General Laws, Chapter 41, Section 81L, et seq., during the exemption period provided in General Laws, Chapter 40A, §6.**

[2] **Restoration, renovation, reconstruction, or enlargement of any dwelling or dwelling unit lawfully in existence at the time of application for such building permit, provided that no additional dwelling unit is created.**

[3] **Dwelling units to be constructed or sponsored by:**
(i) the Nantucket Housing Authority or its designee
(ii) a government instrumentality including but not limited to the Town of Nantucket
(iii) a tax-exempt non-profit entity.

[4] **Dwelling units restricted by a Nantucket Housing Needs Covenant for families who earn under 100% of median family income.**

- [5] Dwelling units approved prior to the effective date of this bylaw by the Zoning Board of Appeals as Employer Dormitory units, Neighborhood Employee Housing units, or Housing units constructed in accordance with the Dormitory Overlay District.
- [6] Accessory apartments under Chapter 139 §7C.
- [7] Single or multiple dwelling units built for occupancy primarily for those needing assisted / independent living facilities with at least 20% of the units affordable.
- [8] Dwelling units intended to be occupied by first-time homebuyers as defined by the Nantucket Land Bank Act (Chapter 669 of the Acts of 1983, as amended), as defined in Chapter 139 §24C(4)(c).
- [9] Dwelling units relocated to another lot.
- [10] Single family dwellings built on lots from which one or more dwelling units have been relocated pursuant to subsection [9], provided such dwellings shall be counted in computing the interim growth rate limit.
- [11] Dwelling units restricted under the Multi-family Overlay District.

(c) This Chapter 139 §24C shall remain in effect for a period of five (5) years expiring September 30, 2006.

(3) Establishment of Interim Growth Rate

(a) Commencing in calendar year 2001, the interim growth rate limit shall be, one hundred twenty (120) permits; provided that, such applications are made to the Building Commissioner; and provided that, said applications for building permits comply with all applicable requirements of law. Of these 120 permits, no more than twelve (12) may be secondary dwellings within the Country Overlay District. ~~Whenever the number of building permits issued for new dwellings or dwelling units equals the applicable interim growth rate limit, thereafter the Building Inspector shall not issue building permits for any additional dwellings or dwelling units unless such dwellings or dwelling units are exempt from the provisions of this Sec. 139-24C(4) below.~~

~~(b) Proposed dwellings or dwelling units for which building permits are~~

~~issued, but subsequently abandoned under the provisions of the State Building Code, shall not be counted in computing the applicable interim growth rate limit.~~

~~(c) The Building Inspector shall not authorize more than one dwelling to be constructed on a lot at a time; and a building permit for a new dwelling which is a second dwelling on a lot shall not be issued prior to the issuance of a certificate of occupancy for the first dwelling. This restriction shall not prohibit the issuance of a building permit for multiple dwelling units within a building such as a duplex; nor shall it apply to the construction of dwellings on a lot which, together, have a total ground cover of less than 3000 SF.~~

~~(4) Exemptions~~

~~(a) Building permits for dwellings and dwelling units to be constructed within any subdivision approved under the Subdivision Control Law, General Laws, c. 41, Sec. 81 L et seq., during the exemption period provided in General Laws, c. 40A, Sec. 6 are specifically exempt from the Interim Growth Rate provisions of this Sec. 139-24C.~~

~~(b) The provisions of this Subsection C shall not be applicable to any application for a building permit for the enlargement, restoration or reconstruction of a dwelling in existence as of the effective date of this Sec. 139-24C, provided that no additional residential dwelling unit is created.~~

~~(c) The provisions of this Subsection C shall not be applicable to dwelling units constructed or sponsored by the Nantucket Housing Authority, or a non-profit entity, or the Town or County of Nantucket, to be maintained as affordable housing, or housing exclusively for elderly or disabled residents or residents of a senior housing facility as defined in chapter 139§2A; nor to employer dormitory units, or inclusionary units built in conjunction with Major Commercial Development (MCD) as provided in Sec. 139-11J of the zoning bylaw; nor to units intended to be occupied by first-time homebuyers as defined by the Nantucket Land Bank Act (Chapter 669 of the Acts of 1983, as amended), conditional upon proof of residency on Nantucket for a period of two (2) years, as defined in Sec. 139-24C.~~

(5 4) Procedures.

The Building Commissioner shall utilize the following procedures for issuing building permits for ~~nonexempt permits under the interim growth rate limit~~ new

dwelling units:

(a) Building permits for dwelling units exempt under the provisions of Chapter §139 §24C(4) shall be issued in accordance with time periods set forth in the State Building Code, ~~provided that they that otherwise comply with all applicable requirements of law.~~

(a) b) One-twelfth (1/12) of the number of applications for non-exempt building permits authorized annually by Sec. Chapter 139 §24C(32)(a) shall be issued in equal amounts on, or about, the first day of each month. Each month, the building permit applications received during the prior month, and those applications not granted in previous months ~~due~~ solely by reason of this one-twelfth (1/12) limitation, and subsequently resubmitted, shall be reviewed, ~~scored according to the Building Permit Allocation System set down in §139-24C(6), and considered for issuance of permits, and scored according to the Building Permit Allocation System described in subsection (5) below; and provided that said applications for building permit of sufficient number~~ are made to the Building Commissioner; and provided further that said applications for building permits comply with all applicable requirements of law.

(bc) Building permits issued for new non-exempt dwelling units that are revoked shall not be counted toward the Interim Growth Rate Limit.

(ed) Any proof of a commitment to year-round residency required by this section shall be in a form satisfactory to the Building Commissioner, and which shall include a sworn statement in accordance with [1], below, plus one of the remaining proofs of commitment, as follows: ~~the following: proof of enrollment of children in Nantucket School system; Massachusetts Income Tax filing with Nantucket address; proof of Nantucket residential tax exemption, or proof of two (2) continuous years of employment on Nantucket.~~

[1] A sworn statement of such commitment by any person, whether currently a resident of the Town or not, without regard to race, religion, color, national origin, sex, sexual orientation, or physical disability; and

[2] Proof of present or prospective enrollment of children in the Nantucket School system; or

[3] A Massachusetts income tax return with Nantucket address; or,

[4] Proof of Nantucket residential tax exemption; or

[5] Proof of present or prospective residency in a dwelling unit with

- a Nantucket Housing Needs Covenant; or
- [6] Proof of present or prospective employment on Nantucket.

The Zoning Board of Appeals may grant a Special Permit for relief from the terms of this subsection.

(d) ~~No dwelling unit salvaged from a lot shall be exempt from the building cap limits, unless otherwise exempt under Sec. 139-24C(4). A dwelling unit replacing a salvaged dwelling shall be exempt.~~

6- 5. Building Permit Allocation Point System

In determining eligibility for approval of a building permit, applications shall be scored according to the following point system. Points are assigned for each criterion satisfied, and are added together to determine a total point score. Building Permits shall be issued each month for those applications in priority order of the highest scores to the limit of the monthly allocation. In the event that two or more applications have equal point scores, priority will shall be given according to the first to be filed those applications filed first.

Criteria	Points
Location	
Access to Served by public water and public sewer service	15 5
Served by public sewer	15
Within Cluster Development, Section 139-7B or Major Residential Development, Section 139-7F	10
Within Public Wellhead Recharge District, §139-4C, with no public sewer and water	5 10
Within Areas Designated Town Overlay District	20
Within 1/4 mile of NRTA stop	15
Size Criteria	
Dwelling Unit that has less than 2000 s.f. or less gross floor area, subject to a permanent covenant prohibiting future enlargement to more than 2500 s.f. of the gross floor area.	30 20
Dwelling Unit that has 2000 s.f. to 5,000 s.f. gross floor area, subject to a permanent covenant prohibiting future enlargement by more than 25% of the gross floor area.	45 10
Housing Need Criteria	
Dwelling Unit, Year-round Occupied resident	20
Dwelling Unit Subject to a Nantucket Housing Needs Covenant limiting occupancy to households earning between 100% and 150% of Nantucket median income.	50
Nantucket Housing Needs Covenant placed on another property by the	30

applicant, said property to be used once to claim points under these criteria.	
Dwelling Unit Affordable**	30
Open Space Preservation/ Density Reduction Criteria	
Conservation, Preservation, or Agricultural Preservation restriction to be placed on land provided that the placement of the restriction results in the avoidance of at least one building lot (points per restricted acre buildable lot reduction)	Town District: 10 Country District: 30
Permanent Restriction against prohibiting secondary dwelling in the Country Overlay District	20
Previous Application	
Application for Building Permit for which Building Permits for the same dwelling have been previously denied under the provisions of this § 139-24C (per each month denied)	(primary) 2 (secondary) 1

~~* Applicants must present proof of residency consistent with that for qualification for first-time homebuyer exemption as set down in §139-24C(4)(c) and §139-24C(5)(b).~~

~~**The affordable unit must be consistent with the definition of "affordable" housing at §139-2, and be subject to deed and use restrictions as prescribed for "inclusionary units" as contained in §139-11J(7) and (8), the terms of which may be modified by the Planning Board on a case-by-case basis for the purposes of this section based on the most current assessment of the Island's housing needs. An affordable unit shall also be deemed to be one restricted pursuant to §139-32A(3).~~

~~*Those areas designated Town and Country Overlay Districts as defined in Chapter 139-§2A.~~

6. Nantucket Housing Needs Covenant

No Building Permit shall be issued by the Building Commissioner for a property for which an exemption or points are claimed by the applicant for such permit based on the existence of a Nantucket Housing Needs Covenant unless the applicant provides proof of the recording of the covenant.

7. Building Permits for More Than One Dwelling on a Lot

The Building Commissioner shall not authorize the issuance of building permits for more than one dwelling on a lot unless a certificate of occupancy has been issued for one of the two dwellings. This restriction shall not apply to Building Permits for:

- (a) dwelling units exempt under the provisions of Chapter 139

§24C(2)(b).

(b) multiple dwelling units in a building, such as duplex units

(c) dwelling units on a lot which, taken together, have a total ground cover of less than 3000 s.f.

~~Third~~ Fourth, amend Chapter 139 §24C to renumber Chapter 139 §24C (8) to Chapter 139 §24C (9).

FINANCE COMMITTEE RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket be amended in accordance with the Planning Board recommendation, as amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A, by leaving the title to definition of Affordable Housing and deleting the text below title and replacing with the following:

AFFORDABLE HOUSING - For sale housing (condominiums, cooperatives, and housing owned in fee simple) and rental housing (housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing, as these terms are defined elsewhere in this Bylaw) that is restricted pursuant to the Nantucket Housing Needs Covenant, or that is subject to an affordable housing restriction pursuant to M.G.L. Chapter 184 §31.

Second, amend Chapter 139 §2A, by deleting the existing definition of Inclusionary Units and substituting the following:

INCLUSIONARY UNITS - For Sale housing (condominiums, cooperatives, and housing owned in fee simple) and Rental Housing (housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing, as these terms are defined elsewhere in this Bylaw) that is restricted pursuant to the Nantucket Housing Needs Covenant.

Third, create a new Chapter 139 §7H, as follows:

H. Nantucket Housing Program

(1) Purpose: to make available housing that is affordable to people who provide year-round services essential to the Nantucket economy and earn less than 150% of the Nantucket County median household income; to maintain Nantucket’s diversity and unique sense of community; to encourage moderate-income families to continue to reside on Nantucket; and to generate

a supply of housing that is available to the children and grandchildren of Nantucketers.

(2) Definitions: the following definitions only apply to this §7H of Chapter 139:

“Certified Sales Price”: The amount paid by an Eligible Household, which shall be no more than 30% of its annual income for the annual debt service on a mortgage plus property taxes, insurance, and condominium fees.

“Eligible Household”: Household earning less than 150% of the Nantucket County median household income, as set forth in Guidelines currently in effect or as may hereafter be established by the U.S. Department of Housing and Urban Development, at least one member of which household is, or is to be, gainfully employed in an “Essential Service Occupation”.

“Essential Service Occupation”: The year-round performance of services that are essential to the economy of Nantucket including, but not limited to, Town employees such as teachers, firefighters, and police officers; people involved in the building trades, people working in home occupations, retail employees, child and elderly care providers, and health care providers including doctors and nurses.

“For Sale Housing”: Condominiums, cooperatives, and housing owned in fee simple.

“Maximum Rental Price”: For units rented to households above 100% and below 150% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 150% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size. For units rented to households below 100% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 100% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size.

“Maximum Resale Price”: The greater of the Certified Sales Price or the price at which the unit was purchased increased by the Consumer Price Index, but in no event shall the resale price exceed the owner’s purchase price by more than 5% per annum.

“Nantucket Housing Needs Covenant”: a restriction that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that is enforceable by the Nantucket Housing Authority (NHA) or its designated nonprofit that runs with the land for at least thirty

years and at most, in perpetuity. This restriction shall be placed on Rental and For Sale housing that is occupied by Eligible Households at least one member of which is, or is to be, gainfully employed in an “Essential Service Occupation”. The NHA’s designated nonprofit shall be required by contract to implement this program consistent with the Charter of the NHA.

“Rental Housing”: Housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing.

- (3) **Applicability:** The provisions of this §7H, including the Nantucket Housing Need Covenant, shall apply to housing that is exempted or given points pursuant to the Interim Growth Rate Cap (Chapter 139 §24C) and to Affordable Housing, Inclusionary Units or housing restricted pursuant to the Nantucket Housing Needs Covenant as these types of housing are referenced in Major Residential Development Special Permit (Chapter 139 §7F); Major Commercial Development Special Permit (Chapter 139 §11J); and Large Scale Residential Development (Chapter 139 §7G). Wherever there is a reference in Chapter 139 to the Nantucket Housing Needs Covenant, all of the provisions in this Section 7H shall apply.
- (4) **Additional Requirements for Nantucket Housing Needs Covenant for For Sale Units:** Upon resale the NHA or its designated nonprofit shall have a right of first refusal or an option to purchase a unit at the Maximum Resale Price. If the owner actively markets the unit and a purchaser cannot be located within 120 days of the time the unit is put on the market, the unit may be sold to a household that does not comply with the income and employment limits established by this restriction and the proceeds of the sale over and above the Maximum Resale Price shall be paid to the NHA or its designated nonprofit, such funds to be used solely to advance the purposes of this program.
- (5) **Additional Requirements for Nantucket Housing Needs Covenant for Rental Units:** The owner of the Rental unit or units shall provide the NHA or its designated nonprofit with an annual certification of compliance with the terms of the restriction. If at the end of the lease it is determined that the tenant’s income is more than the 100 or 150% of median-income-limit, the tenant will be required to pay the full market rent and the owner, shall make available to another Eligible Household a unit of a similar size at Maximum Rental Price, unless otherwise provided for in regulations.
- (6) **Monitoring and Administration:** The NHA or its designated nonprofit shall be charged with monitoring and administering the Nantucket Housing Needs Program.

(7) Program Requirements:

- (a) If units restricted by the Nantucket Housing Needs Covenant are part of a development:**
- i. They shall be integrated into the development and their exterior appearance shall be indistinguishable from the other units in the development.**
 - ii. No more than 80% of the building permits for the market-rate units shall be issued for the development until construction has commenced on all of the units restricted by the Nantucket Housing Needs Covenant and no more than 80% of the occupancy permits for the market-rate units shall be issued until all of the occupancy permits for the restricted units have been issued.**
 - iii. If units are condominiums, the condominium documents shall include provisions ensuring that owners of the restricted units will not be required to pay for capital improvements they cannot afford and that they have voting rights sufficient to ensure they have an effective role in condominium decision-making.**
 - iv. All legal documentation (such as the restriction, the condominium or cooperative documents, leases, or monitoring agreements) shall be submitted to the NHA or its designated nonprofit for its review and approval.**

Fourth, amend §24C(2)(c), as follows:

- (~~b~~) (c) The allocation provisions in this Chapter 139 §24C shall not apply to the following types of building permits, which shall be considered exempt, and with the exception of subsection [10], shall not be counted in computing the interim growth rate limit:**

[1] Dwellings or dwelling units within any subdivision approved under the Subdivision Control Law, General Laws, Chapter 41, §81L, et seq., during the exemption period provided in General Laws, Chapter 40A, §6.

[2] Restoration, renovation, reconstruction, or enlargement of any dwelling or dwelling unit lawfully in existence at the time of application for such building permit, provided that no additional dwelling unit is created.

[3] Dwelling units to be constructed or sponsored by:

- (i) the Nantucket Housing Authority or its designee
 - (ii) a government instrumentality including but not limited to the Town of Nantucket
 - (iii) a tax-exempt non-profit entity.
- [4] Dwelling units restricted by a Nantucket Housing Needs Covenant for families who earn under 100% of median family income.
 - [5] Dwelling units approved prior to the effective date of this bylaw by the Zoning Board of Appeals as Employer Dormitory units, Neighborhood Employee Housing units, or Housing units constructed in accordance with the Dormitory Overlay District.
 - [6] Accessory apartments under Chapter 139 §7C.
 - [7] Single or multiple dwelling units built for occupancy primarily for those needing assisted / independent living facilities with at least 20% of the units affordable.
 - [8] Dwelling units intended to be occupied by first-time homebuyers as defined by the Nantucket Land Bank Act (Chapter 669 of the Acts of 1983, as amended), as defined in Chapter 139 §24C(4)(c).
 - [9] Dwelling units relocated to another lot, when there is placed on the lot a Nantucket Housing Needs Covenant allowing for income eligibility up to 150% of median Nantucket family income.
 - [10] Lots with a lawfully existing dwelling whose owner transfers the dwelling to any person or entity qualifying under one of the exempt categories listed in this §(c).
 - [11] Dwelling units restricted under the Multi-family Overlay District.

ARTICLE 5

(Zoning Bylaw Amendment: Customary Home Occupation)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions) by deleting the definition entitled "CUSTOMARY HOME OCCUPATION", and by adding the following after the definition of "HISTORICAL HIGH WATER TABLE" and before the definition of "HOUSEHOLD":

HOME OCCUPATION -- An occupation, trade, profession, or business activity resulting in a product or service provided for compensation, conducted as an accessory use by one or more occupants wholly or partly within a dwelling unit or accessory structure.

Second, amend Chapter 139 §7A (Permitted Uses) by deleting the existing subsection (4), and by substituting the following:

(4) Home Occupation

(a) Purpose

The conduct of low-impact, economically beneficial uses shall be permitted on residential properties under the provisions of this subsection. The purposes of this subsection are:

- [1] To ensure the compatibility of home occupations with residential uses; and
- [2] To permit residents to engage in gainful employment within their homes, provided that possible adverse effects of traditional non-residential uses, such as excessive noise, traffic, odor, fire hazard, nuisance, and other related impacts are avoided.

(b) Criteria and Standards

More than one home occupation may be allowed on a lot, provided that they collectively meet the following standards and criteria. The home occupation:

- [1] shall be conducted by occupants of the dwelling unit, and up to one additional worker who does not reside on the premises; and
- [2] may be conducted within a dwelling unit or accessory structures; and
- [3] shall not include exterior storage of material or equipment, unless effectively screened by a wall, fence, or densely planted vegetative buffer; and
- [4] shall be limited in area to no more than 30% of the gross floor area of the primary dwelling unit (whether within a dwelling unit, or wholly or partially within an accessory structure), up to a maximum of 800 square feet; and

- [5] shall not include more than one business vehicle to be parked on the premises provided that it is less than 10,000 lbs. gross vehicle weight; and
- [6] shall not include home occupations that can be projected to generate an average daily traffic generation during the months of June through September that exceeds 14 vehicle trips per day; and
- [7] shall require the issuance of a use permit by the Building Commissioner; and
- [8] shall only allow the sale of commodities prepared, crafted, or otherwise produced on the premises.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 3.11, Recommendation 1)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket be amended, as follows *(NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text):*

First, amend Chapter 139 §2A (Definitions) by deleting the definition entitled "CUSTOMARY HOME OCCUPATION", and by adding the following after the definition of "HISTORICAL HIGH WATER TABLE" and before the definition of "HOUSEHOLD":

HOME OCCUPATION -- An occupation, trade, profession, or business activity resulting in a product or service provided for compensation, conducted as an accessory use by one or more occupants wholly or partly within a dwelling unit or accessory structure.

Second, amend Chapter 139 §7A (Permitted Uses) by deleting the existing subsection (4), and by substituting the following:

(4) Home Occupation

(a) Purpose

The conduct of low-impact, economically beneficial uses shall be permitted on residential properties under the provisions of this subsection. The purposes of this subsection are:

- [1] **To ensure the compatibility of home occupations with residential uses; and**

[2] To permit residents to engage in gainful employment within their homes, provided that possible adverse effects of traditional non-residential uses, such as excessive noise, traffic, odor, fire hazard, nuisance, and other related impacts are avoided.

(b) Criteria and Standards

More than one home occupation may be allowed on a lot, provided that they collectively meet the following standards and criteria. The home occupation:

[1] shall be conducted by occupants of the dwelling unit, and up to one additional worker who does not reside on the premises; and

[2] may be conducted within a dwelling unit or accessory structures; and

[3] shall not include exterior storage of material or equipment, unless effectively screened by a wall, fence, or densely planted vegetative buffer; and

[4] shall be limited in area to 200 square feet; and

[5] shall not include home occupations that can be projected to generate an average daily traffic generation during the months of June through September that exceeds 14 vehicle trips per day; and

[6] shall require the issuance of a use permit by the Building Commissioner; and

[7] if the home occupation involves retail sales, shall only allow the sale of commodities prepared, crafted, or otherwise produced on the premises.

Third, amend Chapter 139-7D of the Zoning Bylaw, entitled “Other Uses Allowed Only by Exception”, by adding a new subsection (6) as follows:

(6) A home occupation that satisfies the criteria of Chapter 139 §7A(4), the Special Permit requirements of Chapter 139 §30, and the Minor Site Plan Review requirements, Review Objectives and Performance Criteria, found in

Chapter 139 §23, and which:

- [1] exceeds 200 s.f. of the gross floor area of the primary residential structure, to a maximum of 800 square feet; and**
- [2] employs more than one (1) non-resident on the premises; or,**
- [3] offers commodities for sale on the premises occupying an area of no more than 200 square feet.**

ARTICLE 6

(Zoning Bylaw Amendment: Residential and Open Space Development)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §7A (Permitted uses) by adding a new subsection (10), as follows:

(10) Residential Developments.

No Special Permit shall be required for:

- (a) Creation of lots which contain, or, pursuant to the Zoning Bylaws of the Town are eligible to contain, no more than six (6) dwelling units in subdivisions in all districts except LUG-2 and LUG-3.**
- (b) Creation of lots which contain, or pursuant to the Zoning Bylaws of the Town are eligible to contain, no more than three (3) dwelling units in subdivisions within LUG-2 and LUG-3 districts.**
- (c) Creation of any number of lots in an open space development approved pursuant to Chapter 139 §7F.**

Second, delete the existing Chapter 139 §7B (Exception for cluster development in all districts) and Chapter 139 §7F (Major Residential Development Special Permit MRD) in their entirety.

Third, insert a new Chapter 139 §-7B as follows:

B. Large Scale Residential Developments

- (1) A special permit shall be required from the Planning Board for:**
 - (a) Creation of lots in subdivisions which contain, or, pursuant to the Zoning Bylaws of the Town, are eligible to contain, seven (7) or more dwelling units in all districts except LUG-2 and LUG-3, unless**

in an Open Space Development approved pursuant to Chapter 139 §7F.

(b) Creation of lots in subdivisions which contain, or pursuant to the Zoning Bylaws of the Town, are eligible to contain, four (4) or more lots or dwelling units in LUG-2 and LUG-3 districts, unless in an Open Space Development approved pursuant to Chapter 139 §7F below.

(2) In any residential development requiring a special permit, at least 20% of the lots or dwelling units, but not less than one, shall be subject to a Nantucket Housing Needs Covenant as defined in Chapter 139 §2A. Such restricted units or lots shall be included within the development unless the applicant elects to create such covenanted lots or units in another location.

(3) In determining whether or not to grant a special permit for a development listed in (1), above, the Planning Board shall refer all applications for a special permit under this section to the Conservation Commission for an analysis of its conservation value. If the Planning Board determines that a proposed development will not fulfill the Town's planning goals and objectives and will not adequately protect land of conservation value, based upon the analysis of the Conservation Commission, it shall deny the special permit.

Insert a new Chapter 139 §7F as follows:

F. Open Space Development

(1) Purpose and Applicability

(a) The purpose of this Section F is to preserve the open space resources of Nantucket as identified in the Town's Open Space and Recreation Plan by fostering compact development patterns using flexible regulations for density and lot dimensions. The Town wishes to encourage the use of Open Space Development as an alternative to conventional development, because Open Space Development results in the preservation of contiguous open space and important environmental resources, while allowing more design flexibility than conventional development. Open Space Development reduces development impacts on moorlands, heathlands, farmlands, wildlife habitats, large tracts of contiguous open space, environmentally sensitive areas, steep slopes, dunes, bluffs, hilltops, and historically significant landscapes.

(b) Open Space Development is allowed subject to the requirements of the **Rules and Regulations Governing the Subdivision of Land**. If no subdivision approval would otherwise be required, Open

Space Development requires site plan approval by the Planning Board to ensure that the development complies with this Section. Open Space Development is permitted in all districts except ROH and SOH. In order to encourage small subdivisions to follow Open Space Development principles, there is no minimum number of lots required for an Open Space Development.

(2) Allowable Density

The allowable density for residential units is calculated by a formula based upon the net acreage of the property. This calculation involves two steps:

- (a) To determine net acreage, subtract from the total (gross) acreage of the site the total acreage of watercourses (including ponds), land in the Flood Hazard Overlay District, land protected by the Island Perimeter Restrictions in Chapter 139 §22, and wetlands as defined in Chapter 131, Section 40 of the General Laws.
- (b) To determine the number of allowable residential units on the site, multiply net acreage by 0.9 (to account for roads and lot irregularities), and then divide by the minimum lot size in the applicable zoning district. Fractional units of less than 0.5 shall be rounded down and 0.5 or more shall be rounded up.

(3) Types of Residential Development

The allowable residential units may be developed as single-family, two-family, or multi-family dwellings, provided that applicable Special Permit requirements for the district are satisfied and that the number of dwelling units does not exceed the allowable density in (2), above. Subdivision approval and Special Permit requirements shall be fulfilled concurrently in one proceeding to the extent practical. Secondary dwellings and accessory apartments shall be permitted in Open Space Developments to the extent permitted by Chapter 139 §7A and Chapter 139 §7C.

(4) Dimensional Requirements and Site Design Guidelines

(a) Lot Dimensions, Setbacks, and Road Frontage

The following minimum requirements shall apply to any lots created in any Open Space development:

- (i) Lot Frontage: 20 feet
- (ii) Lot size: 2,000 s.f. (RC, RC-2, LC, R-1, SR-1, ROH, SOH)
5,000 s.f. (R-2)
10,000 s.f. (MMD, AHD, OIH, LUG-1,

(b) Site Design Guidelines

The site shall be designed in accordance with design guidelines set down in a document prepared by the Planning Board, dated _____, entitled, **Standards for Open Space Development under the Nantucket Zoning Bylaws**

(5) Ground Cover Ratio

- (a) The total ground cover ratio for an entire Open Space Development, including areas of preserved open space, shall not exceed the maximum established in Chapter 139 §16.
- (b) Maximum ground cover ratios for individual lots shall be established for each lot at the time of approval to ensure compliance with (5)(a).

(6) Minimum Preserved Open Space

Open Space Developments shall preserve the following percentages of land as open space (by district). At least 50% of the land required to be set aside below as preserved open space shall be buildable under applicable laws and regulations, and the remainder of the land preserved as open space may include wetlands, perimeter lands, water bodies, and flood hazard areas.

District	Preserved Open Space
MMD	90%
LUG-3	70%
LUG-2	60%
LUG-1	50%
R-2	30%
All Others	20%

(7) Configuration and Selection of Preserved Open Space

Open space set aside in an Open Space Development shall be permanently protected from future development. Land set aside as permanent open space may, but need not be, a separate parcel. Such land may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation restriction is placed on such land pursuant to subsection (8), below, and provided that the Planning Board approves such configuration of the open space as part of its approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land.

(a) Conservation Value of Open Space

The open space protected pursuant to this Section must have "conservation value," which may include historic, ecological, agricultural, water resource, scenic or other natural resource value. Examples of lands with conservation value include perimeter land, land providing views of the ocean and ponds, moorland, heathland, agricultural land, wetlands, and water bodies. Land lying in an area identified as "greenbelt" as described in Chapter 139, §12D, Country Overlay District.

If such land is protected as permanent open space, it shall be shown on the recorded plan and shall generally form contiguous blocks of one or more of the following:

- [1] Open meadows and farmland, especially if visible from public roads.
- [2] Areas of trees and other vegetation that screen existing or proposed development from the road.
- [3] Land of scenic, historic, or environmental resource value such as moors, heath, dunes, bluffs, beaches, hilltops, ponds, archaeological sites, wildlife habitat, floodplain, aquifer recharge, and wetlands.
- [4] Land that has potential to be part of the recreational open space system for the Town, including beaches, beach access roads or trails, and other identified trail corridors.

(b) Whenever the Planning Board approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land.

(8) Permanent Protection of Open Space Land by Conservation Restriction

Land set aside as open space in connection with any Open Space Development shall be noted as such on any approved plans and shall be protected by a perpetual restriction in the title to the land of the type described in M.G.L. Section 31, Chapter 184.

(9) Ownership of Open Space Land

(a) Open space land may be owned in common by a homeowner's association ("HOA"), the Town, County, State governments or any instrumentality thereof, or held in such other form of ownership as the Planning Board finds adequate to manage the open space land and protect its conservation value.

- (b) If the open space land is owned in common by an HOA, such HOA shall be established in accordance with the **Rules and Regulations Governing the Subdivision of Land** or **Standards for open Space Development under the Nantucket Zoning Bylaws**, adopted by the Planning Board.
- (c) Maintenance Standards

Ongoing maintenance standards shall be established as a condition of development approval to ensure that the open space land is appropriately maintained and not used for storage or dumping of refuse, junk, or other offensive or hazardous materials. Such standards shall be enforceable by the Town against any owner of the open space land, including an HOA. In addition to any remedies available to the Town, the Town, acting through the BOS may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be as a fee against the landowner or, in the case of an HOA, the owners of properties within the development, and shall, if unpaid, become a municipal charges lien on such property or properties.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.3, Recommendation 2; Objective 4.1, Recommendation 1)

PLANNING BOARD RECOMMENDATION: Moved not to adopt the Article.

ARTICLE 7

(Imposition of New Municipal Charges Lien and Related Bylaw Amendment)

To see if the Town will vote to designate the open space maintenance fee described in Chapter 139 §7B of the Zoning Bylaw of the Town of Nantucket (as set forth in Article 6 of this Warrant) as a “municipal charges lien” pursuant to Chapter 40 §58 of the General Laws and to adopt the following bylaw: amend Chapter 40 (Town Collector) of the Code of the Town of Nantucket as follows *(NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text)*:

§ 40.2 Collection of other municipal fees.

The Town Collector is authorized to collect other municipal fees, including but not limited to landfill user fees, **open space land maintenance fee**, sewer connection (sewer entrance) fees and sewer user fees. Additionally, the Town Collector is authorized to place a lien against real estate properties for any unpaid balance of the landfill user fees, **open space land maintenance fee**, sewer connection fees and sewer user fees.

(Board of Selectmen for Nantucket Planning & Economic Development Commission)

FINANCE COMMITTEE RECOMMENDATION: Moved not to adopt the Article.

FINANCE COMMITTEE COMMENT: This article was not recommended due to negative Planning Board recommendation on Article 6.

ARTICLE 8

(Zoning Bylaw Amendment: Neighborhood Employee Housing)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions) to insert after "MOTEL" and before "NONCONFORMING STRUCTURE USE, OR LOT" the new following definition:

**NEIGHBORHOOD EMPLOYEE HOUSING - HOUSING FOR 6 - 12 EMPLOYEES
IN ACCORDANCE WITH Chapter 139 §8B(4).**

Second, create a new §8B(4) entitled "Neighborhood Employee Housing", as follows:

B.

(4) Neighborhood Employee Housing

(a) Purpose

The purpose of this subsection B(4) is to provide for decent and affordable housing for employees working in the Town of Nantucket, both seasonal and year-round, in a manner that is compatible with the densities and scale of existing neighborhoods, and which is well maintained and managed in a manner that is consistent with the use and enjoyment of a residential neighborhood.

(b) Special Permit with Major Site Plan Review

A Major Site Plan Review by the Board of Appeals for employee housing applications is required as part of the Special Permit process.

(c) Permitted Density

Special Permits may be granted for Neighborhood Employee Housing containing between 6 to 12 persons per dwelling unit. No lot containing Neighborhood Employee Housing shall be permitted within 500 feet of another lot so permitted, or within 500 feet of a lot containing a dormitory previously approved by the Zoning Board of Appeals. Occupancy shall be limited to employees of those employers who own or lease space in such housing, together with

their spouses, domestic partners, or dependents of such employers.

(d) Buffering

In addition to the standards for buffering and screening required under Chapter 139 §23, Site Plan Review, the Zoning Board may require additional landscaping and screening as deemed necessary by the Board to adequately screen the activities from neighboring properties.

(e) Parking Requirements

No more than 4 parking spaces for motor vehicles shall be permitted for each property which is the subject of a Special Permit under this Chapter. Vehicular and bicycle parking shall be on the side or rear of the proposed structure, and shall be screened from view from the street to the extent possible.

(f) Efforts to promote alternatives to the automobile

For neighborhood employee housing, as a condition of approval of the Special Permit, the applicant shall provide evidence that with the housing, there is an entitlement to prepaid NRTA shuttle bus passes for all occupants for the duration of each occupancy.

(g) Review and Reporting

The Zoning Enforcement Officer shall conduct a review of the compliance of the facility on at least the first anniversary of the issuance of the permit, and thereafter on an as-needed basis.

Third, amend Chapter 139 §24C(2)(b)[4] as follows:

- [4] Dwelling units constructed as employer dormitory units, as described in Chapter 139 §7D(4), and Neighborhood Employee Housing as described in Chapter 139 §8B(4).

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.6, Recommendation 1a)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket, is amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions) to insert after "MOTEL" and before "NONCONFORMING STRUCTURE USE, OR LOT" the new following definition:

NEIGHBORHOOD EMPLOYEE HOUSING – Housing for 6 - 12 employees in the Town Overlay District in accordance with Chapter 139 §8B(4).

Second, create a new §8B(4) entitled “Neighborhood Employee Housing”, as follows:

B.

(4) Neighborhood Employee Housing

(a) Purpose

The purpose of this subsection B(4) is to provide for decent and affordable housing for employees working in the Town of Nantucket, both seasonal and year-round, in a manner that is compatible with the densities and scale of existing neighborhoods, and which is well maintained and managed in a manner that is consistent with the use and enjoyment of a residential neighborhood.

(b) Special Permit with Major Site Plan Review

A Major Site Plan Review by the Board of Appeals for employee housing applications is required as part of the Special Permit process.

(c) Permitted Density

Special Permits may be granted for Neighborhood Employee Housing containing between 6 to 12 persons per dwelling unit. Within a 1000 foot radius, there shall be no more than three lots containing Neighborhood Employee Housing. Occupancy shall be limited to employees of those employers who own or lease space in such housing, together with their spouses, domestic partners, or dependents of such employers.

(d) Buffering

In addition to the standards for buffering and screening required under Chapter 139 §23, Site Plan Review, the Zoning Board of Appeals may require additional landscaping and screening as deemed necessary by the Board to adequately screen the activities from neighboring properties.

(e) Parking Requirements

No more than one (1) parking space for motor vehicles for every two people shall be permitted for each property which is the subject of a Special Permit under this Chapter. Vehicular and bicycle parking shall be on the side or rear of the proposed structure, and shall be screened from view from

the street to the extent possible.

(f) Efforts to promote alternatives to the automobile

For neighborhood employee housing, as a condition of approval of the Special Permit, the applicant shall provide evidence that with the housing, there is an entitlement to prepaid NRTA shuttle bus passes for all occupants for the duration of each occupancy.

(g) Review and Reporting

The Zoning Enforcement Officer shall conduct a review of the compliance of the facility on at least the first anniversary of the issuance of the permit, and thereafter on an as-needed basis.

(h) Neighborhood Employee Housing Management Plan

Each Special Permit application under this Chapter shall be accompanied by a Neighborhood Employee Housing management Plan prepared in accordance with guidelines adopted by the Zoning Board of Appeals.

Third, amend Chapter 139 §24C(2)(b)[4] as follows:

[4] Dwelling units approved prior to the effective date of this bylaw by the Zoning Board of Appeals as Employer Dormitory units, Neighborhood Employee Housing units, or Housing units constructed in accordance with the Dormitory Overlay District.

ARTICLE 9

(Zoning Bylaw Amendment: Dormitory Housing and Overlay District)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions), as follows: insert after the definition of “DISPOSAL” and before the definition of “DWELLING” the following new definition:

DORMITORY OVERLAY DISTRICT- The overlay district described in 139-12E.

Second, amend the caption for Chapter 139 §12 by adding the words "and Dormitory Overlay District (DOD)".

Third, insert a new §12E to Chapter 139 entitled “Dormitory Overlay District” as follows:

12E Dormitory Overlay District

- (1) The Dormitory Overlay District is located as depicted on the map entitled "Dormitory Overlay District", dated October 24, 2000, prepared by Nantucket Planning and Economic Development Commission, incorporated by reference and made a part hereof.
- (2) The purpose of the Dormitory Overlay District is to provide for large scale developments of decent and affordable housing for employees working in the Town of Nantucket, both seasonal and year-round, in a manner that removes this potentially incompatible use from existing neighborhoods, but close to transit, bike paths, and readily accessible to employment centers.
- (3) Special permits may be granted for Dormitory Housing in accordance with Chapter 139 §8 B (5).

Fourth, insert a new Chapter 139 §8 B. (5) entitled "Dormitory Housing", as follows:

a. Permitted Density

Density within the Dormitory Overlay District shall not exceed 100 persons per acre of land. Occupancy shall be limited to employees of those employers who own or lease space in such housing, together with their spouses, domestic partners, or dependents of such employers.

b. Buffering

In addition to the standards for buffering and screening required under Chapter 139 §23, Site Plan Review, the Zoning Board may require additional landscaping and screening as deemed necessary by the Board to adequately screen the activities from neighboring properties, particularly those properties that may abut or be visible from residences.

c. Parking Requirements

No more than 1 parking spaces for motor vehicles for every 10 persons shall be permitted for each property which is the subject of a Special Permit under this section. Vehicular and bicycle parking shall be on the side or rear of the proposed structure(s), and shall be screened from view from the street.

d. Efforts to promote alternatives to the automobile

For dormitory housing, as a condition of approval of the Special Permit, the applicant shall provide evidence that, with housing in the dormitory, there is an entitlement to prepaid NRTA shuttle bus passes for all seasonal occupants, for the duration of each occupancy.

e. Review and Reporting

The Zoning Enforcement Officer shall conduct a review of the compliance

of the facility on at least the first anniversary of the issuance of the permit, and thereafter on an as-needed basis.

Fifth, amend Chapter 139 §24C(2)(b)[4] as follows:

- [4] Dwelling units constructed as employer dormitory units, as described in Chapter 139 §7D(4), and Dormitory units as described in Chapter 139 §12E.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.6, Recommendation 1b)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket is amended as follows: *(NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text):*

First, amend Chapter 139 §2A (Definitions), as follows:

Insert after the definition of “DISPOSAL” and before the definition of “DWELLING” the following new definition:

DORMITORY OVERLAY DISTRICT- The overlay district described in Chapter 139-§12E.

Second, amend the caption for Chapter 139 §12 by adding the words "and Dormitory Overlay District (DOD)".

Third, insert a new §12E to Chapter 139 entitled “Dormitory Overlay District” as follows:

12E Dormitory Overlay District

- (1) The Dormitory Overlay District is located as depicted on the map entitled "Dormitory Overlay District", dated October 24, 2000, revised November 29, 2000, prepared by Nantucket Planning and Economic Development Commission, incorporated by reference and made a part hereof.**
- (2) The purpose of the Dormitory Overlay District is to provide for large scale developments of decent and affordable housing for employees working in the Town of Nantucket, both seasonal and year-round, in a manner that removes this potentially incompatible use from existing neighborhoods, but close to transit, bike paths, and readily accessible to employment centers.**

(3) Special permits may be granted for Dormitory Housing in accordance with Chapter 139 §8 B (5).

Fourth, insert a new Chapter 139 §8 B. (5) entitled “Dormitory Housing”, as follows:

a. Permitted Density

Density within the Dormitory Overlay District shall not exceed 100 persons per acre of land. Occupancy shall be limited to employees of those employers who own or lease space in such housing, together with their spouses, domestic partners, or dependents of such employees.

b. Buffering

In addition to the standards for buffering and screening required under Chapter 139 §23, Site Plan Review, the Zoning Board may require additional landscaping and screening as deemed necessary by the Board to adequately screen the activities from neighboring properties, particularly those properties that may abut or be visible from residences.

c. Parking Requirements

No more than 1 parking spaces for motor vehicles for every 10 persons shall be permitted for each property which is the subject of a Special Permit under this section. Vehicular and bicycle parking shall be on the side or rear of the proposed structure(s), and shall be screened from view from the street.

d. Efforts to promote alternatives to the automobile

For dormitory housing, as a condition of approval of the Special Permit, the applicant shall provide evidence that, with housing in the dormitory, the employer provides prepaid NRTA shuttle bus passes for all seasonal occupants, for the duration of each occupancy.

e. Review and Reporting

The Zoning Enforcement Officer shall conduct a review of the compliance of the facility on at least the first anniversary of the issuance of the permit, and thereafter on an as-needed basis.

Fifth, amend Chapter 139 §24C(2)(b)[4] as follows:

[4] Dwelling units approved prior to the effective date of this bylaw by the Zoning Board of Appeals as Employer Dormitory units, Neighborhood Employee Housing units, or Housing units constructed in accordance with the Dormitory Overlay District.

ARTICLE 10

(Zoning Bylaw Amendment: Nantucket Commitment Housing)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions), as follows: insert after the definition of “MOTEL” and before the definition of “NANTUCKET HOUSING NEEDS COVENANT” (if adopted) and (if Nantucket Housing Needs Covenant is not adopted), before the definition of “NONCONFORMING” the following new definition:

NANTUCKET HOUSING OFFICE (NHO) -- The Nantucket Housing Authority or its designee is to serve as Nantucket Housing Office and is hereby designated the Town's agent to monitor and enforce Nantucket Housing Needs Covenants.

Second, insert immediately before the definition of “NONCONFORMING” the following definition:

NANTUCKET COMMITMENT HOUSING (NCH) PROGRAM -- The housing program administered by the NHO or its designee in order to provide affordable housing, with a preference for current or prospective Nantucket residents. Any person, whether currently a resident of the Town or not, without regard to race, religion, color, national origin, sex, sexual orientation, age, or physical disability, shall be eligible for such housing. In the event that there are no such eligible persons who come forward within a thirty-day (30) period for any available Nantucket Commitment Housing dedicated to this purpose, the preference shall not apply until the next vacancy in occupancy.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.1, Recommendation 1)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket be amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A, by leaving the title to definition of Affordable Housing and deleting the text below title and replacing with the following:

AFFORDABLE HOUSING - For sale housing (condominiums, cooperatives, and housing owned in fee simple) and rental housing (housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing, as these terms are defined elsewhere in this Bylaw) that is restricted pursuant to the Nantucket Housing Needs Covenant.

Second, amend Chapter 139 §2A, by deleting the existing definition of Inclusionary Units and substituting the following:

INCLUSIONARY UNITS - For Sale housing (condominiums, cooperatives, and housing owned in fee simple) and Rental Housing (housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing, as these terms are defined elsewhere in this Bylaw) that is restricted pursuant to the Nantucket Housing Needs Covenant.

Third, create a new Chapter 139 §7H, as follows:

H. Nantucket Housing Program

(1) **Purpose: to make available housing that is affordable to people who provide year-round services essential to the Nantucket economy and earn less than 150% of the Nantucket County median household income; to maintain Nantucket’s diversity and unique sense of community; to encourage moderate-income families to continue to reside on Nantucket; and to generate a supply of housing that is available to the children and grandchildren of Nantucketers.**

(2) **Definitions: the following definitions only apply to this §7H of Chapter 139:**

“Essential Service Occupation”: The year-round performance of services that are essential to the economy of Nantucket including, but not limited to, Town employees such as teachers, firefighters, and police officers; people involved in the building trades, people working in home occupations, retail employees, child and elderly care providers, and health care providers including doctors and nurses.

“For Sale Housing”: Condominiums, cooperatives, and housing owned in fee simple.

“Maximum Rental Price”: For units rented to households above 100% and below 150% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 150% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size. For units rented to households below 100% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 100% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size.

“Maximum Resale Price”: For units sold to households above 100% and

below 150% of the Nantucket County median income, the greater of 30% of the annual income of a household earning 150% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size, or the price at which the unit was purchased increased by the Consumer Price Index, but in no event shall the resale price exceed the owner's purchase price plus 5% per annum compounded annually. For units sold to households below 100% of the Nantucket County median income the greater of 30% of the annual income of a household earning 100% of the median income of Nantucket County as set forth in HUD Guideline, adjusted for household size, or the price at which the unit was purchased increased by the Consumer Price Index, but in no event shall the resale price exceed the owner's purchase price plus 5% per annum compounded annually.

“Rental Housing”: Housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing.

(3) Applicability: The provisions of this Section 7H, including the Nantucket Housing Need Covenant, shall apply to housing that is exempted or given points pursuant to the Interim Growth Rate Cap (Chapter 139 §24C) and to Affordable Housing, Inclusionary Units or housing restricted pursuant to the Nantucket Housing Needs Covenant as these types of housing are referenced in Major Residential Development Special Permit (Chapter 139 §7F(7)(b)); Major Commercial Development Special Permit (Chapter 139 §11J); and Large Residential Development (Chapter 139 §7G). Wherever there is a reference in Chapter 139 to the Nantucket Housing Needs Covenant, all of the provisions in this Section 7H shall apply.

(4) Eligible Households: Households earning less than 150% of the Nantucket County median household income, as set forth in HUD Guidelines, at least one member of whom is gainfully employed in an “Essential Service Occupation”.

(5) Nantucket Housing Needs Covenant: a restriction that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that is enforceable by the Nantucket Housing Authority (NHA) or its designee that runs with the land for at least thirty years and at most, in perpetuity. This restriction shall be placed on Rental and For Sale housing that is occupied by households earning less than 150% of the Nantucket County median household income, as set forth in HUD Guidelines, at least one member of whom is gainfully employed in an “Essential Service Occupation”.

(6) Additional Requirements for Nantucket Housing Needs Covenant for For Sale Units: Upon resale the NHA or its designee shall have a right of first refusal

or an option to purchase a unit at the Maximum Resale Price. If the owner actively markets the unit and a purchaser cannot be located within 120 days of the time the unit is put on the market, the unit may be sold to a household that does not comply with the income and employment limits established by this restriction and the proceeds of the sale over and above the Maximum Resale Price shall be paid to the NHA or its designee.

(7) Additional Requirements for Nantucket Housing Needs Covenant for Rental Units: The owner of the Rental unit or units shall provide the NHA or its designee with an annual certification of compliance with the terms of the restriction. If at the end of the lease it is determined that the tenant's income is more than the 100 or 150% of median-income-limit, the tenant will be required to pay the full fair market rent and the owner, shall make available to another Eligible Household a unit of a similar size at Maximum Rental Price.

(8) Monitoring and Administration: The NHA or its designee shall be charged with monitoring and administering the Nantucket Housing Needs Program.

(9) Program Requirements:

(a) If units restricted by the Nantucket Housing Needs Covenant are part of a development:

i. They shall be integrated into the development and their exterior appearance shall be indistinguishable from the other units in the development.

ii. No more than 80% of the building permits for the market-rate units shall be issued for the development until construction has commenced on all of the units restricted by the Nantucket Housing Needs Covenant and no more than 80% of the occupancy permits for the market-rate units shall be issued until all of the occupancy permits for the restricted units have been issued.

iii. If units are condominiums, the condominium documents shall include provisions ensuring that owners of the restricted units will not be required to pay for capital improvements they cannot afford and that they have voting rights sufficient to ensure they have an effective role in condominium decision-making.

iv. All legal documentation (such as the restriction, the condominium or cooperative documents, leases, or monitoring agreements) shall be submitted to the NHA or its designee for its review and approval.

FINANCE COMMITTEE RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket be amended in accordance with the Planning Board recommendation, as amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A, by leaving the title to definition of Affordable Housing and deleting the text below title and replacing with the following:

AFFORDABLE HOUSING - For sale housing (condominiums, cooperatives, and housing owned in fee simple) and rental housing (housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing, as these terms are defined elsewhere in this Bylaw) that is restricted pursuant to the Nantucket Housing Needs Covenant, or that is subject to an affordable housing restriction pursuant to M.G.L., Chapter 184, §31.

Second, amend Chapter 139 §2A, by deleting the existing definition of Inclusionary Units and substituting the following:

INCLUSIONARY UNITS - For Sale housing (condominiums, cooperatives, and housing owned in fee simple) and Rental Housing (housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing, as these terms are defined elsewhere in this Bylaw) that is restricted pursuant to the Nantucket Housing Needs Covenant.

Third, create a new Chapter 139 §7H, as follows:

H. Nantucket Housing Program

(1) **Purpose:** to make available housing that is affordable to people who provide year-round services essential to the Nantucket economy and earn less than 150% of the Nantucket County median household income; to maintain Nantucket’s diversity and unique sense of community; to encourage moderate-income families to continue to reside on Nantucket; and to generate a supply of housing that is available to the children and grandchildren of Nantucketers.

(2) **Definitions:** the following definitions only apply to this §7H of Chapter 139:

“Certified Sales Price”: The amount paid by an Eligible Household, which shall be no more than 30% of its annual income for the annual debt service on a mortgage plus property taxes, insurance, and condominium fees.

“Eligible Household”: Household earning less than 150% of the Nantucket

County median household income, as set forth in Guidelines currently in effect or as may hereafter be established by the U.S. Department of Housing and Urban Development, at least one member of which household is, or is to be, gainfully employed in an “Essential Service Occupation”.

“Essential Service Occupation”: The year-round performance of services that are essential to the economy of Nantucket including, but not limited to, Town employees such as teachers, firefighters, and police officers; people involved in the building trades, people working in home occupations, retail employees, child and elderly care providers, and health care providers including doctors and nurses.

“For Sale Housing”: Condominiums, cooperatives, and housing owned in fee simple.

“Maximum Rental Price”: For units rented to households above 100% and below 150% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 150% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size. For units rented to households below 100% of the Nantucket County median income, the rental price shall be no more than 30% of the annual income of a household earning 100% of the median income of Nantucket County as set forth in HUD Guidelines, adjusted for household size.

“Maximum Resale Price”: The greater of the Certified Sales Price or the price at which the unit was purchased increased by the Consumer Price Index, but in no event shall the resale price exceed the owner’s purchase price by more than 5% per annum.

“Nantucket Housing Needs Covenant”: a restriction that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that is enforceable by the Nantucket Housing Authority (NHA) or its designated non-profit that runs with the land for at least thirty years and at most, in perpetuity. This restriction shall be placed on Rental and For Sale housing that is occupied by Eligible Households at least one member of which is, or is to be, gainfully employed in an “Essential Service Occupation”. The NHA’s designated non-profit shall be required by contract to implement this program consistent with the Charter of the NHA.

“Rental Housing”: Housing that is not “for sale” and is not Dormitory Housing, Seasonal Vacation Rentals, Neighborhood Employee Housing, or Seasonal Employee Housing.

(3) Applicability: The provisions of this §7H, including the Nantucket Housing Need Covenant, shall apply to housing that is exempted or given points pursuant to the Interim Growth Rate Cap (Chapter 139 §24C) and to Affordable Housing, Inclusionary Units or housing restricted pursuant to the Nantucket Housing Needs Covenant as these types of housing are referenced in Major Residential Development Special Permit (Chapter 139 §7F); Major Commercial Development Special Permit (Chapter 139 §11J); and Large Scale Residential Development (Chapter 139 §7G). Wherever there is a reference in Chapter 139 to the Nantucket Housing Needs Covenant, all of the provisions in this §7H shall apply.

(4) Additional Requirements for Nantucket Housing Needs Covenant for For Sale Units: Upon resale the NHA or its designated nonprofit shall have a right of first refusal or an option to purchase a unit at the Maximum Resale Price. If the owner actively markets the unit and a purchaser cannot be located within 120 days of the time the unit is put on the market, the unit may be sold to a household that does not comply with the income and employment limits established by this restriction and the proceeds of the sale over and above the Maximum Resale Price shall be paid to the NHA or its designated nonprofit, such funds to be used solely to advance the purposes of this program.

(5) Additional Requirements for Nantucket Housing Needs Covenant for Rental Units: The owner of the Rental unit or units shall provide the NHA or its designated nonprofit with an annual certification of compliance with the terms of the restriction. If at the end of the lease it is determined that the tenant's income is more than the 100 or 150% of median-income-limit, the tenant will be required to pay the full market rent and the owner, shall make available to another Eligible Household a unit of a similar size at Maximum Rental Price, unless otherwise provided for in regulations.

(6) Monitoring and Administration: The NHA or its designated nonprofit shall be charged with monitoring and administering the Nantucket Housing Needs Program.

(7) Program Requirements:

(a) If units restricted by the Nantucket Housing Needs Covenant are part of a development:

i. They shall be integrated into the development and their exterior appearance shall be indistinguishable from the other units in the development.

ii. No more than 80% of the building permits for the market-rate

units shall be issued for the development until construction has commenced on all of the units restricted by the Nantucket Housing Needs Covenant and no more than 80% of the occupancy permits for the market-rate units shall be issued until all of the occupancy permits for the restricted units have been issued.

- iii. If units are condominiums, the condominium documents shall include provisions ensuring that owners of the restricted units will not be required to pay for capital improvements they cannot afford and that they have voting rights sufficient to ensure they have an effective role in condominium decision-making.
- iv. All legal documentation (such as the restriction, the condominium or cooperative documents, leases, or monitoring agreements) shall be submitted to the NHA or its designated nonprofit for its review and approval.

ARTICLE 11

(Zoning Bylaw Amendment: Seasonal Vacation Rental)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions), by adding the following new definition before the definition of "RESIDENTIAL WECS" and before the definition of "SHOREFRONT LAND", as follows:

SEASONAL VACATION RENTAL -- a dwelling unit rented for compensation for vacation purposes exclusively during all or part of the months of June, July, August, and September. A dwelling unit rented to persons visiting Nantucket for the primary purpose of seasonal employment or study in conjunction with an accredited secondary or higher education program shall not be considered a seasonal vacation rental.

Second, amend Chapter 139 §12C (3) of the Zoning Bylaw, by adding a new paragraph (b), as follows:

(b) Secondary dwellings within the Town Overlay District shall be limited as set forth in Chapter 139 §7 A 2 (a)

Third, amend Chapter 139 §7A (2) (a) as follows:

- (a) The secondary dwelling shall be a single-family dwelling, subject to the following restriction:**
 - (i) Prior to the issuance of a building permit after July 1, 2001, for a new secondary dwelling on a lot located in the Town Overlay District, the Building Commissioner shall require proof of the recording in the Registry of Deeds or Registry District of a covenant on the lot in question that prohibits the use of at least one of the two dwelling units for seasonal vacation rentals.**

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 1.9, Recommendation 1a)

PLANNING BOARD RECOMMENDATION: Moved not to adopt the Article.

ARTICLE 12

(Zoning Bylaw Amendment: Seasonal Vacation Rental)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §2A (Definitions), by adding the following new definition before the definition of "RESIDENTIAL WECS" and before the definition of "SHOREFRONT LAND", as follows:

SEASONAL VACATION RENTAL - a dwelling unit rented for compensation for vacation purposes exclusively during all or part of the months of June, July, August, and September. A dwelling unit rented to persons visiting Nantucket for the primary purpose of seasonal employment or study in conjunction with an accredited secondary or higher education program shall not be considered a seasonal vacation rental.

Second, amend Chapter 139 §9 (Residential Commercial Districts RC, and RC-2), by adding a new subsection (12) as follows:

(12) Apartments, provided that they are subject to a recorded covenant prohibiting use as Seasonal Vacation Rental, such covenant to be enforceable by the Town of Nantucket.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.3, Recommendations 3-4)

PLANNING BOARD RECOMMENDATION: Moved not to adopt the article.

ARTICLE 13

(Zoning Bylaw Amendment: Nantucket Housing Needs Covenant)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

First, amend Chapter 139 §7A(2) (Permitted Uses), by amending subsection (f) as follows:

- (f) A dwelling shall not be considered "secondary" for the purposes of Chapter 139 §7 unless the secondary dwelling is in the same legal and beneficial ownership as the principal dwelling **and unless the dwelling is subject to a Nantucket Housing Needs Covenant.** The ownership of the lot by a cooperative housing corporation, land trust, or other common interest ownership entity in which there is separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership"

for the purposes of the immediately preceding sentence.

Second, insert in Chapter 139 §2A (Definitions), after the definition of “MOTEL” and before the definition of “NONCONFORMING” the following definition:

NANTUCKET HOUSING NEEDS COVENANT - a housing covenant that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District, that runs with the land, that is enforceable by the Town of Nantucket, and that gives a first preference during a period of at least 30 years for the occupancy of a dwelling unit within the limits of the Town of Nantucket to persons who earn up to 150% of the median annual Nantucket income, and who either commit to become year-round Nantucket residents or who commit to become temporary Nantucket seasonal employees. Any person, whether currently a resident of the Town or not, without regard to race, religion, color, national origin, sex, sexual orientation, age, or physical disability, shall be eligible to make such a commitment. Relief from this restriction shall be identical for procedures for relief from a Covenant under Phased Development, Chapter 139 §24C. In the event that there are no such eligible persons who come forward within a thirty (30) day period after publication of availability for any housing restricted by this Covenant, the Covenant shall not further apply until the next vacancy in occupancy.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objective 2.3, Recommendation 6)

PLANNING BOARD RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket, be amended, as follows *(NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text):*

First, amend Chapter 139 §7A(2) (Permitted Uses), by amending subsection (f) as follows:

- (f) A dwelling shall not be considered "secondary" for the purposes of Chapter 139 §7 unless the secondary dwelling is in the same legal and beneficial ownership as the principal dwelling. The ownership of the lot by a **condominium**, cooperative housing corporation, land trust, or other common interest ownership entity in which there is separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership" for the purposes of the immediately preceding sentence, **and unless the dwelling is subject to a Nantucket Housing Needs Covenant.**

Second, insert in Chapter 139 §2A (Definitions), after the definition of “MOTEL” and before the definition of “NONCONFORMING” the following definition:

NANTUCKET HOUSING NEEDS COVENANT - a housing covenant that is executed by property owners and recorded in the Registry of Deeds or Land Court Registry District,

that runs with the land, as described in Chapter 139 §7H.

FINANCE COMMITTEE RECOMMENDATION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket is hereby amended in accordance with the Planning Board recommendation, as amended as follows (*NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text*):

Amend subsection (f) as follows:

- (f) A dwelling shall not be considered "secondary" for the purposes of Chapter 139 §7 unless the secondary dwelling is in the same legal and beneficial ownership as the principal dwelling and unless the dwelling is subject to a Nantucket Housing Needs Covenant. The ownership of the lot by a condominium, cooperative housing corporation, land trust, or other common interest ownership entity in which there is separate beneficial ownership of the principal and secondary dwellings on the lot shall not be deemed to constitute "the same legal and beneficial ownership" for the purposes of the immediately preceding sentence.

ARTICLE 14

(Home Rule Petition: An Act to Limit Road and Street Improvements on Nantucket Island)

To see if the Town will vote to request its representatives in the General Court to introduce legislation which would restrict the construction of certain road improvements on Nantucket Island and to authorize the Board of Selectmen of the Town to make constructive changes in perfecting the language of this legislation in order to secure passage, it being the intent to authorize the Board of Selectmen and the General Court to vary the specific text of the requested legislation within the scope of the general objectives of this home rule petition; such legislation to read substantially as follows:

AN ACT TO LIMIT ROAD AND STREET IMPROVEMENTS ON NANTUCKET ISLAND

Section 1. High volumes of traffic have a detrimental impact on the historic and natural character of Nantucket Island and the Nantucket tourist economy which depends upon that character. In mainland communities, incremental increases in traffic are typically accommodated by increasing the capacity of the road system through road widening, the addition of turn lanes, and the installation of traffic signals. Instituting such traffic measures would be inconsistent with Nantucket's essential historic and environmental protection principles.

Section 2. Notwithstanding any other law to the contrary, Massachusetts Highway Department shall not require, and the following are hereby prohibited, on Nantucket island unless an exception of any of the following standards is expressly authorized by a majority vote of an Annual or Special Town Meeting of the Town of Nantucket for a specific road improvement project:

- (a) Road widening;

- (b) The construction of turning lanes;
- (c) The installation of automated traffic signals; and
- (d) The construction of new public or private streets that do not intersect at least two different public ways, unless the Planning Board of the Town of Nantucket makes a finding that such streets cannot comply with this section due to topography, water bodies, wetlands, endangered species habitat, or other natural constraints.

Section 3. Subject to the requirements for a traffic impact analysis as described in Section 4 below, this Act shall not prohibit the construction of new through streets to be dedicated for public use or the construction of temporary cul-de-sacs, as long as adequate provision is made for future connections of such temporary cul-de-sacs with a public way.

Section 4. Unimproved publicly-owned roads within the limits of the Town of Nantucket shall not be paved and new public or private streets within the limits of the Town of Nantucket shall not be constructed unless a traffic impact analysis is first performed that demonstrates to the satisfaction of the Planning Board of the Town of Nantucket that such paving or construction will not result in a violation of any of the standards contained in Section two of this Act.

Section 5. This Act shall take effect upon its passage.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objectives 5.7; Objective 5.7.1, Recommendations 1-4; Objective 5.7.2, Recommendations 1-2)

NOTE: This is a companion article to Article 14

FINANCE COMMITTEE RECOMMENDATION: Moved not to adopt the article.

ARTICLE 15

(Bylaw Amendment: Streets and Sidewalks)

To see if the Town will vote to amend Chapter 127 (Streets and Sidewalks) of the Code of the Town of Nantucket as follows *(NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text):*

First, amend Chapter 127 Article VII (Road Construction) §19 (Prohibitions) as follows:

§ 127-19. ~~Prohibitions.~~

~~The town will preserve the historic character of its road system by prohibiting the construction of new publicly owned roads, the paving of unimproved publicly owned roads, the adding of lanes to existing publicly owned roads and the installation of electric traffic signal systems of any kind.~~

Limitations on Road Improvement and Construction

A. In order to protect the historic and natural character of the Town and preserve its

tourist economy, the following are hereby prohibited for any Town public way or street on Nantucket unless an exception of any of the following standards is expressly authorized by a majority vote of Town Meeting for a specific project:

- (1) Road widenings for the purpose of increasing motor vehicular travel capacity;
- (2) The construction of travel lanes dedicated as turning lanes for motor vehicles;
- (3) The installation of automated traffic signals; and
- (4) The construction of new public streets that do not intersect at least two public ways.

B. Subject to the requirements for a traffic impact analysis as set down in Section C below, this Section shall not prohibit the construction of new through streets to be dedicated for public use or the construction of temporary cul-de-sacs, as long as adequate provision is made for future connections of such temporary cul-de-sacs with a public way.

C. Unimproved publicly-owned roads shall not be paved and new public streets shall not be constructed unless a traffic impact analysis is first performed which demonstrates to the satisfaction of the Planning Board that such paving or construction will not result in a violation of any of the standards contained in Chapter 127 §19A of the General Bylaws of the Town of Nantucket. In the case of roads to be constructed or improved by the Town of Nantucket, the Planning Board shall submit its finding to the Board of Selectmen.

D. This Bylaw shall not apply to State roads, County roads, private ways, ways pursuant to the Subdivision Control Law, ways entirely on public or private property, and common driveways.

Second, amend Chapter 127 §20 (Exceptions) by deleting subsections A, F, and G, and by re-lettering subsections B, C, D, and E, as A, B, C, and D, respectively.

Third, delete Chapter 127 § 22 (Time limit; expiration) in its entirety.

(Board of Selectmen for Nantucket Planning & Economic Development Commission and as Recommended by the Nantucket Comprehensive Community Plan, Objectives 5.7; Objective 5.7.1, Recommendations 1-4; Objective 5.7.2, Recommendations 1-2)

FINANCE COMMITTEE RECOMMENDATION: Moved that Chapter 127 (Streets and Sidewalks) of the Code of the Town of Nantucket is hereby amended as follows (NOTE: new language is shown as highlighted text; language to be deleted is shown by strike-out; these methods used to denote changes are not meant to become part of the final text):

First, amend Chapter 127 Article VII (Road Construction) §19 (Prohibitions) as follows:

Chapter 127 §19. Prohibitions.

~~The town will preserve the historic character of its road system by prohibiting the construction of new publicly owned roads, the paving of unimproved publicly owned roads, the adding of lanes to existing publicly owned roads and the installation of electric traffic signal systems of any kind.~~

Limitations on Road Improvement and Construction

- A.** In order to protect the historic and natural character of the Town and preserve its tourist economy, the following are hereby prohibited for any Town public way or street on Nantucket unless an exception of any of the following standards is expressly authorized by a majority vote of Town Meeting for a specific project:
- (1)** Road widenings for the purpose of increasing motor vehicular travel capacity;
 - (2)** The construction of travel lanes dedicated as turning lanes for motor vehicles;
 - (3)** The installation of automated traffic signals; and
 - (4)** The construction of new public streets that do not intersect at least two public ways.
- B.** Subject to the requirements for a traffic impact analysis as set down in Section C below, this Section shall not prohibit the construction of new through streets to be dedicated for public use or the construction of temporary cul-de-sacs, as long as adequate provision is made for future connections of such temporary cul-de-sacs with a public way.
- C.** Unimproved publicly-owned roads shall not be paved and new public streets shall not be constructed unless a traffic impact analysis is first performed which demonstrates to the satisfaction of the Planning Board that such paving or construction will not result in a violation of any of the standards contained in Chapter 127 §19A of the General Bylaws of the Town of Nantucket. In the case of roads to be constructed or improved by the Town of Nantucket, the Planning Board shall submit its finding to the Board of Selectmen.
- D.** This Bylaw shall not apply to State roads, County roads, private ways, ways pursuant to the Subdivision Control Law, ways entirely on private property, common driveways, and ways that service public facilities and that are located entirely upon public land used for public facilities such as school facility land, Airport land (including runways), public parkland, recreation land, and beach facilities land.

Second, amend Chapter 127 §20 (Exceptions) by deleting subsections A, F, and G, and by re-lettering subsections B, C, D, and E, as A, B, C, and D, respectively.

Third, delete Chapter 127 § 22 (Time limit; expiration) in its entirety.