

SB

Supplemental

Agenda

Packet for

1/19/2022

DRAFT WARRANT as of 011922

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF NANTUCKET**



WARRANT FOR

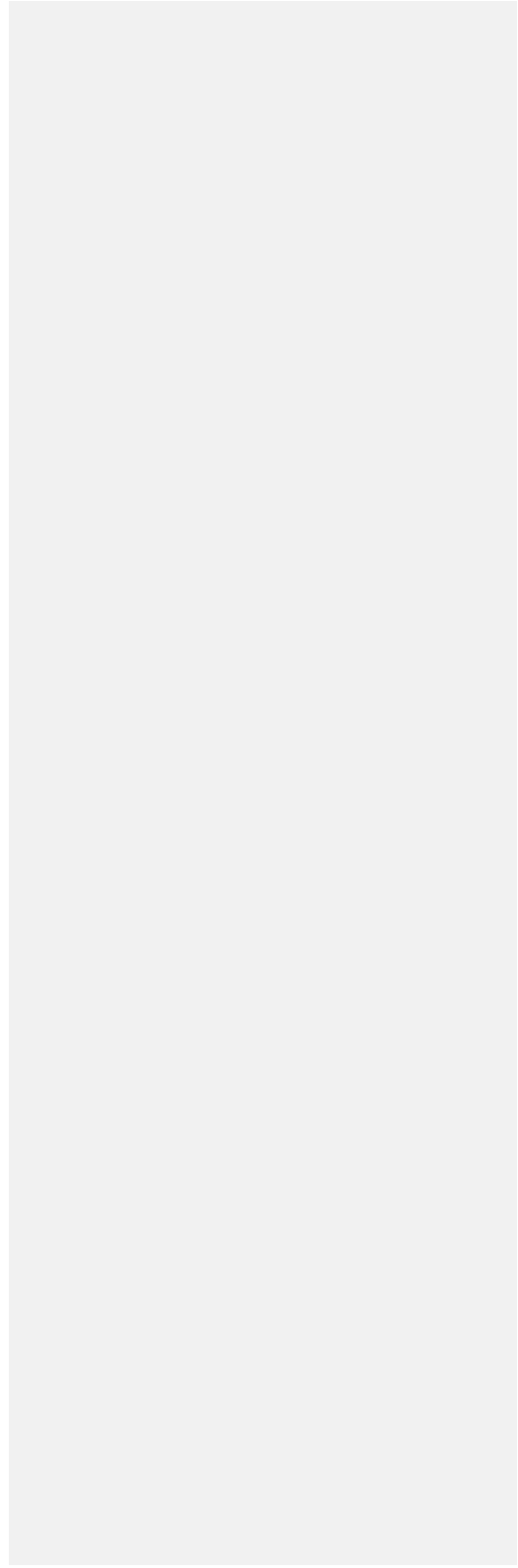
**2022 ANNUAL TOWN MEETING
Nantucket High School
Mary P. Walker Auditorium
Monday, May 2, 2022 - 5:00 PM**

AND

**ANNUAL TOWN ELECTION
Nantucket High School
Tuesday, May 10, 2022
7:00 AM - 8:00 PM**

Town of Nantucket
16 Broad Street
Nantucket, MA 02554
(508) 228-7255
www.nantucket-ma.gov

DRAFT



To the Constables of the Town of Nantucket:

GREETING:

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Nantucket qualified to vote in Town affairs, to meet and assemble themselves at the Mary P. Walker Auditorium at Nantucket High School at 10 Surfside Road in said Nantucket, on

**MONDAY MAY 2, 2022 AT 5:00 PM,
THEN AND THERE TO ACT ON THE ARTICLES
CONTAINED WITHIN THE ENCLOSED WARRANT:**

**ARTICLE 1
(Receipt of Reports)**

To receive the reports of various departments and committees as printed in the Fiscal Year 2021 Annual Town Report or as may come before this meeting; or to take any other action related thereto.

(Select Board)

**ARTICLE 2
(Appropriation: Unpaid Bills)**

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute or transfer from available funds for the payment, pursuant to Chapter 44 section 64 of the Massachusetts General Laws, of unpaid bills from previous fiscal years, including any bills now on overdraft; or to take any other action related thereto.

(Select Board)

**ARTICLE 3
(Appropriation: Prior Year Articles)**

To see what sums the Town will vote to appropriate and transfer from available funds previously appropriated pursuant to Articles voted in prior years; or to take any other action related thereto.

(Select Board)

**ARTICLE 4
(Revolving Accounts: Spending Limits for FY 2023)**

To see what spending limits the Town will establish for revolving accounts established pursuant to Chapter 44, section 53E½ of the Massachusetts General Laws and Section 19-21 of the Town Code for Fiscal Year 2023; or take any other action related thereto.

(Select Board)john g

ARTICLE 5

(Appropriation: Reserve Fund)

To see what sum the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of establishing a Reserve Fund pursuant to Chapter 40 section 6 of the Massachusetts General Laws, to provide for the extraordinary and unforeseen expenditures which may arise during Fiscal Year 2023; said sum not to exceed five (5) percent of the Fiscal Year 2022 tax levy; or to take any other action related thereto.

(Select Board)

ARTICLE 6

(Fiscal Year 2022 General Fund Budget Transfers)

To see what sums the Town will vote to transfer into various line items of the Fiscal Year 2022 General Fund operating budget from other line items of said budget and from other available funds; or to take any other action related thereto.

(Select Board)

ARTICLE 7

(Personnel Compensation Plans for Fiscal Year 2023)

To see if the Town will vote to adopt the following Compensation Plans for Fiscal Year 2023:

Commented [LG1]: All hourly rates increased by \$2/hr

Schedule A -- Miscellaneous Compensation Schedule

Abatement Advisory Committee (yearly per member)	\$600.00
Americans with Disabilities Act Facilitator (hourly)	17.00 15.00
Building, Plumbing, Wiring Inspector, Assistants (hourly)	Up to \$80.00 \$75.00
Certified Nurse's Aide/Our Island Home (Per Diem - hourly)	23.00 22.00
Dietician/Our Island Home (hourly)	43.00 41.00
Election Warden (hourly)	22.00 20.00
Election Worker (hourly)	17.00 15.00
Exercise Instructors/Senior Center (hourly)	Up to \$40.00
EMT, Call (hourly)	22.00 20.00
Fire Captain, Call (yearly)	150.00
Fire Fighter, Call (hourly)	22.00 20.00
Fire Lieutenant, Call (yearly)	125.00
Fire Chief, Second Deputy (yearly)	5,000.00
Fire Chief, Third Deputy (yearly)	5,000.00
Licensed Practical Nurse/Our Island Home (Per Diem - hourly)	29.00 28.00
Our Island Home Ancillary (Per Diem - hourly)	21.00 20.00
Paramedic, Certified (Per Diem - hourly)	32.00 30.00
Registered Nurse/Our Island Home (Per Diem - hourly)	40.00 38.00
Registrar of Voters (yearly)	600.00
Registrar, Temporary Assistant (hourly)	17.00 15.00

Reserve Police Officer (hourly)	32.00-30.00
Seasonal Assistant Harbormaster (hourly)	32.00-30.00
Seasonal Lifeguard Supervisor (hourly)	32.00-30.00
Seasonal Maintenance Supervisor/Public Works (hourly)	25.00-21.00
Seasonal Health Inspector	32.00-30.00
Temporary Employee	various rates of pay
Veterans' Agent (hourly)	18.00-16.00

*Schedule B - Seasonal Employee Compensation Schedule
(Spring, Summer, Fall, Winter/Effective July 1, 2021 - June 30, 2022)*

Compensation Level	Start	Second Season	Third Season	Fourth Season
A-Hourly*	\$17.00	\$18.00	\$19.00	\$20.50
	\$19.00	\$20.00	\$21.00	\$22.50
B-Hourly*	\$18.00	\$19.00	\$20.00	\$21.00
	\$20.00	\$21.00	\$22.00	\$23.00
C-Hourly*	\$19.00	\$20.00	\$21.00	\$22.00
	\$21.00	\$22.00	\$23.00	\$24.00
D-Hourly*	\$21.00	\$21.50	\$22.00	\$22.50
	\$23.00	\$23.50	\$24.00	\$24.50

*An employee assigned supervisory responsibilities shall be placed in the next higher category.

- A: Information Aide, Seasonal Health Assistant, Shellfish Warden, Seasonal Natural Resources Enforcement Officer, Tennis Attendant
- B: Dock Worker, Natural Resources Technician, Seasonal Permit Sales Clerk
- C: Seasonal Firefighter/EMT, Community Service Officer, Lifeguard
- D: Lead Dock Worker, Seasonal Recreational Coordinator, Seasonal Engineering Intern, Seasonal Waste Reduction Intern, Lead Natural Resources Technician, Seasonal Laborer.

*Schedule C -- Compensation Schedule for Elected Officials**

Moderator	\$175 per year
Selectman, Chair	\$5,000/per year
Selectmen	\$3,500/per year
Town Clerk	\$107,836
	\$109,993

*Other than establishing the salary pursuant to MGL c. 41, s. 108, these positions are excluded from the Personnel Bylaw of the Town.

Or to take any other action related thereto.

(Select Board)

ARTICLE 8

(Appropriation: Fiscal Year 2023 General Fund Operating Budget)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of supporting the offices, departments, boards and commissions of the Town of Nantucket for Fiscal Year 2023; or to take any other action related thereto.

(Select Board)

ARTICLE 9

(Appropriation: Health and Human Services)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the Council for Human Services to be used by the Council to contract with various health and human services, not-for-profit corporations to provide for the health, safety and welfare of the inhabitants of the Town of Nantucket; further, that all such sums be expended on the condition that grant agreements be executed by and between the Select Board and the respective private, not-for-profit agency for Fiscal Year 2023, which grant agreements shall stipulate mutually agreed upon terms and conditions; or to take any other action related thereto.

(Select Board)

ARTICLE 10

(Appropriation: General Fund Capital Expenditures)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute or transfer from available funds, for the purposes of capital expenditures for the offices, departments, boards and commissions of the Town of Nantucket; provided that one or more amounts to be raised and appropriated may be contingent upon a Proposition 2½ capital outlay exclusion ballot question; or to take any other action related thereto.

(Select Board)

****NOTE: THERE WILL MOST LIKELY BE ITEMS TO BE CONTINGENT UPON A CAPITAL OUTLAY EXCLUSION IN THE FC MOTION**

ARTICLES 11 - ?

(Appropriation: USE FOR DEBT EXCLUSIONS - TEMPLATE LANGUAGE)

POTENTIAL DEBT EXCLUSIONS (SB: STAND ALONES, YES? VS ARTICLE 10 MOTION WHICH WOULD NEED FC AGREEMENT?)

OIH DESIGN - \$8.5M

HARBORMASTER SUPPLEMENTAL - \$2M

PLEASANT ST REPAVING & SIDEWALK REPAIRS - \$2M (this needs work)

LORAN BARRACKS REPAIRS - \$4.5M

SCHOOL CAMPUS-WIDE MASTER PLAN PROJECTS - \$16.4M

CENTRAL MUNICIPAL FACILITY DESIGN - \$6M

SEASONAL EMPLOYEE HOUSING CONSTRUCTION - \$8.5M
PFAS SOIL INVESTIGATION - \$2M

10-12 WASHINGTON ST ACQ - \$4.75M
HOUSING REAL ESTATE ACQ/PROJECTS (SAME AS 2021 ATM) - \$10M

Commented [LG2]: Would put real estate arts in real estate section near end of warrant

TOTAL: \$64.65M

To see what sum the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute or transfer from available funds, to be spent by the Town Manager with the approval of the Select Board, for the purpose of making various transportation-related improvements in the Surfside area on Lover's Lane, Monohansett Road and Okorwaw Avenue, including the costs of professional services for design, permitting, engineering, construction, construction supervision, materials, and other related professional services, and any other costs incidental and related thereto; provided, however, that any borrowing authorized hereunder shall be contingent on the passage of a Proposition 2 and ½ debt exclusion vote; or to take any other action related thereto.

(Select Board)

ARTICLE 15

(Appropriation: Fiscal Year 2023 Enterprise Funds Operations)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the operation of the Enterprise Funds of the Town of Nantucket for Fiscal Year 2023, out of anticipated revenues of the designated funds, for the purposes set forth above; provided that any amounts to be raised and appropriated to support the operation of Our Island Home for Fiscal Year 2022 shall be contingent on the passage of a Proposition 2 and ½ override ballot question; or to take any other action related thereto.

(Select Board for the Various Departments Indicated)

ARTICLE 16

(Appropriation: Enterprise Funds Capital Expenditures)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of capital expenditures for the Enterprise Funds of the Town of Nantucket; or to take any other action related thereto.

(Select Board for the Various Departments Indicated)

ARTICLE 17

(Enterprise Funds: Fiscal Year 2022 Budget Transfers)

To see what sums the Town will vote to transfer into various line items of Fiscal Year 2022 Enterprise Fund operating budgets from other line items of said budgets

and/or from Enterprise Surplus Reserve Funds; or to take any other action related thereto.

(Select Board)

ARTICLE 18
(Appropriation: Waterways Improvement Fund)

To see what sum the Town will vote to appropriate from the revenue received under Chapter 60B subsection (i) of section 2 and under Chapter 91 section 10A of the Massachusetts General Laws and sums received from the Commonwealth or Federal Government for purposes established by Chapter 40 section 5G of the Massachusetts General Laws including but not limited to (1) maintenance, dredging, cleaning and improvement of harbors, inland waters and great ponds, (2) the public access thereto, (3) the breakwaters, retaining walls, piers, wharves and moorings thereof, and (4) law enforcement and fire prevention in the Town and County of Nantucket, and any other purpose allowed by applicable law.

Or to take any other action related thereto.

(Select Board)

ARTICLE 19
(Appropriation: Ambulance Reserve Fund)

To see what sum the Town will vote to appropriate from the Ambulance Reserve Fund for the purchase of ambulance-related equipment, including but not limited to extrication collars, backboards and other emergency equipment, oxygen tanks and refills, blankets and other linens, bandages and other medical supplies, fuel, repairs and maintenance for ambulances, and other such related costs to operate the Town's ambulance services, including up to seven (7) full-time firefighter/EMT and/or paramedic positions. All expenditures to be made by the Fire Department, subject to the approval of the Town Manager; or to take any other action related thereto.

(Select Board)

ARTICLE 20
(Appropriation: Ferry Embarkation Fee)

To see what sum the Town will vote to appropriate from the proceeds of the ferry embarkation fee established by Chapter 46, section 129 of the Acts of 2003 as amended, for the purposes of mitigating the impacts of ferry service on the Town and County of Nantucket, including but not limited to provision of harbor services, public safety protection, emergency services, infrastructure improvements within and around Nantucket Harbor, and professional services pertaining to the potential use or reuse of land, buildings and infrastructure in the vicinity of Nantucket Harbor, and any other purpose allowed by applicable law.

Or to take any other action related thereto.

(Select Board)

**ARTICLE 21
(Appropriation: County Assessment)**

To see if the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, to pay the County of Nantucket such assessment as is required for Fiscal Year 2023, and to authorize the expenditure of these funds for County purposes, all in accordance with the Massachusetts General Laws and in accordance with the County Charter (Chapter 290 of the Acts of 1996), the sum of One Hundred Seventy-four Thousand Seven Hundred Seven Dollars (\$174,707); or to take any other action related thereto.

(Select Board/County Commissioners)

**ARTICLE 22
(Appropriation: Finalizing Fiscal Year 2023 County Budget)**

To see if the Town will vote to overturn any denial of approval by the Nantucket County Review Committee, of any item of the County budget for Fiscal Year 2023 by appropriating a sum of money for such County budget and authorizing the expenditure of estimated County revenues, County reserve funds, County deed excise fees or other available County funds including the Town assessment for County purposes; further, to see if the Town will vote to overturn any denial by the Nantucket County Review Committee of the establishment of a County Reserve Fund, from which transfers may be made to meet extraordinary or unforeseen expenditures with the approval of the County Commissioners acting as the County Advisory Board Executive Committee within the meaning of Chapter 35 section 32 of the Massachusetts General Laws; or to take any other action related thereto.

(Select Board/County Commissioners)

**ARTICLE 25
(Rescind Unused Borrowing Authority)**

To see what action the Town will take to amend, appropriate or reappropriate, transfer, modify, repeal or rescind unused borrowing authority authorized by previous town meetings.

Or to take any other action related thereto.

(Select Board)

**ARTICLE 26
(Appropriation: Other Post-Employment Benefits Trust Fund)**

To see what sum the Town will vote to appropriate and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, to deposit into the Other Post-Employment Benefits Liability Trust Fund established pursuant to Mass. General Law chapter 32B, section 20, for Fiscal Year 2023.

Or, to take any other action related thereto.

(Select Board)

ARTICLE 29

(Appropriation: Fiscal Year 2023 Senior Work-off Program)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purpose of supporting the Senior Work-off Program pursuant to Massachusetts General Laws Chapter 59, section 5K for the Town of Nantucket for Fiscal Year 2023; or to take any other action related thereto.

(Select Board)

ADD

SPECIAL STAB FUND FOR MARIJUANA DISP REVENUE??

Commented [LG3]: Brian?

ARTICLE 30

(Appropriation for Special Purpose Stabilization Fund for Airport Employee Accrued Liabilities)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds to be placed in the Airport special purpose stabilization fund established pursuant to M.G.L. Chapter 40, Section 5B, Paragraph 2, for the benefit of the Nantucket Airport, such fund to be used for the future payment of accrued liabilities for compensated absences due any employee upon termination of the employee's full-time employment; or take any action relative thereto.

(Select Board for Airport Commission)

ARTICLE 31

(Appropriation for Special Purpose Stabilization Fund for Town Employee Accrued Liabilities)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds to be placed in the Town Employee Accrued Liability Special Purpose Stabilization Fund established pursuant to M.G.L. Chapter 40, Section 5B, Paragraph 2, for the benefit of the Town of Nantucket General Fund (excluding the School Department), such fund to be used for the future payment of accrued liabilities for compensated absences due any employee upon termination of the employee's full-time employment; or take any action relative thereto.

(Select Board)

ARTICLE

(Appropriation: Fiscal Year 2023 Community Preservation Committee)

To see if the Town will vote to act on the report of the Community Preservation Committee on the Fiscal Year 2023 Community Preservation Budget and to appropriate or reserve for later appropriation monies from the Community Preservation Fund annual revenues or available funds for the administrative and operating expenses of the Community Preservation Committee, the undertaking of Community Preservation Projects and all other necessary and proper expenses for the year.

Purpose	Amount
Historic Preservation	
First Congregational Church-Old North Vestry Restore the plaster and painting on the ceiling, walls, and trim of the interior of the Old North Vestry	\$317,296
First Congregational Church - Bennett Hall Preserve the building envelope of Bennett Hall including the rotting exterior trim, doors and siding	\$84,571
Landmark House- Nantucket Community Service Inc. To remove and restore all sidewall shingles on both buildings and to construct a new curved stairway to match existing design and codes.	\$259,500
Nantucket Housing Authority, Miacomet Village To preserve the structural integrity of the exterior envelope of the buildings at 1 and 3 Benjamin Drive to protect the housing structures from future injury, harm or destruction.	\$342,367
Sconset Trust Inc.-Phase II Preservation of Lighthouse Historically appropriate restoration of interior and exterior surfaces, the iron anchors, ships ladder and the staircase to preserve the distinctive materials, features and colors for its continued use as a US Coast Guard navigational aid one of the oldest lighthouses operational in the United States.	\$251,100
Nantucket Island School of Design & the Arts, Grant IV Remediation and repair to the silos to ensure structural integrity utilizing a structural engineer, Silo Specialist and contractor, including the silo floor platforms for each of the silos; \$97,750; utilizing the structural engineer and contractor to remediate damage from groundwater under the Long Shed including the back walls, support beams and cement floors. \$50,955	\$148,705
Sub-total	\$1,403,539
\$157,409 of the funds to be used in this category are from the undesignated reserves and the balance of the funds are from the Community Preservation surcharge, interest and the State matching funds.	
Community Housing	

Nantucket Interfaith Council Nantucket rental assistance program, housing and rental assistance to low and moderate-income Nantucket working families	\$275,000
Town of Nantucket Funds to pay the interest and principal of the Five Million Bond authorized at the 2019 Nantucket Town meeting to pay the cost of acquiring land, which may include buildings thereon, for the development of affordable housing and to pay cost of designing, constructing, reconstructing and equipping affordable housing.	\$350,000
Town of Nantucket Funds to pay the first year's interest and principal of the Five Million Bond to be authorized at the 2022 Nantucket Town meeting to pay the cost of acquiring land, which may include buildings thereon, for the development of affordable housing and to pay cost of designing, constructing, reconstructing and equipping affordable housing.	\$350,000
Sub-total	\$975,000
\$160,000 of the funds utilized in this category are from the undesignated reserves and the balance of the funds are from the Community Preservation surcharge, interest and the State matching funds.	
Open Space Conservation/Recreation	
Nantucket Racket Sports Association Complete the building of seven new courts; four additional pickle ball and three new tennis courts; 2 viewing areas, a hitting wall and bathrooms.	\$980,000
Sustainable Nantucket Community Farm Institute, phase VI Funds for creation of deer fencing, new well and pump for irrigation for back of farm and fruit and berry orchard, including extension of farm electrical system and plumbing infrastructure, split rail fence and vegetative screening to protect other areas of the farm.	\$59,850
Sub-total	\$1,039,850
\$152,900 of the funds utilized in this category is from the Open Space reserves with the balance of the funds to be used in this category from the Community Preservation surcharge, interest and the State matching funds.	
Administrative	

Community Preservation Committee Administrative and operating expenses	\$150,000
Sub-total	\$150,000
All the funds to be used in this category are from the Community Preservation surcharge, interest and the State matching funds.	
TOTAL	\$3,568,389
All amounts to be appropriated from the following sources:	
SOURCES	AMOUNT
Raised and appropriated from FY 2021 Community Preservation Surcharge	\$2,478,000
From State matching funds for FY 2023, to be received in 2022	\$600,000
From Interest	\$20,000
From designated reserves for Open Space	\$152,900
From Undesignated Reserves	\$317,489
Total Revenues	\$3,568,389
For fiscal year 2023 Community Preservation Purposes with each item considered a separate appropriation to be spent by the Community Preservation Committee.	
Provided however, that the above expenditures may be conditional on the recording of appropriate historic preservation restrictions for historic resources, open space restrictions for open space resources, recreational restrictions for recreational resources and for affordable housing restrictions for community housing; running in favor of an entity authorized by the Commonwealth to hold such restrictions for such expenditures; meeting the requirements of Chapter 184 of the General Laws pursuant to Section 12 of the Community Preservation Act.	

(Kenneth Beaugrand, et al)

ARTICLE

(Community Preservation Committee: Fiscal Year 2022 Budget Transfers)

To see what sums the Town will vote to transfer into the Community Preservation Committee reserved and unreserved fund balances to turn back the unspent remainder of projects approved in prior fiscal years so that it is available for future appropriations.

FROM	TO	AMOUNT
Article 37 ATM 2018 Nantucket Atheneum Oil Painting Restoration	Fiscal year 2023 Community Preservation Committee Community Historic Preservation reserved Fund balance	\$3,300.00
Total Transfers to Community Historic Preservation Reserved fund balance		\$3,300.00
Total transfers back to Community Preservation Reserved Fund Balances		\$3,300.00

(Kenneth Beaugrand, et al)

ARTICLE

(Appropriation: Community Preservation Trust for Affordable Housing Trust Fund)

To see if the Town will appropriate a sum of money to pay costs of acquiring land, which may include any buildings thereon, for the development of affordable housing, and also to pay costs of designing, constructing, reconstructing and equipping affordable housing, all of which shall be undertaken in conjunction with the Town's Affordable Housing Trust, and for the payment of all other costs incidental and related thereto and to determine whether this amount should be raised by taxation, transfer from available funds, borrowing or otherwise, and, further, to authorize the Town to enter into leases, subleases and any other similar arrangements with the Town's Affordable Housing Trust, or take any other action relative thereto

(Kenneth Beaugrand, et al)

ARTICLE

(Appropriation: Shredder for Solid Waste)

To see if the Town will vote to appropriate the sum of Three Hundred Thousand Dollars (\$300,000) from Free Cash and or the General Fund or any other source to purchase a Shredder for Solid Waste Recycle & MRF before the Waste Service Agreement ends at the land fill.

(Clifford J. Williams, et al)

ARTICLE

(Bylaw: Short-term Rental Regulations)

To see if the Town will vote to amend the General Bylaws of the Code of the Town of Nantucket by adding a new Chapter 123 entitled "Short-Term Rental Registration" to read as follows:

**Chapter123
Short-term Rental Registration**

§ 123-1. Purpose and Intent.

This bylaw is enacted pursuant to the authority set forth in General Laws c. 64G, §14 and is intended to provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to insure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.

§123-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- A. "Short-Term Rental" shall have the same meaning as set forth in General Laws c, 64G, §1.
- B. "Operator" shall have the same meaning as set forth in General Laws c, 64G, §1.

§ 123-3. Registration, Permitting, Inspection and Fees.

A. No person shall operate a Short-Term Rental without having first obtained a Certificate of Registration from the Board of Health. An application for a Certificate of Registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G. In the Alternative, an Operator may provide with the application a certificate of registration issued by the Department of Revenue in accordance with section 67 of Chapter 62C of the General Laws.

B. The annual fee for such Certificate of Registration or evidence of a certificate of registration issued by the Department of Revenue, shall be set forth in the regulations issued pursuant to § 123-4.

C. The application for the Certificate of Registration shall include an attestation that the Owner and/or Operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the Owner and/or Operator of the property is current with all town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 -18 of the Town Code. Any property offered for a Short-Term Rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders. Nothing contained herein shall relieve the Owner or Operator from complying with all local permits, rules and regulations issued by the Board of Health and other Town boards generally applicable to resident dwelling units.

D. The Board of Health shall not issue any Certificate of Registration unless the Operator has (1) submitted a complete application and paid all associated fees; (2) provided contact information for the Operator and persons designated to address any issues at the Short-Term Rental within two (2) hours' notice; and (3) provided the Town

with a certificate of insurance evidencing liability insurance coverage for the Short-Term Rental in an amount to be determined by regulation.

E. Operators are subject to inspection of the Short-Term Rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.

F. Certificates of Registration are valid for one year, and may be renewed at the discretion of the Town, provided that the Operator has complied with the provisions of this Chapter and any associated regulations during the preceding year. An application for renewal of a Certificate of Registration shall be submitted along with the annual fee no later than November 1st of the next year.

G. The Certificate of Registration is issued to the Operator and does not run with the land. If the Short-Term Rental is sold or transferred out of ownership, a new application for a Certificate of Registration shall be filed by the new Operator before Short-Term Rentals can continue or resume.

§ 123-4. Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this Chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the Short-Term Rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions.

§ 123-5. Enforcement.

A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, section 21D and the Town's non-criminal disposition by-law (Chapter 1 of the Town Code). If non-criminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of one hundred dollars (\$100) for the first offense; two hundred dollars (\$200) for the second offense; and three hundred dollars (\$300) for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the Operator or the owner of the property by the Board of Health or its designee, after a Certificate of Registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said Certificate of Registration until the violation has been cured or otherwise resolved. Multiple violations by any Operator may, at the discretion of the Board of Health and after a hearing, disqualify that Operator from obtaining a Certificate of Registration for a period of up to three years

D. In accordance with G.L. c. 64G, §14(v), the Town may assess a civil penalty not to exceed \$5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

§ 123-6. Severability.

If any provision in this Chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

§ 123-7. Effective date.

The provisions of this Chapter shall take effect on the day this bylaw becomes effective pursuant to General Laws Chapter 40, §21, or January 1, 2023, whichever is later.

Or take any other action relative thereto.

(Select Board)

Article ___

(Bylaw Amendment: Finances/Creation of New Revolving Account - Short-Term Rental Registration Program)

To see if the Town will vote to amend Chapter 19 (Finances), Article XIII (Revolving Accounts), §19-21 (Revolving accounts established) of the Code of the Town of Nantucket by adding a new Revolving Account for Short-Term Rentals to read as follows:

Fund	Revenue Source	Authority to Spend	Use of Funds
Short-Term Rentals	Fees from Certificates of Registration	Town Manager with Approval of the Board of Health	Administration of Certificate of Registration Program

Or to take any action relative thereto.

(Select Board)

ADD: SPENDING LIMIT ARTICLE FOR THIS; AND AMENDMENT TO CHAPTER 19

Commented [LG4]: Need to add 2 articles here

ARTICLE ____
(Zoning Bylaw Amendment: Short Term Rentals)

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 strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket*).

1. Amend Zoning Bylaw, Section 2A (definitions) to as follows, with new definitions to be inserted in alphabetical order:

APARTMENT BUILDING(S)

A structure or structures containing a maximum of up to eight bedrooms in up to six dwelling units on a single lot ... with no commercial or other uses. The Planning Board may, as a condition of the issuance of a special permit, prohibit short term rentals in all or a portion of the dwelling units. Apartment Building(s) shall be allowed in the following districts:...

SHORT TERM RENTAL

Rental of residential property including, but not limited to, a primary, secondary, tertiary, or accessory dwelling, apartment, apartment building(s), or garage apartment for 30 days or less.

2. Amend Section 8D(2) and 8D(3) by adding a new subsection (e) in each, as follows:

(e) The Planning Board may, as a condition of the issuance of a special permit, prohibit short term rentals in all or a portion of the dwelling units.

3. Amend Section 15 as follows:

In addition to the principal buildings, structures or uses permitted in a district, there shall be allowed in that district, as accessory uses, such activities as are subordinate and customarily incident to such permitted uses, including, but not limited to, the rental of rooms within an owner-occupied dwelling unit.

NOTE: owner-occupied is defined as shown below in Section 2A of the Bylaw .

OWNER OCCUPIED

The primary residence, or temporary (seasonal) residence, of a person(s) or the individual beneficiaries of a legal entity that holds title to the property, where such persons are physically present and living within dwelling units on said property for

at least three months each calendar year. Properties owned by corporations and the like, time sharing interval dwelling units, or where all units are made available for rent do not qualify as owner occupied.

Or to take any other action related thereto.

(Select Board for Planning Board)

NOTE: The Planning Board has not reviewed this article and it's still under legal review. Subject to more changes, which may result in multiple articles to separate concepts.

ARTICLE
(Zoning Bylaw Amendment: Protective Rights to Short-Term Rentals)

PREAMBLE:

Tourism has been a pillar of the Nantucket economy for decades. Generations of Nantucket families have made or supplemented their incomes by welcoming and serving visitors in many ways, including renting their homes. However, a recent Massachusetts Supreme Judicial Court decision (*Styller v. Lynnfield*) threatens the ability of Nantucket residents to rent their homes on a short-term basis (stays of less than 30 days). In the *Styller* decision, the state's highest court ruled that zoning bylaws, such as Nantucket's, do not allow short-term rentals in residential zoning areas.

In order to address the impact of the *Styller* decision, this zoning article clearly defines and protects residents' rights to short-term rent their homes. It ensures that Nantucket residents can continue to short-term rent their own property even in residential zoning areas. This article also clearly allows for seasonal residents to short-term rent, while discouraging the conversion of neighborhood homes into purely commercial short-term rental businesses by off-island corporate investors. This article only applies to short-term stays - any rental of one month or longer is not affected.

The purpose of this article is to protect Nantucket homeowners, while also seeking to protect our neighborhoods and housing. We can do that by helping to manage and sustain economic growth and honor our tourism tradition by preserving our community's character.

ARTICLE:

To see if the Town will vote to amend the Zoning Bylaws by amending Chapter 139 as follows, and further to authorize the Town Clerk to make non-substantive, ministerial revisions to the numbering of this bylaw in order that it be in compliance with the numbering format of the Code of the Town of Nantucket; or to take any other action relative thereto.

(Original in black with changes shown in red)

§139-2 DEFINITIONS AND WORD USAGE

SHORT TERM RENTAL

Any rental of a residential dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of less than thirty (30) consecutive days.

§139-15 ACCESSORY USES

In addition to the principal buildings, structures and uses permitted in a district, there shall be allowed in that district as accessory uses, such activities as are subordinate and customarily incident to such permitted uses.

Short-Term Rentals shall be permitted as Accessory Uses in all residential districts (R-1, SR-1, ROH, SOH, R-5, R-5L, R-10, R-10L, SR-10, R-20, SR-20, R-40, VR, LUG-1, LUG-2, LUG-3, MMD) as follows: (1) Residents may use their primary residence for Short-Term Rentals by right; and (2) as of January 1, 2023, non-Residents may use their dwelling units for Short-Term Rentals upon issuance of a Special Permit from the Zoning Board of Appeals upon a finding that the proposed Short-Term Rental is an Accessory Use as defined in this Bylaw. As of January 1, 2023, all other use of Short-Term Rentals in residential districts is prohibited. For the purposes of this provision, a "Resident" is a person whose primary residence is Nantucket as determined by federal tax filings.

(Tobias Glidden, et al)

Technical Note: *the proposed text for the purposes of printing are shown as highlighted in gray (not red)*

ARTICLE __

(Zoning Map Change: R-1 to R-5L - Red Mill Lane, Old Farm Road, Old Mill Court, Mill Hill Lane, Cato Lane, and Vesper Lane)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential 1 (R-1) district in the Residential 5L (R-5L) district:

MAP	LOT	NUMBER	STREET
55	919	2	Red Mill Lane
55	919.1	4	Red Mill Lane
55	919.2	6	Red Mill Lane
55	928	8	Red Mill Lane
55	920	3	Old Farm Road
55	921	5	Old Farm Road
55	922	1	Old Mill Court
55	923	2	Old Mill Court
55	927	3	Old Mill Court
55	925	4	Old Mill Court
55	926	5	Old Mill Court
55	924	11	Mill Hill Lane

55	660	2	Cato Lane
55	661	4	Cato Lane
55	662	6	Cato Lane
55	663	8	Cato Lane
55	125	35	Vesper Lane
55	908	33	Vesper Lane
55	126	33	Vesper Lane
55	127	31	Vesper Lane
55	1.1	21	Vesper Lane
55	1.2	19	Vesper Lane
55	1.3	17	Vesper Lane
55	1.4	15	Vesper Lane
55	1.5	13	Vesper Lane
55	1.6	11	Vesper Lane

All as shown on a map entitled “2022 Annual Town Meeting Warrant Article __ R-1 to R-5L” dated December 2021 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Map Change: RC to CN - Washington Street)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial (RC) district in the Commercial Neighborhood (CN) district:

MAP	LOT	NUMBER	STREET
55.1.4	13	114	Washington Street
55.1.4	12	112	Washington Street
55.1.4	37	103	Washington Street

All as shown on a map entitled “2022 Annual Town Meeting Warrant Article __ RC to CN” dated December 2021 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Map Change: RC-2 and LUG-2 to R-5L, R-5, R-10, or R-10L - Bartlett Farm Road and Mioxes Way)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by taking the following actions:

1. By placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Residential 5 (R-5), Residential 5L (R-5L), Residential 10 (R-10) or Residential 10 L (R-10L) district:

MAP	LOT	NUMBER	STREET
65	76	20	Bartlett Farm Road
65	76.1	22	Bartlett Farm Road
65	86	24	Bartlett Farm Road
65	91	26	Bartlett Farm Road
65	90	28	Bartlett Farm Road
65	87	4	Mioxes Way

2. By placing the following properties currently located in the Residential Commercial 2 (RC-2) and the Limited Use General 2 (LUG-2) districts in the Residential 5 (R-5), Residential 5L (R-5L), Residential 10 (R-10) or Residential 10 L (R-10L) district:

MAP	LOT	NUMBER	STREET
65	89	3	Mioxes Way
65	88	6	Mioxes Way

All as shown on a map entitled “2022 Annual Town Meeting Warrant Article __ RC-2 and LUG-2 to R-5, R-5L, R-10, or R-10L” dated December 2021 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Map Change: RC-2 to R-5L, R-10 or CTEC - Clara Drive, Raceway Drive, and Somerset Road)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Residential 10 (R-10) or Commercial Trade Entrepreneurship and Craft (CTEC) district:

MAP	LOT	NUMBER	STREET
66	404	86	Somerset Road
66	539	86	Somerset Road
66	405	88	Somerset Road
66	281	3	Raceway Drive
66	272	6	Raceway Drive
66	300.1	1	Clara Drive

66	300	1A	Clara Drive
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All as shown on a map entitled "2022 Annual Town Meeting Warrant Article __ RC-2 to R-5L, R-10 or CTEC" dated December 2021 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Map Change: RC-2 to CTEC - 26 Bartlett Road and 1 Perry Lane)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Commercial Trade Entrepreneurship and Craft (CTEC) district:

MAP	LOT	NUMBER	STREET
67	901	26	Bartlett Road
67	902	1	Perry Lane

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article __ RC-2 to CTEC" dated December 2021 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Map Change: RC-2 to CN and/or R-40 - Nobadeer and Sun Island Roads)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Residential Commercial 2 (RC-2) district in the Commercial Neighborhood (CN) district:

MAP	LOT	NUMBER	STREET
69	264	12	Nobadeer Farm Road
69	265	14	Nobadeer Farm Road
69	83	19	Nobadeer Farm Road
69	266	1	Sun Island Road
69	267	1A	Sun Island Road
69	268	3	Sun Island Road

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article __ RC-2 to CN" dated December 2021 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Bylaw Amendment: Tertiary Dwelling)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, Section 2A, as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikethrough; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket*):

TERTIARY DWELLING

- (1) The tertiary dwelling shall be in the same ownership as at least one other owner-occupied dwelling unit on the lot, or shall be owned by a not-for-profit, religious, or educational entity, or shall be subject to a restriction limiting occupancy to a year-round household.
- (2) A third dwelling unit located on a lot, including the following options:
 - (a) A garage apartment not exceeding ~~650~~ 900 square feet of gross floor area.
 - (b) A dwelling unit attached to or within a single-family dwelling, duplex, or an outbuilding or a dwelling unit attached to a studio or shed. When a tertiary dwelling unit is the third dwelling unit, within a single structure, a special permit issued by the Planning Board is required. The ground cover of the existing building shall not increase more than ~~650~~ 900 square feet and the dwelling unit shall not contain more than ~~650~~ 900 square feet of gross floor area.
 - (c) A detached building containing not more than 650 square feet of ground cover and not more than ~~650~~ 900 square feet of gross floor area.
- (3) In the R-5, R-10, and R-20 Districts, a maximum of eight bedrooms per lot shall be permitted at the following density:
 - (a) R-5: 1 bedroom per each 1,000 square feet of lot area;
 - (b) R-10: 1 bedroom per each 1,400 square feet of lot area;
 - (c) R-20: 1 bedroom per each 2,500 square feet of lot area;
- (4) Any waivers from the standards contained within Subsection (2) or (3) of this definition may be granted through the issuance of a special permit by the Planning Board.
- (5) The Planning Board shall make a determination regarding the adequacy of access to the lot and structures prior to the issuance of a building permit. Planning Board approvals shall be valid for a period of two years from the date of plan

endorsement.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __
(Zoning Bylaw Amendment: Tertiary Lot)

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 strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket)*:

1. Amend Section 2A by adding the following new definition, in alphabetical order with existing definitions:

TERTIARY LOT

A lot created by the division of the original lot into three lots pursuant to § 139-8C. The tertiary lot, in addition to one of the secondary lots, shall be subject to an NHNC-Ownership Form, or shall be owner-occupied by a qualified family member, in which case the lot shall be subject to the NHNC-Ownership Form, except for the established income and asset limits, or shall be subject to a qualified family member deed restriction.

2. Amend Section 8 by adding a new subsection D, below, and by re-lettering the existing subsections D and E, to E and F, respectively:

D. Special permit to create tertiary residential lots for year-round residents.

- (1) Purpose: to create, make available and maintain housing that is affordable to those who earn at or below 150% of the Nantucket County median household income; to help households to continue to reside on Nantucket; to generate and preserve affordable housing in the Town of Nantucket in perpetuity, all in order to maintain Nantucket's diversity and unique sense of community.
- (2) Tertiary lots may be permitted in the following districts: R-40, LUG-1, LUG-2, and LUG-3.
- (3) As authorized by MGL c. 40A, § 9, Paragraph 2, the Planning Board, acting as the special permit granting authority, may issue a special permit authorizing the division of a lot into up to three lots, provided the following requirements and/or conditions shall apply:

- (a) The original lot shall not be subject to any covenants, restrictions or similar encumbrances, whether appearing in a deed, easement, land-use permit or any other instrument, pertaining to the prohibition of more than one dwelling unit on the original lot.
- (b) The tertiary lot, in addition to one of the secondary lots subject to § 139-8C of this chapter, shall be subject to an NHNC-Ownership Form, which shall provide, without limitation, that the owner of that lot shall earn at or below 150% of the Nantucket County median household income, or the lot shall be subject to a qualified family member deed restriction. Tertiary lots held sold, transferred, or gifted to any qualified family member(s) shall not be subject to the income and asset limits for eligible households. Upon resale, transfer, or gift of the tertiary lot to a nonqualified family member, the lot shall be subject to an NHNC-Ownership Form, and all requirements set forth therein, including income and asset limits for eligible households.
- (c) The lot shall not be subject to the tertiary dwelling requirements contained within §139-2 of this chapter.
- (d) The lot area for the tertiary lot shall be a minimum of 20,000 square feet.
- (e) The lots shall comply with the ground cover ratio, front setback, and side and rear setback requirements of the underlying zoning district, including any provisions of this chapter for pre-existing nonconforming lots, except as follows:
- [1] The Planning Board may waive by the issuance of a special permit the setback requirements only as they apply to the lot line(s) between the secondary and tertiary lots;
 - [2] The Planning Board may waive by the issuance of a special permit the ground cover ratio requirement for the tertiary lot, provided that the total ground cover ratio of the secondary lots and the tertiary lot does not exceed the amount that would have been allowed for the original lot;

(g) The lots each must have a minimum of 20 feet of frontage or an easement of sufficient width and grade to provide access.

(h) The lots shall share a single driveway access. The Planning Board must be provided with an instrument, in recordable form, evidencing the common access rights to said access in accordance with this subsection. The Planning Board may grant a special permit to waive the requirement for shared driveway access based upon a finding that separate driveway access would not have a significant and adverse effect on the scenic or historic integrity of the neighborhood and is not contrary to sound traffic or safety considerations.

(4) This § 139-8C shall not apply to flex development and open space residential development options (§ 139-8A).

(6) Section 139-16D, Regularity formula, shall not apply to this § 139-8C.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Bylaw Amendment: Workforce Homeownership Housing)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, section 8D, as follows *(NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket):*

(1) Requirements

(a) The following requirements shall apply to workforce homeownership housing bonus lots in the R-5 and R-10 Zoning Districts...

(2) Workforce homeownership housing bonus lots.

(a) ...

[1] The total number of lots shall be calculated by multiplying the number of lots allowed by-right, as described above, by a factor of 1.33 in the R-5 district and by a factor of 1.2 in the R-10 district.

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE __

(Zoning Bylaw Amendment and Zoning Map Amendment: Technical Amendments)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket and to amend the Zoning Map, as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket*):

1. Amend section 2A (definitions) as follows:

ACCESSORY DWELLING

A dwelling unit located within an owner-occupied single-family building. The exterior architectural design and use of an accessory dwelling shall be harmonious with the appearance and use of the structure as the owner's home. The gross floor area of the accessory dwelling shall not be more than the gross floor area of the primary dwelling and not greater than ~~550~~ **800** square feet. The accessory dwelling shall be self-contained with separate sleeping, cooking and sanitary facilities for the exclusive use of the occupant. The structure containing the primary dwelling and accessory dwelling shall be in single ownership, and one of the units shall be owner-occupied.

TAKE-OUT FOOD ESTABLISHMENT

A commercial establishment, including a food truck, the primary business of which is the sale of food and/or beverages, including but not limited to ice cream, sandwiches, pastries, prepared meals for consumption on or off the premises which is:

- (1) Primarily intended for immediate consumption rather than for use as an ingredient or component of meals;
- (2) Available upon a short waiting time; and
- (3) Packaged or presented in such a manner that it can be readily consumed outside the premises where it is sold.

TENT

A portable enclosure constructed of fabric, plastic, or a similar pliable material supported by one or more poles and secured by pegs in the ground. Tents shall not be erected for periods exceeding 30 days per calendar year unless a special permit has been issued by the Planning Board; however, tents which in the aggregate exceed 150 square feet shall not be erected for more than three events per year or periods exceeding nine days per year, whichever is less, on properties where the principal use is residential unless a special permit from the Board of Appeals has been issued based on a determination that the use is

ancillary to the residential use of the property and not a commercial use.

2. Amend section 8C(3)(d) as follows:

One of the two lots shall be allowed to have a second dwelling unit, subject to the requirements of the tertiary dwelling definition contained within § 139-2 of this chapter. The Planning Board may waive this requirement by the issuance of a special permit, provided that the Board finds that the proposal is in keeping with the character of the surrounding neighborhood.

3. Amend section 16D as follows:

Regularity formula.

(1) The regularity factor of any lot shall not be less than 0.55. The regularity factor shall be determined by the formula:

$$r = 16A/p^2 \text{ where}$$

r = regularity factor

A = land area in square feet

p = perimeter in feet

(2) That part of the lot area in excess of the required lot area may be excluded from the regularity formula in determining the regularity factor. The perimeter containing the excess area shall not include the required frontage.

(3) The regularity formula shall not apply to lots recorded or endorsed prior to April 15, 1980.

(4) The Planning Board may issue a special permit to waive compliance with the regularity factor for a lot provided that the Planning Board finds that such waiver does not negatively impact access to the lots and does not result in the creation of lots that would have a negative impact on the character of the surrounding neighborhood.

4. Amend section 20.1B(2)(h) as follows:

All secondary dwellings, tertiary dwellings, and garage apartments approved by the Planning Board shall have a combined driveway access. However, the Planning Board may approve separate access for such dwellings on lots that are not expressly permitted two driveway accesses pursuant to § 139-20.1B(1), upon a finding made during the review of secondary dwelling, tertiary dwelling, and

garage apartment applications in accordance with Section 3.06 of the Rules and Regulations Governing the Subdivision of Land that the separate access would not have a significant and adverse effect on the scenic or historic integrity of the neighborhood and that separate access is not contrary to sound traffic and safety considerations. Access to secondary dwellings, tertiary dwellings, and garage apartments shall be clear of obstructions or vegetation to a width of 12 feet and a height of 13 feet along a driveway with a minimum improved width of 10 feet.

- Amend the Zoning Map by placing a portion of the following properties currently located in the Commercial Neighborhood (CN) district in the Residential 5 (R-5) district:

MAP	LOT	NUMBER	STREET
68	357 (a portion of)	45	Beach Grass Road
68	358 (a portion of)	43	Beach Grass Road
68	367 (a portion of)	41	Beach Grass Road
68	368 (a portion of)	39	Beach Grass Road
68	369 (a portion of)	37	Beach Grass Road
68	370 (a portion of)	35	Beach Grass Road
68	371 (a portion of)	33	Beach Grass Road
68	378 (a portion of)	31	Beach Grass Road
68	379 (a portion of)	29	Beach Grass Road
68	380 (a portion of)	27	Beach Grass Road
68	381 (a portion of)	25	Beach Grass Road
68	382 (a portion of)	23	Beach Grass Road
68	387 (a portion of)	21	Beach Grass Road
68	388 (a portion of)	19	Beach Grass Road
68	393 (a portion of)	17	Beach Grass Road
68	394 (a portion of)	15	Beach Grass Road
68	854 (a portion of)	13	Beach Grass Road
68	855 (a portion of)	11	Beach Grass Road
68	859 (a portion of)	9	Beach Grass Road
68	882 (a portion of)	7	Beach Grass Road
68	883 (a portion of)	5	Beach Grass Road
68	884 (a portion of)	3	Beach Grass Road
68	129 (a portion of)	73	Old South Road

NOTE: The portion of these lots located in the CN district was formerly a portion of Meadows II Workforce Rental Community. The CN portion was added to the single family lots in Sandpiper I and II to address a parking issue. The majority of these lots is already located within the R-5 district.

- Amend the Zoning Map by placing a portion of the following properties currently located in the Residential 5 (R-5) district in the Commercial Neighborhood (CN) district:

MAP	LOT	NUMBER	STREET
68	338 (a portion of)		Beach Grass Road

Or to take any other action related thereto.

(Select Board for Planning Board)

ARTICLE

(Zoning Bylaw Amendment: Swimming Pool Use Chart - Residential and Hot Tub/Spa)

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 strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket)*:

Amend Section 7A (use chart) by adding a new line after Swimming Pool - Residential entitled "Hot Tub/Spa" and inserting "N" in the ROH SOH column and "A" in each other column under the respective zoning districts across the chart except for zoning district CI: "N" and zoning districts V-R and MMD: SP

;or otherwise to act thereon

(Anne Dewez, et al)

ARTICLE

(Zoning Bylaw Amendment: Swimming Pool Definition - Residential and Hot Tub/Spa)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, by taking the following actions *(NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text; and, further, that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket)*:

Amend section 2A (definitions) as follows:

HOT TUB/SPA

A structure designed to be used for recreational purposes accessory to a principal use, either above or below grade, containing water more than 24 inches in depth and equal to or less than ~~450~~ 64 square feet of water surface area, and equal to or less than 1000 gallons. This shall not include ornamental ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like.

SWIMMING POOLS - RESIDENTIAL

A structure designed to be used for recreational purposes, either above or below grade, containing water more than 24 inches in depth and exceeding ~~450~~ 64 square feet of water surface area, or exceeding 1,000 gallons. This shall not include ornamental

ponds, decorative water features, including, but not limited to, fountains, bird baths, and the like. The swimming pool must be located on the same or contiguous lot as a residential dwelling or constructed for the benefit of a group of residences, such as a multifamily development, subdivision, or in conjunction with a neighborhood association. In the VR District only, the Zoning Board of Appeals, acting as the special permit granting authority, may grant a special permit to allow a residential swimming pool on a lot, subject to the following criteria being met: (1) the lot must meet or exceed the minimum lot size for the district, and (2) side and rear yard setbacks of 20 feet shall apply to the residential swimming pool and associated mechanical equipment. In the R-1, SR-1, R-5 and R-5L districts only, the following criteria must be met: (1) a minimum lot area of 7,500 square feet is required, and (2) side and rear setbacks of 10 feet shall apply to the residential swimming pool and associated mechanical equipment.

;or otherwise to act thereon

(Anne Dewez, et al)

ARTICLE

(Zoning Bylaw Amendment: Swimming Pool - Residential)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket by striking the following language (Note: this was the language that was approved in Article 48 of the 2021 annual Town Meeting):

1. Amend section 1239-2A (definitions) as follows:

Swimming Pool - Residential

- A structure designed...
- In the VR District only...

~~In the R-1, SR-1, R-5, and R-5L, districts only, the following criteria must be met: (1) a minimum lot area of 7,500 square feet is required, and (2) side and rear yard setbacks of 10 feet shall apply to the residential swimming pool and associated mechanical equipment. This requirement shall apply to residential swimming pools for which a building permit is issued after September 30, 2021.~~

2. ~~Amend Section 139-7A (Use Chart) by replacing "A" with "A with lot \geq 7,500 sq ft" in the "Swimming pool residential" row in the R-1/SR-1 and R-5/R-5L columns.~~

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Zoning Bylaw Amendment: Swimming Pool - Residential)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket as follows (Note: this was the language that was approved in Article 48 of the 2021 annual Town Meeting):

3. Amend section 1239-2A (definitions) as follows:

Swimming Pool - Residential

- A structure designed...
 - In the VR District only...
 - In the R-1, SR-1, R-5, and R-5L, districts only, the following criteria must be met: (1) a minimum lot area of ~~7,500~~ 6,000 square feet is required, and (2) side and rear yard setbacks of 10 feet shall apply to the residential swimming pool and associated mechanical equipment. This requirement shall apply to residential swimming pools for which a building permit is issued after September 30, 2021.
4. Amend Section 139-7A (Use Chart) by replacing "A" with "A with lot \geq 7,500 6,000 sq ft" in the "Swimming pool - residential" row in the R-1/SR-1 and R-5/R-5L columns.

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Zoning Bylaw Amendment: Definitions and Word Usage)

To see if the Town will vote to amend Nantucket Zoning Bylaw Section 139-2 (Definitions and Word Usage - Apartment) by adding the following highlighted paragraph:

APARTMENTS - A dwelling unit located within a commercial structure or detached structures on the same lot with a commercial use. An apartment(s) shall not occupy more than 50% of the first floor area of the commercial structure(s). The Planning Board may by special permit waive this requirement based on a finding that the commercial character of the area will not be negatively impacted by the location of a dwelling unit on the first floor of the commercial structure. A maximum of four apartments are allowed by right in certain districts, subject to the dimensional requirements set forth below. The Planning Board may issue a special permit to allow more than four apartments on larger lots, provided that: (1) the overall number of units shall not exceed the density in the schedule below; and (2) the applicant shall demonstrate through a submission of a dimensional lotting plan that the subject property could be divided into multiple lots pursuant to a conventional subdivision plan without requiring waivers from the Planning Board's Rules and Regulations Governing the Subdivision of Land (as in effect at the time of application):

- (1) CDT - One dwelling unit is permitted for each 1,000 square feet of lot area.
- (2) CMI - One dwelling unit is permitted for each 2,000 square feet of lot area.
- (3) CN - One dwelling unit is permitted for each 3,000 square feet of lot area.
- (4) CTEC - One dwelling unit is permitted for each 4,000 square feet of lot area.
- (5) CI - One dwelling unit is permitted for each 5,000 square feet of lot area.

The Planning Board may waive the density as set forth in the schedule above by special permit.

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Zoning Bylaw Amendment: Storage Container by Special Permit in CMI)

To see if the Town will vote to amend Zoning Bylaw Section 139-7A (Use Chart) by deleting “N” and replacing it with “SP” in the Commercial-Mid-Island (CMI) column.

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Zoning Map Change: R-20 to R-10L - Nobadeer Way)

To see if the Town will vote to take the following actions in regard to the following properties:

Map	Lot	Number	Street
68	50	1	Nobadeer Way
68	113	2	Nobadeer Way
68	169	3	Nobadeer Way
68	170	4	Nobadeer Way
68	171	5	Nobadeer Way
68	172	6	Nobadeer Way
68	118	7	Nobadeer Way
68	117	8	Nobadeer Way
68	116	9	Nobadeer Way
68	115	10	Nobadeer Way
68	114	11	Nobadeer Way
68	51	12	Nobadeer Way

- (1) To place the foregoing properties noted, currently in the Residential-20 (R-20) zoning district, into the Residential-10 Limited (R-10L) zoning district.

All as shown on the attached map.

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Zoning Map Change: R-20 to CTEC and/or CN - Old South Road)

To see if the Town will vote to take the following actions in regard to the following properties:

Map	Lot	Number	Street
68	1032	105	Old South Road
68	1033	107	Old South Road
68	166	109	Old South Road
68	174		Old South Road
68	209		Old South Road
68	210		Old South Road

- (1) Amend the Zoning Map of the Town of Nantucket by placing the foregoing properties, currently located in the Residential-20 (R-20) district, in the CTEC (Commercial-Trade, Entrepreneurship and Craft) and/or CN (Commercial Neighborhood) zoning district.

All as shown on the attached map.

Or to take any other action related thereto.

(James Jackson, et al)

ARTICLE

(Zoning Map Change: R-20 to CTEC and/or CN - Old South Road)

To see if the Town will vote to:

On Map 68, Lot 208, Old South Road, to Amend the Zoning Map of the Town of Nantucket by placing the foregoing property, currently located in the Residential-20 (R-20) district, in the CTEC (Commercial trade, Entrepreneurship and craft) and/or CN (Commercial - Neighborhood) zoning district.

As shown on the attached map.

; or otherwise act thereon.

(Julie Bunting, et al)

ARTICLE

(Zoning Map Change: LUG-2 to R-5 or CN - 44 Skyline Drive)

To see if the Town will vote to amend the Zoning Map of the Town of Nantucket by placing the following properties currently located in the Limited Use General-2 (LUG-

2) zoning district into either the Residential-5 (R-5) or Commercial Neighborhood (CN) zoning district:

Map	Lot	Number	Street
79	990	44	Skyline Drive

All as shown on the attached map.

Or to take any other action related thereto.

(Clifford Williams, et al)

ARTICLE
(Bylaw Amendment: Animals)

To see if the Town will vote to amend Chapter 55 (Animals) as follows (*NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text; non-substantive changes to the numbering of this bylaw shall be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket*):

Chapter 55
Animals

§55-4 Regulations.

- D. **Leash law.**
No person within the confines of the Town shall at any time permit a dog owned or kept by such keeper to run at large beyond the confines of the property of the owner or keeper unless the dog is held firmly on a leash, with the exception of the area within the confines of the fenced-in areas of the Nantucket Islands Land Bank Dog Park. Dogs must be leashed before entering and after leaving the fenced areas of the Dog Park but may, at the discretion of the owner, be taken off leash within the enclosed areas.
- F. **Nuisances.**
(1) No person shall keep within the limits of the Town of Nantucket any dog or pet which by barking, biting, howling, whining or in any manner disturbs the peace and quiet of any person. No person shall own or keep in the Town of Nantucket any bird or fowl, which by screeching or crowing or by any other manner disturbs the peace and quiet of any person(s).
(2) No person shall own or keep any animal that is found to run at large beyond the confines of the property of the owner or keeper, or does commit any nuisance, disturbs the peace and quiet of any neighborhood, or endangers the safety of any person(s).
(3) The owner of any dog or pet which endangers the safety of any person or other animal by biting or causing property damage shall be subject to immediate

violations, penalties or quarantine. Subsequent offenses shall result in their removal from the Town of Nantucket, or shall be euthanized if deemed to be dangerous.

(4) Any dog or pet found to run at large beyond the confines of the property of the owner, tenant, lessee or keeper after a third offense of Chapter 55, § 55-4D, shall also be subject to nuisance violation penalties thereafter, except as exempted within the confines of the enclosed areas of Nantucket Islands Land Bank Dog Park as provided for in § 55-4D above.

(Select Board)

ARTICLE

(Bylaw Amendment: Committees/Agricultural Commission)

To see if the Town will vote to amend Chapter 11 (Committees), Article VII (Agricultural Commission), § 11-25 (Activities) and § 11-26 (Membership) as follows (NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket).

§ 11-24. Purpose.

The Nantucket Agricultural Commission is established to represent the Nantucket farming community; the mission of which Commission shall be to promote agricultural-based economic opportunities; preserve, revitalize and sustain the Nantucket agricultural industry, and encourage the pursuit of agriculture as a career opportunity and lifestyle.

§ 11-25. Activities.

~~The Commission shall consist of five members appointed by the Select Board, with two members being appointed for a term of three years; two members for a term of two years; and one member for an initial term of one year, and two years thereafter upon expiration of the initial term. To the extent available and willing to serve, the Commission shall consist of a minimum of three members whose prime source of income is derived from farming or agricultural based enterprises in Nantucket and another two who are interested in farming. If the foregoing are neither available nor willing to serve, then any member may be appointed from the community who has an interest in agriculture. The Select Board shall fill any vacancy for the balance of the unexpired term of the vacancy.~~
The Nantucket Agricultural Commission shall serve as facilitators for encouraging the pursuit of agriculture in Nantucket; shall promote agricultural-based economic opportunities in Town; shall act as mediators, advocates, educators, and/or negotiators on farming issues, shall work for preservation of prime agricultural lands; shall pursue all initiatives appropriate to creating a sustainable agricultural community, and shall take on any other duties as voted by the town, or requested by the Select Board or as may further the purposes of said Commission.

§ 11-26. Membership.

The Commission shall consist of seven members appointed by the Select Board, with three members being appointed for a term of three years; two members for an initial term of two years and three years thereafter upon expiration of the initial term; and two members for an initial term of one year, and three years thereafter upon expiration of the initial term. To the extent available and willing to serve, the Commission shall consist of a minimum of four members whose prime source of income is derived from farming or agricultural based enterprises in Nantucket and another three who are interested in farming. If the foregoing are neither available nor willing to serve, then any member may be appointed from the community who has an interest in agriculture. The Select Board shall fill any vacancy for the balance of the unexpired term of the vacancy.

The Commission shall consist of five members appointed by the Select Board for three-year staggered terms. To the extent available and willing to serve, the Commission shall consist of a minimum of three members whose prime source of income is derived from farming or agricultural-based enterprises in Nantucket and another two who are interested in farming. If the foregoing are neither available nor willing to serve, then any member may be appointed from the community who has an interest in agriculture. The Select Board shall fill any vacancy for the balance of the unexpired term of the vacancy.

(Select Board)

ARTICLE

(Nantucket Historical Commission: Membership)

To see if the Town would vote to amend the vote taken pursuant to Article 32 of the April 13, 2005 Annual Town Meeting, by changing the number of members of the Nantucket Historical Commission from five members to seven members in accordance with chapter 40 section 8D. There shall be no Alternate members of the Historical Commission. As the current terms of Alternate members expire, no additional Alternate members shall be appointed.

(Select Board for Nantucket Historical Commission)

ARTICLE

(Bylaw Amendment: Streets and Sidewalks)

To see if the Town will vote to amend the title of Chapter 127 (Streets and Sidewalks), Article II (Obstructions on Sidewalks) as follows *(NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text; non-substantive changes to the numbering of this bylaw shall be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket):*

Chapter 127

Streets and Sidewalks

Article II Obstructions on Sidewalks, ~~Streets, Bicycle Paths or Ways~~

(Select Board)

ARTICLE

(Cemetery Regulations)

To see if the Town will vote, pursuant to General Laws Chapter 114, Section 23, to approve the following Cemetery Regulations, as adopted by the Cemetery Commissioners, and to insert the regulations as Chapter 234 in the Town's Regulations:

I. General Rules

Town Cemeteries are open daily from dawn to one-half hour after sunset.

The License Holder (owner of a lot) is limited to interring human remains or cremated human remains in that site. The owner also has a limited right to place a monument and plant flowers or shrubs. These limitations are outlined in other sections of these regulations.

Cemeteries are places for contemplation and quiet reflection. They are not recreation areas. Please respect these sacred grounds and use common sense: No loud noise, bad behavior or trash.

No person shall remove, cut, break or mark any tree or shrub; or mark upon, deface, or injure any monument or structure on the grounds.

Gravestone repairs require prior authorization of the Cemetery Commission or its designated agent. Rubbings are not permitted. Take photographs only.

Firearms shall not be discharged in the cemeteries, except for salutes at military funerals, Memorial Day, or Veteran's Day.

Dogs must be leashed at all times and be under control of their handler. Dog walkers must clean up after their dogs and must ensure that dogs do not trespass on any grave.

All trash must be removed from Town cemeteries, as there are no trash receptacles available.

Additional Rules and Regulations Applicable to the Polpis Burial Ground

Polpis Cemetery is open to cremation interments only.

Cremation lots are four feet (4') by six feet (6') and shall have no more than four (4) cremations in each lot.

Only one monument or marker per cremation lot will be allowed. A foundation must be placed under each monument. Only a professional who normally provides such a service in the community shall be permitted to place the foundation and monument, unless the Commissioners explicitly waive this requirement in writing. Markers may not be set to embrace two or more grave lots. All markers shall be flush with the ground. No wooden crosses shall be allowed.

The Town shall not be liable for damage to monuments or markers. Markers may be of granite, marble or bronze, the use of limestone, sandstone, cast or cement stone and metals for monuments shall not be allowed. Monuments may be made of native boulders.

Because Polpis Cemetery is a natural setting, no additional planting will be allowed on lots.

No other structure but approved markers or monuments may be placed on a lot.

No vehicles are allowed in the Polpis Cemetery.

No lights of any kind will be allowed.

II. Definitions

For the purpose of these Rules and Regulations, the following words shall have the following meaning, unless a different meaning is ascribed to such terms under the General Laws:

Cemetery - All property owned by the Town of Nantucket dedicated for the burial of deceased human remains.

Cemetery Administrator - The person charged by the Cemetery Commissioners with the day-to-day administration of Town Cemeteries in accordance with these Rules and Regulations, the directions of the Cemetery Commissioners, and applicable Federal and State laws.

Cenotaph - A monument erected in honor of persons buried at sea, or whose remains lie elsewhere.

Columbarium - A permanent structure, room or space in a mausoleum or other structure containing niches or other suitable spaces for the permanent placement of cremated human remains.

Cremated Remain - The final physical remains of a human being after having been cremated and processed.

Cremation Lot - An area of land specifically designed for the interment and placement of cremated remains only.

Cremation Niche - see Niche.

Crypt - A chamber in a mausoleum of sufficient size, generally used to contain the casketed remains of a deceased person.

Durable Outer Container (Grave Box, Grave Liner or Vault) - All burials, except for approved green burials, of bodies and cremated remains shall be placed in a durable outer container. Durable outer containers shall be made of reinforced concrete or fiberglass and may include:

Grave Box / Grave Liner - An unsealed monolithic receptacle of two (2) or more pieces in which the casket is placed at time of burial.

Vault - A two-piece sealed receptacle for protection of the casket.

Urn Vault - A two-piece receptacle for protection an urn.

Governing Body - The Nantucket Cemetery Commission.

Grave - A space in a cemetery used or intended for use, for the in-ground burial of one (1) or more deceased persons. The size of a grave may vary as laid out by the Cemetery Commission.

Green Burial - The burial of human remains, full body or cremated, with the intention of their return to the soil through natural decay processes; green burial necessitates the use of non-toxic and biodegradable materials, such as caskets, shrouds, and urns.

Foot Marker - A flush to the ground memorial made of granite or bronze, which is placed at the foot of a grave.

Interment - The permanent placement of a dead human body either in a green burial or placed in a casket within a durable outer container and buried in the ground.

Inurnment - The permanent placement of cremated human remains in a niche, space in a columbarium, or burial in a grave.

License Holder - The original purchaser of a Right of Burial and others entitled to a Rights of Burial.

Lot - A place designated in a cemetery comprised of one or more grave spaces.

Memorial or Monument - A monument or memorial usually made of granite, a flush-to-the ground memorial usually made of bronze or granite, or a foot marker, any of which is used for commemorating the life of a deceased person.

Niche - A discrete chamber, space or recess in a columbarium used for the permanent placement of cremated human remains, encased in an urn.

Perpetual care - The activities of routine cemetery maintenance such as, but not necessarily limited to, mowing, brush cutting, repair of fences and laneways, and signage.

Perpetual Care Fund - A fund authorized by the General Laws, whereby funds are set aside, the income of which is used for the perpetual care and maintenance of the cemetery or lots therein.

Rights of Burial - The exclusive right of burial granted by the Town to a License Holder for the use of a specific grave, lot, crypt, or niche or other burial space in a cemetery.

Urn - A container to hold human cremated remains. An urn can be placed in a columbarium niche or buried in the ground within a durable outer container.

III. Interments and Inurnments

Lots in the cemeteries shall be used for no other purpose than a place for the interment of human remains as full casket burials, green burials, or inurnment of cremated remains.

No interment or inurnment shall be made until the Cemetery Administrator or designee has been furnished with a burial permit and/or cremation certificate as required by law, together with a written interment or inurnment order on a form approved by the Cemetery Commission and endorsed by the License Holder, or the legal representative of the License Holder in the lot in which interment is to be made. No grave shall be opened for interment, inurnment or removal unless authorized by the Cemetery Commission and cemetery personnel have flagged the area.

Green burial applications, on forms specific to green burials, will be reviewed by the Department of Health for minimal environmental impact before review and potential approval by the Cemetery Commission.

Except for green burials, all interments and inurnments shall be enclosed in a durable outer container or vault.

Each grave (minimum four feet (4') by ten feet (10')) includes the right of interment of either one (1) full casket or one green burial for regular depth burial and one cremation burial.

Each grave may have additional right (provided additional fees are paid) of:

- Replacement of the cremation burial with a second full casket interment as a "double-deep" burial;
- Replacement of the initial full casket burial and inurnment of up to four (4) cremated remains.

A cremation lot includes the right of inurnment of up to four (4) cremation burials.

Additional regulations will be drafted if a niche wall is constructed.

IV. Cemetery Lots

When a Right of Burial is purchased, the License Holder will be given a written deed, granting the License Holder Rights of Burial in a specific grave, lot, crypt, or niche or other burial space in a cemetery. The Deed may contain certain specific terms and conditions for use of the Rights of Burial and grant the right of erecting a monument or memorial on such terms and conditions as the Cemetery Commissioners may prescribe. Such deeds and all subsequent deeds of such Rights of Burial made by owners thereof shall be recorded by the Cemetery Administrator or designee in the records maintained by the Department of Public Works in files kept for that purpose. Copies of lost deeds may be obtained by contacting the Nantucket Town Clerk or the Cemetery Commission. It shall be the duty of the License Holder and his/her heirs to notify the Commission of any changes in their mailing address. Notice sent to the License Holder at the last address on record shall be considered sufficient and proper legal notification.

The Cemetery Commissioners shall establish the cost of a Burial Right and fees related thereto and may amend the same from time to time. Cemetery personnel shall furnish, to those who desire to purchase Rights of Burial information relative to the cost of the same and the conditions upon which interments or inurnments may be made. See: Nantucket Cemetery Commission Schedule of Fees.

- A License Holder, or his/her heirs, shall not sell, transfer or convey the Rights of Burial, but such Rights of Burial shall pass to family members as permitted under Chapter 114 of the General Laws. The Town of Nantucket shall have the option of buying back Rights of Burial, subject to availability of funding. The price to be paid by the Cemetery Commission shall be no greater than the original purchase price, provided that all remains, if any, have been removed from the lot.
- Should the Town not exercise its option to buy Rights of Burial, a License Holder may assign or transfer such Rights of Burial only as permitted by the Cemetery Commissioners, who may limit such assignment or transfer to individuals who are current residents of the Town of Nantucket, past residents or relatives of such individuals. A License Holder wishing to assign Rights of Burial should contact the Cemetery Administrator. An assignment form needs to be completed, notarized and submitted to the Cemetery Administrator in order to ensure accurate recording of all assignments.
- Upon the death of the License Holder, Rights to Burial shall pass in accordance with the laws of the Commonwealth of Massachusetts.
- An existing single grave (minimum four feet (4') by ten feet (10')) containing recorded remains may also accommodate one cremation burial, provided the cremated remains are that of a family member, heir or others with verified rights of interment.
- Graves for the interment of any indigent (by state definition) resident veterans are provided at no cost and are set aside for burials of indigent resident veterans residing in the Town at the time of their entry into service and/or at the time of their

death verified by the Veterans Agent and subject to the approval of the Cemetery Commission.

- Single grave space may be made available for the burial of the stillborn or infants without charge to the resident parents residing in the Town at the time of death.
- Under MGL Ch. 115, Section 8, the Town shall provide grave space for interment or inurnment of the indigent. Heirs may place monuments on indigent burials only if the interment rights are purchased and paid in full prior to placing a memorial. The Cemetery Commission will determine indigent status based on state regulations and definition.
- No work shall be performed on graves or lots by or on the direction of License Holders unless authorization has been obtained from the Cemetery Administrator, in order to preserve as much as possible the natural appearance of cemeteries.
- The Town shall not be responsible for the maintenance of any flowers, flags, decorations, holiday arrangements, or other objects placed on a lot, and shall have the right to remove the same if, in the opinion of the Cemetery Commission, they are unsightly. The Town of Nantucket shall not be liable for items left at a grave, or damage to flowers, flags, decorations, monuments or other objects due to weather, vandalism theft or wear and tear.
- Annual/perennial flowers may be planted at the base of and within 12 inches of a monument/marker, so as to not interfere with the Cemetery Commission's maintenance procedures.
- Fences, borders, curbing, hedges, shrubbery, trees, rampant-growing plantings and crushed stone are prohibited. No signs or lettered wooden boards of any kind are permitted on a gravesite, unless the Cemetery Commission has granted prior approval.
- Any materials placed on a grave that are not in compliance with these regulations are subject to removal without notice.
- The Town may take over the ownership of an unoccupied grave after a minimum of seventy-five years has elapsed after the issuance of a license for the grave by the Town and that the Town cannot locate the owner or the owner's successor in interest after a diligent search. If the ownership of the license is ascertained after such a taking occurs, then the Town shall pay the fair value of the license at the time of taking, to the owner.

Reuse of an occupied grave will not be permitted except: upon the request and with the consent of a relative or descendant of the decedent occupying the grave, providing that no other descendant objects; to provide for the burial of a relative or descendant of the decedent occupying the grave; and if the remains of the decedent occupying the grave will remain in the grave.

V. Memorials

The Cemetery Commission must approve any memorial, including gravestones, markers, benches or other structures, in writing prior to installation.

- All inscriptions to be made on memorials shall be approved by the Cemetery Commission prior to carving. The Commission reserves the right to prohibit offensive language or imagery within the cemetery.
- Monument dealers, masons, stonecutters and all workmen working at any Town cemetery shall comply with the directions of the Cemetery Commission and must carry off all rubbish and restore roads, avenues and paths damaged by their operations. The Town of Nantucket will not be responsible for any errors made by any improper inscription on any memorial.

Memorial sizes shall be based on the following except at Polpis Cemetery where only flush memorials are permitted:

- SINGLE LOT: 16 inches by 24 inches flush memorial or 24 inches wide slant in designated areas.
- CREMATION LOT: 12 inches by 18 inches flush memorial or 18 inches wide slant in designated areas. If two or more names are to be inscribed in the memorial, it may be 12 inches by 24 inches wide.”
- MULTIPLE Grave LOTS:
 - Two (2) grave lot: three foot (3') wide base etc.
 - Three (3) grave lot: four foot (4') long base or bench etc.
 - Four (4) grave (or more) lot: six foot (6') long base or bench etc.
- Where family lots have been established in inactive cemeteries (a list of such cemeteries is provided below), those families will be allowed to place memorials that duplicate the style of the existing surrounding markers or headstones or, alternatively, use flush markers.
- No headstones, monuments, curbing or other structure will be permitted to be erected in the cemeteries without a sufficient foundation. All markers, headstones, monuments and other structures shall be made of granite, marble, slate, or other approved material. All monuments are to be centered at the head of grave/lot. Flush foot markers may be placed at the center of the foot of a grave.
- A marble or granite bench will be allowed on a lot with three (3) or more graves. If a bench is placed on a lot, no other memorials are permitted other than foot markers on individual graves within the lot.

- Special permission for alternate memorial sizes may be requested of the Cemetery Commission for consideration.
- The Cemetery Administrator is required to have written notification prior to any foundation work/memorials placement, with all information outlined and submitted on a Cemetery Department Monument Permit Order. Prior to the initiation of any monument work, the lot must be marked/flagged by Cemetery Department personnel. Monuments are required to be set in such manner that they will not conflict with the alignment of neighboring monuments.
- Memorials and structures that are not in compliance with these regulations are subject to removal without notice.

VI. Administration

The Cemetery Administrator shall have responsibility for the proper day-to-day administration of Town Cemeteries in accordance with the administrative direction of the Town Manager and the policy direction of the Cemetery Commissioners, these rules and regulations and applicable Federal and State laws. The Town of Nantucket Home Rule Charter and MGL Ch. 114 and Chapter 47 of the Acts of 2011 established the Cemetery Commission and the appointment of members. Duties of the Cemetery Commissioners are prescribed under MGL Ch. 114.

There may be circumstances when the strict or literal enforcement of these Rules and Regulations may impose unreasonable hardship. The Cemetery Commission reserves the right to make exceptions, suspensions, or modifications to these Rules and Regulations, without notice, whenever necessary in the judgment of the Cemetery Commissioners.

VII. Cemeteries in the Town of Nantucket

Active Town Controlled Cemeteries *(Burial rights may be available):*

Newtown Cemetery	Sparks Avenue	Space available.
Polpis Burial Ground (Cemetery)	Polpis Road	Plots to be laid out; Cremains only; flush monuments only.

Inactive Town Controlled Cemeteries *(No burial rights available for sale):*

Cemetery	Location	Status
Founders Burial Ground	Off Cliff Road	Closed to new interments.
The Historic Coloured Cemetery	Mill Hill	No known space available.
Miacomet Indian Burial Ground	Surfside Road	Closed to new interments.
New North Cemetery	New Lane (east)	No new plots, owners only.
Old North Cemetery	New Lane (west)	No new plots, owners only.

Cremation Lots (4' x 6') **\$900.00**

Each Cremation lot will accommodate up to four (4) inurnments. Flush monuments only will be allowed on Cremation Only Lots.

Polpis Burial Ground

Only cremation burials are allowed at Polpis. Each lot includes the right of inurnment of up to four (4) cremated remains. Only flush monuments are allowed at Polpis.

Single Lot (4' x 6') **\$900.00**

A cremation lot includes the right of inurnment of up to four (4) cremation burials.

Rules and Regulations adopted by the Nantucket Cemetery Commission and approved by the Nantucket Town Meeting govern operation of Town owned cemeteries.

All plots include perpetual care. Plot cost does not include services to open and close graves or funeral services.

(Select Board for Cemetery Commission)

ARTICLE

(Bylaw Amendment: Gender Equality on Beaches)

To see if the Town will vote to: Amend the General Bylaws of the Town by adding a new section to read as follows:

"In order to promote equality for all persons, any person shall be allowed to be topless on any public or private beach within the Town of Nantucket."

and further to authorize the Town Clerk to insert said bylaw in the appropriate section of the Town code; or to take any other action relative thereto.

(Dorothy Stover, et al)

ARTICLE

(Bylaw Amendment: Single-Use Plastics - Alcoholic Beverages of Less Than or Equal to 100 Milliliters)

To see if the Town will vote to amend Chapter 125A (Regulation of Sale, Distribution and Commercial Use of Certain Single-Use Plastics) 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 strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket)*:

Chapter 125A. Single-Use Plastics

Article I. Regulation of Sale, Distribution and Commercial Use of Certain Single Use Plastics

§125A-1. Definitions and Purpose

A. Definitions

BOXED WATER - Any type of drinking water, flavored water, carbonated water, energy drink packaged in an aseptic carton, like the type often used for holding coconut water, soy milk, soups, and the like. These cartons are typically promoted as being more than 75% made from recycled paper or other fibers, but the rest is often a set of plastic parts such as a cap and pouring ring and internal layers or linings made from petroleum-based plastics such as polyethylene and aluminum.

CARBONATED WATER - Water that contains dissolved carbon dioxide gas, either artificially injected under pressure or occurring due to natural geological processes. Carbonization causes small bubbles to form, giving the water an effervescent quality. Also known as "sparkling water", "tonics", "soda water", "club soda", "tonic water", "seltzer", "pop", and the like.

COMMERCIAL USE - Use by a business, directly/indirectly for financial gain or convenience.

DRINKING WATER - Potable, unflavored, non-carbonated water that is safe to drink or to use for food preparation.

ENERGY DRINK - A type of drink containing sugar and/or other stimulant compounds when packaged in a petroleum based plastic container or package in a plastic lined paper or similar fiber package.

FLAVORED WATER - A category of beverage marketed as water which contains an array of additional ingredients, including, but not limited to, natural and artificial flavors, sugars, sweeteners, vitamins, minerals, and other "enhancements".

PETROLEUM-BASED PLASTIC - Plastic materials manufactured using petroleum-derived polymers. Compostable plastics as defined by ASTM International are exempted from this bylaw.

SINGLE-USE PLASTICS - Petroleum-based plastic products that are intended to be used only once before they are thrown away. They are "disposable" products. The items covered by this bylaw are listed herein.

- B. Purpose: The purpose of the bylaw is to protect the health and safety of Nantucket's present and future generations, protect the Town's single-source aquifer, its scenic visage, historic status, reduce litter, reduce the threat to the environment caused by rapid filling of the landfill space and by possible introduction of toxic by-products into the groundwater and general environment, protect marine animals and food sources and save the citizens of the Town money. There are safe Alternatives for each of the single use petroleum-based plastic items banned.

§ 125A-2 Sale, distribution and commercial use of petroleum-based single-use plastic products.

It shall be unlawful to sell, distribute or commercially use the following single-use petroleum-based plastic products in the Town and County of Nantucket on or after June 1, 2020:

- A. Straws and drink stirrers;
- B. Flexible can and bottle yokes;
- C. Drinking cups and lids;
- D. Plates, bowls and eating utensils;
- E. Defined products in plastic, non-compostable or non-recyclable containers of one liter (34 ounces) or less;
- F. Single use, non-recyclable beverage pods;

It shall be unlawful to sell, distribute or commercially use the following single-use petroleum-based plastic products in the Town and County of Nantucket on or after June 1, 2022:

- G. Flushable wipes containing plastic fibers, cloth fibers and/or anti-bacterial chemicals;
- H. Plastic stick ear buds

It shall be unlawful to sell, distribute or commercially use the following single-use petroleum-based plastic or glass products in the Town and County of Nantucket on or after June 1, 2023:

- I. Containers for alcoholic beverages of less than or equal to 100 milliliters

§ 125A-3 Exemption for emergencies and other.

- A. Drinking water. Sales occurring after a declaration of an emergency adversely affecting availability and/or quality of drinking water to Nantucket residents by the Emergency Management Director or other duly authorized Town, Commonwealth or United States official shall be exempt from this bylaw until seven calendar days after such declaration has ended.
- B. Medical packaging and medically required usage are exempted providing no recyclable Alternatives are available.
- C. Compostable plastics are exempted from this bylaw, except for commercially compostable plastics that cannot be composted on Nantucket.

§ 125-4 Enforcement process.

Enforcement of this bylaw shall be the discretionary responsibility of the Town Manager or her/his designee. Police officers and health agents have the authority to enforce this bylaw. The Town Manager shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any establishment conducting sales, distribution or otherwise engaging in the commercial use of the prohibited plastic products in violation of this bylaw shall be subject to a noncriminal disposition fine as specified in Article II of Chapter 1 of the Code of the Town of Nantucket under MGL c. 40, § 21D. Any such fines shall be paid to the Town of

Nantucket. Enforcement shall be through the process of noncriminal disposition under MGL c. 40, § 21D, and Article of Chapter 1 of the Code of the Town of Nantucket.

§125A-5 Suspension of bylaw.

If the Town Manager determines that the cost of implementing and enforcing this bylaw has become unreasonable, then the Town Manager shall so advise the Select Board, and the Select Board shall conduct a public hearing to inform the citizens of such costs. After the public hearing, the Select Board may continue this bylaw in force or may suspend it permanently or for such length of time as they may determine.

§125A-6. Severability.

The provisions of this bylaw are severable. If any part of this bylaw should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the bylaw, and the remainder of the bylaw shall stay in full force and effect.

; or otherwise act thereon.

(Bruce Mandel, et al)

ARTICLE

(Bylaw Amendment: Single-Use Plastics - Single-Use Plastic Fiber Tobacco Filter Products)

To see if the Town will vote to amend Chapter 125A (Regulation of Sale, Distribution and Commercial Use of Certain Single-Use Plastics) 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 strikeout; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket).*

Chapter 125A. Single-Use Plastics

Article I. Regulation of Sale, Distribution and Commercial Use of Certain Single Use Plastics

§125A-1. Definitions and Purpose

A. Definitions

BOXED WATER - Any type of drinking water, flavored water, carbonated water, energy drink packaged in an aseptic carton, like the type often used for holding coconut water, soymilk, soups, and the like. These cartons are typically promoted as being more than 75% made from recycled paper or other fibers, but the rest is often a set of plastic parts such as a cap and pouring ring and internal layers or linings made from petroleum-based plastics such as polyethylene and aluminum.

CARBONATED WATER - Water that contains dissolved carbon dioxide gas, either artificially injected under pressure or occurring due to natural geological processes. Carbonization causes small bubbles to form, giving the water an effervescent quality. Also known as “sparkling water”, “tonics”, “soda water”, “club soda”, “tonic water”, “seltzer”, “pop”, and the like.

COMMERCIAL USE - Use by a business, directly/indirectly for financial gain or convenience.

DRINKING WATER - Potable, unflavored, non-carbonated water that is safe to drink or to use for food preparation.

ENERGY DRINK - A type of drink containing sugar and/or other stimulant compounds when packaged in a petroleum based plastic container or package in a plastic lined paper or similar fiber package.

FLAVORED WATER - A category of beverage marketed as water which contains an array of additional ingredients, including, but not limited to, natural and artificial flavors, sugars, sweeteners, vitamins, minerals, and other “enhancements”.

PETROLEUM-BASED PLASTIC - Plastic materials manufactured using petroleum-derived polymers. Compostable plastics as defined by ASTM International are exempted from this bylaw.

SINGLE-USE PLASTICS - Petroleum-based plastic products that are intended to be used only once before they are thrown away. They are "disposable" products. The items covered by this bylaw are listed herein.

- B. Purpose: The purpose of the bylaw is to protect the health and safety of Nantucket's present and future generations, protect the Town's single-source aquifer, its scenic visage, historic status, reduce litter, reduce the threat to the environment caused by rapid filling of the landfill space and by possible introduction of toxic by-products into the groundwater and general environment, protect marine animals and food sources and save the citizens of the Town money. There are safe Alternatives for each of the single use petroleum-based plastic items banned.

§ 125A-2 Sale, distribution and commercial use of petroleum-based single-use plastic products.

It shall be unlawful to sell, distribute or commercially use the following single-use petroleum-based plastic products in the Town and County of Nantucket on or after June 1, 2020:

- G. Straws and drink stirrers;
- H. Flexible can and bottle yokes;
- I. Drinking cups and lids;
- J. Plates, bowls and eating utensils;
- K. Defined products in plastic, non-compostable or non-recyclable containers of one liter (34 ounces) or less;
- L. Single use, non-recyclable beverage pods;

It shall be unlawful to sell, distribute or commercially use the following single-use petroleum-based plastic products in the Town and County of Nantucket on or after June 1, 2022:

- M. Flushable wipes containing plastic fibers, cloth fibers and/or anti-bacterial chemicals;
- N. Plastic stick ear buds

It shall be unlawful to sell, distribute or commercially use the following single-use petroleum-based plastic or glass products in the Town and County of Nantucket on or after June 1, 2023:

- I. Single use plastic fiber tobacco filter products.

§ 125A-3 Exemption for emergencies and other.

- D. Drinking water. Sales occurring after a declaration of an emergency adversely affecting availability and/or quality of drinking water to Nantucket residents by the Emergency Management Director or other duly authorized Town, Commonwealth or United States official shall be exempt from this bylaw until seven calendar days after such declaration has ended.
- E. Medical packaging and medically required usage are exempted providing no recyclable Alternatives are available.
- F. Compostable plastics are exempted from this bylaw, except for commercially compostable plastics that cannot be composted on Nantucket.

§ 125-4 Enforcement process.

Enforcement of this bylaw shall be the discretionary responsibility of the Town Manager or her/his designee. Police officers and health agents have the authority to enforce this bylaw. The Town Manager shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any establishment conducting sales, distribution or otherwise engaging in the commercial use of the prohibited plastic products in violation of this bylaw shall be subject to a noncriminal disposition fine as specified in Article II of Chapter 1 of the Code of the Town of Nantucket under MGL c. 40, § 21D. Any such fines shall be paid to the Town of Nantucket. Enforcement shall be through the process of noncriminal disposition under MGL c. 40, § 21D, and Article of Chapter 1 of the Code of the Town of Nantucket.

§125A-5 Suspension of bylaw.

If the Town Manager determines that the cost of implementing and enforcing this bylaw has become unreasonable, then the Town Manager shall so advise the Select Board, and the Select Board shall conduct a public hearing to inform the citizens of such costs. After the public hearing, the Select Board may continue this bylaw in force or may suspend it permanently or for such length of time as they may determine.

§125A-6. Severability.

The provisions of this bylaw are severable. If any part of this bylaw should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the bylaw, and the remainder of the bylaw shall stay in full force and effect.

; or otherwise act thereon.

(Bruce Mandel, et al)

**ARTICLE
(Amend Town Wharf and Waterways Prohibited Activities)**

To see if the Town will vote to make the following changes to Ch. 250 sec. 2.10 and 2.11:

250.2.10 Between ~~October 15~~ **October 31** and April 15, all Dinghies not servicing Vessels presently moored in the harbor shall be removed from any Town property.

250.2.11 The Town may remove after ~~October 30~~ **October 31**, any Dinghy left on Town property. Following such removal, the Harbor Master shall give notice of the removal as follows:

- (a) if the owner is known, then by mail or hand-delivery;
- (b) if the owner is unknown, then by publication in a newspaper of general circulation within the Town;
- (c) if, after thirty (30) days following the publication or written notice, the owner has failed to claim the Dinghy and reimburse the Town for removal costs, the Dinghy may then, at the discretion of the Harbor Master, be sold at public auction to cover the costs of removal. If said auction produces surplus proceeds after payment of the costs of removal, said surplus shall be held in a separate account and be paid over to the owner upon proof of ownership.

Striked out text to be replaced by high-lighted text. All other text to remain as written and previously amended. Changes to go into effect upon passage.

(Campbell Sutton, et al)

**ARTICLE ____
(Bylaw Amendment: Board of Sewer Commissioners/Sewer District Map Changes)**

To see if the Town will vote to amend Chapter 41 (Board of Sewer Commissioners), section 41-3A (Town Sewer District) of the Code of the Town of Nantucket by adding the following parcels located within the "Hummock Pond North" sewer needs area designated within the Comprehensive Wastewater Management Plan, adopted in October 2014, to the Town Sewer District:

Map	Lot	Number	Street
56	320	69	Hummock Pond Road
56	260	5	Hawthorne Lane
56	261	7	Hawthorne Lane

56	262	9	Hawthorne Lane
56	263	11	Hawthorne Lane
56	224	12	Hawthorne Lane
56	225	14	Hawthorne Lane
56	226	16	Hawthorne Lane
56	265	15	Hawthorne Lane
56	268	17	Hawthorne Lane
56	267	19	Hawthorne Lane
56	244	21	Hawthorne Lane

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____" dated _____ and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE

(Bylaw Amendment: Board of Sewer Commissioners/Town Sewer District Map Change: 44 Skyline Drive)

To see if the Town will vote to amend Chapter 41 (Board of Sewer Commissioners), Section 41-3A (Town Sewer District) of the code of the town of Nantucket by adding the following property, currently outside of the district:

Map	Lot	Number	Street
79	990	44	Skyline Drive

All as shown on the attached map.

Or to take any other action related thereto.

(Clifford Williams, et al)

ARTICLE

(Bylaw Amendment: Board of Sewer Commissioners/Town Sewer District Map Change - 15 Milestone Crossing)

To see if the Town will vote to:
Amend the sewer district map to include 15 Milestone Crossing, identified as Nantucket Tax Assessor's Map 68, Parcel 457, which is currently outside the core sewer district

; or otherwise act thereon.

(David J. Buckley, et al)

ARTICLE

(Home Rule Petition: Community Housing Bank Real Estate Transfer Fee)

To see if the Town will vote to request its representatives in the General Court to introduce legislation seeking a special act the text of which is set forth below and to authorize the General Court, with the approval of the Board of Selectmen, to make constructive changes in the text thereto as may be necessary or advisable in order to accomplish the intent of this legislation in order to secure passage; or to take any other action related thereto.

An Act Authorizing the Town of Nantucket to Impose a Real Estate Transfer Fee for Affordable and Workforce Housing and Related Capital Improvements

SECTION 1. For purposes of this act, the words and phrases set forth in this section shall have the following meanings:

"Affordable Housing Restriction" is a recorded instrument held by a qualified holder which encumbers and/or restricts a real property interest so that the real property interest is perpetually or for a term of at least thirty (30) years limited to use as a residence occupied by a low or moderate income household which earns less than a specified income level, the upper limit of which may not exceed one hundred seventy-five percent (175%) of the Nantucket median income. A "qualified holder" is a governmental body or charitable corporation or trust which qualifies under the terms of Massachusetts General Laws Chapter 184 ("Chapter 184") to hold an affordable housing restriction. Without limiting the generality of the foregoing, "Affordable Housing Restriction" includes but is not limited to any instrument which conforms to the requirements of (i) a Nantucket Housing Needs Covenant as described in Chapter 301 of the Acts of 2002 and defined in the Town of Nantucket Code.

"Housing and Community Development Fund", shall refer to a discrete fund or account, established by the county treasurer of the Nantucket County under the provisions of this act.

"Eligible Applicants", shall refer to non-profit and for-profit corporations and organizations, individuals, and public entities.

"Purchaser", shall refer to the transferee, grantee or recipient of any real property interest.

"Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid or transferred; all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the transfer, determined at the time of transfer, but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of transfer; the fair market value, at the time of transfer, of any other consideration or thing of value paid or transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

"Real property interest", shall refer to any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any

beneficiary in a trust which holds any legal or equitable interest in real property, the interest of a partner or member in a partnership or limited liability company, the interest of a stockholder in a corporation, the interest of a holder of an option to purchase real property, the interest of a buyer or seller under a contract for purchase and sale of real property, and the transferable development rights created under chapter 183A of the General Laws; but shall not include any interest which is limited to any of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance; any estate for years having a term of less than 30 years; any reversionary right, condition, or right of entry for condition broken; and the interest of a mortgagee or other secured party in any mortgage or security agreement.

"Seller", shall refer to the transferor, grantor or immediate former owner of any real property interest.

"Time of transfer" of any real property interest shall mean the time at which such transfer is legally effective as between the parties thereto, and, in any event, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of such recording or filing.

"Town" shall refer to the Town of Nantucket acting by and through the Board of Selectmen.

SECTION 2. There is hereby imposed a fee equal to one half per cent (1/2%) of the purchase price upon the transfer of any real property interest in any real property situated in Nantucket County. Said fee shall be the liability of the seller of such real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing said fee shall not affect such liability of the seller. The fee shall be paid to the Town of Nantucket, or its designee, and shall be accompanied by a copy of the deed or other instrument evidencing such transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the purchaser or his legal representative and the seller or his legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee imposed hereby. The Town, or its designee, shall promptly thereafter execute and issue a certificate indicating that the appropriate fee has been paid or that the transfer is exempt from the fee, stating the basis for the exemption. The register of deeds for Nantucket County, and the assistant recorder for the registry district of Nantucket County, shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, to which has not been affixed such a certificate executed by the Town or its designee. Failure to comply with this requirement shall not affect the validity of any instrument. The Town shall deposit all fees received hereunder with the Town treasurer. The treasurer shall deposit such fees as follows: 75% in the Affordable Housing Trust Fund and the remainder in capital project funds as determined by the Board of Selectmen, unless such allocation is changed by the affirmative vote of two-thirds of voters at an annual or special town meeting. The fee imposed hereunder shall be due simultaneously with the time of transfer of the transfer upon which it is imposed. Notwithstanding the foregoing, whenever there is a conveyance of real property interests and a conveyance of personalty related thereto at or about the same time, the allocations of payments between real estate and personalty agreed to by the

purchaser and seller shall not determine the amount of the fee due pursuant to this section; instead, the Town may require payment of the fee referred to in real property interests so conveyed as determined by the Town.

SECTION 3. At any time within seven days following the issuance of the certificate of payment of the fee imposed by section two, the seller or his legal representative may return said certificate to the Town or its designee for cancellation, together with an affidavit signed under oath or under the pains and penalties of perjury that the transfer, with respect to which such certificate was issued, has not been consummated, and thereupon the fee paid with respect to such transfer shall be forthwith returned to the seller or his legal representative.

SECTION 4. The following transfers of real property interests shall be exempt from the fee established by section 10. Except as otherwise provided, the seller shall have the burden of proof that any transfer is exempt under this section and any otherwise exempt transfer shall not be exempt in the event that such transfer (by itself or as part of a series of transfers) was made for the primary purpose of evading the fee imposed by Section 10.

(a) Transfers to the government of the United States, the commonwealth, and any of their instrumentalities, agencies or subdivisions, including but not limited to transfers to the Town of Nantucket, the County of Nantucket.

(b) Transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made.

(c) Transfers made as gifts without consideration. In any proceedings to determine the amount of any fee due hereunder, it shall be presumed that any transfer for consideration of less than fair market value of the real property interest transferred was made as a gift without consideration to the extent of the difference between the fair market value of the real property interest transferred and the amount of consideration claimed by the seller to have been paid or transferred, if the purchaser shall have been at the time of transfer the spouse, the lineal descendant, or the lineal ancestor of the seller, by blood or adoption, and otherwise it shall be presumed that consideration was paid in an amount equal to the fair market value of the real property interest transferred, at the time of transfer.

(d) Transfer to the trustees of a trust in exchange for a beneficial interest received by the purchaser in such trust; distributions by the trustees of a trust to the beneficiaries of such trust.

(e) Transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest.

(f) Transfers made in partition of land and improvements thereto, under chapter two hundred and forty-one of the General Laws.

(g) Transfers to any charitable organization as defined in clause Third of section five of chapter fifty-nine of the General Laws, or any religious organization, provided that the real property interest so transferred will be held by the charitable or religious organization solely for its public charitable or religious purposes.

(h) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage.

(i) Transfers made to a corporation or partnership or limited liability company at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (1) with respect to a corporation, the transferor retains an interest in the newly formed corporation which is equivalent to the interest the transferor held prior to the transfer, or (2) with respect to a partnership or limited liability company, the transferor retains after such formation rights in capital interests and profit interests within such partnership or limited liability company which are equivalent to the interest the transferor held prior to the transfer.

(j) Transfers made to a stockholder of a corporation in liquidation or partial liquidation of the corporation, and transfers made to a partner of a partnership or to a member of a limited liability company in dissolution or partial dissolution of the partnership or limited liability company; but the transfer shall be exempt only if (i) with respect to a corporation, the transferee receives property (including real property interests and other property received) which is the same fraction of the total property of the transferor corporation as the fraction of the corporation's stock owned by the transferee prior to the transfer or (ii) with respect to a partnership or limited liability company, the transferee receives property (including real property interests and other property received) which is the same fraction of the property of the partnership or limited liability company as the fraction of the capital and profit interests in the transferor formerly owned by the transferee.

(k) Transfers consisting of the division of marital assets under the provisions of section thirty-four of chapter two hundred and eight of the General Laws or other provisions of law.

(l) Transfers of property consisting in part of real property interests situated in Nantucket County and in part of other property interests, to the extent that the property transferred consists of property other than real property situated in Nantucket county; provided that the purchaser shall furnish the Town with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers.

(m) The first \$2 million of the sale price of any transfer or series of transfers of real property interests in a single parcel. Said exemption may be adjusted for inflation as determined annually by the affirmative vote of two-thirds of voters at an annual or special town meeting. For purposes of this subsection, "inflation" shall mean the increases, if any, in the total of prices paid for real property transfers year to year for real property within the Town of Nantucket.

(n) Transfers of minority interests in corporations, trusts, partnerships or limited liability companies which are publicly traded, which trades are not part of a series of transfers which together constitute a transfer of control of a corporation, trust, partnership or limited liability company.

SECTION 5. (a) The Town treasurer shall keep a full and accurate account stating when, from or to whom, and on what account money has been paid or received relative

to the activities of the Trust Fund and the Housing Fund. Said account shall be subject to examination by the director of accounts or his agent pursuant to section forty-four of chapter thirty-five of the General Laws.

(b) Schedules of beneficiaries of trusts, list of stockholders of corporations and lists of partnerships filed with the Trust Fund for the purpose of determining or fixing the amount of the fee imposed under section ten or for the purpose of determining the existence of any exemption under section twelve shall not be public records for the purposes of section ten of chapter sixty-six of the General Laws.

SECTION 6. A seller who fails to pay all or any portion of the fee established by section two on or before the time when the same is due shall be liable for the following additional payments in addition to said fee:

(a) Interest: The seller shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to fourteen per cent per annum.

(b) Penalties: Any person who, without fraud or willful intent to defeat or evade a fee imposed by this chapter, fails to pay all or a portion of the fee within thirty days after the time of transfer, shall pay a penalty equal to five per cent of the outstanding fee as determined by the Town for each month or portion thereof thereafter that the fee is not paid in full; provided, however, that in no event shall the amount of any penalty imposed hereunder exceed twenty-five per cent of the unpaid fee due at the time of transfer. Whenever the Town determines that all or a portion of a fee due under this chapter was unpaid due to fraud with intent to defeat or evade the fee imposed by this chapter, a penalty equal to the amount of said fee as determined by the Town shall be paid by the seller in addition to said fee.

SECTION 7. (a) The Town shall notify the purchaser and the seller by registered or certified mail of any failure to discharge in full the amount of the fee due under this Act and any penalty or interest assessed. The Town shall grant a hearing on the matter of the imposition of said fee, or of any penalty or interest assessed, if a petition requesting such hearing is received by the Town within thirty days after the mailing of said notice. The Town shall notify the purchaser and the seller in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within fifteen days after said hearing. Any party aggrieved by a determination of the Town concerning a deficiency, penalty or interest may, after payment of said deficiency, appeal to the district or superior court within three months after the mailing of notification of the determination of the Town. Upon the failure to timely petition for a hearing, or appeal to said courts, within the time limits hereby established, the purchaser and seller shall be bound by the terms of the notification, assessment or determination, as the case may be, and shall be barred from contesting the fee, and any interest and penalty, as determined by the Town. All decisions of said courts shall be appealable. Every notice to be given under this section by the Town shall be effective if mailed by certified or registered mail to the purchaser or the seller at the address stated in a recorded or registered instrument by virtue of which the purchaser holds any interest in land, the transfer of which gives rise to the fee which is the subject of such notice; and if no such address is stated or if such transfer is not evidenced by an instrument recorded or registered in the public records in Nantucket County, such notice shall be effective when so mailed to the purchaser or seller in care of any person appearing of record to have a

fee interest in such land, at the address of such person as set forth in an instrument recorded or registered in Nantucket County.

(b) All fees, penalties and interest required to be paid pursuant to this chapter shall constitute a personal debt of the seller and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the Town; said action, suit or proceeding shall be subject to the provisions of chapter two hundred and sixty of the General Laws.

(c) If any seller liable to pay the fee established by this act neglects or refuses to pay the same, the amount, including any interest and penalty thereon, shall be a lien in favor of the Town upon all property and rights to property, whether real or personal, belonging to either such purchaser or such seller. Said lien shall arise at the time of transfer and shall continue until the liability for such amount is satisfied. Said lien shall in any event terminate not later than six years following the time of transfer. Said lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor unless notice thereof has been filed by the Town (i) with respect to real property or fixtures, in the registry of deeds for Nantucket County, or (ii) with respect to personal property, in the office in which a security or financing statement or notice with respect to the property would be filed in order to perfect a nonpossessory security interest belonging to the person named in the relevant notice, subject to the same limitations as set forth in section fifty of chapter sixty-two C of the General Laws.

(d) Sellers applying for an exemption under subsections (a) through (o) of section four shall be required at the time of application for exemption to execute an agreement legally binding on sellers and separately legally binding upon any Legal Representative of the sellers (1) assuming complete liability for any fee, plus interest and penalties if any, waived on account of an allowed exemption subsequently determined to have been invalid, and (2) submitting to the jurisdiction of the trial court of the commonwealth sitting in Nantucket County. Fees, plus interest and penalties if any, shall be calculated as of the date of the initial property transfer. Execution of the above-described agreement shall not be required of any mortgagee, pledge, purchaser or judgment creditor unless notice of the agreement has been recorded or filed by the Town.

In any case where there has been a refusal or neglect to pay any fee, interest or penalties imposed by this act, whether or not levy has been made, the Town, in addition to other modes of relief, may direct a civil action to be filed in a district or superior court of the commonwealth to enforce the lien of the Town under this section with respect to such liability or to subject any property of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such liability.

The Town may issue a waiver or release of any lien imposed by this section. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

SECTION 8. The provisions of this act are severable, and if any provision hereof, including without limitation any exemption from the fee imposed hereby, shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

SECTION 9. If the Town has determined that a fee is due by asserting the application of the evasion of fee doctrine described in section 13, then the seller shall have the burden of demonstrating by clear and convincing evidence as determined by the Town that the transfer, or series of transfers, possessed both: (i) a valid, good faith business purpose other than avoidance of the fee set forth in section 10 and (ii) economic substance apart from the asserted fee avoidance benefit. In all such cases, the transferee shall also have the burden of demonstrating by clear and convincing evidence as determined by the Town that the asserted non-fee-avoidance business purpose is commensurate with the amount of the fee pursuant to section 10 to be thereby avoided.

SECTION 10. This act shall take effect ninety (90) days following the date of passage.

(Select Board)

NOTE: The above home rule petition was approved as Article 82 of the 2016 Annual Town Meeting, Article 88 of the 2017 Annual Town Meeting, Article 70 of the 2018 Annual Town Meeting and Article 79 of the 2019 Annual Town Meeting. Home rule petitions currently pending before the legislature, which were not acted upon by December 31, 2021, may expire unless renewed by a confirmatory town meeting vote.

DO WE NEED THIS IN ?

ARTICLE

(Home Rule Petition: An Act Amending the Nantucket Sewer Act (Chapter 396 of the Acts of 2008))

To see if the Town will vote to request its representatives in the General Court to introduce special legislation, the text of which is set forth below, amending the Nantucket Sewer Act to allowing the Select Board, acting as the Nantucket Sewer Commission, to waive all or a portion of sewer connection fees for year-round residents of the Town, and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage:

An Act Amending Chapter 396 of the Acts of 2008

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. Chapter 396 of the Acts of 2008 is hereby amended by inserting a new section 8A as follows:

8A. Notwithstanding any provisions of Chapter 83 or any other provision of a general or special law, the Nantucket Sewer Commission is hereby authorized to adopt a regulation that allows said Sewer Commission to waive all or a portion of sewer

connection fees for year-round residents who otherwise qualify for the resident tax exemption under section 5C of Chapter 59 of the General laws.

Section 2. This act shall take effect upon passage.

Or to take any other action relative thereto.

(Select Board)

ARTICLE

(Home Rule Petition: An Act Amending the Charter of the Town of Nantucket To Implement Certain Recommendations of the Town Government Study Committee)

To see if the Town will vote to request its representatives in the General Court to introduce special legislation, the text of which is set forth below, amending the charter for the Town of Nantucket, and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage. *(NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text):*

Article II, Section 2.2 - Town Moderator

The Moderator shall be elected for a term of ~~one year~~ three years and shall have all the powers and duties given to moderators under the Constitution and the laws of the Commonwealth, and such additional powers and duties as are authorized by this Charter.

Article II, Section 2.4 - Clerk of the Meeting

The Town Clerk shall serve as Clerk of the Town Meeting. In advance of each Town Meeting, the Town Clerk shall by written notice to the Moderator appoint an Alternate Clerk of the Meeting who shall, during such Town Meeting, serve in the event of absence or disability of the Clerk of the Meeting. If an Alternate Clerk of the Meeting is not appointed or is unable so to serve, the Moderator shall appoint a clerk, who shall be a registered voter of the town.

Article II, Section 2.5 - Town Meeting Warrant

...

(b) The Select Board shall publish notice of the issuance of the warrant of each town meeting in a newspaper of general circulation within the town promptly after the issuance of the warrant and make a copy of the warrant available on the town website. After such publication, the Finance Committee shall hold a public hearing on each article and vote its recommendations. For articles that do not call for the Town to raise and appropriate, transfer or borrow sums of money, the Finance Committee may choose to make no recommendation.

(c) The Select Board shall publish the warrant with the recommendations of the Finance Committee by mailing a copy of such warrant to the address or postal box of each registered voter at least ~~seven~~ **fourteen** days prior to the Town Meeting.

(d) Notwithstanding any general or special law to the contrary, the Select Board shall insert in the warrant for the annual meeting all subjects the insertion of has been requested of them in writing by fifty or more registered voters of the town and in the warrant for every special town meeting all subjects the insertion of which has been requested of them in writing by one hundred registered voters.

Article II, Section 2.6 - Rights of Nonresident Property Owners

One spokesperson for the Town's nonresident property owners shall be allowed to speak at any annual or special Town Meeting on matters before the Meeting but only at such times during a Meeting as the Moderator may allow and in accordance with the rules of order. ~~The Moderator, in his or her sole discretion, may permit additional nonresident property owners to speak at any annual or special Town Meeting on matters before the Meeting.~~

Article IV, Section 4.2 - Town Manager

...

(d) In particular, the Town Manager:

...

(14) shall approve and sign warrants for payment ~~before such warrants are submitted to the Select Board;~~ and

Article IV, Section 4.3 - Town Manager Appointments

The Town Manager:

(a) shall appoint the ~~department~~ heads of all Town Administration departments (other than any elected heads), subject to resolution of disapproval pursuant to Section 3.4(a)(4) by the Select Board;

...

Article V, Section 5.4 - Recall of Elected Officials

...

(c) If, within 21 days after the certification date, such recall petition forms signed by at least 20% of registered voters, ~~as established by the Town Clerk as of March 1st of the previous year,~~ with Town residence address shown are returned to the Town Clerk, the Clerk shall, within 14 days, certify the signatures of registered voters, to determine sufficiency of the petition.

(d) If sufficient the Town Clerk shall thereupon submit the petition with date of its certification to the Select Board which shall forthwith give written notice thereof to the officer sought to be recalled. If the officer does not resign within ~~75~~ **5** days, the Select Board shall ~~not less than 75 days after such certification date~~ order a recall election to be held concurrently with the next annual election for Town officers ~~not less than 75 days after such certification date~~. The recall election, once ordered, shall proceed, even if the office becomes vacant, in the same manner as for an annual Town election.

(e) The officer sought to be removed may seek renomination, may serve until expiration of the current term of office unless and until a successor is sooner elected, and may not be put twice to the recall process in the same term.

(f) Recall election ballots shall first submit the question:

For the recall of (name **and title** of officer)

Against the recall of (name **and title** of officer)

Article VI, Section 6.6 – Time of Taking Effect

~~This Charter shall take effect on July first next following ratification by the voters of the Town. All Town officers, boards, councils, commissions and committees shall continue to perform their duties until re-appointed or re-elected or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another.~~

~~Any person holding a Town office or employment under the Town shall continue to retain such office or such employment and shall continue to perform the duties of the office or of the employment until such time as provisions shall have been made in accordance with this Charter for the performance of such duties by another person or agency. No person in the permanent, full time service or employment of the Town shall forfeit pay grade or time in service by reason solely of the adoption of this Charter. All such persons, unless removed in accordance with this Charter, shall be retained in an employment capacity as similar to their former employment capacity as is feasible.~~

~~SECTION 2. Continuance of the Charter Commission.~~

~~The Town and County Charter Commission elected April 4, 1995 pursuant to Chapter 328 of the Acts of 1992 shall continue to exist until thirty days after the enactment of this Act and any act that it may recommend in furtherance of a merger of the Town and County of Nantucket, provided that it shall submit a final report of its recommendations as to such a merger by December 31, 1998 and provided further that in no event shall such Commission continue beyond April 4, 2000.~~

~~SECTION 3. Ratification by the Voters.~~

~~On the official ballot to be used by the Town of Nantucket at the next annual election for Town officers at least two months after enactment of this Act by the General Court, the~~

~~question shall be placed substantially as follows:~~

~~"Shall an act passed, by the General Court in the year 1996 entitled 'An Act providing for a Charter for the Town of Nantucket' be accepted?"~~

~~A summary of the Charter to be prepared by the Town and County Charter Commission shall accompany the ballot question described herein.~~

~~If the majority of the votes cast in answer to such question is in the affirmative, this Act shall take full effect but not otherwise.~~

~~Ratified April 8, 1997~~

The form of the Special Act shall be as follows:

AN ACT AMENDING THE CHARTER FOR THE TOWN OF NANTUCKET.

SECTION 1. Section 2.2 of article II of the charter of the town of Nantucket, as established by chapter 289 of the acts of 1996, as amended, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the words "one year" and inserting in place thereof the following words:- three years.

SECTION 2. Section 2.4 of said article II of said charter is hereby amended by inserting after the words "Moderator shall appoint a clerk" the following words:- , who shall be a registered voter of the town.

SECTION 3. Subsection (b) of section 2.5 of said article II of said charter is hereby amended by inserting after the words "after the issuance of the warrant" the following words:- and make a copy of the warrant available on the town website.

SECTION 4. Subsection (c) of said section 2.5 of said article II of said charter is hereby amended by striking out the word "seven" and inserting in place thereof the following word:- fourteen.

SECTION 5. Said section 2.5 of said article II of said charter is hereby amended by inserting after subsection (c) the following new subsection:- (d) Notwithstanding any general or special law to the contrary, the Select Board shall insert in the warrant for the annual meeting all subjects the insertion of which has been requested of them in writing by fifty or more registered voters of the town and in the warrant for every special town meeting all subjects the insertion of which has been requested of them in writing by one hundred registered voters.

SECTION 6. Section 2.6 of said article II of said charter is hereby amended by inserting at the end of said section the following words:- The Moderator, in his or her sole discretion, may permit additional nonresident property owners to speak at any annual or special Town Meeting on matters before the Meeting.

SECTION 7. Paragraph (14) of subsection (d) of section 4.2 of article IV of said charter is hereby amended by striking out the words “before such warrants are submitted to the Select Board” and by inserting after the words “shall approve” the following words:- and sign.

SECTION 8. Subsection (a) of section 4.3 of said article IV of said charter is hereby amended by inserting after the words “shall appoint the” the following word:- department.

SECTION 9. Subsection (c) of section 5.4 of article V of said charter is hereby amended by inserting after the words “at least 20% of registered voters” the following words:- , as established by the Town Clerk as of March 1st of the previous year, .

SECTION 10. Subsection (d) of said section 5.4 of said article V of said charter is hereby amended by striking out the numeral “7” after the words “does not resign within” and inserting in place thereof the following numeral:- 5.

SECTION 11. Said subsection (d) of said section 5.4 of said article V of said charter is hereby further amended by striking out the words “not less than 75 days after such certification date” and inserting after the words “the Select Board shall” the following words:- not less than 75 days after such certification date.

SECTION 12. Subsection (f) of said section 5.4 of said article V of said charter is hereby amended by inserting after the words “For the recall of (name” the following words:- and title.

SECTION 13. Said subsection (f) of said section 5.4 of said article V of said charter is hereby further amended by inserting after the words “Against the recall of (name” the following words:- and title.

SECTION 14. Article VI of said charter is hereby amended by striking out Section 6.6 in its entirety.

Or to take any other action related thereto.

(Select Board)

HRP

MILL HILL/NF FIELDS TRANSFERS WITH LB - WAITING ON WHETHER WE NEED TO RESUBMIT FROM 2021 ATM

ARTICLE

(Home Rule Petition: An Act Prohibiting the Application of Fertilizer in the Town of Nantucket

To see if the Town will vote to request its representatives in the General Court to introduce special legislation, the text of which is set forth below, prohibiting the application of fertilizer in the Town of Nantucket except for farming purposes, and to

authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage

An Act Prohibiting the Application of Fertilizer Used in the Town of Nantucket Except for Farming Purposes

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. There is sound scientific evidence to conclude that nitrogen and phosphorus in fertilizers are contaminants that negatively affect fresh and salt waters when present in excessive amounts. These excessive amounts of nitrogen and phosphorus contribute to undesirable algae and aquatic plant growth within all Nantucket water bodies. This undesirable algae and aquatic plant growth has an adverse effect on public health through the degradation of waters used for drinking water, shell fishing, and recreational swimming and boating.

Section 2. It is necessary to prohibit the application of fertilizer that contains phosphorus and nitrogen so as to improve the water quality of the Town of Nantucket. The soils of Nantucket are unique insofar as Nantucket has significant amounts of coarse, sandy soils that are subject to rapid water infiltration, percolation and leaching of nutrients, and such unique local conditions require that Nantucket prohibit the application of nitrogen and phosphorus added to soils through the application of fertilizers. This Act should help Nantucket to achieve compliance with the Total Maximum Daily Loads (TMDL) prescribed by the Commonwealth of Massachusetts for nitrogen and phosphorus in its waters.

Section 3. Notwithstanding any General or Special law to the contrary, including but not limited to any General or Special law conferring exclusive authority upon the Department of Agriculture to regulate and control the application of fertilizers elsewhere in the Commonwealth, the application of fertilizer containing nitrogen or phosphorus, or any other pollutants in the Town of Nantucket, is hereby prohibited.

Section 4. This act shall take effect upon passage.

Or to take any other action related thereto.

(Joseph Minella, et al)

ARTICLE

(Home Rule Petition: Historic District Commission - Solar)

To see if the Town will vote to request its representatives in the General Court to introduce special legislation, the text of which is set forth below, to amend Chapter A301 Special Acts Article II Section 9(b) the Historic District Commission in the Town of Nantucket, and to authorize the General Court, with the approval of the Select Board, to

make changes of form to the text thereto as may be necessary or advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Amend Section 9(b) of the Historic District Commission Special Acts, 1970 Chapter 395 by inserting the following changes highlighted below.

SECTION 9. (a) It shall be the function and the duty of the Historic District Commission to pass upon the appropriateness of exterior architectural features of buildings and structures hereafter to be erected, reconstructed, Altered or restored within the Historic Nantucket District wherever such exterior features are subject to view from a beach, public way, public park, public body of water, traveled way, a street or way shown on a land court plan, or shown on a plan recorded in the registry of deeds, a proprietors road or a street or way shown on a plan approved and endorsed in accordance with the Subdivision Control Law. All plans, elevations and other information deemed necessary by the Commission to determine the appropriateness of the exterior features to be passed upon shall be made available to the Commission by the applicant. It shall also be the duty of the Commission to pass the removal of any building within said districts as set forth in Section 6 and the erection or display of occupational or other signs as set forth under Section 7.

(b) The Historic District Commission, in passing upon appropriateness of exterior architectural features in any case, shall keep in mind the purposes set forth in Section 2 and shall consider, among other things, the general design, arrangement, texture, material and color of the building or structure in question, the location on the lot and the relation of such factors to similar features of buildings and structures in the immediate surroundings and the position of such building or structure in relation to the street or public way and to other buildings and structures. In the case of new construction or additions to existing buildings or structures, the Historic District Commission shall consider the appropriateness of the size and shape of the building or structures both in relation to the land area upon which the building or structure is situated and buildings and structures in the vicinity, and outside the Town and Sconset Historic Districts shall reasonably allow for the visible integration of solar panels and renewable energy systems, and the commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable by-law.

(Jeffrey Booms, et al)

ARTICLE

(Home Rule Petition: Amend the Nantucket Planning and Economic Development Commission Special Act)

To see if the Town will vote to request its representatives in the General Court to introduce special legislation, the text of which is set forth below, amending Chapter 561 of the Acts of 1973, as amended, and to authorize the General Court, with the approval of the Select Board, to make changes of form to the text thereto as may be necessary or

advisable in order to accomplish the intent and public purpose of this legislation in order to secure passage. (NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text):

AN ACT Relative to the Nantucket Planning and Economic Development Commission.

Be it enacted, etc., as follows:

SECTION 1. In order to plan for the orderly and coordinated development and-protection of the physical, environmental, cultural, social and economic resources of the Island of Nantucket, there is hereby established the Nantucket Planning and Economic Development Commission, hereinafter called the "Planning Commission-" or the "Commission." The purpose of the Planning Commission is to plan for: balanced economic growth, the preservation of natural resources including open space, coastal resources, ground and surface water and ocean quality as well as other natural resources of Nantucket, the provision of adequate capital facilities, including transportation; the development of an adequate supply of fair affordable housing; and the preservation of historical, cultural, and recreational values. The Planning Commission shall consist of eleven (11) members as follows: ~~the members~~ (3) three representatives of the Planning Board of the Town of Nantucket, to be appointed annually by said Planning Board; one (1) representative of ~~the Nantucket Housing Authority~~ The Nantucket Affordable Housing Trust, to be appointed annually by said ~~Authority~~ Trust; one (1) representative of the County Commissioners of Nantucket County to be appointed annually by said County Commissioners; one (1) representative of the Conservation Commission to be appointed annually by said Conservation Commission; one (1) member of the Nantucket Historical Commission to be appointed annually by said Historical Commission; The Director of the Nantucket Department of Public Works or his or her designee which shall be designated by the Town Manger of said Town; and three (3) persons to be elected. ~~appointed at large by the Commission; one (1) for a term of one (1) year, and one (1) for a term of two (2) years and one (1) for a term of three (3) years.~~

At the first annual election held after the effective date of this Act, three members shall be elected as follows: one (1) to serve for one (1) year, one (1) for two (2) years, and one (1) for three (3) years, and thereafter when the term of any elected member expires, his or her successor shall be elected to serve for three (3) years. In all cases the members shall serve until their successors are elected and qualified.

Any vacancy in the elected membership shall be filled by a majority vote of the Nantucket Planning Commission, said vacancy to be filled for the remainder of the unexpired term.

After the first annual election held after the effective date of the Act, the Planning Board shall appoint three (3) of its members for a term of one year each, and the following appointments shall be made: a member of the Affordable Housing Trust, a County Commissioner, a member of the Historical Commission, a member of the Conservation Commission, and the Director of the Department of Public Works, each to serve for a term of one year.

SECTION 2. The Planning Commission shall be responsible for the preparation of comprehensive plans for the protection of the physical, and social, and environment, economy, development and general quality of life of said county and town the Town and County of Nantucket and shall make recommendations for action to implement said plans to the responsible county and town agencies. Such plans shall include, but not be limited to, the preparation of studies, research reports and maps of natural and cultural resources, land utilization, economic development, recreation and conservation, transportation and population characteristics. In order to carry out these responsibilities, the Commission may retain such experts as may be required.

Section 2A. The Planning Commission shall produce and make available a written report of its activities, annually.

SECTION 3. To meet the expenses incurred under this Act, the Planning Commission may expend from the treasury of the Town of Nantucket such sums as may be appropriated therefor by said town. All bills incurred in carrying out the provisions of this Act shall be accompanied by proper vouchers and shall be paid by the Town Treasurer of said town only on warrants approved by the Commission or a committee appointed by it for such purpose. Voluntary contributions, either public or private, for such purposes may be deposited in said treasury. No appointments shall be made and no money shall be expended hereunder except by the affirmative vote of a majority of the members of said Commission. No moneys expended under this Act shall be used for recreational advertising or promotion. The Planning Commission may be designated by any state or federal agency to participate in or receive funds and technical assistance from any state or federal programs, especially as those programs relate to environmental protection, conservation, land planning, water and air quality control, economic development, transportation or the development of region-wide public services.

SECTION 4. Within 30 days following each annual Town election, the Planning Commission shall elect a Chairman and such other officers as it may, by rule, provide Vice Chairman, and may make such other rules and regulations not inconsistent with the provisions of this Act as it may, by majority vote, provide. Each member of the Commission shall have one (1) vote. Members of the Commission shall serve without compensation. The duties of the Chairman include:

- a) Presiding over all meetings of the Planning Commission with the right to vote on all questions, absent conflict of interest, and to propose the agenda prior to each such meeting;
- b) Reporting annually to the people of the Town on the work of the previous year.

Section 4A. The Planning Commission shall be one (1) of the eCommonwealth's regional planning agencies.

Section 4B PLACEHOLDER

Section 4B~~C~~. Certain developments of regional economic impact as hereinafter defined proposed to be constructed within the limits of the town of Nantucket shall not be constructed within that town without a Development of Regional Economic Impact Permit, hereinafter referred to as DREIP, issued by majority vote of the e~~C~~Commission. A DREIP shall be in addition to and not a substitute for, nor shall it in any way detract from, any permit, license, approval or other permission issued by the town of Nantucket or any other applicable governmental authority.

Section 4C~~D~~. Developments of regional economic impact shall be those large-scale commercial and industrial developments that have the potential to impact the appearance, society and economy of the town of Nantucket that exceed any 1 of the following minimum thresholds:

- (1) 30,000 gross square feet of interior space in a single building or on a single lot for retail, manufacturing or industrial use;
- (2) 40,000 square feet of exterior storage, exterior industrial use;
- (3) Alterations to more than 5 acres of shore, beach, seacoast, pond, marsh, dune, woodland, grassland, heathland, wetland, endangered species habitat, aquifer or other resource area for commercial or industrial use; or
- (4) any commercial or industrial use that requires more than 100 parking spaces as determined by the zoning by-law of the town of Nantucket.

Section 4D~~E~~. The e~~C~~Commission shall by majority vote adopt rules and regulations for the issuance of a DREIP after a public hearing, with a minimum of 14 days prior notice to the ~~Select~~ Board of selectmen of the town of Nantucket of the time and place of such hearing; provided, however, that the rules and regulations shall not take effect except upon an affirmative vote of a simple majority of voters of the town of Nantucket at a duly scheduled town meeting. The rules and regulations shall include specific time lines for action by the e~~C~~Commission, including, without limitation, that the e~~C~~Commission shall file a written decision with the town clerk within 180 days of the e~~C~~Commission's receipt of a complete application for the issuance of a DREIP, and standards and criteria to assess visual and environmental impacts, employment characteristics and requirements for municipal or regional services including solid waste disposal, water, sewer, tourist services and facilities, transportation and education. The rules and regulations shall provide that the e~~C~~Commission shall issue a DREIP upon making the following findings:

- (1) the probable benefit of the proposed project will exceed the probable detriment;
- (2) the proposed project is in compliance with any master plan adopted by the community pursuant to section 81D of chapter 41 of the General Laws or other authority; and
- (3) there are no practical, feasible or practicable options or Alternatives that might otherwise be employed due to unique physical, social or economic conditions related to the town of Nantucket's island location.

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

(Hillary Hedges Rayport, et al)

ARTICLE

(Ombudsman Establishment - Complaints)

To see if the Town will vote to adopt an act, authorizing the establishment of an Ombudsman. To mediate disputes before the Town of Nantucket that have come to an impasse. Moreover, mediate complaints with appropriated redress for the user of the services, when its alleged that wrongdoing or maladministration has occurred. Against employees of the Town of Nantucket, any department of the Town of Nantucket or any Board Member of a Board elected by voters of the Town of Nantucket.

(Theresa Williams, et al)

ARTICLE

(Scheduling of Annual Town Meeting and Annual Town Election)

To see if the Town will vote to:
Direct the Select Board allow at least fourteen (14) days time between the Annual Town Meeting and the subsequent Election

; or otherwise act thereon.

(John F. McGrady, Jr., et al)

ARTICLE

(Rescind Article 77 of the 2018 Annual Town Meeting)

To see if the Town will vote to:
Recind Article 77 of the 2018 Annual Town Meeting as to so much of the article that pertains to the taking of 10 Surfside Road, Tax Accessors Map 55, Parcel 137, (a portion of) and return said to the care, custody and control of the Nantucket School Committee to be held for school purposes

; or otherwise act thereon.

(John F. McGrady, Jr., et al)

ARTICLE ____

(Real Estate Acquisition: Coastal Access - Eel Point Ways)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for the purposes of public access, beach management, open space, and/or conveyance, the fee title or lesser interests in all or any portions of the following three ways:

- East Eel Point and North Pond Roads from the northern sideline of Eel Point Road to Nantucket Sound; and
- An unnamed way between the western sideline of East Eel Point Road and Madaket Harbor.

All as shown on Assessor’s Map 33, 43, and 37 and on a map entitled “2022 Annual Town Meeting Warrant Article ___ Real Estate Acquisition: Coastal Access - Eel Point Ways” dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE ____

(Real Estate Conveyance: Coastal Access - Eel Point Ways)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portions of the following three ways for the purpose of coastal access:

- East Eel Point and North Pond Roads from the northern sideline of Eel Point Road to Nantucket Sound; and
- An unnamed way between the western sideline of East Eel Point Road and Madaket Harbor

such disposition to be on any terms and conditions the Select Board deems appropriate, which may include the reservation of any easements and restrictions in regard to the property.

All as shown on Assessor’s Maps 33, 43, and 37 and on a map entitled “2022 Annual Town Meeting Warrant Article ___ Real Estate Acquisition: Coastal Access - Eel Point Ways” dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE ____

(Real Estate Acquisition: Paper Streets - Red Barn and Sheep Pond Roads Area)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for the purpose of conveyance, the fee title or lesser interests in all or any portions of the unconstructed proprietors and other roads and unconstructed ways in the area bounded by Long Pond, the Atlantic Ocean, the south western sideline of a Proprietors Road abutting Assessor’s Map 63, Parcels 11-16 (inclusive), Assessor’s Map 65, Parcels 1, 2, and 10, Map 58 Parcels .

All as shown on a map entitled “2022 Annual Town Meeting Warrant Article ___ Acquisition: Paper Streets - Red Barn and Sheep Pond Roads Areas” dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

Commented [VM5]: Does the Town know whether it intends to convey to Land Bank or NCF?

Commented [LG6R5]: Per Andrew: No – needs more discussion (keep it broad)

(Select Board)

ARTICLE ____
(Real Estate Conveyance: Paper Streets - Red Barn and Sheep Pond Roads Area)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portion of a portion of 167 Surfside Road shown on Assessor's Map 87 as Parcel 118 (a portion of) and as shown on Plan No. 2012-60 labeled as "TERRIO ET AL DD. BK. 118 PG. 182" on said plan on file at the Nantucket County Registry of Deeds to be on any terms and conditions the Select Board deem appropriate, and may include the reservation of any easements and restrictions in regard to the property.

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Conveyance: Paper Streets - Red Barn and Sheep Pond Roads Areas" dated January 2022 and filed herewith at the Office of the Town Clerk

Or to take any other action related thereto.

(Select Board)

ARTICLE ____
(Real Estate Acquisition: Parcel of Land off Surfside Road)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for the purpose of public access, conveyance, and/or general municipal purposes the fee title or lesser interests in all or any portions of a parcel of land shown as "Terrio et al DD. BK. 118, Page 182" on a plan of land recorded with Nantucket County Registry of Deeds as Plan No. 2012-60.

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Acquisition of a parcel off Surfside Road" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

DRAFT ONLY - UNDER REVIEW

ARTICLE ____
(Real Estate Conveyance: Parcel of Land off Surfside Road)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portion a parcel of land off Surfside Road as shown as "Terrio et al DD. BK. 118 PG. 182" on a plan of land recorded with Nantucket County Registry of Deeds as Plan No. 2012-60, such disposition to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property.

Commented [VM7]: Does the Town wish to acquire it for other purposes i.e. public way or public access?

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Acquisition of a parcel off Surfside Road" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

DRAFT ONLY - UNDER REVIEW

ARTICLE ____

(Real Estate Acquisition: 31 Easy Street)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for public way, sidewalk, drainage, flood control, general municipal purposes, and/or the purposes of conveyance, the fee title or lesser interests in all or any portions of the property known as 31 Easy Street, shown on Tax Assessor's Map 42.4.2 as Parcel 16 and shown as Lot 3 on a plan of land filed with Nantucket Registry District of the Land Court as Land Court Plan No. 8594-E.

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Acquisition of 31 Easy Street" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

DRAFT ONLY - UNDER REVIEW

ARTICLE ____

(Real Estate Conveyance: 31 Easy Street)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portions of the property known as 31 Easy Street shown on Tax Assessor's Map 42.4.2 as Parcel 16 and shown as Lot 3 on a plan of land filed with Nantucket Registry District of the Land Court as Land Court Plan No. 8594-E to the Nantucket Islands Land Bank, Nantucket County, and/or the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority, for all purposes pursuant to their respective enabling legislation, such disposition to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property.

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Acquisition of 31 Easy Street" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

DRAFT ONLY - UNDER REVIEW

ARTICLE ____

(Real Estate Conveyance: 50 Altar Rock Road)

To see if the Town will vote to authorize the Select Board to transfer the care, custody, management and control of a certain parcel of land located 50 Altar Rock Road, said parcel being shown on Tax Assessor's Map 45 as Parcel 9 and shown as Lot A on Land Court Plan No. 9547-A filed with the Nantucket County Registry District of the Land Court, from the Select Board for park purposes to the Select Board for purposes of conveyance and further to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portion of said property to the Nantucket Conservation Foundation, Inc. for open space, recreational, and conservation purposes, such disposition to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property; and further to authorize the Select Board to submit a *cy pres* petition, if applicable, and a petition to the General Court for a special act authorizing the transfers of land set forth herein and the conveyance of the property at 50 Altar Rock Road under Article 97 of the Amendment to the Massachusetts Constitution

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Disposition of 50 Altar Rock Road" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

DRAFT ONLY - UNDER REVIEW

ARTICLE ____

(Home Rule Petition: Real Estate Conveyance - 50 Altar Rock Road to Nantucket Conservation Foundation, Inc.)

To see if the Town will vote to authorize the Select Board to petition the General Court consistent with the requirements of Article 97 of the Amendments to the Massachusetts Constitution to enact special legislation to authorize the transfer and conveyance of all or a portion of a certain parcel of land in the Town of Nantucket held by The Inhabitants of the Town for park purposes, as described in more detail below and as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Disposition of Altar Rock" dated January 2022 and filed with the Office of the Town Clerk, to the Select Board for purposes of conveyance; and further to authorize the Select Board to convey the proerpty described below to the Nantucket Conservation Foundation, Inc. for open space, recreational, and conservation purposes, to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property, provided, however, that the General Court may with the approval of the Select Board, make constructive changes in language as may be necessary or advisable towards perfecting the intent of this legislation in order to secure passage:

AN ACT AUTHORIZING THE TOWN OF NANTUCKET TO CONVEY A CERTAIN PARCEL OF LAND SITUATED IN THE TOWN OF NANTUCKET HELD FOR PARK PURPOSES TO THE NANTUCKET CONSERVATION FOUNDATION INC. FOR OPEN SPACE, RECREATIONAL, AND CONSERVATION PURPOSES

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Pursuant to Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts and notwithstanding the provisions of any general or special law to the contrary, the Town of Nantucket may transfer, sell, convey or otherwise dispose of all or a portion of a certain parcel of land situated in the Town of Nantucket to the Nantucket Conservation Foundation, Inc. for open space, recreational, and conservation purposes, to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property, described as follows:

- Tax Assessor's Map 45, Parcel 9, 50 Altar Rock Road;

Any such disposition shall be on such terms and conditions as the Select Board deem appropriate, which may include the reservation of restrictions and easements and acceptance of the conveyance of certain land from the Nantucket Conservation Foundation, Inc. to satisfy the Executive Office of Energy and Environmental Affairs "no net loss policy" as determined by the Select Board, all as shown on a map entitled "2022 Annual Town Meeting Warrant Article ___ Disposition of Altar Rock" dated January 2022 and filed with the Office of the Town Clerk.

Section 2. This act shall take effect upon its passage.

Or to take any other action related thereto.

(Select Board)

DRAFT ONLY - UNDER REVIEW

ARTICLE ____

(Home Rule Petition: Real Estate Conveyance - A Portion of Ames Avenue)

To see if the Town will vote to authorize the Select Board to petition the General Court consistent with the requirements of Article 97 of the Amendments to the Massachusetts Constitution to enact special legislation to authorize the transfer and conveyance of all or portions of certain parcels of land in the Town of Nantucket owned by The Inhabitants of the Town of Nantucket held under the care, custody and control of the Nantucket Conservation Commission for conservation or recreational purposes, and which are located in the roadway known as Ames Avenue as described in more detail below and as shown on a map entitled "2022 Annual Town Meeting Warrant Article ___ Disposition of A Portion of Ames Avenue" dated January 2022 and filed with the Office of the Town Clerk, to the Select Board for purposes of conveyance and further to

authorize the Select Board to convey the property described below on any terms and conditions the Select Board deem appropriate for roadway and/or any purposes, which may include the reservation of any easements and restrictions in regard to the property, provided, however, that the General Court may with the approval of the Select Board, make constructive changes in language as may be necessary or advisable towards perfecting the intent of this legislation in order to secure passage:

AN ACT AUTHORIZING THE TOWN OF NANTUCKET TO CONVEY FOR ROADWAY AND ANY OTHER PURPOSES CERTAIN PARCELS OF LAND WITHIN THE ROADWAY KNOWN AS AMES AVENUE, AND SHOWN AS LOTS 35-38 (INCLUSIVE) IN BLOCK 31 ON LAND COURT PLAN NO. 2408-M FILED WITH THE NANTUCKET REGISTRY DISTRICT OF THE LAND COURT SITUATED IN THE TOWN OF NANTUCKET HELD FOR CONSERVATION OR RECREATIONAL PURPOSES TO BE CONVEYED FOR ROADWAY AND/OR ANY PURPOSES.

Commented [VM8]: Do we have a plan showing the portion property in Ames Avenue?

Commented [LG9R8]: Yes - From 1946 per Andrew

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Pursuant to Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts and notwithstanding the provisions of any general or special law to the contrary, the Town of Nantucket may transfer, sell, convey or otherwise dispose of all or portions of certain parcels of land situated in the Town of Nantucket for roadway and/or any purposes, to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property, described as follows:

- Lots 35-38 (inclusive) in Block 31 on Land Court Plan 2408-M;

Any such disposition shall be on such terms and conditions as the Select Board deem appropriate, which may include the reservation of restrictions and easements, and the conveyance or dedication of a parcel or parcels of Town-owned land to satisfy the "no net loss policy" of the Executive Office of Energy and Environmental Affairs, all as shown on a map entitled "2022 Annual Town Meeting Warrant Article ___ Disposition of A Portion of Ames Avenue" dated January 2022 and filed with the Office of the Town Clerk.

Section 2. This act shall take effect upon its passage.

Or to take any other action related thereto.

(Select Board)

NOTE: These properties were given to the TON as a gift in 1980 from the Nantucket Land Council Defense Fund - see Article 93 from the 1980 ATM. Ames Avenue was laid out in 1946, so the road had been in existence 34 years at the time of acceptance. This HRP will correct a discrepancy between the dedication as open space and the historic use as a roadway.

Commented [LG10]: Can this note go into the Voter's Guide?

Commented [LG11R10]: YES

The parcel in question contains about 8,000 square feet and roughly 3,869 square feet is in the roadway and approximately 3,670 square feet is located on the northeast side of the road a small triangle of approximately 464 square feet is located on the southwest side of the roadway. The areas mentioned still need to be confirmed.

We need to reference mitigation of the lost open space land. An area equal to about 8,000 square feet will need to be replaced at another location. There are parcels nearby that could be used for that purpose.

Commented [LG12]: ??

DRAFT ONLY - UNDER REVIEW

ARTICLE ____

(Real Estate Acquisition: Tom Nevers Coastal Access - Dorset Road)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for the purposes of public access, beach management, open space, and/or conveyance, the fee title or lesser interests in all or any portions of Dorset Road between the southern sideline of Tom Nevers Road and a line extending the northern sideline of Atlantic Boulevard (AKA Wanoma Way) across Dorset Road.

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Real Estate Acquisition: Tom Nevers Coastal Access - Dorset Road" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

Commented [VM13]: There is a property at 3 Dorset Road. What is their access out if the Town takes this way and conveys it to Land Bank?

Commented [LG14R13]: Easement would be reserved

ARTICLE ____

(Real Estate Conveyance: Tom Nevers Coastal Access - Dorset Road)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests to the Nantucket Islands Land Bank for all purposes pursuant to their enabling legislation, such disposition to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property in all or any portions of Dorset Road between the southern sideline of Tom Nevers Road and a line extending the northern sideline of Atlantic Boulevard (AKA Wanoma Way) across Dorset Road.

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ____ Real Estate Conveyance: Tom Nevers Coastal Access - Dorset Road" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE ____

(Real Estate Acquisition: West Chester Street)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for the purposes of public access, open space protection, and/or conveyance, the fee title or lesser interests in all or any portions of the unconstructed way/property known as West Chester Street located between the western sideline of Crooked Lane and the eastern sideline of Wannacommet Road, together with any public and private rights of passage.

Commented [VM15]: Is it unconstructed way or should it be identified as just a "way"?

Commented [LG16R15]: Yes it's unconstructed

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ___ Acquisition of a portion of West Chester Street" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE ___

(Real Estate Conveyance: West Chester Street and Weweeder Avenue)

To see if the Town will vote to authorize the Select Board to sell, convey, release any rights, or otherwise dispose of the fee or lesser interests of the following former public ways to the Nantucket Islands Land Bank for all purposes pursuant to their enabling legislation, and/or the Nantucket Conservation Foundation, Inc., or any abutter thereto, such disposition to be on any terms and conditions the Select Board deem appropriate, which may include the reservation of any easements and restrictions in regard to the property.

- West Chester Street located between the western sideline of Crooked Lane and the eastern sideline of Wannacommet Road;
- Weweeder Avenue between the eastern sideline of Nantucket Memorial Airport and the western sideline of a way at the boundary between the South Pasture and Southeast Quarter Shares shown on Land Court Plan No. 5004-H as a 50 foot way.

Commented [VM17]: Need to see plan to confirm its location. Also the research provided by Andrew seems to indicate that a portion of road may have been laid out as a County Road. Need to confirm. Also need to confirm no property owners will be denied access

All as shown on a map entitled "2022 Annual Town Meeting Warrant Article ___ conveyance of portions of West Chester Street and Weweeder Avenue" dated January 2022 and filed herewith at the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE

(Real Estate Disposition: Utility Easement/Airport at Bunker Road)

To see if the Town will vote to authorize the Nantucket Airport Commission to grant an amendment to the Grant of Easement to Nantucket Electric Company dated _____, recorded with Nantucket County Registry of Deeds in Book _____, Page _____ for emergency access purposes *to [purpose of amendment] [description*

of property for easement area]; said easement area being shown on a plan filed with the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board for Airport Commission)

Commented [VM18]: Note that I will contact the Assistant Airport Manager, Noah Karberg as to the location and description of the easement and the amendment.

ARTICLE

(Real Estate Disposition: Utility Easement/Shadbush Road)

To see if the Town will vote to authorize the Select Board to convey a perpetual non-exclusive easement to Nantucket Electric Company/National Grid for such purposes to access, install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of intelligence, an underground electric distribution system in, through, under, over, across and upon a certain portion of Town-owned land shown as Lots F and I on a plan of land entitled "Subdivision Plan of Land in Nantucket, MA, prepared for: Town of Nantucket," dated May 11, 2010, prepared by Blackwell & Associates, Inc. recorded with Nantucket County Registry of Deeds as Plan No. 2010-63; said easement area being shown on a plan filed with the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE

(Real Estate Disposition: Long-term Lease Authorization/Shooting Range Facility)

To see if the Town will vote to authorize the Select Board to lease a portion of the land at 1 Shadbush Road, shown as Lot 3 containing a total of twenty-seven (27) ± acres on a plan of land entitled "Subdivision Plan of Land in Nantucket, MA, prepared for Town of Nantucket," dated September 3, 2009, prepared by Blackwell & Associates, Inc. recorded with Nantucket County Registry of Deeds as Plan No. 2009-44 and shown on Tax Assessor's Map 78 as Parcel 5, for the purposes of demarcation, design, lay-out, construction, maintenance and operation of a recreational shooting range facility, and to enter into a ground lease of the leased premises containing nine (9)± acres, for a minimum term of fifty (50) years, upon such terms and conditions as the Select Board deem appropriate, subject to the receipt of a Conservation and Management Permit from the MA Division of Fisheries and Wildlife Natural Heritage & Endangered Species Program by the lessee; and further to authorize the Select Board to grant a permanent conservation restriction on the remaining portion of the property containing eighteen (18) ± acres pursuant to Massachusetts General Laws Chapter 184, §§ 31-33; said leased premises to be shown on a plan filed with the Office of the Town Clerk.

Or to take any other action related thereto.

(Select Board)

ARTICLE

(Real Estate Acquisition: 10-12 Washington Street)

Insert language - contingent upon debt exclusion, needs Bond Counsel review

(Select Board)

ARTICLE

(Real Estate Acquisition: ADDITIONAL REAL ESTATE FOR PURCHASE IN PROCESS OF REVIEW)

(Select Board)

ARTICLE

(Real Estate Acquisition: Proprietors Road - Off Tripp Drive/South Shore Road)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for public way, drainage, general municipal purposes, and/or the purposes of conveyance, the fee title or lesser interests in all or any portions of the property shown as "Proprietors Road" located west of property at 14 Tripp Drive (Tax Assessor's Map 80, Parcel 310) and 59 South Shore Road (Tax Assessor's Map 80, Parcel 308), from a line extending across said road at the northern property line of 14 Tripp Drive south to its terminus at the southwest corner of 59 South Shore Road, with a dimension of approximately 33' x 513'. as shown on the plan attached hereto.

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Real Estate Conveyance: Proprietors Road - Off Tripp Drive/South Shore Road)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portion of property shown as "Proprietors Road" located west of property at 14 Tripp Drive (Tax Assessor's Map 80, Parcel 310) and 59 South Shore Road (Tax Assessor's Map 80, Parcel 308), from a line extending across said road at the northern property line of 14 Tripp Drive south to its terminus at the southwest corner of 59 South Shore Road, with a dimension of approximately 33' x 513', as shown on the plan attached hereto, subject to Chapter 30B of the Massachusetts General Laws and guidelines established under the "Nantucket Yard Sales" program on file at the Select Board's Office. Such disposition to be on such terms and conditions as the Select Board may deem appropriate, which may include the reservation of easements and restrictions,

Or take any action related thereto.

(Linda Williams, et al)

ARTICLE

(Real Estate Acquisition: Two (2) 12-foot Wide Ways - Nobadeer Way)

To see if the Town will vote to authorize the Select Board to acquire by purchase, gift or eminent domain for public way, drainage, general municipal purposes, and/or the purposes of conveyance, the fee title or lesser interests in all or any portions of the two (2) 12-foot-wide ways shown on Land Court Plan 16514-F dated February 25, 1954, both running westerly from Macy Lane (aka Airport Road) to their terminus. The northerly Way runs 600.65 feet and the southerly Way runs 679.43 feet,

Or to take any other action related thereto.

(Linda Williams, et al)

ARTICLE

(Real Estate Conveyance: Two (2) 12-foot Wide Ways - Nobadeer Way)

To see if the Town will vote to authorize the Select Board to sell, convey or otherwise dispose of the fee or lesser interests in all or any portion of property shown as two (2) 12-foot-wide ways shown on Land Court Plan 16514-F dated February 25, 1954, both running westerly from Macy Lane (aka Airport Road) to their terminus, as shown on the plan attached hereto, subject to Chapter 30B of the Massachusetts General Laws and guidelines established under the "Nantucket Yard Sales" program on file at the Select Board's Office. Such disposition to be on such terms and conditions as the Select Board may deem appropriate, which may include the reservation of easements and restrictions. The northerly Way runs 600.65 feet and the southerly Way runs 679.43 feet,

Or take any action related thereto.

(Linda Williams, et al)

ARTICLE 111

(Appropriation: Stabilization Fund)

To see what sums the Town will vote to appropriate, and also to raise, borrow pursuant to any applicable statute, or transfer from available funds, for the purposes of the Stabilization Fund in accordance with Chapter 40 section 5B of the Massachusetts General Laws, from which appropriations may be made by a two-thirds vote of an Annual or Special Town Meeting for any purpose for which a municipality may borrow money or for any other lawful purpose; said sum not to exceed ten percent (10%) of the Fiscal Year 2022 tax levy.

Or to take any other action related thereto.

(Select Board)

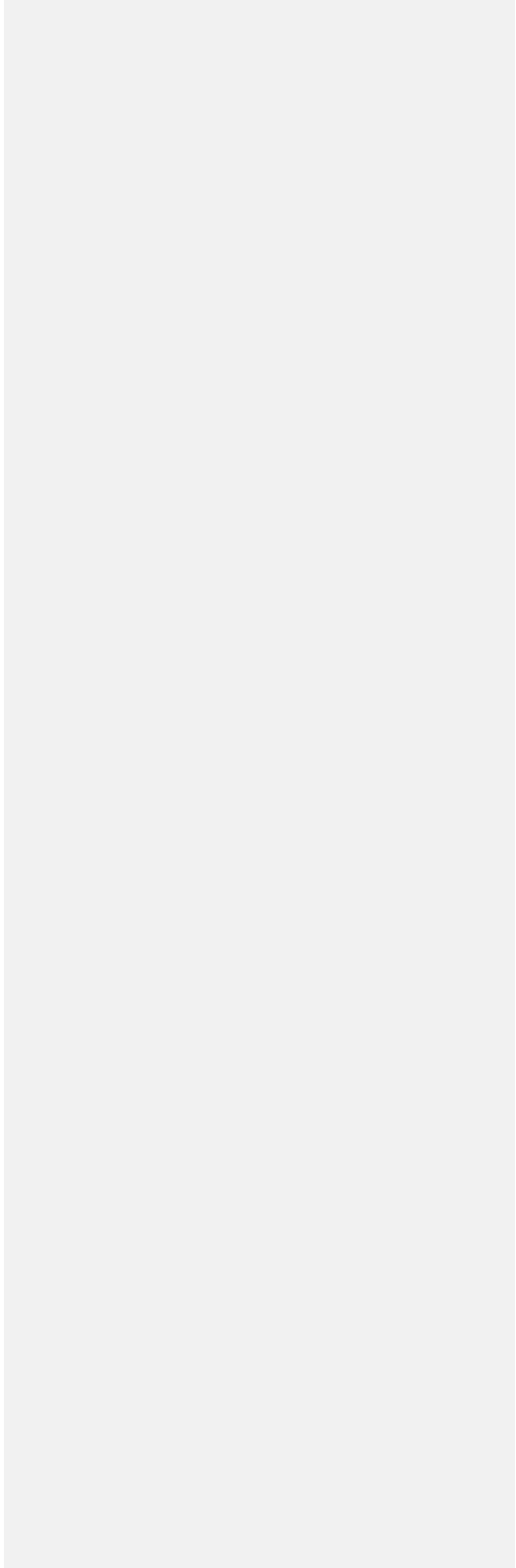
ARTICLE 112

(Appropriation: Free Cash)

To see what sum the Town will vote to transfer from Free Cash in the treasury to meet the appropriations for the current and/or ensuing Fiscal Year and to authorize the Assessors to use in the fixing the tax rate, pass any vote, or take any other action related thereto.

(Select Board)

DRAFT



To act upon and transact any business relative to the foregoing subjects which may, then and there, come before said meeting.

In addition, you are directed to notify and warn the inhabitants of the Town of Nantucket qualified to vote in Town affairs to go to the Nantucket High School at 10 Surfside Road in said Nantucket, on

**TUESDAY, THE TENTH DAY OF MAY 2022
BETWEEN THE HOURS OF 7:00 AM and 8:00 PM**

for the following purpose:

To cast their votes in the Annual Town Election for the election of candidates for the following offices:

Moderator	One for a term of one year
Select Board	Two for terms of three years
School Committee	One for a term of one year
School Committee	One for a term of three years
Historic District Commission	Two for terms of three years
Nantucket Islands Land Bank Commission	One for a term of five years
Harbor and Shellfish Advisory Board	Three for terms of three years
Planning Board	One for a term of three years
Planning Board	One for a term of five years
Nantucket Board of Water Commissioners	One for a term of three years
Town Clerk	One for term of three years

And, to cast their vote as "YES" or "NO" on the following ballot questions:

2. **Debt Exclusions**

OIH DESIGN - \$8.5M
HARBORMASTER SUPPLEMENTAL - \$2M
PLEASANT ST REPAVING & SIDEWALK REPAIRS - \$2M (this needs work)
LORAN BARRACKS REPAIRS - \$4.5M
SCHOOL CAMPUS-WIDE MASTER PLAN PROJECTS - \$16.4M
CENTRAL MUNICIPAL FACILITY DESIGN - \$6M
SEASONAL EMPLOYEE HOUSING CONSTRUCTION - \$8.5M
PFAS SOIL INVESTIGATION - \$2M

10-12 WASHINGTON ST ACQ - \$4.75M
HOUSING REAL ESTATE ACQ/PROJECTS (SAME AS 2021 ATM) - \$10M

TOTAL: \$64.65M

TEMPLATE LANGUAGE

Shall the Town of Nantucket be allowed to exempt from the provisions of Proposition Two and One-half, so-called, the amounts required to pay for the bond issued in order to make various transportation-related improvements on Newtown Road including the costs of professional services for design, permitting, engineering, construction, construction supervision, materials, and other related professional services, and any other costs incidental and related thereto?

7. **Capital Outlay Exclusions - NEED TO UPDATE**

TEMPLATE LANGUAGE

Shall the Town of Nantucket be allowed to assess an additional \$751,160 in real estate and personal property taxes for the following purposes in the amounts as follows for the fiscal year beginning July 1, 2021?

<i>Department</i>	<i>Purpose</i>	<i>Amount</i>
Fire	Replacement of Self-contained Breathing Apparatus Equipment	\$101,160
Natural Resources	Replacement vehicle	\$35,000
Planning & Land Use	Replacement vehicle	\$35,000
Public Works	Replacement of 6-Wheel Dump Truck	\$180,000
Public Works	Replacement of F-350 Truck	\$60,000
Public Works	Replacement of two (2) small pick-up trucks	\$90,000
Public Works	Replacement of Street Sweeper	\$250,000
	Total Capital Exclusion:	\$751,160

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

Given under our hands this day of in the year Two Thousand Twenty-two.

Jason M. Bridges, Chair

Kristie Ferrantella, Vice Chair

Matthew G. Fee

Dawn E. Hill Holdgate

Melissa K. Murphy

SELECT BOARD OF NANTUCKET, MA

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

Sworn to under pains and penalties of perjury,

Constable

