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December 15, 2025

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Re: Nantucket Special Town Meeting November 4, 2025 - Article 1

Dear Kelli:

I write on behalf of my client, a resident of Nantucket and Town Meeting voter, to ask you to disapprove the Town of Nantucket's amendment to its Zoning Bylaw adopted by Article 1 of its November 5, 2025 Special Town Meeting ("Article 1"). I believe that the Town has submitted the proposed Zoning Bylaw for your review.

The passage of the amendment violated G.L. c. 40A, § 5's requirement that "[n]o proposed zoning...by-law which has been unfavorably acted upon by a...town meeting shall be considered by the...town meeting within two years after the date of such unfavorable action unless the adoption of such proposed...by-law is recommended in the final report of the planning board." Given the recent history, set forth below, of Nantucket Town Meeting voting down similar attempts to legalize Short-Term Rentals in the last few years, your office should not approve the proposed Zoning Bylaw in Article 1.

Article 1 was proposed on the heels of years of public debate over the legality of so-called "short-term rentals" ("STRs"), or residential rentals of 31 days or less, under the current Nantucket Zoning Bylaw ("the Bylaw"). The Town's refusal to enforce its Bylaw, which does not otherwise allow STRs in residential zones, kicked off three lawsuits and nearly 20 articles presented to Nantucket Town Meeting to amend the Bylaw to allow such rentals to varying extents. At Nantucket's 2024 Annual Town Meeting, 2024 Special Town Meeting, and 2025 Annual Town Meeting, the Town voted on nearly identical articles to do just that. Each time, the amendments failed to pass.

However, at this past November's Special Town Meeting, the Town Meeting once again voted on an amendment that would legalize STRs in all but one zoning district on the island. This time, the amendment passed. Under the clear language of G.L. c. 40A § 5, this cannot stand.

Article 1 Violates the Two-Year Bar Set Forth in Chapter 40A.

This issue is cut-and-dry: G.L. c. 40A, § 5 prohibits a change to the zoning bylaw via town meeting article within two years of a rejected amendment which is "substantially the same," absent a recommendation from the Planning Board. Where Article 1 proposes amendments which are substantially the same as the failed predecessor articles, and the Planning Board did not recommend the passage of Article 1, the Town's passage of Article 1 is void as contrary to G.L. c. 40A, § 5. *Penn v. Town of Barnstable*, 96 Mass. App. Ct. 205, 205–06 (2019) (where zoning amendment that called for creation of parking overlay district was substantially the same as amendment previously rejected by town council and was therefore precluded from being considered for two years from time of that rejection).

The fact that Article 1 was not word-for-word the same as the predecessor failed articles is of no effect. Proposed amendments are "substantially the same" where they "share the same fundamental or essential character, with little substantive difference." *Penn*, 96 Mass. App. Ct. at 211-12 (emphasis added). For example, in *Penn*, the Court considered whether Barnstable's town council violated the two-year bar when it adopted a zoning amendment calling for the creation of the Hyannis parking overlay district (HPOD), despite having rejected a similar proposal to create such a district a few months earlier. *Penn*, 96 Mass. App. Ct. at 205–06. The Court ultimately concluded that

The only differences between the two items were that item no. 2016-166 clarified that the HPOD does not include fully or partially enclosed parking structures, clarified that lot owners could not create more parking spaces by discontinuing other uses on their parcels, and required that lot owners file parking plans with the town. These were amendments that merely facilitated enforcement of item no. 2016-54. They did not change the fundamental and essential character of the item -- to allow for as-of-right operation of commercial parking lots through creation of the HPOD."

Id. The *Penn* Court also cited various cases decided prior to the Legislature's 1975 adoption of the Zoning Act, in which courts addressed the question of whether a proposed amendment to a town meeting warrant article fell permissibly within the scope of the underlying zoning article. *Id.* at 212, fn. 12. These cases included *Johnson v. Framingham*, 354 Mass. 750, 752-753, 752 (1968), where a proposed zoning bylaw authorizing golf clubs and tennis courts was not fundamentally changed by provisions omitting tennis courts and prescribing minimum size for golf clubs, and *Sullivan v. Selectmen of Canton*, 346 Mass. 784, 784 (1964), where extending the length of a proposed zoning district was not "fundamental" change.

Here, Article 1 is substantially similar to its predecessors—Steven Cohen’s Article 59 from the May 7, 2024 Annual Town Meeting (the “2024 Cohen Article”), the Nantucket Select Board’s Article 1 from the September 17, 2024 Special Town Meeting (the “2024 Select Board Article”), and Caroline Baltzer’s Article 66 from the May 3, 2025 Annual Town Meeting (the “2025 Baltzer Article”)—and none of the minor differences between these articles are “fundamental” changes. Each of the predecessor articles shares the same “fundamental and essential character” as Article 1. All four articles attempt to legalize STRs in all but the CI district on Nantucket. *See Exhibits A, B, C, and D*. All four articles use the same definition for Short-Term Rentals. *Id.* And, perhaps most importantly, the whole purpose behind each of the articles is identical: to legalize STRs on Nantucket.

Article 1’s stated, overarching purpose is to “expressly allow[] Long-Term Rentals and Short-Term Rentals as Principal Uses.” Exhibit A. It does so by:

- (1) Adding three definitions to the Bylaw: (1) Long-Term Rental (LTR), (2) Short-Term Rental (STR), and (3) Use, Principal. It defines those terms as follows:
 - a. Long-Term Rental (LTR): The rental or leasing of any residential Dwelling Unit, or portion thereof, in exchange for compensation.
 - b. Short-Term Rental (STR): A dwelling unit or portion(s) thereof that is not a transient residential facility, where (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a Short-Term Rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a Short-Term Rental.
 - c. Use, Principal: A use which is expressly permitted by this chapter (other than as an accessory use), either with a special permit or without need of one. Principal Use shall include the rental or leasing of a Dwelling Unit, whether for Short-Term Rental or Long-Term Rental.
- (2) Inserting STR and LTR in the Town of Nantucket Use Chart §139-7A (the “Use Chart”), indicating that STRs are allowed in every district except the “CI” district, and LTRs are allowed in all districts.
- (3) Adding a footnote stating as follows: “All Short-Term and Long-Term Rentals shall be subject to all applicable provisions of the Town Code. In particular, in order for a Dwelling Unit to be used as a Short-Term Rental Principal Use, the Dwelling Unit must comply with all provisions of c. 123 and 338 of the Town Code. All other Short-Term Rentals are expressly prohibited.”

Each of the predecessor articles included an identical definition of Short-Term Rental (though the term varies from “Short-Term Rental” to “Nantucket Vacation Rental”) and allowed Short-Term Rentals in all but the CI zone. The only differences between Article 1 and each of the

predecessor articles are minor and do not impact the central purpose of each, which is to expressly allow STRs in all but the CI district on Nantucket:

- Like Article 1, the 2024 Cohen Article added definitions of “Long Term Rental” and “Short-Term Rental,” and inserted these terms in the Use Chart, allowing STRs in all but the CI district and LTRs in all districts. The definition of STR was identical to Article 1’s definition. The 2024 Cohen article also defined the terms Commercial and Corporations, but neither of these terms impacted the definitions of LTR or STR or their treatment in the Use Chart.
- The 2024 Select Board Article defined “Short-Term Rental” the same as Article 1, and directed that Short-Term Rentals be allowed in all but the CI district. It also added the term “Nantucket Vacation Rental,” and gave it the meaningless definition of “[a] Short-Term Rental use that complies with § 139-28 of the Town Code.” It also included additional definitions (Cottage Colony, Hosted Stay, Operator, and Owner) and added a few limitations on Nantucket Vacation Rentals, none of which fundamentally altered the amendment’s clear purpose of allowing Short-Term Rentals in all but the CI district.
- The 2025 Baltzer Article used the term “Short Term Nantucket Vacation Rental” (“NVR”) rather than “Short Term Rental,” though it provided the same definition as Article 1 and, like Article 1, amended the Use Chart to allow that use in all but the CI district. It also required that NVRs obtain and maintain a valid Certificate of Registration from the Nantucket Health Department and bear responsibility for ensuring that short-term renters comply with all applicable statutes, by-laws and regulations. These additional requirements are of no consequence to the Section 5 analysis as they merely reinforce existing standards -- property owners must already comply with the registration set forth in Nantucket’s General Bylaws and Regulations and, of course, must comply with all laws.

Just as in *Penn*, the minor differences between Article 1 and the three previous failed articles do not detract from the “essential character” that they all share: they define Short-Term Rentals and allow them in all but the CI district on Nantucket. Just one of these articles having been proposed and failed at Town Meeting would be sufficient to bar Article 1; the fact that *all three* have been proposed and failed to pass further underscores the illegality of Article 1’s passage.

The Attorney General’s Office is Obligated by Law to Deny Approval of Article 1.

The Attorney General’s review of Article 1 is governed by G.L. c. 40, § 32. Under G.L. c. 40, § 32, the Attorney General has a “limited power of disapproval,” and “[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws.” *Amherst v. Attorney General*, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the Constitution for the Attorney General to disapprove a by-law). The Attorney General does not

review the policy arguments for or against the enactment. *Id.* at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”); *Bloom v. Worcester*, 363 Mass. 136, 154 (1973) (“As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid.”).

Article 1, as an amendment to the Town’s zoning by-laws, must be given deference-- but the Attorney General must ultimately disapprove of it where it violates G.L. c. 40A, § 5’s two-year bar. *W.R. Grace & Co. v. Cambridge City Council*, 56 Mass. App. Ct. 559, 566 (2002) (“With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders.”). Home Rule Amendment, Mass. Const. amend. art. 2, § 6 (a municipality has no power to adopt a zoning by-law that is “inconsistent with the constitution or laws enacted by the [Legislature].”) When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court. “[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions[.]” *Durand v. IDC Bellingham, LLC*, 440 Mass. 45, 57 (2003).

A Special Town Meeting in November Should Not Decide This Issue.

If the Attorney General were to approve Article 1, this would run directly counter to the purpose of G.L. c. 40A, § 5’s two-year bar. The bar is intended to allow “members of the public [to] be able to...rely on unfavorable action ... as a complete defeat of the proposal.” *Penn*, 96 Mass. App. Ct. at 210. This prevents a type of zoning by attrition, where a particularly vehement coalition—in this case, the coalition of realtors and Short-Term Rental investors—that have the resources to continue to raise an issue at consecutive town meetings, do so, wearing voters down over time and drowning out the already-expressed will of the Town’s legislative body to disapprove of such a change. This kind of protection is particularly important in a seasonal community like Nantucket, where public debate over the issue may be quieter during the off season, and thus an article granting investors carte-blanche to short-term rent could more easily sneak under the radar of voters who likely already thought the proposal was voted down at the previous two town meetings.¹ Surely, this kind of sleight-of-hand, pushed forward by moneyed interests looking out for real estate investments over the protection of residential housing, is just the type of zoning article the two-year bar prevents.

¹ See *2025 Special Town Meeting Summary*, establishing that only 1514, or 15% of registered voters, attended the 2025 Special Town Meeting. Available at <https://www.nantucket-ma.gov/DocumentCenter/View/53630/2025-Special-Town-Meeting-Summary-PDF>.

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Conclusion

We understand that it is an extraordinary step for the MLU to deny approval of a locally-adopted bylaw. Nonetheless, there is a clear case for it here. If you have any questions, please do not hesitate to contact me.

Sincerely,



Nina Pickering-Cook

cc: Margaret Hurley

Exhibit A

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF NANTUCKET**



WARRANT FOR

**Tuesday, November 4, 2025
SPECIAL TOWN MEETING
Nantucket High School
Mary P. Walker Auditorium
5:00 PM**

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

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 Nantucket High School Auditorium at 10 Surfside Road in said Nantucket, on

***TUESDAY, NOVEMBER 4, 2025 AT 5:00 PM,
THEN AND THERE TO ACT ON THE ARTICLES
CONTAINED WITH THE ENCLOSED WARRANT:***

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

Petition to Call a Special Town Meeting

We the undersigned voters of the Town of Nantucket hereby petition the Select Board to call a Special Town Meeting for the purpose of timely addressing the Land Court's judgment clarifying that Nantucket's original renting and leasing language was inadvertently omitted from the zoning bylaw in 2015, and in consideration of the findings listed here, to consider the article which appears below them:

Findings

Recognizing that Nantucket is peerless amongst American coastal resorts, National Historic Landmarks, designated Seasonal Communities, and islands, the following findings are made as a preamble to the Citizens' Petition:

- *Whereas*, Nantucket is the only entire island in the United States designated as a National Historic Landmark (NHL), with periods of significance explicitly including the 19th and 20th century resort era, when vacation renting of private dwellings by both islanders and seasonal residents became a historic land-use pattern, recognized as a contributing feature of Nantucket's NHL designation, and one that has continued in practice ever since as part of the island's cultural identity; and
- *Whereas*, in 1980 Nantucket Town Meeting voted to prohibit new hotels in the Residential Old Historic District (ROH) in order to preserve the island's historic sense of place, thereby reinforcing the role of private home rentals as the traditional model of visitor accommodation; and
- *Whereas*, under the Massachusetts Affordable Homes Act (St. 2024, c. 150), the Commonwealth created the Seasonal Communities designation to recognize

towns like Nantucket that experience substantial visitor demand, seasonal fluctuations in housing need, and high levels of seasonal dwelling units; and

- *Whereas*, the law directs the creation of distinctive tools not to dismantle but to protect and sustain the valuable economic engine that Seasonal Communities contribute to the Commonwealth – and, in designating Nantucket, expressly recognizes that the renting of private dwellings is the backbone of Nantucket’s accommodations model and seasonal tourism economy; and
- *Whereas*, prior to 2015, the Nantucket Zoning Bylaw expressly recognized “renting and leasing” of dwellings as a lawful principal use, with no distinction as to whether such use was primary, secondary, or accessory; but in 2015 this language was inadvertently omitted in the course of a routine housekeeping article, creating unnecessary ambiguity about the legality of both Short-Term and Long-Term Rentals; and
- *Whereas*, after renting and leasing were inadvertently omitted from the Zoning code, the Select Board and Board of Health established regulatory and registry authority over STRs in 2022 and voters passed four warrant Articles regulating Short-Term Rentals between 2022-2024 (health and safety regulations, prohibitions on both corporate and investor REIT ownership of STRs, and a Community Impact Fee for owners of two or more STR units that are not the operator’s primary residence); and
- *Whereas*, unless Short-Term Rentals are specifically addressed in the Zoning Bylaw as a Principal Use, STR General Bylaws and the accompanying regulations (Chapters 123 and 338 of the Town Code) cannot be given their full intended effect, leaving enforcement uncertain and weakening the Town’s ability to regulate STRs; and
- *Whereas*, this amendment is intended as a narrow restoration of the omitted “renting and leasing” language, clarifying that both Short-Term Rentals and Long-Term Rentals are lawful Principal Uses consistent with Nantucket’s historic practice, subject always to the Town’s existing General Bylaws.

Now, therefore:

ARTICLE 1

(Zoning Bylaw: Amendments Relating to Long-Term and Short-Term Rentals)

To see if the Town will vote to amend the Zoning Bylaw, Chapter 139 of the Code of the Town of Nantucket, for the purpose of restoring the renting and leasing language inadvertently omitted in 2015 and clarifying its placement in the Use Chart, and by expressly allowing Long-Term Rentals and Short-Term Rentals as Principal Uses, 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):

1. Amend § 139-2 (“Definitions and Word Usage”)

By adding the following new definitions:

LONG-TERM RENTAL (LTR)

The rental or leasing of any residential Dwelling Unit, or portion thereof, in exchange for compensation.

SHORT-TERM RENTAL (STR)

A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a Short-Term Rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a Short-Term Rental.

USE, PRINCIPAL

A use which is expressly permitted by this chapter (other than as an accessory use), either with a special permit or without need of one. Principal Use shall include the renting or leasing of a Dwelling Unit, whether for Short-Term Rental or Long-Term Rental.

2. Amend § 139-7A (“Town of Nantucket Use Chart”)

By inserting the following new uses after “Tertiary Dwelling” and before “Apartment Building,” in sequence, as follows:

Use	R-1 S R-1	R O H S O H	R-5 R-5 L	R-10 R-10 L D R-10	R-20 S R-20	R-40	C D T	C M I	C N	C T E C	C I	R C	R C-2	V- R	LU G-1	LU G-2	LU G-3	M M D	V N	V T E C
<u>Short-Term Rental (STR)</u>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
<u>Long-Term Rental (LTR)</u>	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

(Legend: "Y" = Permitted by right; "N" = Prohibited)

Footnote: All Short-Term and Long-Term Rentals shall be subject to all applicable provisions of the Town Code. In particular, in order for a Dwelling Unit to be used as a Short-Term Rental Principal Use, the Dwelling Unit must comply with all provisions of c. 123 and 338 of the Town Code. All other Short-Term Rentals are expressly prohibited.

Or take any other action in relation thereto.

(Brian Borgeson, et al)

ARTICLE 2

(Zoning and General Bylaw Amendments: Short-Term Rentals)

To see if the Town will vote to amend Sections 139 (Zoning Bylaw) and 123 (Short-Term Rental General Bylaw) 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)*:

A. Amend the Zoning Bylaw as follows:

1. Add or amend the following definitions to §139-2 Definitions and Word Usage (It is the intent of this bylaw that the defined terms contained herein shall have the same meaning as set forth in Massachusetts General Laws c. 64G):

ACCESSORY USES

Separate structures, buildings or uses which are subordinate and customarily incidental to a principal structure, building or use located on the same lot. A Short-Term Rental shall be deemed an Accessory Use if it complies with the requirements of §139-7A (Use Chart).

HOSTED STAY

An overnight stay whereby a Short-Term renter occupies a portion of a Dwelling Unit where the Owner or Operator is present or occupies a second Dwelling Unit on the same Lot where the Owner or Operator is present. An Owner or Operator is considered present when the Owner or Operator is on the premises except during the daytime and/or work hours.

OPERATOR

A person or other legal entity operating a Short-Term Rental including, but not limited to, the Owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such Short-Term Rental, except that the lessee of a Short-Term Rental shall not be considered an Operator.

Exhibit B

COMMONWEALTH OF MASSACHUSETTS
TOWN OF NANTUCKET



WARRANT FOR

2024 ANNUAL TOWN MEETING
Nantucket High School
Mary P. Walker Auditorium
Tuesday, May 7, 2024 - 5:00 PM

AND

ANNUAL TOWN ELECTION
Nantucket High School
Tuesday, May 21, 2024
7:00 AM - 8:00 PM

ARTICLE 59

(Zoning Bylaw Amendment: Definitions and Word Usage/Residential Rental Use)

To see if the Town will vote to amend Chapter 139 of the Town Code (Zoning) as follows, provided that the provisions of this chapter shall take effect upon approval by Town Meeting pursuant to G.L. c. 40A, § 5 and G.L. c. 40, § 21, and subsequent approval by the Attorney General.

1. Amend § 139-2 (Definitions and Word Usage) by inserting or revising the following terms and definitions and inserting them in alphabetical order.

COMMERCIAL As in a trade, occupation, or business, including a transient residential facility or corporation, but excluding governmental, religious or private residential uses, which includes rental of dwelling units or parts thereof.

CORPORATIONS. All business and charitable corporations required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to M.G.L. c. 156D, § 2 or M.G.L. c. 180, § 4, respectively.

LONG TERM RENTAL A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant and (ii) change in occupancy is in excess of 31 calendar days.

SHORT-TERM RENTAL A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a short-term rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a short-term rental.

2. Amend § 139-7A (Use Chart) by inserting Short Term Rental and Long Term Rental between Tertiary Dwelling and Apartment Building in the Use column and inserting the designation Y in all district columns except the Commercial Industrial (CI) district, where the designation N shall be inserted.

3. Amend § 139-7B by inserting (8) notwithstanding the permission to engage in the Short Term Rental of a dwelling granted in the Use Chart, no person or entity shall engage in the activity of Short Term Renting unless that activity is in strict compliance with all present and future regulations contained in Chapter 123 of the Town Code.

Or to take any other action related thereto.

(Steven Cohen)

Exhibit C

**COMMONWEALTH OF MASSACHUSETTS
TOWN OF NANTUCKET**



WARRANT FOR

**Tuesday, September 17, 2024
SPECIAL TOWN MEETING
Nantucket High School
Mary P. Walker Auditorium
5:00 PM**

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

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 Nantucket High School Auditorium at 10 Surfside Road in said Nantucket, on

***TUESDAY, SEPTEMBER 17, 2024 AT 5:00 PM,
THEN AND THERE TO ACT ON THE ARTICLES
CONTAINED WITH THE ENCLOSED WARRANT:***

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

Article 1

(Zoning Bylaw Amendment: Regulating Nantucket Vacation Rentals)

To see if the Town will vote to amend Chapter 139 of the Town Code (Zoning) 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*):

1. Amend §139-2 (Definitions and Word Usage), by inserting the following new terms and definitions and inserting them in alphabetical order:

COTTAGE COLONY

A group of four or more detached Dwelling Units, legally in existence at the time of adoption of this bylaw, located on a single lot, which is customarily occupied on a seasonal basis.

HOSTED STAY

An overnight stay whereby a short-term renter occupies all or a portion of a Dwelling Unit located on a Lot where the Owner or Operator is present. An Owner or Operator is considered present when the Owner or Operator is on the Lot except during the daytime and/or work hours.

OPERATOR

A person or other legal entity operating a Short-Term Rental including, but not limited to, the Owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such Short-Term Rental. It is the intent of this bylaw that the Operator shall have the same meaning as set forth in General Laws c. 64G, § 1.

OWNER

Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any Dwelling Unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC, or a Trust. The Owner may also be referred to as the Operator, or the host.

SHORT-TERM RENTAL

A Dwelling Unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or Dwelling Unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a transfer of occupancy in excess of 31 calendar days shall not be considered a Short-Term Rental. The rental of property for a total of 14 days or less in any calendar year shall not be considered a Short-Term Rental.

NANTUCKET VACATION RENTAL

A Short-Term Rental use that complies with §139-38 of the Town Code.

2. Amend § 139-7A (Use Chart) by inserting Short-Term Rental between Tertiary Dwelling and Apartment Building in the Use column and inserting the designation N in all columns.
3. Amend 139-7A (Use Chart) by inserting Nantucket Vacation Rental after Short-Term Rental in the Use column and inserting the designation Y in all columns except for the Commercial Industrial (CI) District which shall have an N designation. Add the Note: Nantucket Vacation Rentals shall be subject to the requirements of §139-38.
4. Add a new section amending Chapter 139 by inserting the following section of the Zoning Bylaw as follows:

§139-38 NANTUCKET VACATION RENTAL

1. No person or other legal entity shall engage in a Nantucket Vacation Rental use as an Owner or Operator on more than one Lot; provided, however, if a Lot has more than one Dwelling Unit for which a building permit for a new Dwelling Unit has been issued prior to the effective date of this bylaw, a Primary Dwelling and a Secondary Dwelling may be rented as a Nantucket Vacation Rental separately.
2. If an Owner or Operator who previously engaged in more than one Nantucket Vacation Rental use on more than one Lot prior to the effective date of this bylaw, may continue to do so for a period of eight years. Thereafter, the same or any new Owner or Operator shall be subject to the limitations set forth in §139-38(1).
3. No Owner or Operator may rent a Nantucket Vacation Rental that has a transfer of occupancy of more than eight times in July and August, provided however, that an Owner who acquires a Dwelling Unit or a Lot after the effective date of

this bylaw may only engage in a Nantucket Vacation Rental use with no more than three transfers of occupancy in July and August for the first five years of ownership of the Dwelling Unit or Lot.

4. After the effective date of this bylaw, any person or other legal entity that acquires a Dwelling Unit through inheritance, divorce, interfamily gift, or through a transfer of the form of record ownership of the prior record owner by the same underlying persons, may engage in a Nantucket Vacation Rental use of the same Dwelling Unit without being subject to the transfer of occupancy limitations for new owners contained in §139-38(3) as long as the prior record owner engaged in a Nantucket Vacation Rental use of the same Dwelling Unit for at least five years.
5. There shall be no limit for any Nantucket Vacation Rental use on the number of transfers of occupancy of any Dwelling Unit outside of July and August.
6. In order to qualify as a Nantucket Vacation Rental use, a Dwelling Unit must be operated at all times in compliance with Chapter 123 of the Town Code and all regulations promulgated thereunder.
7. Cottage Colonies and Hosted Stays shall be exempt from the requirements of this bylaw except for §139-38(8).
8. Nantucket Vacation Rentals shall be prohibited in Tertiary Dwellings, Apartments for which a building permit to construct one or more Dwelling Units has been issued after the effective date of this bylaw, Time-Sharing or Time-Interval-Ownership Dwelling Units or Dwellings, Affordable Housing, Workforce Homeownership Housing, Workforce Rental Housing, or in a Dwelling Unit that is subject to a deed restriction under the Nantucket Housing Needs Covenant program pursuant to Chapter 301 of the Acts of 2002, as amended.
9. In addition to all other enforcement remedies allowed under §139-25, the Town, acting through the Building Commissioner, may assess a civil penalty not to exceed \$5,000 for any violation of §139-38 in accordance with G.L. c. 64G, § 14(v). Each day a violation continues shall be considered a separate offense.
10. If any provision in §139-38 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.
11. This bylaw shall apply to transfers of occupancy commencing on or after July 1, 2025, regardless of when a rental contract was executed.

Or to take any action relative thereto.

(Select Board)

Exhibit D

COMMONWEALTH OF MASSACHUSETTS
TOWN OF NANTUCKET



WARRANT FOR

2025 ANNUAL TOWN MEETING
Nantucket High School
Mary P. Walker Auditorium
Saturday, May 3, 2025 - 8:30 AM

AND

ANNUAL TOWN ELECTION
Nantucket High School
Tuesday, May 20, 2025
7:00 AM - 8:00 PM

(Emily Molden, et al)

ARTICLE 66

(Zoning Bylaw Amendment: Regulating Short-Term Nantucket Vacation Rentals)

To see if the Town will vote to take the following actions in regard to the following Zoning Bylaw § 139-2 as follows:

1. Amend § 139-2 (Definitions and Word Usage), by inserting the following new term and definition and inserting it in alphabetical order.

SHORT-TERM NANTUCKET VACATION RENTAL (NVR)

A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least one room or dwelling unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance. Rental periods with a change in occupancy in excess of 31 calendar days shall not be considered a Short-Term Nantucket Vacation Rental. A dwelling unit or portion(s) thereof which is rented for not more than total of 14 days or less in any calendar year shall not be considered a Short-Term Nantucket Vacation Rental.

2. Amend § 139-7A (Use Chart) by inserting Short-Term Nantucket Vacation Rental (NVR) between Tertiary Dwelling and Apartment Building in the Use column and inserting the designation Y in all columns, except inserting N in the Commercial Industrial (CI) District column.

3. Insert the following new §139-38 SHORT-TERM NANTUCKET VACATION RENTALS (NVR)

Commencing on November 1, 2026, the operator of any Short-Term Nantucket Vacation Rentals must obtain and maintain a valid Certificate of Registration for such from the Nantucket Health Department for and during the period of use, pursuant to the regulations set forth in Section 123 of the Code of the Town of Nantucket, and § 338-7 and shall bear responsibility for ensuring compliance at the Short-Term Nantucket Vacation Rental, including compliance by renters, with all applicable statutes, by-laws and regulations.

Or to take any other action related thereto.

(Caroline Baltzer, et al)

ARTICLE 67

(Zoning Bylaw Amendment: Regulating Short-Term Rental Use)

To see if the Town will vote to amend Chapter 139 of the Town Code (Zoning) as follows:

1. Amend § 139-2 (Definitions and Word Usage), by inserting the following new term and definition and inserting it in alphabetical order.