

Citizen Warrant Article

Primary Sponsor

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Phone #: 508-901-1785

Warrant Article Title: Protecting Rights to Short-Term Rentals

To see if the Town will vote to (may attach body of article on separate page):

See attached.

; or otherwise act thereon.

ARTICLE __
Protecting Rights to Short-Term Rentals
(Zoning Bylaw)

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.

DATE and TIME this paper received by Registrars
Nov-15-2021 3:31pm
N. Holmes

ANNUAL TOWN MEETING - CITIZEN'S ARTICLE

10 signatures (minimum required) of voters registered in Nantucket and certified by the Town Clerk. Additional signature pages may be attached.

PETITIONERS: We, the undersigned registered voters of the Town of Nantucket, hereby petition the Select Board pursuant to Massachusetts General Law Chapter 39, Section 10, to include the following Article in the Warrant for the Annual Town Meeting to be held on _____.

INSTRUCTIONS TO SIGNERS: Your signature should be written as substantially as registered. If you are prevented, by physical disability, from writing you may authorize some person to write your name and residence in your presence.

	I	II	III		
	C h e c k	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)	W a r r e n t P r e c e d e n t	PRINTED NAME
1	✓	<i>Tog Midden</i>	22 Rugged Rd	0 1	Tobias Glidden
2		_____	_____	0 1	_____
3	✓	<i>Leslie W. Forbes</i>	19 LONG POND DR	0 1	LESLIE W. FORBES
4	✓	<i>MATTHEW WARD</i>	4A Selma St.	0 1	MATTHEY WARD
5	N	_____	15 Main St	0 1	John Sylvia
6	✓	<i>USA Botticelli</i>	29 PINE ST	0 1	USA BOTTIGELLI
7	✓	<i>Patricia Wright</i>	10 Cherry St	0 1	Patricia Wright
8	✓	<i>Peter A. Parant</i>	5 Skyline Drive	0 1	Peter A. Parant
9	✓	<i>Rick Atherton</i>	48 Squam Road	0 1	Rick Atherton
10	✓	_____	1 Massasoit Bridge	0 1	JULIA LINDNER
11	✓	<i>Linda S. Holland</i>	29 Broadway	0 1	Linda S. Holland
12	✓	<i>Susan K. Coffin</i>	23 Sherburne Lane	0 1	Susan K. Coffin
13	✓	<i>Scott T. O'Leary</i>	2 Hussey Street	0 1	Scott T O'Leary
14	✓	<i>Criss Troast</i>	11 Bluebird Ln.	0 1	Criss TROAST
15	✓	<i>Matthew J. Fej</i>	50-52 Cliff	0 1	Matthew J. Fej

Instructions to Registrars

You must time-stamp or write in date and time these papers are received.
 Check this ✓ against the name of qualified voter to be certified.
 For names not certified, use the codes opposite.

- N no such registered voter at that address.
- S unable to identify signature or address as that of
- W wrong district or community.
- T already signed this petition.

CERTIFICATION OF SIGNATURES

We certify that (13) THIRTEEN signatures checked thus ✓ are names of voters of the Town of Nantucket and are qualified to sign this petition.

(at least three Registrars names must be signed or stamped below)

James M. Coffin
Carolyn A. Gould
Nancy J. Holmes
 Registrars of Voters of the Town of Nantucket

DATE and TIME this paper received by Registrars *3:31pm Nov 15, 2003 Nancy Holmes*

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	I	II	W a r d 0	P r e c 1	III PRINTED NAME
	Signatures to be made in person with name substantially as registered (except in case of physical disability as stated above)	Now Living At (Street and Number)			
1			0	1	
2	<i>Kelly Steffen</i>	32 Hummock Pond Rd	0	1	Kelly Steffen
3	<i>[Signature]</i>	29 Quaise Rd	0	1	CARL TELLEME
4			0	1	
5			0	1	
6			0	1	
7			0	1	
8			0	1	
9			0	1	
10			0	1	
11			0	1	
12			0	1	
13			0	1	
14			0	1	
15			0	1	

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**TOWN OF NANTUCKET
2022 Annual Town Meeting
Citizen Warrant Article Submissions
Town Counsel Comments
December 1, 2021**

Article No.	Lead Petitioner	Article Description	Comment
AA.	Ken Beaugrand	Appropriation - Community Preservation Committee for Affordable Housing Trust	Approved as to form. This article only appropriates money for land acquisition and does not authorize the Town to acquire any land. Presumably, the Affordable Housing Trust will actually acquire suitable parcels of land under its independent authority pursuant to G.L. c. 44, §55C.
BB.	Ken Beaugrand	FY 22 Community Preservation Committee Budget Transfers	Approved as to form.
CC.	Clifford J. Williams	Sewer District Map Change - 44 Skyline Dr	Approved as to form. If the Select Board does not recommend the article, a positive motion will require a two-thirds vote at Town Meeting for passage.
DD.	Clifford J. Williams	Zoning Map Change - LUG-2 to R-5 or CN - 44 Skyline Dr	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting. The motion must specify the zoning district where this parcel will be placed.
EE.	Tobias Glidden	Zoning Bylaw Amendment – Protective Rights to Short-Term Rentals – Permits short-term rentals as of right for a	This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.

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		<p>primary residence that is an accessory use – Requires a special permit for the short-term rental use in a dwelling that is not a primary residences upon a showing that the use is accessory – Prohibits all other short-term rental uses.</p>	<p>This proposed zoning bylaw raises several concerns:</p> <ol style="list-style-type: none"> 1. The bylaw will not apply to any short-term rental uses that were lawfully in existence before the first publication of the notice of the Planning Board public hearing on the proposed bylaw. 2. Town Counsel has been informed that the Town has estimated that there are approximately 1,800 short-term rentals currently being operated by individuals whose primary residence in not Nantucket. All of these dwelling units would be required to obtain a special permit for the use (rather than a by right use) unless they can qualify as a lawful pre-existing nonconforming use. Aside from the obvious administrative burden that this bylaw would place on Town staff, it is likely that the bylaw, if enacted in its present form, may result in a significant increase in court cases either challenging the non-conforming status of particular properties, or whether the dwelling meets

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			<p>the accessory use requirements for a special permit.</p> <p>3. The bylaw treats primary residences and non-resident properties differently. As such, the bylaw may be subject to disapproval by the Attorney General unless the Town can demonstrate a rational basis for the distinction.</p>

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