



Town of Nantucket



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April 4, 2018

TO WHOM IT MAY CONCERN:

I, Catherine Flanagan Stover, duly elected Clerk of the Town and County of Nantucket, hereby certify that the April 3, 2018 ANNUAL TOWN MEETING adopted **Article 46: "Zoning Bylaw Amendment: Technical Changes to Chapter 139, §25, 26, 28, 29"** at the April 3, 2018 adjourned session when "...the adoption of all articles not heretofore acted upon as recommended by the Finance Committee, or as recommended by the Planning Board, was duly motioned, seconded, and voted in accordance with the motions recommended by the Finance Committee or, in the absence of a Finance Committee motion, then in accordance with the motions as recommended by the Planning Board, as printed in the Finance Committee Report, with technical amendments brought forward during the course of the meeting..."

VOTE: The vote on the motion pursuant to Article 46 as moved by the Planning Board, was by Unanimous Voice Vote. The motion was adopted.

Catherine Flanagan Stover, MMC, CMMC
Town and County Clerk

ARTICLE 46

(Zoning Bylaw Amendment: Technical Changes to Chapter 139, §25, 26, 28, 29)

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 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):

1. Amend section 25B (Enforcement, remedies, penalties) as follows:

B. Remedies.

- (1) If ~~the~~ a Zoning Enforcement Officer is requested, ~~in writing,~~ to enforce this chapter against any person allegedly in violation of the same and the Zoning Enforcement Officer declines to act, said Zoning Enforcement Officer shall notify, in writing, the party requesting such enforcement shall be notified in writing of any action or refusal to act, and the reasons therefore, within 14 days of receipt of such request.
- (2) A stop order for any violation of this chapter shall be issued in writing by a Zoning Enforcement Officer. ~~shall be issued for any violation of the provisions of this chapter in unauthorized sale or lease; construction in deviation from approved permits; subsequent actions contrary to the conditions of, or the activities and uses permitted by approved permits; failure to adequately maintain common open space; or inadequate or insufficient construction of improvements.~~ The stop order shall state the nature of the violation and the conditions under which work or use may continue.
- (3) ~~A~~The stop order shall be issued by the Zoning Enforcement Officer and delivered by mail to the owner of any property or his their agent or by posting on the property. ~~Delivery shall be construed to include by mailing of such order, postage prepaid, to said owner or posting on the property.~~ Copies of such order shall be maintained by the Town. ~~The stop order shall be in writing and shall state the nature of the violation and conditions under which work or use may continue.~~
 - (a) A time limit, ~~not to exceed five days,~~ shall be permitted to allow for the necessary correction of the violation.
 - (b) Any person who shall continue in violation of this a stop order shall be in violation of this chapter and shall be subject to the enforcement provisions of this chapter. The failure of the Town to obtain a stop order for any reason whatsoever shall not be interpreted as an estoppel against the Town from pursuing any other legal remedy permitted under the law.

2. Amend section 26 (Issuance of building and use permits) as follows:

A...

H. — Temporary permit. A temporary permit may, upon written request of an applicant, be

~~authorized by a favorable vote of at least four members of the Board of Appeals for a nonconforming structure or use which the Board of Appeals finds necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit (unless previously made conforming or validated) without cost to the Town (unless the Town is the applicant). Such permit may be renewed annually for an aggregate period not exceeding three years.~~

~~f. H.~~ Payment of fees. No building or use permit shall be issued until the **required** fees prescribed by the Board of Selectmen shall be **are** paid to the Building Inspector.

~~J. I.~~ Compliance with permit. All work or uses shall conform to the approved application for which the permit has been issued as well as the approved plot plan.

3. Amend section 28B (Occupancy permits) as follows:

B. Application; notification; as-built plot plan. Applications for occupancy permits shall be filed with the applications for building permits and shall be allowed or denied in writing, including the cause of the action taken, ~~within seven days after the Building Inspector has been notified in writing that a construction or alteration of such building or structure has been completed.~~ Said notification shall be accompanied by the following:

- (2) A written certification by the Nantucket Historic District Commission that:
 - (a) Such buildings or structures have been constructed, moved, altered, or added to in compliance with the certificates of appropriateness issued for such buildings or structures; or
 - (b) Certificates of nonapplicability have been issued by the Commission for such buildings or structures; provided, however, that:
 - (c) ~~The Historic District Commission or its designee shall issue said certification within five working days of the receipt of a written request to do so; failure to issue a certification within this period shall be deemed approval thereof.~~

4. Amend section 29 (Zoning Board of Appeals) as follows:

A...

B. Board of Appeals rules. The Board of Appeals shall **may** adopt rules, not inconsistent with the provisions of this chapter, for the conduct of its business pursuant to this chapter and shall file a copy of said rules with the Town Clerk.

(1) ~~Meetings of the Board shall be at the call of the Chairman or when called in such other manner as the Board shall determine in its rules.~~

(2) ~~(Reserved)~~

(3) **(1)** The Board of Appeals may adopt rules requiring applicants to pay fees into a **special account, pursuant to MGL c. 44, § 53G, to be used for the engagement by**

the Board of consultants.

- (4) (2) In the event that the Board of Appeals has appointed a Zoning Administrator, said rules shall set forth the fact of such appointment, the identity of the persons from time to time appointed to such position, the powers and duties delegated to such individual and any limitations thereon.

C...

D: (Reserved)

E.D ...

- E. Temporary permit. A temporary permit may, upon written request of an applicant, be authorized by a favorable vote of at least four members of the Board of Appeals for a nonconforming structure or use which the Board of Appeals finds necessary to promote the proper development of the community, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit (unless previously made conforming or validated) without cost to the Town (unless the Town is the applicant). Such permit may be renewed annually for an aggregate period not exceeding three years.

Or to take any other action related thereto.

(Board of Selectmen for the Planning Board)

PLANNING BOARD MOTION: Moved that Chapter 139 (Zoning) of the Code of the Town of Nantucket, be amended as follows (NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~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 25B (Enforcement, remedies, penalties) as follows:

B. Remedies.

- (1) If the a Zoning Enforcement Officer is requested ~~, in writing,~~ to enforce this chapter ~~against any person allegedly in violation of the same and the Zoning Enforcement Officer declines to act~~ , said Zoning Enforcement Officer shall ~~notify, in writing,~~ the party requesting such enforcement ~~shall be notified in writing~~ of any action or refusal to act, and the reasons therefor ~~e,~~ within 14 days of receipt of such request.
- (2) A stop order ~~for any violation of this chapter shall be issued in writing by a Zoning Enforcement Officer.~~ ~~shall be issued for any violation of the provisions of this chapter in unauthorized sale or lease; construction in deviation from approved permits; subsequent actions contrary to the conditions of, or the activities and uses permitted by approved permits; failure to adequately maintain common open space; or inadequate or insufficient construction of improvements .~~ The stop order shall state the nature of the violation and the

conditions under which work or use may continue.

(3) ~~A~~ The stop order shall be issued by the Zoning Enforcement Officer and delivered by mail to the owner of any property or his ~~their~~ agent or by posting on the property. ~~Delivery shall be construed to include by mailing of such order, postage prepaid, to said owner or posting on the property . Copies of such order shall be maintained by the Town. The stop order shall be in writing and shall state the nature of the violation and conditions under which work or use may continue.~~

(a) A time limit ~~, not to exceed five days,~~ shall be permitted to allow for the necessary correction of the violation.

(b) Any person who shall continue in violation of ~~this a~~ stop order shall be in violation of this chapter and shall be subject to the enforcement provisions of this chapter. The failure of the Town to obtain a stop order for any reason whatsoever shall not be interpreted as an estoppel against the Town from pursuing any other legal remedy permitted under the law.

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added to in compliance with the certificates of appropriateness issued for such buildings or structures; or

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(3) (1) The Board of Appeals may adopt rules requiring applicants to pay fees into a special account, pursuant to MGL c. 44, § 53G, to be used for the engagement by the Board of consultants.

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FINANCE COMMITTEE COMMENT: The Committee supports the Planning Board Motion.

Quantum of vote required for passage of the motion is 2/3

