

**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF NANTUCKET**



**WARRANT FOR**

**Wednesday, October 10, 2018  
SPECIAL TOWN MEETING  
Nantucket High School  
Mary P. Walker Auditorium  
6:00 PM**

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

**WEDNESDAY, OCTOBER 10, 2018 AT 6:00 PM,  
THEN AND THERE TO ACT ON THE ARTICLES  
CONTAINED WITH THE ENCLOSED WARRANT:**

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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: Marijuana - Definitions)**

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, section 2 (Definitions) 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*):

**ADULT ON-SITE MARIJUANA SOCIAL CONSUMPTION OPERATOR**

A marijuana retailer where consumers are permitted to consume marijuana and marijuana products on its premises.

**MARIJUANA MEMBERSHIP CLUB**

An organization, club, lodge, other private grounds allowing on-site consumption of cannabis or marijuana products, but not operating as a licensed marijuana social consumption operator and where no sales occur.

**MARIJUANA PRODUCTS**

Cannabis or marijuana and its products unless otherwise indicated. These include products that have been manufactured and contain cannabis or an extract from cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

**MARIJUANA ESTABLISHMENT, RECREATIONAL**

~~(1)~~A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c.94G, § 1 and 935 CMR 500.00, unless otherwise

defined in this Section. Recreational marijuana establishments are subject to the following standards:

(a) Recreational marijuana establishments shall be located in standalone facilities and shall not be allowed within a building or structure containing other retail, commercial, residential, industrial, or other uses, except for co-location with a licensed medical marijuana treatment center.

(b) A minimum separation of 500 feet, measured between lot lines, is required between recreational marijuana establishments and state-certified public or private schools, or state-licensed day-care centers, a public park or playground, or a Recreational Facility or Personal Services establishment providing activities or services primarily to children.

(c) Except where co-located, a minimum separation of 2,000 feet, measured between lot lines, is required between recreational marijuana establishments.

(ed) No building permit for a recreational marijuana establishment shall issue until the applicant has executed a Host Community Agreement with the Town pursuant to MGL c.94G, § 3(d).

(e) A recreational marijuana establishment shall be required to obtain an annual Certificate of Inspection issued by the Inspector of Buildings.

(f) A recreational marijuana retailer must operate and provide all storage within a permanent structure.

(g) A recreational marijuana establishment shall not be eligible for qualification as a home occupation.

(h) On-site consumption of marijuana products is prohibited.

(i) Delivery of cannabis products to consumers is prohibited.

(j) A special permit for a recreational marijuana establishment shall be limited to the applicant at the time of special permit issuance. Any changes to the owner/operator/licensee shall require a new special permit.

(k) A recreational Marijuana establishment shall not generate outside odors from the cultivation, processing or manufacturing of marijuana or marijuana products.

(l) An applicant for a special permit for a recreational marijuana establishment shall obtain provisional license from the Cannabis Control Commission prior to submitting an application to the Planning Board for a special permit.

~~(2) Recreational marijuana establishments shall be subject to the zoning moratorium adopted as § 139-37 of this bylaw. Applicants may not apply for a special permit for recreational marijuana establishments prior to January 1, 2019.~~

Or take any other action relative thereto.

*(Select Board for Planning Board)*

## ARTICLE 2

### **(Zoning Bylaw Amendment: Recreational Marijuana - Use Chart Amendments)**

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, section 7A (Use Chart) 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-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):*

Insert in the “Use” column between “Marijuana treatment center - medical” and “Medical clinic” the following new uses:

- a. Adult On-Site Marijuana Social Consumption Operator: to be prohibited in all districts.
- b. Marijuana Membership Club: to be prohibited in all districts.

Or take any other action relative thereto.

*(Select Board for Planning Board)*

## ARTICLE 3

### **(Bylaw Amendment: Marijuana)**

To see if the Town of Nantucket will vote to amend the Code of the Town of Nantucket to regulate the use and sale of Marijuana and Marijuana Products by adding a new Chapter 95 “Marijuana”, Article I “Public Consumption of Marijuana” that would provide as follows:

#### **Chapter 95**

#### **Marijuana**

#### **Article I**

#### **Public Consumption of Marijuana**

**§95-1. Definitions.** The following definitions shall apply to this bylaw.

- A. “Marijuana” shall mean marijuana as defined in G.L c. 94G, § 1, as may be amended.
- B. “Marijuana products” shall mean products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical

products, ointments, oils and tinctures, as defined in G.L. c. 94G, § 1, as may be amended.

**§95-2. Public Consumption Prohibition.** No person shall smoke, burn, vaporize, ingest or otherwise use or consume marijuana or marijuana products while in or upon any public place, including but not limited to any public or private way to which the public has a right of access, sidewalk, footway, passageway, stairway, bridge, park, playground, recreation area, beach, boat landing, public building, school, school grounds, cemetery, parking lot, or any area owned, leased or occupied by or otherwise under the control of the Town of Nantucket, or any place to which members of the public have access as invitees or licensees, or in or upon any bus or other passenger conveyance operated by a common carrier; or in or upon any other place accessible to the public; provided however that this bylaw shall not be construed to limit the lawful medical use of marijuana.

**§95-3. Prohibition on Possession of Marijuana in Municipal Buildings.** No person shall possess marijuana, marijuana products or marijuana accessories within any building owned, leased or occupied by or otherwise under the control of the Town of Nantucket, including, but not limited to the Town Building, the Public Safety Building, other Town office buildings, facilities and Town-owned housing.

**§95-4. Enforcement.** The provisions of this article shall be enforced by any police officer of the Town. Any person found in violation of this Bylaw may be charged with a noncriminal violation pursuant to MGL c. 40, §21D. The penalty for each noncriminal violation shall be \$200. Any penalty imposed under this bylaw shall be in addition to any civil penalty imposed under G.L. c. 94C, § 32L.

**§95-5. Severability.** In the event that any provision, section or clause of this bylaw is hereafter found to be invalid, such decision, invalidity or voidance shall not affect the validity of the remaining portion of this bylaw.

Or to take any other action relative thereto.

*(Select Board)*

#### **ARTICLE 4 (Bylaw Amendment: Marijuana)**

To see if the Town of Nantucket will vote to amend the Code of the Town of Nantucket to regulate the use and sale of Marijuana and Marijuana Products by adding a new Chapter 95 "Marijuana", Article II "Marijuana Licensing" that would provide as follows:

**Chapter 95  
Marijuana  
Article II  
Marijuana Licensing**

**§95-6. Marijuana License Required.** No person shall carry on the business operating an Adult Use Marijuana Establishment as defined in G.L. c.94G and 935 CMR 500, including the cultivation, processing, packaging, delivering, manufacturing, branding, selling or otherwise transferring or testing marijuana or marijuana products within the Town unless first duly licensed thereof by the Board of Selectmen, which license shall be renewed by said Marijuana Establishment annually.

**§95-7. Host Community Agreement Required.** Any Marijuana Establishment operating within the Town shall at all times have a valid Host Community Agreement and operate in accordance with the terms and provisions thereof.

**§95-8. Regulations.** The Board of Selectmen may adopt rules and regulations related to the issuance of such licenses, including the fees to be paid therefor and the conditions to be satisfied by any applicant for such a license.

**§95-9. Applications.** Applicants for a license shall file an application on a form provided by the Board of Selectmen, signed under the penalties of perjury by the applicant, containing such information as the Board of Selectmen may reasonably require from time to time. Each applicant shall pay an application fee as may be reasonably determined from time to time by the Board of Selectmen.

**§95-10. Hearing.** The Board of Selectmen will schedule a public hearing within 30 days of the submission of a complete license application with due written notice provided to the applicant of the time, date and location where such application will be heard.

**§95-11. Enforcement.** The Board of Selectmen may issue orders as appropriate to aid in the enforcement of this regulation and may enforce these provisions in equity, including the request for injunctive relief, in a court of competent jurisdiction. Any failure to comply with any order issued hereunder shall result in the issuance of a formal warning. Any failure to comply with such a warning shall result in a fine of \$100. Any failure to comply after the issuance of said final fine may be punishable by a subsequent fine of \$300. Each day of a continued non-compliance shall constitute a separate violation. Further, the Board of Selectmen may hold a hearing, with notice to the licensee, to determine if such license should be modified, suspended or revoked.

Or to take any other action relative thereto.

*(Select Board)*

## **ARTICLE 5 (Bylaw Amendment: Marijuana)**

To see if the Town of Nantucket will vote to amend the Code of the Town of Nantucket to regulate the use and sale of Marijuana and Marijuana Products by adding a new Chapter 95 "Marijuana", Article III "Limitation on Number of Marijuana Establishments" that would provide as follows:

**Chapter 95  
Marijuana  
Article III**

**Limitations on Number of Marijuana Establishments**

**§95-12. Limitation on Licenses.** The number of Adult Use Marijuana Retailers, as defined in G.L. c.94G, §1 and 935 CMR 500.00, permitted to be located in the Town shall be limited to twenty percent (20%) of the number of year-round licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold pursuant to G.L. c.138 §15. In the event that 20% of said licenses is not a whole number, the limit shall be rounded up to the nearest whole number.

Or take any action relative thereto.

*(Select Board)*

**ARTICLE 6**

**(Appropriation: Old South Road Area Transportation Improvements)**

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 Old South Road area including the costs of professional services for design, permitting, engineering, and any other related professional services, and the costs of construction, construction supervision, materials, 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 7**

**(Appropriation: Milestone Road Area Transportation Improvements)**

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 Milestone Road area including the costs of professional services for design, permitting, engineering, and any other related professional services, and the costs of construction, construction supervision, materials, 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 8**

**(Sewer Appropriation: New Sewer Force Main Design/Engineering)**

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 Town

Manager with the approval of the Board of Sewer Commissioners, for the purpose of the design and engineering of a new sewer force main from the Sea Street Pump Station to the Surfside Wastewater Treatment Facility including the costs of professional services for design, permitting, engineering, owners project manager services (OPM), and other related professional services, and any other costs incidental and related thereto.

*(Select Board)*

#### **ARTICLE 9**

##### **(Supplemental Sewer Appropriation: Repairs to the Sea Street Pumping Station)**

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 supplemental funding to Article 12 of the 2014 Annual Town Meeting, to be spent by Town Manager with the approval of the Board of Sewer Commissioners, for costs associated with professional services, construction, and repairs to the Sea Street Pumping Station, and any other costs incidental and related thereto.

*(Select Board)*

#### **ARTICLE 10**

##### **(Supplemental Appropriation: Repairs to Town Pier)**

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 supplemental funding, to be spent by Town Manager with the approval of the Select Board, for costs associated with professional services, construction, and repairs to the Town Pier and/or the ancillary "floating docks", and any other costs incidental and related thereto.

*(Select Board)*

#### **ARTICLE 11**

##### **(Airport Appropriation: Taxiway Echo)**

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 Airport Manager with the approval of the Airport Commission, for the purpose of reconstructing Taxiway Echo ("E") including the costs of professional services for design, permitting, engineering, and other related professional services, and the costs of construction, construction supervision, materials, and any other costs incidental and related thereto.

*(Select Board)*

#### **ARTICLE 12**

##### **(Airport Appropriation: Security Project)**

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 Airport Manager with the approval of the Airport Commission, for the purpose of making Security Improvements (Cameras, Lights, Airside Doors, Video and Access Control



Servers, and Other Miscellaneous Security Improvements) including the costs of professional services for design and installation and the cost of equipment and materials, and any other costs incidental and related thereto.

*(Select Board)*

#### **ARTICLE 13**

##### **(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 14**

##### **(Appropriation: Fiscal 2019 General Fund Budget Amendments)**

To see what Fiscal Year 2019 General Fund operating budgets, as voted at the 2018 Annual Town Meeting in Article 8, the Town will vote to amend, and further to appropriate, and also to raise, or transfer from available sums, a sum or sums of money for such purposes; or take any action relative thereto.

*(Select Board)*

#### **ARTICLE 15**

##### **(Appropriation: Fiscal 2019 Enterprise Fund Budget Amendments)**

To see what Fiscal Year 2019 Enterprise Fund operating budgets, as voted at the 2018 Annual Town Meeting in Article 12, the Town will vote to amend, and further to appropriate, and also to raise, or transfer from available sums, a sum or sums of money for such purposes; or take any action relative thereto.

*(Select Board)*

#### **ARTICLE 16**

##### **(Bylaw: Single Use Plastics)**

To see if the Town will vote to amend the General Bylaws by adopting a bylaw entitled "The Regulation of Sale, Distribution and Use of Certain Single Use Plastics", the text of which follows, or take any other action relative thereto:

##### **Section I. Findings and Purpose**

Plastic single-use "disposable" products such as those listed herein contribute hazards to human health, marine life, wildlife, societal economies, and the environment.

Examples of these problems include:

- 1) Americans discard more than 30 million tons of plastic per year. Only approximately eight (8%) percent of that gets recycled. The rest ends up in landfills, in the oceans, on beaches, is incinerated or becomes litter. The amount of solid waste created by single-use plastic containers is significantly uncontrollable.

- 2) Great Barrington, Lincoln, Sudbury and Concord have each banned single use plastic water bottles. Taiwan has banned plastic straws and utensils. The Italian islands of archipelago Isole Tremiti have banned single use plastics. The UK is banning plastic straws, stirrers, plastic stemmed q-tips, and other single-use plastics. In Europe, Starbucks agreed recently to phase out all plastic straws and cutlery. On July 1, Seattle will become the largest U.S. city to cut out all plastic straws and eating utensils in restaurants.
- 3) We are ingesting plastic. Eighty-nine (89%) of ocean trash comes from single use plastic. Plastic is flowing into the food chain and into our oceans at a rate of around 8.8 million tons per year, polluting the marine environment - circulating in continent sized trash gyres, killing marine animals, birds and mammals - even finding its way onto our plates after being eaten by fish and shellfish. Researchers have found tiny pieces of plastic in all the samples of mussels they tested in British seawaters and bought from local supermarkets. Mussels, quahogs, oysters are natural filters for the water around them, so they pick up everything that ends up in the harbors or ocean, including microplastic. A new report found the seafood contains an alarming amount of plastic - and in fact no sea creature is immune. It's as if the ocean is wreaking its revenge.
- 4) Recent examination of dead pilot, right, and sperm whales in places such as Thailand, Spain and the east coast of the US, found the deaths were caused by ingestion of plastics blocking digestive systems. Entanglements in flexible plastic six-pack yokes kills turtles and other marine animals and ingestion of these yokes kills others. Entanglement, ingestion and habitat disruption result from plastic ending up where animals live. In our oceans plastic outweighs zooplankton by a ratio exceeding 35 to 1.
- 5) Chemicals leached by plastics are in the blood and tissues of nearly all of us. It has been found in the bottled water contained in plastic single serve bottles. It is in shellfish. Exposure to these plastics is linked to cancers, birth defects, impaired immunity, endocrine disruption and other ailments.
- 6) Nantucket has a single source aquifer and one landfill. Buried beneath the surface of the landfill, in unlined and lined cells, is plastic leachate containing toxic chemicals. At the unlined cell it is seeping into the groundwater. We suspect it is then washed through the trash and flowing into the ground water, Long Pond (a tidal and groundwater pond), to wells, creeks, wetlands, harbors and the ocean.
- 7) Manufacturer's mix additives into plastics, such as flame retardants, BPAs, and PVCs. These oily poisons repel water and stick to petroleum-based plastic debris and can leach their own toxicants in to the groundwater.
- 8) "Compostable" and "Biodegradable" have become green marketing terms that are seemingly intended to confuse. Many people think that these terms mean that the material will become dirt, a rich soil amendment like they've seen with food waste in their backyard. NOT SO. Plastic does not completely biodegrade; it just breaks down into smaller and smaller pieces over time, but it is still toxic plastic. Compostable plastic is not recyclable. It is designed to be composted at

commercial composting facilities under high heat conditions. For most areas, compostable plastic is considered trash.

- 9) Single use plastic water bottles are not a necessity. Tests reveal bottled water contains microplastic particles. Researchers tested 259 bottles of 11 popular bottled water brands, many of which are sold on Nantucket. None tested consistently free of microplastic particles. They are a convenience that has become an expensive burden on our infrastructure and our landfill. There are safe, convenient alternatives to these single use plastic bottles.
- 10) Plastic nip bottles litter our walkways, bike paths, roads. Our State Representative, Dylan Fernandes, is pushing for a deposit on nip bottles, but believes that we should ban these and other "...single-use plastics because they are overflowing our landfills and devastating our ocean ecosystems..."
- 11) The inventor of the Keurig coffeemaker and the K cups, John Sylvan, regrets his invention because the pods, billions of them, are not recyclable unless disassembled into paper, plastic and metal components by users. Instead, the K pods are thrown away as trash in our landfills. These cups, made of # 7 plastic, take hundreds of years to start to decompose. They can only be recycled if users take them apart and process the plastic component separately by sending them to one of four facilities located in Canada. There are biodegradable alternatives that can be turned into dirt within 90 days as well as a reusable cup that leaves no plastic waste.

Nantucket has a single source aquifer that we need to protect. We have a high-quality water distribution system. The Wannacomet Water Company provides regular reports on its quality.

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, protect marine animals and food sources and save the citizens of the Town money. There are safe alternatives for each of the single-use plastic items banned.

#### **BY-LAW:**

#### **Section II. Sale, distribution and use of single use plastic products.**

It shall be unlawful to sell, distribute or otherwise use the following single-use plastic products in the Town and County of Nantucket on or after June 1, 2019:

Straws and drink stirrers; six-pack can and bottle flexible yokes; nip bottles; containers used in the sale of or distribution of food; drinking cups and lids; plates and eating utensils; drinking water in single-serve polyethylene terephthalate (PET) containers; all non-recyclable #3 through # 7 plastic products

#### **Section III. Exemption for Emergencies and other**

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 (7) calendar days after such declaration has ended.

Medical packaging when acceptable attestation is provided to Board of Health that no recyclable alternatives are available.

**Section IV. Enforcement Process**

Enforcement of this Bylaw shall be the 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 promoting the 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 M.G.L. Chapter 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 II of Chapter 1 of the Code of the Town of Nantucket.

**V. Suspension of the 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.

**VI. Severability**

The provisions of this article are severable. If any part of this section should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of the article, and the remainder of the article shall stay in full force and effect. And to amend the Code of the Town of Nantucket by adding the following:

Bylaw	Fine Schedule	Fine Allowed	Enforcement Agency
The Regulation of Sale, Distribution and Use of Single Use Plastic Containers and Utensils	1st Offense 2nd Offense 3rd & each subsequent offense	Warning \$100.00 \$200.00 per day	Town Manager's Designee

*(Bruce Mandel, et al)*

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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 25<sup>th</sup> day of July in the year Two Thousand Eighteen.

\_\_\_\_\_  
Jason M. Bridges, Chair

\_\_\_\_\_  
Dawn Hill Holdgate, Vice Chair

\_\_\_\_\_  
Matthew G. Fee

\_\_\_\_\_  
Rita Higgins

\_\_\_\_\_  
James R. Kelly

SELECT BOARD OF NANTUCKET, MA

Pursuant to Chapter 39, section 10 of the General Laws of the Commonwealth and the Warrant adopted July 25, 2018, 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