



UPDATED MEETING POSTING

Original Posting Date
Original Posting Number

TOWN OF NANTUCKET

Pursuant to MGL Chapter 30A, § 18-25

All meeting **notices and agenda** must be filed and time stamped with the
Town Clerk's Office and posted at least 48 hours prior to the meeting
(excluding Saturdays, Sundays and Holidays)

Committee/Board/s	Nantucket Historical Commission
Day, Date, and Time	Friday, January 20, 2023 10:00 AM – 12:00 AM
Location / Address	HYBRID MEETING REMOTE PARTICIPATION AND IN PERSON at 131 Pleasant Street, Nantucket
Signature of Authorized Person	Angus MacLeod (Chair)

WARNING:

**IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF
MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML
STATUTE, NO MEETING MAY BE HELD!**

*Angus MacLeod (Chair), Georgia U. Raysman (Vice-Chair), David Silver (Secretary) Clement Durkes, Thomas M. Montgomery,
Milton Rowland; Abby De Molina (Alternate Commissioners: Susan Handy)*

Staff Liaison: Holly Backus

UPDATED AGENDA

Join Zoom Meeting

<https://us06web.zoom.us/j/94332358504?pwd=N25KSGR2QldOeWFuc2tKUXcvaERGdz09>

Meeting ID: 943 3235 8504

Passcode: 770019

One tap mobile

+16465588656,,94332358504#,,,,*770019# US (New York)

AGENDA

Please list below the topics the chair reasonably anticipates will be discussed at the meeting

- Public Comment
- Commissioner Comments (for topics not on the agenda)
- Approve minutes December 16th
- Quick Updates
 - Transportation Planner
 - Wind Farms
 - Update on Island-Wide Survey Plan: Final Report.
 - Next steps (finalize/posting on website/HDC)

- Update on Fish Lots Surveys
 - Update FY2024 Survey Grant
 - Advisory Boards Legal Opinion
- 2023 Workplan: Priority Goals for NHC
- Other ATM Articles of Historic Interest
 - Lighting (Gail Walker)
 - Amend the NP&EDC (H. Rayport)
 - Other?

Other ongoing work (for tracking purposes - not for discussion at this meeting)

- Update on Revolving Loan Fund Project & Salvage from project team (David, Georgia, Abby)
- Update on protecting Brant Point Light and Great Point Light
 - letter from Holly to USCG Preservation Planner
- ATM Articles of Historic Preservation Concern not discussed in this meeting
 - 41 81L divisions of land
 - HDC Administrator
- Follow up on Transportation Matters.
 - Excess signs on Milestone Road
 - Nantucket Sign bylaw

ANDERSON KREIGER

PAUL M. KOMINERS
pkominers@andersonkreiger.com
T: 617.621.6538

January 10, 2023

By email to emartinez@nantucketma.gov

Nantucket Historic District Commission
2 Fairgrounds Road
Nantucket, MA 02554

Re: Historic District Commission Advisory Committees

Dear Commissioners:

I represent the Nantucket Community Foundation's Keep Nantucket Real Fund. In light of the Town's disbanding of the Nantucket Historic District Commission ("HDC")'s standing advisory committees, the Fund has asked me whether the HDC has the legal authority to create standing advisory committees. Based on my research, it does. This letter explains why, and also explains other actions the HDC or Town Meeting can take without amending the HDC's enabling legislation.

In preparing this letter, I have reviewed the HDC's enabling act, Chapter 395 of the Acts of 1970, as amended ("Act"); the Town Charter; applicable case law, Town Counsel's August 17, 2022 memorandum concerning the advisory committees; and other materials.

History of the HDC Advisory Committees

As you know, the Nantucket Historic District Commission ("HDC") exists to "promote the general welfare of the inhabitants of the Town of Nantucket through the preservation and protection of historic buildings, places and districts of historic interest" Act § 2. The HDC was established by the Act, which also designated all 30,000 acres of Nantucket as a historic district. The Historic District includes multiple architecturally-distinct villages and areas.

The HDC's authority within its large jurisdiction is extensive. It covers all construction or alteration of buildings' or structures' exterior architectural features. Act § 5. And consistent with this extensive authority over a large area, the HDC receives an enormous number of applications—well over 2,000 in an average year, based on a review of published HDC monthly data running from 2016 to July 2021. Those applications cover construction and alterations ranging from entirely new dwellings, to signs, to sheds, solar panels, chimneys, and fences.

Processing an application is a significant undertaking. The HDC is charged with evaluating, 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.

Id. § 9(b). In addition, when reviewing applications for new construction, the HDC “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” *Id.*

In order to carry out its statutory mandate, the HDC “may make such rules and regulations consistent with th[e] Act as may appear desirable and necessary.” *Id.* § (8). It is specifically charged with promulgating “rules and regulations adopting or establishing guidelines for exterior architectural features and establishing procedures for the processing of applications and conduct of hearings.” *Id.*

Starting in the early 1970s, the HDC created a series of advisory committees to conduct pre-reviews of applications and offer the HDC advice and input on specific subjects:

- the Design Advisory Committee, established in 1972, later inactive;
- the Sign Advisory Council, established in 1980;
- the Siasconset Advisory Committee, established in 1986 or 1987;
- the Tuckernuck Island Advisory Council, established in 1994;
- the Madaket Advisory Board, established in 2004; and
- the Historic Structures Advisory Board, established in 2004.¹

My research has not revealed how these advisory committees were established, except that there appears to have been a regulation authorizing the Sign Advisory Council at least as early as 1990. Town Regulations § 340-6(B); *id.* c. 340, App’x D.

In August of 2022, on advice of Town Counsel, the HDC Advisory Committees were unilaterally disbanded by an email from Planning Director Andrew Vorce to HDC Chair Raymond Pohl. The Select Board subsequently reinstated the Sign Advisory Council by establishing it as an advisory committee under Section 3.5(c) of the Town Charter.

¹ These dates are drawn from Town Counsel’s memorandum.

Analysis

I. The HDC May Establish Advisory Committees by Rule or Regulation

In determining whether the HDC has the power to establish advisory committees by rule or regulation, there are two questions: (1) the scope of the HDC's authority to promulgate rules and regulations in general and (2) whether establishing an advisory committee is a permissible exercise of that authority. I believe that the HDC has broad authority to promulgate rules and regulations and that establishing advisory committees is within the scope of that authority.

First: In *Globe Newspaper Company v. Beacon Hill Architectural Commission*, 421 Mass. 570 (1996), the Supreme Judicial Court held that the BHAC, which functions as an historic district commission, has broad authority to promulgate rules and regulations. Specifically, it held that because "the General Court directly established the [BHAC] by special enabling act" and the BHAC is largely independent of the City of Boston, the BHAC's regulations are entitled to the considerable deference given to an "agency created by the state." *Id.* at 583-84. The BHAC's rules and regulations, therefore, need only have "a rational relation to the statutory purpose ... [and] some express or implied basis in the governing statute." *Id.* Had the BHAC been an ordinary municipal public body, it would have had only the power to issue regulations if that was the "necessary implication" of its governing statute. *Id.* at 583.

The HDC is also an "agency created by the state." Like the BHAC, the HDC was created directly by a special act of the Legislature and is largely independent of the local government.² Accordingly, the HDC's rules and regulations need only have a rational relation to the purpose of the Act, and an express or implied basis therein.

Second: Because establishing advisory committees bears a rational relation to the purpose of the Act, and has an express or implied basis therein, the HDC's authority to issue regulations includes the authority to establish advisory committees.

Rational relation: Where a statute charges a public body with conducting a vast number of proceedings, streamlining those proceedings bears a reasonable relation to the purposes of the statute, especially when the public body retains ultimate decision-making authority. *Town of Hull v. Mass. Comm'n Against Discrimination*, 72 Mass. App. Ct. 525, 529 (2008). In *Town of Hull*, the Appeals Court concluded that a regulation delegating MCAD hearings to non-Commissioner hearing officers was reasonably related to the enabling statute, because MCAD manages thousands of cases annually and the hearing officers' decisions were still "subject to later review by the commission." *Id.* Like the MCAD, the HDC processes an average of more

² The HDC is at least as independent of Nantucket as the BHAC was of Boston. HDC members, unlike BHAC members, are independently elected. Act §§ 3, 11. Both are placed within municipal departments for staffing and administrative purposes. And, because both the BHAC's and the HDC's decisions are ultimately subject to appeals to Superior Court, the Select Board's ability to review HDC decisions does not reflect significant Town control over the HDC.

than 2000 cases per year, and preliminary review by an advisory committee would not divest the HDC of its ultimate authority. Thus, requiring preliminary review by an advisory committee bears a rational relation to the Act.³

Express or implied basis in the statute: At least three cases have approved state agencies imposing substantial, rights-altering procedural steps by regulation, even where those procedures are not explicitly authorized by or even are in tension with the statute.

First, the SJC approved a Department of Public Welfare regulation establishing a Medicaid claims review board and requiring providers to appeal claims denials to that board, even though that structure was “not explicitly authorized by statute.” *Mass. Respiratory Hosp. v. DPW*, 414 Mass. 330, 331-32, 334 (1993). The SJC relied on general authorizing language in both state and federal law. *Id.* at 334.

Second, the SJC held that the Department of Environmental Protection could mandate by regulation that registered water districts channel disputes with DEP through administrative adjudication. *Water Dep’t of Fairhaven v. DEP*, 455 Mass. 740, 750 (2010). The SJC based its decision on DEP’s statutory power to adopt “such regulations as it deems necessary to carry out the purposes of the act.” *Id.* (quoting G.L. c. 21G, § 3(6)). The SJC characterized this power as a “broad latitude to adopt regulations, comparable to” that in *Massachusetts Respiratory Hospital* or in *Globe Newspaper Co.* *Id.* at 750-51. And it came to this conclusion even though the governing statute expressly authorized adjudicatory proceedings only for *other* categories of users. *Id.* at 751.

Third, in *Town*, the Appeals Court approved an MCAD regulation delegating initial hearings to non-commissioner hearing officers, even though the enabling legislation only expressly authorized the MCAD to delegate hearings to commissioners. 72 Mass. App. Ct. at 528 (quoting G.L. c. 151B, § 3(6)). The Court concluded that the regulation was consistent with the enabling statute in key part because the statute empowered the MCAD to adopt “rules and regulations to carry out the provisions of [c. 151B],” because the enabling statute did not “expressly prohibit [the MCAD] from delegating public hearings to hearing officers,” and because the “practice ... has been accepted without question over many years.” *Id.* at 529-30 (emphasis added).

In light of these three cases, the HDC has an implied basis in the Act to establish standing advisory committees. In all three cases, an agency with a general grant of authority to promulgate regulations it deemed “suitable” or “necessary” was permitted to promulgate regulations interposing a significant adjudicatory step not expressly authorized by the statute. Here, the HDC has comparable authority: it may adopt regulations it deems “desirable or necessary.” And requiring a preliminary review is a less significant intervention in the process

³ For similar reasons, Town Counsel is correct that the HDC can properly “request Town staff assigned to support the work of the HDC, and to conduct a pre-review of applications in order to streamline the application and hearing process.”

than interposing a mandatory claim review board, mandatory administrative adjudication, or a separate hearing officer.

Also, like the challenged delegation in *Town of Hull*, the practice of referring applications to the advisory committees is longstanding. 72 Mass. App. Ct. at 529. Of course, HDC decisions are not litigated as regularly as MCAD decisions. But at least one case involving the HDC's agreement with the Design Advisory Committee's adverse recommendation did not question the DAC's right to exist. *Gumley v. Bd. of Selectmen of Nantucket*, 371 Mass. 718, 721 (1977). My research has not identified any other case arising from an HDC decision in which a party made an issue of an advisory committee's involvement.

Two contrary arguments in Town Counsel's August 17 memorandum are worth addressing.

First, he states that "[a]n elected body cannot delegate authority to non-elected standing committees without specific legislative authority." This point is not germane. As the analysis above shows, the HDC's power to adopt rules and regulations as "desirable and necessary" constitutes specific legislative authority to create advisory boards. Indeed, in *Massachusetts Respiratory Hospital*, the SJC described the Legislature's delegation of power to DPW to adopt regulations as "authoriz[ing] the department's creation of [the claims review] board." 414 Mass. at 335. Also, seeking advice from an advisory committee is not a delegation of authority.

Second, he argues that "Section 3.5(c) of the Town Charter reserves to the Select Board the authority to appoint advisory committees." This argument appears to rest on the standard principle of statutory interpretation that "[w]hen the Legislature includes a phrase in one subsection of a statute but not in another, this invites the 'negative implication' that the phrase was purposefully excluded." *Commonwealth v. Montarvo*, 486 Mass. 535, 538 (2020). However, this principle always requires "cautious application," *id.*, especially where the relevant "statutes ... vary significantly" in their language and structure, *Commonwealth v. Garvey*, 477 Mass. 59, 65 (2017). Here, the Act and the Town Charter enabling legislation are two different pieces of legislation, structured differently, written differently, serving different purposes, and separated by over 25 years. The Town Charter, therefore, does not implicitly divest the HDC of the power to establish advisory committees. There is no practical conflict either: regardless of whether the HDC's advisory committees exist, the Select Board can create advisory committees as it sees fit.

II. Town Meeting May Grant the HDC the Ancillary Power to Appoint Advisory Committees

As explained above, the Act empowers the HDC to establish standing advisory committees. However, if the HDC wishes to confirm that authority, the Act provides a mechanism. The Act empowers Town Meeting to "delegate[]" or "assign[]" "ancillary ... powers, authority and duties." Act § 9(g). The power to establish advisory committees is ancillary to the HDC's core powers. Thus, the HDC can ask Town Meeting to assign the power to establish advisory committees to the HDC.

Also as explained above, this would not conflict with the Select Board's power under the Charter to establish advisory committees. Town Charter § 3.5(c). The Charter itself provides that, notwithstanding its adoption, "[t]he legislative powers of the Town shall remain vested in the Town Meeting." There is a narrow exception of certain powers "as to real estate acquisitions." Town Charter § 2.1. This exception shows that powers otherwise vested in Town Meeting – such as the power to assign ancillary powers to the HDC, Act § 9(g) – remain with Town Meeting. *Montarvo*, 486 Mass. at 538.

Conclusion

Based on the language of the Act and case law, the HDC may enact regulations establishing standing advisory committees to advise it as it carries out its charge to preserve and protect the historic character of Nantucket. Town Meeting may also assign the authority to establish such advisory committees to the HDC, without amending the Act.

Thank you.

Sincerely,

/s/ Paul M. Kominers

Paul M. Kominers

ecc: Arthur P. Kreiger, Esq.
John W. Giorgio, Esq.

2023 Goals

Mission: To Increase Protection of Nantucket's Historic Resources

List of Possible Goals (not in any order of priority)

- | | Prioritize? | |
|----|-------------|--|
| 1 | Y | Continue survey work in areas prioritized in 2022 |
| 2 | Y | Creating a Revolving Fund for historic properties
Apply for MHC and Park Service historic preservation funding for items on the Nat. Hist. Reg. |
| 3 | | Create a plan to monitor and prioritize local structures |
| 4 | | Create program recycle historic materials with local organizations |
| 5 | Y | Determine how the NHC can best support the CLG and partner with HDC, as necessary |
| 6 | * | Review any Historic Tax Credit Applications |
| 7 | * | Educate community on NHC's initiatives and how the public benefits |
| 8 | Y | Continuing education for commissioners from MHC |
| 9 | Y | Do another NAREB workshop |
| 10 | * | Start engagement with minority groups on island |
| 11 | | Ongoing collaboration with private cohorts (NPT, PIN, Sconset Trust, NHA, etc.) |
| 12 | | Ongoing collaboration with public cohorts (PB, NP&EDC, SB, ATM, Staff, etc.) |
| 13 | | Protect Great Point and Brant Point Light |
| 14 | Y | |

* included under other other goals

NHC discuss,
refine and
prioritize goals.



List of possible goals - Prioritized - To Be Confirmed

- 1 Create a revolving loan fund to help homeowners afford to maintain their historic homes
- 2 Survey Historic Resources
 - a. Apply for and receive, and execute an annual survey following the survey plan
- 3 Promote the salvaging of historic resources
- 4 Increase the use of Historic preservation tax credits
 - a. Add educational materials about HPTC to NHC website.
 - b. NAREB / Builders' Association
- 5 Continue to advance education and training of Commissioners
 - Elect a training captain.
 - Each Commissioner attends at least one training program and shares learnings
- 6 Educate community on NHC's initiatives and how the public benefits
 - a. Present annually to the Select Board
 - b. Advocate for Preservation at Town Meeting when appropriate
 - c. Continue to improve NHC online presence
- 7 Protect Great Point and Brant Point Light
- 8 Maintain the Historical Commission activity at a high level
 - Maintain membership in Certified Local Government Program in good standing
 - Review Tax Credit applications in a timely, and high quality way
 - Posting meeting agendas and minutes
 - Keep an active and full membership of qualified commissioners
 - Section 106 Reviews/ consulting party

Citizen Warrant Article

Primary Sponsor

Name: Gail Walker (aka Catherine Gail Walker)
Address: 15 Burnell Street, Siasconset
Email: nantucketlights@gmail.com, gailwalker101@gmail.com
Phone #: 508-257-9196, 301-775-0549

Warrant Article Title: Bylaw Amendment — Outdoor Lighting

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

replace the existing outdoor lighting bylaw (Chapter 102 of the Code of the Town of Nantucket), adopted at Town Meeting in 2005, with the following updated bylaw to make the regulations consistent with current best practices for outdoor lighting and to strengthen enforcement; or otherwise act thereon.

[NOTE: 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.]

; or otherwise act thereon.



ANNUAL TOWN MEETING - CITIZEN'S ARTICLE

DATE and TIME this paper
received by RegistrarsNOV. 14, 2022
2:45

LR

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 May 6, 2023.

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	
Check	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 d c o d e	PRINTED NAME
1	✓ Catherine Gail Walker	15 Burnell	0 1	Catherine Gail Walker
2	✓ John Morrison	3 East Fire Springs Rd	0 1	Peter A. Morrison
3	✓ Danielle O'Dell	4 Marcus Way	0 1	Danielle O'Dell
4	✓ Neil Foley	165 Cliff Rd	0 1	Neil Foley
5	✓ Korynn Adams	108 W. Dover St	0 1	Korynn Adams
6	✓ Kelly Omerod	61 Rolpis Rd	0 1	Kelly Omerod
7	✓ Allison Levy	3 Equator Dr.	0 1	Allison Levy
8	✓ Mara Weiner	5 Nobadeer Ave	0 1	Mara Weiner
9	✓ Jeff Corbett	23 MacLellan Lane	0 1	JEFF CORBETT
10	✓ Nick Laflamme	220 Minestone Rd	0 1	Nick Laflamme
11	✓ Jennifer Karberg	9 Goldfinch Dr.	0 1	Jennifer Karberg
12	✓ Cormac Collier	7 FAIRFIELD	0 1	CORMAC COLLIER
13	✓ Karen C Beattie	13 Correia Ln	0 1	Karen C Beattie
14	✓ Charles S. Fott	42 Long Pond Dr	0 1	Charles S Fott
15	N Kelly Paradis	24 Mary Ann Drive	0 1	Kelly Paradis

Instructions to Registrars

You must time-stamp or write in date and time these papers are received.
Check thus ✓ 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 (14) fourteen
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)

[Signature]
[Signature]
Carolyn A. Gould
Registrars of Voters of the Town of Nantucket

ANNUAL TOWN MEETING - CITIZEN'S ARTICLE

DATE and TIME this paper
received by Registrars

NOV. 14, 2022 2:45pm

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

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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 r o n g d i s t r i c t	P r e s e n t	PRINTED NAME
16	1		Torqueline Whyte	6 Arrowhead Dr. North	0	1	Torqueline Whyte
17	2		Wilbya M. Perez	113 ORANGE STREET	0	1	Wilbya M. PEREZ
18	3		Jo Partida	27 1/2 Essex Rd	0	1	Jo Partida
19	4		Edward 'Henry' Sanford	15 Rudder Lane	0	1	Edward 'Henry' Sanford
20	5		Regina Jorgenson	9 Cornsaw Lane, Sconsd	0	1	Katharine G. Murphy
21	6		Robert Benchley	41 MACYS LANE	0	1	REGINA JORGENSEN
22	7		Carol W. Benchley	65 SANKATY RD.	0	1	ROBERT BENCHLEY III
23	8		Robert D. Felch	65 Sankaty Rd	0	1	CAROL W. Benchley
24	9		11 MAKEY LANE	11 MAKEY LANE	0	1	Robert D. FELCH
25	10		10 Starbuck Rd	10 Starbuck Rd	0	1	Robert
26	11		34 New St., Sconsd	34 New St., Sconsd	0	1	Pamela Murphy
27	12				0	1	
28	13				0	1	
29	14				0	1	
30	15				0	1	

Instructions to Registrars

You must time-stamp or write in date and time these papers are received.

Check thus ✓ 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 () _____

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)

Registrars of Voters of the Town of Nantucket

2023 Annual Town Meeting (Nantucket)
WARRANT ARTICLE: Bylaw Amendment – Outdoor Lighting

To see if the Town will vote to replace the existing outdoor lighting bylaw (Chapter 102 of the Code of the Town of Nantucket), adopted at Town Meeting in 2005, with the following updated bylaw to make the regulations consistent with current best practices for outdoor lighting and to strengthen enforcement; or otherwise act thereon. *[NOTE: 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 102
OUTDOOR LIGHTING

§ 102-1. Purpose. The purpose of this chapter is to establish regulations for outdoor lighting that:

- A. Minimize the unintended and/or adverse impact of the use of artificial light at night (commonly known as light pollution) to the greatest extent possible, in recognition of its negative effects on people as well as wildlife.
- B. Protect residents from light trespass that negatively affects the enjoyment of their own property and their property values.
- C. Control glare to increase the safety and security of residents and visitors.
- D. Minimize skyglow to preserve the ability to see the stars and Milky Way, thereby preserving humanity's connection with the night sky, fostering awe and wonder in current and future generations of children as well as adults, and preserving the ability of the Maria Mitchell Association to conduct astronomical research.
- E. Provide adequate light for the safe performance of outdoor tasks at night and to keep property free from harm.
- F. Promote efficient and cost-effective lighting to conserve energy.
- G. Preserve the historic and rural character of Nantucket.

§ 102-2. Applicability.

- A. The provisions of this chapter shall apply to all outdoor lighting, in all zoning districts, unless specifically exempted elsewhere in this chapter. This includes all privately owned lighting as well as all lighting owned, maintained, or controlled by the Town of

Nantucket or another governmental body (including the Nantucket Public Schools).

- B. In case of a conflict between any of the provisions in this chapter or between any provision of this chapter and another provision of the Nantucket Code, the most restrictive provision shall control.
- C. **New installations.** All exterior luminaires installed after the effective date of this chapter shall conform with the requirements established by this chapter and any other applicable bylaws, regardless of the reason for the installation.
- D. **Nonconforming existing luminaires.**
 - a. All exterior lighting that was installed prior to the effective date of this chapter that does not conform with the requirements of this chapter may continue to be used and maintained for up to five years, except if any of the following occurs:
 - i. The official appointed to oversee the enforcement of this chapter determines that one or more luminaires constitutes a hazard to public safety or a lighting nuisance under § 102-6A of this chapter, in which case the nonconforming luminaire(s) must be brought into compliance within thirty (30) days of written notification being mailed or hand delivered.
 - ii. More than fifty percent (50%) of the total assessed value or square footage of a structure, as determined from the building permit application, is repaired, altered, reconstructed, or renovated, in which case the nonconforming luminaire(s) must be brought into compliance by the time the final building inspection occurs.
 - iii. A nonconforming luminaire owned by the Town of Nantucket is retrofitted, in which case the fixture must be brought into compliance at the time that work is done.
 - b. **Request for extension.** Private property owners may request an extension from the Town Manager to use and maintain a nonconforming luminaire, for up to a maximum of ten (10) years from the date a nonconforming fixture was installed, provided that the luminaire was compliant with the requirements that existed at the time of the installation and the date of installation can be verified via documents or date-stamped photographs; the nonconforming luminaire cost \$100 or more when purchased; and the nonconforming luminaire cannot be brought into compliance by changing the bulb or lighting element or by installing shielding.

§ 102-3. Definitions.

For the purposes of this chapter, the following terms shall have the following meanings, unless a contrary meaning is required by the context or is specifically prescribed:

BUG RATING SYSTEM

A lighting classification system created by the Illuminating Engineering Society (IES) and the International Dark-Sky Association (IDA) to describe the light pollution contributions from outdoor luminaires. “B” relates to backlight, which often contributes to light trespass. “U” relates to uplight, which contributes to skyglow and limits the ability to see the stars. “G” relates to glare, which makes it difficult to see.

CORRELATED COLOR TEMPERATURE (CCT)

A specification of the color appearance of the light emitted by a lamp, measured in units called Kelvin (K). Correlated color temperature (CCT) values are typically provided in lighting manufacturer data sheets.

EMERGENCY LIGHTING

Temporary lighting required for public safety in the reasonable determination of public safety officials.

ENVIRONMENTALLY SENSITIVE AREA

Any land that contains threatened or endangered species habitats, is used for agricultural purposes, or is subject to a conservation restriction.

EXTERNALLY ILLUMINATED SIGN

Any sign or display whose information content is made visible at night by means of a luminaire mounted at some distance above, below, or otherwise away from the surface containing the information or message intended to be seen.

FLOODLIGHT

Any luminaire or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

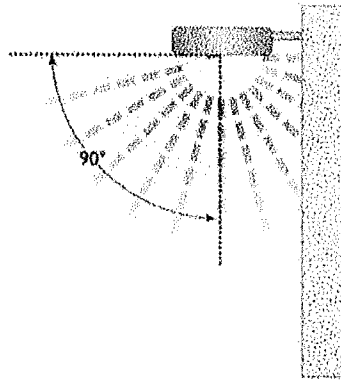
FOOT-CANDLE

A measurement of illuminance equivalent to one lumen per square foot.

FULLY SHIELDED LUMINAIRE

A luminaire that is constructed so that, in its properly installed position, all the light emitted shines below the horizontal plane at the point where the light is emitted. See Figure 1 (below). Luminaires with adjustable aiming are not fully shielded unless they are aimed and shielded so that no light is emitted above the horizontal plane at the point where the light is emitted.

Figure 1. Fully Shielded Luminaire



GLARE

Intense light emitted by a lamp or luminaire that reduces visibility and creates visual discomfort and/or momentary visual impairment.

HOLIDAY LIGHTING

Temporary decorative lighting installed in connection with a national, state, local or religious holiday.

ILLUMINATING ENGINEERING SOCIETY (IES)

The professional society of lighting engineers and other lighting professionals that is recognized as an authoritative body on the science and application of lighting and which publishes and promotes recommended practices for a variety of specific lighting applications.

ILLUMINANCE

The amount of light falling onto a given surface area, often measured in units called foot-candles.

KELVIN

A unit of measurement used for the correlated color temperature of light. Often denoted with the symbol K.

LAMP

The component of a luminaire that is the light source, not inclusive of any reflective or refractive optics used to direct light. This refers to bulbs that are easily removable and replaceable as well as integrated systems like light emitting diodes (LEDs).

LANDSCAPE LIGHTING

Any lighting used to illuminate trees, shrubs, or other plant material, as well as water features and decorative objects, in a yard, garden, park, or pool deck.

LIGHT POLLUTION

Any unintended and/or adverse impact of the use of artificial light at night.

LIGHT TRESPASS

Any light emitted by a luminaire that shines beyond the property on which the luminaire is installed and increases the illuminance at the property boundary line.

LUMEN

A unit of measurement of the amount of light emitted by a luminaire or lamp, typically displayed by the manufacturer as part of the product specification. Distinct from watts, which measures the amount of power consumed by a luminaire or lamp rather than the amount of light emitted. When used in this chapter, “lumens” refers to the number of lumens of light emitted by a luminaire when the lamp is new, not accounting for any depreciation over time, known as initial lumens.

LUMINAIRE

A complete lighting unit, consisting of one or more lamps, housing, lenses, reflectors, and other structural elements, but not including any mounting pole or surface. This includes what is commonly referred to as a light fixture as well as other types of lighting units such as string lights and rope lights.

LUMINANCE

A measure of light emitted by or from a surface. Measured in candelas per square meter (cd/m^2).

SAFETY AND SECURITY LIGHTING

Lighting that is intended to prevent accidents and/or deter or detect intrusions or other criminal activity occurring on a property or site. For the purposes of this chapter, this shall include lighting for entrances, walkways, roadways, parking lots, equipment yards, and building security, but shall not include landscape lighting, string lighting, rope lighting, decorative, and accent lighting.

SKYGLOW

A glow in the night sky deriving from an artificial source (or sources) of light.

SPORTS LIGHTING

Lighting to illuminate outdoor fields and other surfaces used for the practice and/or play of any outdoor sport or athletic activity. This term refers only to lighting intended to facilitate play on outdoor surfaces, or to illuminate spectator viewing stands, but not for illumination of any other part of a connected or adjacent property such as a parking area.

SPOTLIGHT

A type of luminaire designed to project a narrow, intense beam of light on a small area.

STRING LIGHTS

A type of luminaire consisting of small white or differently colored electric lights spaced evenly along a cable and used for decoration, including but not limited to “bistro” lights, “fairy” lights, and “festoon” lights.

VERTICAL ILLUMINANCE

The amount of light falling on a vertical surface or plane. When measuring vertical illuminance, the illuminance meter is held vertically rather than horizontally.

UPLIGHTING

Lighting placed or designed to shine the light above the horizontal plane at the point where the light is emitted.

§ 102-4. General requirements for all outdoor lighting.

All luminaires not specifically exempted in § 102-7 of this chapter shall comply with the following requirements:

- A. Shielding.** All luminaires with a lumen output greater than 600 lumens shall be fully shielded except as follows:
 - a. String lights, provided they comply with § 102-5A of this chapter.
 - b. Temporary holiday lights, provided they comply with § 102-5C of this chapter.
 - c. Luminaires for the lighting of flags, provided they comply with § 102-5D of this chapter.
 - d. Sports lighting on nonresidential properties, provided it complies with § 102-5F of this chapter.
- B. Correlated color temperature.** The correlated color temperature (CCT) of the light emitted by luminaires shall not exceed 2700 Kelvin, except as follows:
 - a. If a 2700 Kelvin (or lower) luminaire is not commercially available for the application in question, a luminaire with a CCT of up to 3000 Kelvin may be used unless otherwise provided by this chapter.

- b. Temporary holiday lighting is exempt from this requirement, provided it complies with the requirements stated in § 102-5C of this chapter.
- c. Sports lighting on nonresidential properties is exempt from this requirement, provided it complies with the requirements stated in § 102-5F of this chapter.

C. Lumen limits.

- a. **Total lumens allowed per site.** On no parcel or property shall the total lumen output of all luminaires exceed twenty thousand (20,000) total lumens per acre for residential properties or forty thousand (40,000) total lumens per acre for nonresidential properties, regardless of shielding.
 - i. Temporary holiday lighting and nonresidential sports lighting may be excluded when determining total lumens.
 - ii. For lighting within or mounted on external canopies at vehicle fueling stations and drive-through bank tellers or automated teller machines, an additional ten (10) lumens per square foot of canopy area shall be allowed.
- b. **Total lumens allowed for unshielded luminaires.** On no parcel or property shall the total lumen output of the luminaires that are not fully shielded (excluding temporary holiday lighting) exceed a value of five thousand (5,000) lumens multiplied by the number of acres, or a total of two thousand (2,000) lumens, whichever is greater. Any luminaire that is either not fully shielded by design or is installed so that light shines above the horizontal plane at the point where the light is emitted shall be counted as an unshielded luminaire for the purpose of this limitation.
- c. **Maximum lumen allowed for a luminaire.** The lumen output of any luminaire on a residential property shall not exceed fifteen hundred (1,500) lumens and the lumen output of any luminaire on a nonresidential property shall not exceed five thousand (5,000) lumens.

D. Hours of illumination.

- a. All lighting, with the exceptions listed below, shall be turned off by 11:00 pm or, in the case of nonresidential properties, within one (1) hour of the end of normal business or operating hours. Lighting may not be turned on earlier than 6:00 am or, in the case of nonresidential properties, earlier than one (1) hour prior to the start of business or operations.

b. The following exceptions shall apply:

- i. Safety and security lighting: On residential properties, safety and security lighting may be used throughout the night. On nonresidential properties, safety and security lighting may be used throughout the night only if it is controlled by motion sensor or other automatic controls so that the light output is automatically turned off or dimmed by at least fifty (50) percent when activity has not been detected for fifteen (15) minutes or more. This requirement does not apply to streetlights, which may be used throughout the night provided they comply with § 102-5G of this chapter.
- ii. Lighting of flags may be used throughout the night, provided it complies with the requirements of § 102-5D of this chapter.
- iii. Sports lighting on nonresidential properties shall be turned off by 10:00 pm or within one hour of the end of active play, whichever is later.

§ 102-5. Requirements for specific applications.

- A. String lights.** String lights shall be limited to products with a lumen level that does not exceed fifty (50) lumens per linear foot and no installation of such lighting shall exceed, in the aggregate, two thousand (2,000) lumens for residential properties and four thousand (4,000) for nonresidential properties.
- B. Landscape lighting.** Uplighting of landscape features shall be limited to luminaires with a lumen output no greater than two hundred and fifty (250) lumens per luminaire that are aimed and oriented so that the light output points directly towards the landscape feature to be lighted.
- C. Holiday lighting.**
 - a. Decorative lighting for holidays shall not be installed more than six (6) weeks prior to the holiday and shall be removed within two weeks (2) following it. Any lighting installed outside of that time frame shall not be considered temporary holiday lighting and shall not qualify for the exemptions for such lighting under this chapter.
 - b. Lighting for holidays shall be limited to low-intensity string lights, whose lumen level does not exceed fifty (50) lumens per linear foot; floodlights and spotlights, whose lumen level shall not exceed twelve hundred (1,200) lumens per luminaire; and projector lights.

- c. Any floodlights, spotlights, or projector lights used for holiday lighting shall be aimed and oriented in such a way as to not directly emit any light into the night sky or onto adjacent properties or public rights-of-way.

D. Illumination of flags. If flags are illuminated at night rather than lowered before sunset (as preferred), the lighting must comply with the following requirements:

- a. Flagpoles with a height greater than twenty (20) feet above ground level shall be illuminated only from above. This may be achieved by using a luminaire attached to the top of the flagpole or a luminaire mounted above the flagpole on a structure within fifteen (15) feet of the flagpole. The total light output from any luminaire mounted on top of or above a flagpole shall not exceed eight hundred (800) lumens.
- b. Flagpoles with a height equal to or less than twenty (20) feet above ground level may be illuminated from below. If ground-level illumination is used, no more than two (2) spotlight luminaires may be used per flagpole, the lumen output shall not exceed six hundred (600) lumens per luminaire, and the luminaire(s) shall be mounted so that the light output points directly towards the flag(s).
- c. Flagpoles shall only be illuminated when a flag is hoisted.

E. Illumination of signs.

- a. Externally illuminated signs shall be lit only from the top of the sign, with fully shielded luminaires designed and installed to prevent light from spilling beyond the physical edges of the sign.
- b. Luminance levels during permitted hours of illumination shall not exceed 100 candelas per square meter (cd/m^2) as measured under conditions of full white display.
- c. The illuminated surface area of an individual sign shall not exceed 200 square feet.

F. Sports lighting (nonresidential). Lighting installed on nonresidential properties for the practice or play of outdoor sports shall:

- a. Comply with the lighting guidelines established by the Illuminating Engineering Society for the applicable class of play (IES RP-6). This shall be established by a certification letter from the International Dark Sky Association issued under its program for community-friendly sports lighting program, verifying that the

design as well as the installation meets the IES criteria.

- b. Only illuminate the surface of play and adjacent viewing stands and shall not be used for any other application, such as lighting a parking area.
- c. Have adjustable illuminance levels so that the illuminance level can be lowered when there is no active play (e.g., for field maintenance).
- d. Be extinguished by 10:00 pm or within one hour of the end of active play, whichever is later.
- e. Be equipped with mechanical or electronic timers to prevent lights from being left on accidentally overnight.
- f. Be designed and installed to limit the impact of the lighting on other properties to the greatest extent possible.

G. Streetlights. The following requirements apply to streetlights, regardless of ownership.

- a. **Backlight, uplight and glare:** The BUG rating of street light luminaires shall not exceed B1-U0-G1.
- b. **Add-on shields:** Add-on shields shall be added to luminaires whenever requested by a resident to eliminate light trespass and commercially available for the type of luminaire in question.
- c. **Adaptive controls:** New or replacement streetlight luminaires shall be provided with controls that, at a minimum, are capable of automatically reducing the output of the luminaire at a programmed time by at least fifty (50) percent.
- d. **Community input.** If a municipal or utility company lighting project is proposed that involves the retrofit or replacement of streetlights, the Town of Nantucket shall undertake a pilot demonstration with multiple options (including 2200K and 2400K luminaires) and solicit public comment before making a final decision on what to purchase and install.

H. Public lighting. The following requirements shall apply to luminaires that are owned, leased, operated, maintained, or controlled by the Town of Nantucket or another governmental entity or entities completely or partly funded by grants obtained by the Town or its agents, including but not limited to streetlights, luminaires to light municipal facilities, parking lots, parks, and playing fields.

- a. New installations of outdoor lighting shall only be installed upon a determination by the Town Manager that a public safety hazard exists in the area to be lit, and

that the hazard can only be effectively mitigated through the use of outdoor lighting and not through some other passive means, such as reflectorized roadway paint or markers.

- b. If a municipal lighting project is proposed that involves the addition of more than ten (10) elevated luminaires with two thousand (2,000) or more lumens per luminaire, the Town of Nantucket or its designee must seek public comment prior to the purchase and installation to help mitigate unforeseen negative impacts.

§ 102-6. Prohibitions.

A. Public safety hazard or nuisance. No outdoor lighting may create a public safety hazard or public nuisance in the form of light trespass or glare, regardless of when it was installed. Notwithstanding the other provisions of this chapter, the modification, removal, or limited operation of luminaires may be required if a public safety hazard or public nuisance is found based on the following criteria.

- a. **Light Trespass.** Failure to comply with the illuminance level requirements stated below will be deemed a public nuisance unless in the judgment of the official charged with enforcing this chapter there are extenuating circumstances related to safety and security that justify an exception.
 - i. The maximum vertical illuminance level at a property line that is adjacent to a residential property, or an environmentally sensitive area, shall not exceed 0.05 foot-candle.
 - ii. The maximum vertical illuminance level at a property line that is adjacent to any other property shall not exceed 0.1 foot-candle.
 - iii. The measurement for compliance shall be made using a light meter designed to measure illuminance levels, and vertical illuminance shall be measured at the property line five (5) feet above grade with the meter aimed towards the subject property and perpendicular to the property line.
- b. **Glare.** The glare from exterior lighting will be deemed a public safety hazard or public nuisance when, in the judgment of the officer charged with enforcing this chapter, it could interfere with the safe movement of motor vehicles on publicly traveled ways or when it interferes with the usual and reasonable use and enjoyment of property. This determination will be made through a site visit and visual inspection.

B. Other prohibitions. The use of the following types of outdoor lighting is prohibited unless specifically exempted in § 102-7 of this chapter.

- a. Highlighting or illumination of building facades and walls by use of uplighting.
- b. Searchlights, sky beams, and similar lighting except as required by public safety personnel during emergency conditions.
- c. Any light, other than temporary holiday lighting, that dynamically varies its output by intermittently fading, flashing, blinking, or rotating.
- d. Lighting on publicly owned property subject to a conservation restriction under Massachusetts law.

§ 102-7. Exemptions.

The following types of lighting shall be exempt from the requirements and prohibitions of this chapter:

- a. Lighting required by law to be installed on motor vehicles.
- b. Emergency lighting, for as long as emergency conditions identified by public safety personnel continue to exist. This includes the activities of law enforcement, fire, and other emergency services.
- c. Temporary lighting required to save life, limb, or property from imminent peril, provided that the use of this lighting continues only during the hours of the peril.
- d. Lighting employed during repairs of roads, utilities, and similar infrastructure, provided that such lighting is deployed, positioned, and aimed such that the resulting glare is not directed beyond the work area.
- e. Any form of lighting whose use is mandated by any legal jurisdiction with broader authority than that of the Town of Nantucket, provided that the lighting does not exceed the minimum requirements of that legal mandate.
- f. Lighthouse beacons owned by the United States Coast Guard.
- g. Temporary lighting for events sponsored by the Town of Nantucket.
- h. Temporary lighting approved by the Select Board in conjunction with a special event permit, such as for concerts, fairs, and festivals, provided that the impact of the

lighting is required to be mitigated to the greatest extent possible.

- i. Lighting produced by the combustion of fossil fuels (such as natural gas and propane) so long as the light source is completely enclosed in a suitable housing such as a lantern, firepit or fireplace.
- j. Underwater lighting of swimming pools or other water features.

§ 102-8. Administrative Waiver.

The official charged with enforcing this chapter shall have the authority to grant a partial or complete waiver of the requirements of this chapter pursuant to the following procedures:

- A. Any applicant seeking a waiver from all or some of the requirements of this chapter shall file an application describing in detail with supporting information and documentation the nature, duration, location, specifications, and other particulars of the waiver being sought.
- B. The application for a waiver must demonstrate that bringing the luminaire(s) for which the waiver is sought into full compliance with this chapter would either (i) constitute a demonstrably unreasonable hardship on the applicant, as balanced against the potential impacts of noncompliance, or (ii) result in conditions that are materially detrimental to health, safety, or welfare. The applicant may also provide for consideration an alternative plan(s) that demonstrate(s) their ability to substantially mitigate the negative effects of non-compliance.
- C. Written notice of any application for a waiver shall be given to direct abutters to the property of the applicant and to the general public through a legal notice published in the local newspaper, including specific information on the nature, duration, location, and specifications and other particulars of the waiver being sought, at least fourteen (14) days in advance of any decision on the waiver application. Any notice recipient who claims that he/she/they or occupants of his/her/their property would be adversely affected by a grant of the waiver may file a statement and materials containing information to support his/her/their claim.
- D. In determining whether to grant or deny the waiver and what, if any, conditions and limitations (including a time limit) to impose, the reviewing official shall determine whether the applicant has met the conditions for a waiver stated above.
- E. Waivers shall be granted in writing to the applicant and shall contain all conditions and limitations, including any time limit on the activity. Noncompliance with any provision or condition of the waiver may result in its termination.

- F. The reviewing official shall place on public file a copy of the application for the waiver, all accompanying submissions, and the decision, including all conditions and limitations, and the reasons for granting or denying the waiver, as well as any other documentation associated with the process.
- G. Any waiver may be reviewed, adjusted, terminated, or repealed by the official charged with enforcing this chapter at any time after two years, unless a longer time is specified in the waiver, or in the event of noncompliance with any provision or condition of the waiver.
- H. Any decision made under this provision may be appealed under § 102-9G of this chapter.

§ 102-9 Enforcement, violations, and penalties.

A. Enforcement.

- a. The enforcement of this chapter shall be overseen by a Lighting Enforcement Officer appointed by the Town Manager.
- b. The Lighting Enforcement Officer is authorized and empowered to institute and maintain, in the name of the Town of Nantucket, any and all enforcement proceedings seeking injunctive relief and any other appropriate remedy, including fines and penalties.
- c. The Town may enforce this bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.
- d. The Lighting Enforcement Officer may, with the permission of the owner or pursuant to an administrative search warrant, go onto private property for the purpose of determining whether there has been a violation of this chapter.

B. Violations.

- a. It shall be unlawful to install or operate any outdoor lighting luminaire in violation of any provision of this chapter, unless specifically exempted.
- b. Whoever violates any provision of this bylaw may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D, and Article II of Chapter 1 of the Code of the Town of Nantucket.

- c. Each and every day during which a violation continues shall be deemed to constitute a separate offense.

C. Civil penalty.

- a. Violation of this chapter shall be subject to a penalty of \$100 for the first violation, \$200 for the second violation, and \$300 for the third violation and any subsequent violation.
- b. If a luminaire violates more than one provision of this chapter, that will be treated as one violation for the purposes of assessing penalties. However, if multiple luminaires violate one or more provisions of this chapter, a penalty may be imposed for each nonconforming luminaire.
- c. Before the imposition of a civil penalty, the property owner shall be notified of the violation(s) and given time to cure the violation(s) or demonstrate that there is no violation.

D. Request for enforcement.

- a. If the Lighting Enforcement Officer is requested, in writing, to enforce this chapter against any person or entity suspected of violating one or more of its provisions, the Lighting Enforcement Officer shall notify, in writing, the requesting party of any action or refusal to act, and the reasons therefor, within thirty (30) days of receipt of such request.
- b. If no decision has been issued within thirty-five (35) days from the date the complaint was submitted, it shall be deemed denied as of the date ending such period and shall be subject to appeal.

E. Process.

- a. The Lighting Enforcement Officer shall investigate all reports of suspected violations, making a site visit at night as necessary to determine compliance.
- b. If, after investigation, the Lighting Enforcement Officer finds that a provision of this chapter is being violated, notice shall be given, as follows:
 - i. If abatement of the violation would require modification, replacement, or removal of a luminaire, the notice shall be in writing and by hand-delivery or by certified mail, return receipt requested, to the property owner and/or to the occupant of the premises, demanding that violation be abated within thirty (30) days of the date of hand-delivery or of the date of mailing of the notice. The Lighting Enforcement Officer may require

abatement in fewer than thirty (30) days, depending on the nature of the violation, but shall not allow more than thirty (30) days.

- ii. If the abatement of the violation simply involves turning off or redirecting a luminaire, notice may be given verbally to the occupant(s) of the premises with an order to cease or abate the violation immediately.
- c. If the violation is not abated within the time allowed, the Lighting Enforcement Officer may institute actions and proceedings, either legal or equitable, to enjoin, restrain, or abate any violations of this chapter and to collect the penalties for such violations.
- d. If the Lighting Enforcement Officer concludes there is a violation, based on a site visit and/or photographic evidence, the owner shall have the burden of demonstrating that the luminaire complies with the standards established by this chapter.
 - i. The manufacturer's specification sheet may be used to establish the lumen level of a luminaire, correlated color temperature (CCT), and, if required, to verify the use of a fully shielded fixture.
 - ii. Illumination levels may be verified through the use of manufacturer's photometric data sheet(s) and/or photometric site drawing or through on-site calibrated light meter readings.

F. Permit required. Compliance review of lighting plan prior to installation.

- a. Any construction that involves the installation of exterior lighting and that requires a building and use permit under Chapter 139 (Zoning) or approval by the Historic District Commission shall require a permit issued by the Lighting Enforcement Officer verifying that the lighting plans satisfy the requirements of this chapter.
- b. A reasonable fee to defray the cost of administration incurred in the review and processing of permits under this chapter shall be established by the Town Manager and collected with each permit application.
- c. The lighting plan shall be filed with the Lighting Enforcement Officer at the same time that any other required plans are submitted and shall include:
 - i. A map or drawing showing the acreage of the property and the location on the property where the luminaire(s) will be installed;

- ii. The specifications for each luminaire to be installed, including but not limited to the correlated color temperature (CCT), the lumen output, the BUG rating (if applicable), and the shielding description;
- iii. The quantity and type of all proposed luminaires;
- iv. The proposed schedule of use, including use of timers, dimmers and/or motion sensors;
- v. Any other evidence that the proposed installation will comply with this chapter.

The Lighting Enforcement Officer shall have the authority to request additional information to confirm compliance with the provisions of this chapter.

- d. Within thirty (30) days of submission of the lighting plans or any additional information requested, the Lighting Enforcement Officer shall issue a permit stating the lighting plan conforms to the requirements of this chapter or the reasons for denying the application. If a permit has not been issued within thirty-five (35) days from the date the application for a permit was submitted, the application shall be deemed denied as of the date ending such period and shall be subject to appeal.
- e. After a permit has been issued, no substitutions may be made for approved luminaires without submitting a revised plan for review and requesting an amendment to the permit.

G. Appeals.

- a. Any person aggrieved by a refusal to act, decision, or order of the Lighting Enforcement Officer may appeal to the Town Manager, or the official appointed by the Town Manager to handle such appeals, within thirty (30) days after written notification of the decision of the Lighting Enforcement Officer or the date a request for enforcement or an application for a permit shall have been deemed denied in accordance with the provisions above.
- b. Any appeal filed with the Town Manager or designee, as to which no decision has been issued within thirty-five (35) days from the date of submission, shall be deemed denied as of the date ending such period and shall be subject to appeal to the Select Board.
- c. Any appeal to the Select Board from the order or decision of the Town Manager or designee shall be taken within thirty (30) days from the date of the order or decision or within thirty (30) days from the date on which the appeal shall have

been deemed denied in accordance with provision above.

- d. Any appeal pursuant to the above subsections shall be taken by filing a notice of appeal, specifying the grounds thereof, with the Town Administrator. A copy of said notice, including the date and time of filing with the Town Administrator, shall be filed with the Lighting Enforcement Officer. The Lighting Enforcement Officer shall forthwith transmit to the Town Administrator all documents and papers related to the appeal taken.

H. Civil remedies. Nothing in this chapter shall be construed as limiting the right of any person or entity to pursue legal action against any other person or entity under any applicable law, including the doctrine of nuisance.

§ 102-10. Effective Date.

The effective date of the adoption or amendment of this chapter shall be the date on which such adoption or amendment was voted upon at Town Meeting. If such adoption or amendment is subsequently disapproved, in whole or in part, by the Attorney General, this chapter as it would have read without the disapproved portion of the adoption or amendment so voted, shall be deemed to have continued in effect from the date of such vote.

§ 102-11. Severability.

The provisions of this chapter are hereby declared to be severable and, if any provision or the application of such provision to any property, person or circumstance shall be determined to be invalid, such invalidity shall not be construed to affect the validity of any other provision hereof or the application of any provisions to any other property, person, or circumstances. The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.



Citizen Warrant Article Questionnaire

The Finance Committee (FinCom) encourages article sponsors to provide complete and comprehensive answers to the below questions. Your materials will be distributed to members well in advance of the Public Hearing at which you will have the opportunity to speak on your proposal. The more specific and relevant information provided on the action you seek from the Town Meeting, the more prepared FinCom will be for the actual hearing with you. The questionnaire is not required but is intended to provide a full set of materials for the FinCom to evaluate. Additional sheets may be attached to this form.

Date Form Completed:	Date Rec'd by Town Admin:
Article Title: Bylaw Amendment — Outdoor Lighting	
Sponsor Name: Gail Walker aka Catherine Gail Walker	Email: nantucketlights@gmail.com, gailwalker101@gmail.com

1	<i>At a summary level, what is the proposed purpose and objective of this Warrant Article?</i>
Response	See attached
2	<i>Does the community-at-large gain value through the article? If so, how?</i>
Response	See attached
3	<i>Have you done any research on the topic that can be shared? If yes, please feel free to attach any supplemental information.</i>
Response	See attached

4	<i>What is your understanding of the cost implications (operating and capital), both immediate and long-term to the town? (example: personnel costs, maintenance, equipment, supplies, etc); and, what would be the proposed funding source?</i>
Response	See attached
5	<i>Who do you envision executing the outcome of the article (will it require a new position; how would it fit in with a particular department; who would enforce it; who would be in charge of implementing it)? Have efforts have been made to involve the necessary participants as to the impacts of executing the article?</i>
Response	See attached
6	<i>Is the topic of the article contained within any Town Plan (ie, Master Plan, Transportation Plan, Capital Improvement Plan, Strategic Plan)?</i>
Response	See attached

September 2019

CITIZEN WARRANT ARTICLE QUESTIONNAIRE

Article Title: Bylaw Amendment – Outdoor Lighting

1. At a summary level, what is the proposed purpose and objective of this Warrant Article?

The proposal is to replace the existing outdoor lighting bylaw (Chapter 102 of the Code of Nantucket), adopted at Town Meeting in 2005, with an updated bylaw to make the regulations consistent with current best practices for outdoor lighting and to strengthen enforcement.

The existing bylaw was adopted in 2005 and much has changed since then in terms of technology, lighting trends, and standards. In addition, there has been a lot of noncompliance with its requirements (with little done by the Town to enforce them), indicating a need for a different approach.

The objectives of the new proposed bylaw are to: (1) reduce energy consumption to help defer the need for a costly, third submarine delivery cable to Nantucket; (2) minimize the harm from artificial light at night (which includes skyglow that reduces the ability to see the stars at night, light trespass that adversely affects quality of life, glare that creates a public safety hazard, and harm from the disruption of the natural circadian rhythm of humans, wildlife, and plants) while ensuring sufficient lighting for safety and security; and (3) help preserve the rural and historical character of the island.

Adoption of the proposed regulations would have the added benefit of helping to qualify Nantucket for certification as an International Dark Sky Community by the International Dark Sky Association. This is a program that recognizes communities around the world that have demonstrated an exceptional dedication to the preservation of the night sky through the implementation and enforcement of stringent outdoor lighting regulations, dark sky education, and citizen support of dark skies.

2. Does the community-at-large gain value through the article? If so, how?

Adoption of the proposed new regulations would benefit the community-at-large in many ways. Reducing energy consumption will help defer the need for a costly, third submarine delivery cable to Nantucket. Reducing light trespass (light that shines beyond a property boundary line and often into bedroom windows) will make it possible for people to enjoy their own property more. Being able to see the stars at night is good for our souls, good for tourism, and essential for the astronomical research done by the Maria Mitchell Association. Reducing glare will make us safer. Protecting birds, fireflies, pollinating insects, and other species that are harmed by too much artificial light at night will ensure we continue to have a healthy ecosystem.

3. Have you done any research on the topic that can be shared? If yes, please feel free to attach any supplemental information.

Over the last 4-5 years, I've done quite a lot of research into the harm of light pollution as well as best practices for outdoor lighting to reduce that harm, first as a board member of the Siasconset Civic Association as part of its dark sky initiative, then in collaboration with the Nantucket Civic League, and more recently as the founder and president of Nantucket Lights (<https://nantucketlights.org>), a citizen advocacy group exclusively dedicated to the combating light pollution on Nantucket to preserve its heritage of dark skies.

With respect to research into outdoor lighting regulations specifically, I studied the *2011 Model Lighting Ordinance* developed by the International Dark Sky Association and the Illuminating Engineering Society (https://www.darksky.org/wp-content/uploads/bsk-pdf-manager/16_MLO_FINAL_JUNE2011.PDF), the requirements to become an International Dark Sky Community, and the regulations adopted by communities that have recently earned that designation. In drafting the technical requirements included in the proposed new bylaw, I consulted extensively with the global office of the International Dark Sky Association, its chapter in Massachusetts, and a Cambridge-based lighting designer/engineer. For the enforcement provisions, I consulted Town Counsel John Giorgi, researched other parts of the Nantucket Code, and drew on my experience defending the legality of federal regulations as a former trial attorney with the U.S. Department of Justice.

With respect to harm from light pollution and why doing more to preserve our dark skies is so important, here are some of the most compelling things I've discovered and then a list of some articles and reports that I urge you to read.

- Based on satellite data, it is estimated that more than 80% of the world and more than 99% of the U.S. and European populations live under light polluted skies. The Milky Way is hidden from more than one-third of the world's population, including nearly 80 percent of North Americans and 60 percent of Europeans. [source: <https://www.science.org/doi/10.1126/sciadv.1600377>]
- Nantucket has the distinction of being one of rare remaining places where the Milky Way can still be seen, which is one of the things that makes it such a wonderful place to live and attracts visitors. However, our night sky has brightened at a rate of 2.4% each year since 2012 [source: <https://lighttrends.lightpollutionmap.info/#zoom=9&lon=-70.10930&lat=41.31300>], which means it is over 24% brighter today than it was just ten years ago – putting at risk our special status. In some places on the island, it's already no longer possible to

see the Milky Way or the constellations.

- Light that shines into the sky or is brighter than needed provides no benefit and is thus a waste of energy. It is estimated that only 1% of outdoor lighting serves a useful purpose (globally). [source: https://www.darksky.org/light-is-energy-estimating-the-impact-of-light-pollution-on-climate-change/?fbclid=IwAR0F_0nwFACzdxD6MN8RMEtbpr6UQeBqFFSvcWH_5S9ckUI7Ry2siG582s]
- More than two decades of scientific studies demonstrate that there is a strong link between excessive artificial light at night and serious risks to human health including elevated rates of some cancers, sleep disruption, diabetes, obesity, and depression. [source: <https://www.iau.org/static/publications/dqskies-book-29-12-20.pdf>, pp. 92-102.]
- Scientific studies have also shown that that virtually all species of wildlife, including birds, mammals, insects, amphibians, fish, and coral, are also negatively affected by excessive artificial light at night. [source: https://www.researchgate.net/publication/310454902_Ecological_and_Organismic_Effects_of_Light_Pollution]
- Artificial light at night also been shown to harm plants. [source: <https://cescos.fau.edu/observatory/lightpol-Plants.html>]
- Glare from artificial light at night creates a hazard to drivers, bicyclists, pedestrians, and other road users by temporarily impairing their vision. [source: https://safety.fhwa.dot.gov/roadway_dept/night_visib/lighting_handbook/]
- Blair Perkins, owner of Shearwater Excursions, reports that glare has become a problem for Nantucket boaters: *"When navigating at night, many lights create glare that makes it very difficult [for Nantucket boaters] to see. Much like someone leaving their high beams on as you pass."* [5/4/22 email from Blair Perkins]. Also see <https://drive.google.com/file/d/1dfmG4MYOd6alufBBfN85EQ5bUI5D62U4/view>.
- Complaints made to Nantucket Lights and on social media indicate that light trespass – light that shines where it's not wanted, often into people's homes – is a growing problem on Nantucket.
- There is no clear scientific evidence that increased outdoor lighting deters crime. It may make us feel safer, but it has not been shown to actually make us safer. In some studies, a correlation has been found between brightly lit areas and increased crime [see, e.g., <https://www.darksky.org/wp-content/uploads/2014/09/Chicago-Alley-Lighting-Project.pdf>] and some crimes

like vandalism and graffiti actually thrive on night lighting because the offenders need to see what they are doing.

RECOMMENDED READING

Scientific Studies

Artificial Light at Night: State of the Science 2022 (report by the International Dark Sky Association, <https://www.darksky.org/wp-content/uploads/2022/06/SOTS-post-final-version-220527.pdf>).

Select scientific studies, list compiled by the Massachusetts Chapter of the International Dark Sky Association: https://drive.google.com/file/d/1M3-1loqXS1pTYek9dRZTtPIDm8K6IVG-/view?usp=share_link

Media Articles

The Sky Needs Its 'Silent Spring' Moment (Scientific American, Oct. 2022)
<https://www.scientificamerican.com/article/the-sky-needs-its-silent-spring-moment/>

Lights Out, America! (Songbirds Are Counting on Us.) (New York Times, Oct. 2022)
<https://www.nytimes.com/2022/10/03/opinion/lights-out-america-songbirds-are-counting-on-us.html>

What you can do to reduce light pollution (Los Angeles Times, Sept. 2022)
<https://www.latimes.com/science/story/2022-09-20/what-you-can-do-to-reduce-light-pollution>

Bright LEDs could spell the end of dark skies (MIT Technology Review, Aug. 2022)
<https://www.technologyreview.com/2022/08/17/1057652/outdoor-led-lighting/>

When Fireflies Await a Night That Never Comes (New York Times, Aug. 2022)
<https://www.nytimes.com/2022/08/11/science/firefly-light-mating.html>

Stop Ruining Starry Nights (New York Times, July 2022)
<https://www.nytimes.com/2022/07/15/realestate/light-pollution-effects.html>

The race to reclaim the dark (BBC, June 2022)

<https://www.bbc.com/future/article/20220614-the-crusade-for-darker-night-skies>

How Animals Perceive the World (The Atlantic Magazine, June 2022)

<https://www.theatlantic.com/magazine/archive/2022/07/light-noise-pollution-animal-sensory-impact/638446>

Sleeping with the light on may be harmful to you (Washington Post, Mar. 2022)

<https://www.washingtonpost.com/health/2022/03/20/sleep-lights-health/>

The Devastating Role of Light Pollution in the 'Insect Apocalypse' (Smithsonian Magazine, Nov. 2019)

<https://www.smithsonianmag.com/smart-news/light-pollution-contributes-insect-apocalypse-180973642/>

Fireflies don't respond well to light pollution. They're not alone (NBC News, Apr. 2021)

<https://www.nbcnews.com/science/environment/fireflies-dont-respond-well-light-pollution-not-alone-rcna569>

Our nights are getting brighter, and Earth is paying the price (National Geographic, Apr. 2019)

<https://www.nationalgeographic.com/science/article/nights-are-getting-brighter-earth-paying-the-price-light-pollution-dark-skies>

4. **What is your understanding of the cost implications (operating and capital), both immediate and long-term to the town? (example: personnel costs, maintenance, equipment, supplies, etc); and, what would be the proposed funding source?**

Projected Costs to the Town

- 1) If the proposed new regulations are adopted, the Lighting Enforcement Officer position, currently a part-time position, would most likely need to be converted into a full-time position given the additional responsibilities that the new regulations would create. In particular, the new regulations would require the LEO to review lighting plans for new construction and substantial renovations pursuant to the proposed new permit requirement. The salary for an SA level position, which I'm told would be appropriate for this position, is approximately \$80,000/year [source: Leslie Snell, Deputy Director of Planning], about the same as the new Parking Coordinator position that was recently advertised (starting

salary \$86,922, directive no. 842) [source: <https://mantucket.civicplus.com/DocumentCenter/View/42839/Parking-Coordinator-Job-Description-03-01-2020?bidId=>]

- 2) The town would also need to upgrade some of the outdoor lighting at town-owned facilities to bring it into compliance but in many cases, according to an outdoor lighting designer I consulted, this would only require installing some add-on shields, replacing some light bulbs, and re-orienting fixtures, which would be minimal costs. To the extent motion sensors would need to be added to comply with the dimming requirement, the cost would depend on whether the fixtures are compatible with add-on sensors. I will try to obtain that information by the time FinCom calls this article for discussion.
- 3) No additional equipment would be needed because the town already has the type of light meter that would be required [source: Leslie Snell, Deputy Director of Planning].

Funding Sources

- 1) **Permit Application Fees.** The proposed regulations provide for a permit application fee to be established by the Town Manager to defray the cost of administration incurred in the review and processing of permits.
 - 2) **Fines.** Fines collected for violating the regulations would also help cover the salary of a full-time LEO. The proposed regulations provide for a fine of \$100 for the first violation, \$200 for the second violation, and \$300 for the third violation and any subsequent violations.
 - 3) **Cost Savings.** In the long run, the savings to the town in lower energy bills would cover the cost of bringing Town-owned lighting into compliance.
5. **Who do you envision executing the outcome of the article (will it require a new position; how would it fit in with a particular department; who would enforce it; who would be in charge of implementing it)? Have efforts have been made to involve the necessary participants as to the impacts of executing the article?**

Enforcement of the proposed new regulations would be by the Lighting Enforcement Officer, an existing position that was created after the current outdoor lighting regulations were adopted in 2005. The person currently serving as LEO (who also serves as the Zoning Compliance Coordinator) is supervised by the Deputy Director of Planning. Thus, implementation and enforcement would fall within the responsibilities of Planning and Land Use Services (PLUS).

The fact that the LEO position would need to become a full-time position to handle the

increased responsibilities being proposed, and that a new permit process would need to be established, has been discussed with the Deputy Director of Planning and she has not expressed any objections.

6. Is the topic of the article contained within any Town Plan (ie, Master Plan, Transportation Plan, Capital Improvement Plan, Strategic Plan)?

Reducing energy consumption and the harm from excessive artificial light at night falls under several items in the Strategic Plan:

- **Environmental Leadership** (caring for our natural environment)
- **Efficient Town Operations** (fiscal responsibility, prudent energy consumption, and improving municipal infrastructure and assets)
- **Quality of Life** (preserving the health and well-being of residents and visitors, the economic vitality of the island, and its rural identify and historic character)

In short, adoption of the proposed regulations would be totally consistent with – and essential to – fulfilling the Strategic Plan.

Citizen Warrant Article

Primary Sponsor

Name: Hillary Hedges Rayport

Address: 89 Main Street, Nantucket, MA 02554

Email: hrayport@mac.com

Phone #: 617-697-6429

Warrant Article Title: An Act to Amend and Improve
the Nantucket Planning & Economic Development Commission

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

1

; or otherwise act thereon.

Home Rule Petition: An Act to Amend and Improve the Nantucket Planning & Economic Development Commission.

To see if the Town will vote to request its representatives in the General Court to introduce special legislation 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: language to be removed is shown in strikethrough, new language is shown as highlighted text, explanatory language is shown in bold and italic type; these methods to explain and denote changes are not meant to become part of the final text.)*

The name shall be simplified and the mission of planning for the overall long-term health of the Nantucket Island region shall be strengthened by inserting the highlighted text and removing the stricken text in the first sentence of Section 1 as shown below:

In order to plan for the orderly and coordinated development and protection of the physical, environmental, cultural, social and economic resources of the Islands of Nantucket County, including the long range preservation of ground and surface water, coastal resources, ocean quality, open space and other natural resources; 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, there is hereby established the Nantucket Planning and Economic Development Commission, hereinafter called the "Commission" or the "Planning Commission".

The composition of the Planning Commission shall be changed to emphasize long-range planning, to permit Nantucket voters to elect at-large members, to include members representing open space and cultural resource planning, and to introduce term limits, as follows:

Remove this text in Section 1:

The Commission shall consist of the Planning Board of the Town of Nantucket, one (1) representative of the Nantucket Housing Authority to be appointed annually by said Authority ; 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; 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.

And insert in its place:

The Commission shall consist of five (5) persons to be elected for rotating 5 year terms at the annual town election, hereinafter called "the elected members"; one (1) representative of the Planning Board of the Town of Nantucket, to be appointed annually by said Board; one (1) representative of the Nantucket Housing Authority to be appointed annually by said Authority; 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) representative of the Nantucket Historical Commission to be appointed annually by said Historical Commission; one (1) representative of the Nantucket Land Bank, to be appointed annually by said Land Bank.

All Commission members shall be subject to Term Limits. In no case shall any elected or appointed member serve on the Planning Commission for more than ten (10) years in total (being two five-year terms or ten one-year terms or any part thereof), as measured as of the effective date of this Act. This provision shall not prevent members from serving on other elected or appointed public bodies at any time.

In order to instruct the Town Clerk and the public regarding how the revised Planning Commission will be initially and thereafter formed, insert the following text at the end of Section 1:

At the first annual election held after the effective date of this Act, a minimum of two new elected members shall be elected, and appointed at-large members with terms expiring in the current year will be replaced by elected members, so that the total number of elected plus appointed at-large members will be five. As any additional appointed at-large member terms expire, they will be replaced by elected members. The initial term for elected members shall be staggered [the first elected member for a one year term, a second for a two year term, etc]. Thereafter, all elected members shall be elected to rotating five-year terms, with one elected member's term expiring in each year.

After the first annual election held after the effective date of this Act, terms of members previously appointed by their respective Boards and Commissions shall end and the following appointments shall be made: one (1) representative of the Planning Board, one (1) representative of the Housing Authority, one (1) County Commissioner, one (1) representative of the Historical Commission, one (1) representative of the Conservation Commission, and one (1) representative of the Nantucket Land Bank, each to serve for a term of one year.

In all cases the members shall serve until their successors are elected and qualified.

The Planning Commission shall update the existing bylaws of the NP&EDC to be consistent with this Act.

Any vacancy in the elected membership shall be filled by a majority vote of the Nantucket Planning Commission, said vacancy to be filled until the next regular election, after which the newly elected member will serve the remainder of the vacated term.

The following reporting requirement shall be inserted after Section 2:

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

DATE and TIME this paper
received by Registrars

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 ~~Monday, May 1, 2023~~ **May 6, 2023**

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 d 0 1	P r e c e d e n t 0 1
1	<i>Hillary R. Rayport</i>	89 Main St.	0	1
2	<i>Valerie A. Oliver</i>	38 NEWTOWN RD	0	1
3	<i>Charity I. Benz</i>	5 MILESTON CROSSING	0	1
4	<i>Sarah H. Ellis</i>	7 SILVER ST	0	1
5	<i>Caroline H. Ellis</i>	8 Quaise Farm Rd	0	1
6	<i>DAVE PUMPHREY</i>	4 Westminister	0	1
7	<i>Kathryn Sheehan</i>	6 Pond Rd	0	1
8	<i>Barbara Holsted</i>	14 Lyman St	0	1
9	<i>Rick A. Herten</i>	48 Squam Road	0	1
10	<i>Malcolm MacNab</i>	13 N. WATER ST.	0	1
11	<i>Thomas M. Montgomery</i>	33 N. Liberty St.	0	1
12	<i>Jan Jensen</i>	1 Piquet Rd	0	1
13	<i>Abigail Camp</i>	27 WILLY ST	0	1
14	<i>David D. Worth</i>	19 LONG POND DR	0	1
15	<i>William Willauer</i>	101 Surfside Rd	0	1

Instructions to Registrars

You must time-stamp or write in date and time these papers are received.

Check thus ✓ 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 () _____
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)

Registrars of Voters of the Town of Nantucket

ANNUAL TOWN MEETING - CITIZEN'S ARTICLE

DATE and TIME this paper
received by Registrars

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 ~~Monday May 6, 2023~~ May 6, 2023

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 d 0 1	P r e c t 0 1
1		4A SILVER ST	0	1
2		39 LOW BEACH RD	0	1
3		4 Darling St.	0	1
4		4 Darling St.	0	1
5		39 LOW BEACH	0	1
6		19 South Valley	0	1
7		54 Cliff Road	0	1
8		63 MAIN ST.	0	1
9		11 VESTAL ST	0	1
10		117 Hillbrook	0	1
11		11 VESTAL ST.	0	1
12		33 N. Liberty St	0	1
13		37 Liberty	0	1
14		8 Sherburne Commons	0	1
15		48 Fair St.	0	1

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S unable to identify signature or address as that of
W wrong district or community.
T already signed this petition.

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

Registrars of Voters of the Town of Nantucket

ANNUAL TOWN MEETING - CITIZEN'S ARTICLE

DATE and TIME this paper
received by Registrars

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 ~~October 2023~~ May 6 2023

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 d	P r e c t 0 1	PRINTED NAME
1	<i>William R. Klein</i>	48 FAIR ST	0	1	William R. Klein
2	<i>Mary G West</i>	35 Lily St	0	1	Mary G West
3	<i>John C West</i>	35 Lily St	0	1	John C West
4	<i>Allison Mitchell</i>	46 Appleton Rd.	0	1	Allison Mitchell
5	<i>Gillian Lewis</i>	17 York St	0	1	GILLIAN LEWIS
6	<i>Julia Lindner</i>	1 Massasoit Bridge	0	1	JULIA LINDNER
7	<i>Anne Dewez</i>	5 Mill Street	0	1	ANNE DEWEZ
8	<i>Chuck Davis</i>	15 MILL STREET	0	1	CHUCK DAVIS
9	<i>Campbell Sutton</i>	15 Appleton Rd	0	1	Campbell Sutton
10			0	1	
11			0	1	
12			0	1	
13			0	1	
14			0	1	
15			0	1	

Instructions to Registrars

You must time-stamp or write in date and time these papers are received.

Check thus ✓ 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 () _____
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)

Registrars of Voters of the Town of Nantucket



Citizen Warrant Article Questionnaire

The Finance Committee (FinCom) encourages article sponsors to provide complete and comprehensive answers to the below questions. Your materials will be distributed to members well in advance of the Public Hearing at which you will have the opportunity to speak on your proposal. The more specific and relevant information provided on the action you seek from the Town Meeting, the more prepared FinCom will be for the actual hearing with you. The questionnaire is not required but is intended to provide a full set of materials for the FinCom to evaluate. Additional sheets may be attached to this form.

Date Form Completed: 11/14/2022	Date Rec'd by Town Admin:
Article Title: An Act to Amend and Improve the Nantucket Planning & Economic Development Commission	
Sponsor Name: Hillary Hedges Rayport	Email: hrayport@mac.com

1	At a summary level, what is the proposed purpose and objective of this Warrant Article?
Response	The objective of the article is to encourage more effective long range planning for the Nantucket Island region by invigorating and improving the Nantucket Planning & Economic Development Commission (aka The Planning Commission).
2	Does the community-at-large gain value through the article? If so, how?
Response	The community will be well served by the proposed changes. Voters will have the opportunity to directly elect 5 people to the Planning Commission. The amendment inserts conservation and preservation minded language into the mission of the Planning Commission, includes preservation and open space planning, and requires an annual report. It introduces a 10 year term limit. The name, Nantucket Planning Commission, will be easier for everyone on Nantucket and in the Commonwealth to remember, understand and say. Why does this matter? If we don't plan for the long term future of the island we will continue to be pushed wherever market forces take us. Short term interests will win out over the long term. The role of government is to offer incentives and make investments that push the market in beneficial directions for the health of the island. We have to free ourselves from being always at the mercy of short term thinking. This petition proposes a Commission comprised of 5 elected citizens, with 6 other

	island boards having the right to appoint one member each. Today, the NP&EDC has 11 members and not one is directly elected to the Commission. Eight members are appointed from four other boards, and three at-large members are appointed by the NP&EDC itself and serve at the pleasure of the NP&EDC, which can lead to group-think. The proposed structure will allow citizens interested in long range planning to stand for election directly to this commission. The four island boards that have a right of appointment to the NP&EDC today are the Planning Board, Board of County Commissioners, Conservation Commission, and Housing Authority. This amendment adds the Land Bank and the Historical Commission, for a total of six boards. Today, the Planning Board must appoint all five of its members to the NP&EDC, and the four other boards may appoint one person each. This petition proposes six boards appoint one person each to the Planning Commission. The Planning Board has always been the core of the NP&EDC, but Nantucket is very different now than it was in the 1980s and 1990s. 95% of Planning Board business is about short-term issues of subdivision control and special permits. It can be contentious. This works against long term planning. The new structure creates a more stable and productive environment for the long term planning the island desperately needs. If this amendment is adopted, the Planning Board can continue with subdivision control and zoning and special permits. They can advise on long range planning through their representative. And if more than one Planning Board member wants to serve on the Planning Commission, they can stand for election. It's important for people to remember that Nantucket's Planning Commission is advisory and, like a non-profit board, its main role is to set the strategic direction and make important decisions about organizational leadership (set objectives for, evaluate, and retain the CEO). <i>Voters should be able to stand for election for this important Commission.</i> It's very special that Nantucket has its own Regional Planning Agency and I hope our civic leaders and Town Meeting will agree that these reforms set it free to maximize its potential and achieve long term planning goals.
3	Have you done any research on the topic that can be shared? If yes, please feel free to attach any supplemental information.
Response	The NP&EDC is one of Massachusetts's 13 Regional Planning Agencies (RPA) and also serves as a Metropolitan Planning Organization (MPO) for regional transportation and transit planning. The enabling legislation for Regional Planning Agencies is MGL Chapter 40B, "The regional planning law". The NP&EDC is responsible for planning for the development of the Nantucket Islands Region. It is the only RPA with only one municipality (though the Nantucket Region has multiple villages and three islands). Other RPAs include from 7 to over 30 cities and towns. RPAs have different approaches to selecting Commissioners. Most Commissions are large (20+ members) and are comprised of members appointed by and from

Planning Boards and/or Select Boards of the towns in the region (each town appoints one delegate). The Martha's Vineyard Commission includes 9 members elected in an island-wide election, in addition to one member appointed by each Select Board and five members appointed by the Governor. Some RPAs have up to six minority appointees. The Cape Cod Commission has a Tribal appointee. The Metropolitan Area Planning Council, which includes the Boston metro area, has over 130 Councilors.

RPAs provide technical assistance, planning support, regional transportation planning and other services to the cities and towns in their region. They are empowered to apply for Transportation Improvement Program (TIP) funds and other State and Federal grants, including grants under the \$1 trillion bi-partisan infrastructure bill signed into law in 2021.

Other RPAs include the Cape Cod Commission (15 municipalities/19 Commissioners), Martha's Vineyard Commission (7 municipalities/22 Commissioners), Merrimack Valley Regional Planning Commission (15 municipalities /16 Commissioners), Berkshire Regional Planning Commission (32 municipalities /~64 Commissioners and Alternate Commissioners), etc. (see links below to their websites).

Most RPAs secure funding necessary to complete their work through State and Federal grants, and coordinate between sources and targets of grants. A small share is contributed from the municipalities in the district.

The NP&EDC has been amended to change its composition several times in the past, most recently in 2017, to remove the DPW. It took only 15 months for this administrative amendment to be approved by the state legislature. The proposed Home Rule petition, if approved by Town Meeting, is expected to also be approved through informal session.

Nantucket has a history of preferring elected boards and commissions, especially when creating an independent Commission through a Special Act. The HDC, the Harbor and Shellfish Advisory Board and the Land Bank are all elected bodies. The Community Preservation Committee also includes elected members.

Useful Links:

<https://massmarpa.org/>

<https://www.capecodcommission.org/>

<https://mvpc.org/>

<https://mvpc.org/wp-content/uploads/Annual-Report-2021-FINAL-MASTER-NL-020922-1.pdf>

https://mvpc.org/wp-content/uploads/MVPC_AUDIT_0621_FINAL-031422.pdf

<https://www.mass.gov/service-details/state-transportation-improvement-program-stip>

<https://www.mass.gov/service-details/engaging-local-and-regional-officials>

<https://www.transportation.gov/bipartisan-infrastructure-law>

4	What is your understanding of the cost implications (operating and capital), both immediate and long-term to the town? (example: personnel costs, maintenance, equipment, supplies, etc); and, what would be the proposed funding source?
Response	There will be no cost and there should be financial gain. A well functioning Planning Commission will bring more federal and state funding to Nantucket. For example, Nantucket is not currently eligible for some grants from the Division of Conservation Services because our Open Space Plan expired in 2017. We have not claimed TIP funding of ~\$550,000 annually for several years now. A grant awarded for sidewalk reconstruction along Sparks Ave was retracted.
5	Who do you envision executing the outcome of the article (will it require a new position; how would it fit in with a particular department; who would enforce it; who would be in charge of implementing it)? Have efforts been made to involve the necessary participants as to the impacts of executing the article?
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The Inquirer and Mirror



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A public statement by the NPEDC to the people of Nantucket

Nantucket Island has been around for some fifteen to twenty thousand years. For a good part of that time, perhaps half or more, native Americans roamed its surface, living in relative harmony with the natural setting without altering the place very much. Before we new folks began arriving in the seventeenth century, there was no need for zoning or growth management. (Perhaps if the Indians had had a growth cap, some of us would be here.)

But lucky for the original settlers and for those of us who followed them from year to year, there was no Indian word for "building cap".

We, the new custodians of this seemingly inconsequential spit of land, have occupied it for only about one percent of its existence. And yet the changes to the natural environment over the past 200 years, precipitated by our desire to graze sheep, build houses and ships, and generally carry on an Anglo-European existence here have been substantial. Nantucket was never to be the same again. Before we knew it, the land was stripped for pasturage and farm fields which set the stage for heath and moor succession which, although a somewhat unnatural landform to the Island, we treasure today. By the mid-nineteenth century ten thousand people were living here in houses which, today, are the backbone of an admired historic heritage.

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[July 8, 1982 Inquirer & Mirror]

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Planning

Commission —

(Continued from Page One)
people who frequent or live here (Grimmian also pointed out that it is the aim of the Commission to make its plan one of the people's, and by utilizing the expertise of those who live and visit here, the Commission would benefit doubly - from technical assistance as well as an increased degree of community involvement.)

Roger Ernst, who was in the audience, spoke from his background of nearly 20 years with the State Department as a Deputy Director of U.S. Economic Assistance to

island districts, people are beginning to take the time to take these properties in order to buy out the interests of the various parties involved. Once this is accomplished, development is likely to ensue.

Islanders are facing the threat of seeing land that has always been available to them for recreation closed off due to private development. This land includes the beaches - most of which are private.

A land acquisition fund, aimed at securing different types of land for the community ranging from water-front acreage to land suitable for affordable housing

estate transfer tax could be the answer.

In states such as Pennsylvania, that type of tax is used, Klein informed the Commission. He commented that with the members involved in land dealings locally, a one percent tax attached to last year's transactions would have netted the town over \$125,000 in revenue. And Klein warned, that realistically, the Town would have to look more and more towards funding its own projects in the future as state and federal funds become scarce.

"There's such a strong economic impetus here, and it's another element" the

Unfortunately each of us seeks to shape the community's future in our own image which, considering the diversity of the background of the Island's resident population, hardly makes a firm foundation for consensus. It is generally known that no two people on Nantucket can agree on how to make a sandwich, let alone guide the future destiny of the community.

Although most Nantucket folks often find it difficult to see eye to eye about things there seems to be developing general agreement on two points:

(a) It is becoming more and more difficult for anyone but the well-off to live on the Island.

The high cost of housing, energy, and Island living in general, in conjunction with the limited availability of suitable year-round jobs, is threatening the community's ability to retain its healthy mix of ages, values and incomes. The Island may be headed toward becoming a sterile retirement community with no room for ordinary working people.

(b) Rapid, poorly located residential and commercial growth is beginning to threaten the very scenic, historic and natural environment that is considered to be the principal foundation of the community's important tourist industry. It is also closing off the public's access to the Island's ponds, harbors and ocean. Access to the moors and other historically accessible open spaces is becoming more and more limited. The long-term cumulative effects of new growth on the quality of Nantucket's future water supply is also uncertain.

Whether the people of Nantucket can favorably influence the future of the Island depends upon the degree to which the community can come to agree on what should be done. This has not been easy in the past. All too often suspicion of motives, typecasting and jealousies have gotten in the way of objectivity and consensus on what to do about things. People have reacted to ideas on the basis of "who said it" rather than "what was said". The old politics of the 60's and 70's made it near to impossible for the community to agree on almost anything.

Several things are clear, however...

(A) We are all here together, whether we like it or not, and have inherited the stewardship of this spit of land, for better or for worse.

(B) We are all, in some way, the causes of the problem, whether we be shop owners, real estate agents, contractors, school teachers, planners, retirees... whatever. "We have met the enemy and he is us."

(C) Unless Nantucket, as a community, puts aside the politics of the last two decades, and begins to reach a consensus about the direction in which the community should be



Citizen Warrant Article Questionnaire

The Finance Committee (FinCom) encourages article sponsors to provide complete and comprehensive answers to the below questions. Your materials will be distributed to members well in advance of the Public Hearing at which you will have the opportunity to speak on your proposal. The more specific and relevant information provided on the action you seek from the Town Meeting, the more prepared FinCom will be for the actual hearing with you. The questionnaire is not required but is intended to provide a full set of materials for the FinCom to evaluate. Additional sheets may be attached to this form.

Date Form Completed: 11/14/2022	Date Rec'd by Town Admin:
Article Title: An Act to Amend and Improve the Nantucket Planning & Economic Development Commission	
Sponsor Name: Hillary Hedges Rayport	Email: hrayport@mac.com

1	At a summary level, what is the proposed purpose and objective of this Warrant Article?
Response	The objective of the article is to encourage more effective long range planning for the Nantucket Island region by invigorating and improving the Nantucket Planning & Economic Development Commission (aka The Planning Commission).
2	Does the community-at-large gain value through the article? If so, how?
Response	The community will be well served by the proposed changes. Voters will have the opportunity to directly elect 5 people to the Planning Commission. The amendment inserts conservation and preservation minded language into the mission of the Planning Commission, includes preservation and open space planning, and requires an annual report. It introduces a 10 year term limit. The name, Nantucket Planning Commission, will be easier for everyone on Nantucket and in the Commonwealth to remember, understand and say. Why does this matter? If we don't plan for the long term future of the island we will continue to be pushed wherever market forces take us. Short term interests will win out over the long term. The role of government is to offer incentives and make investments that push the market in beneficial directions for the health of the island. We have to free ourselves from being always at the mercy of short term thinking. This petition proposes a Commission comprised of 5 elected citizens, with 6 other

	island boards having the right to appoint one member each. Today, the NP&EDC has 11 members and not one is directly elected to the Commission. Eight members are appointed from four other boards, and three at-large members are appointed by the NP&EDC itself and serve at the pleasure of the NP&EDC, which can lead to group-think. The proposed structure will allow citizens interested in long range planning to stand for election directly to this commission. The four island boards that have a right of appointment to the NP&EDC today are the Planning Board, Board of County Commissioners, Conservation Commission, and Housing Authority. This amendment adds the Land Bank and the Historical Commission, for a total of six boards. Today, the Planning Board must appoint all five of its members to the NP&EDC, and the four other boards may appoint one person each. This petition proposes six boards appoint one person each to the Planning Commission. The Planning Board has always been the core of the NP&EDC, but Nantucket is very different now than it was in the 1980s and 1990s. 95% of Planning Board business is about short-term issues of subdivision control and special permits. It can be contentious. This works against long term planning. The new structure creates a more stable and productive environment for the long term planning the island desperately needs. If this amendment is adopted, the Planning Board can continue with subdivision control and zoning and special permits. They can advise on long range planning through their representative. And if more than one Planning Board member wants to serve on the Planning Commission, they can stand for election. It's important for people to remember that Nantucket's Planning Commission is advisory and, like a non-profit board, its main role is to set the strategic direction and make important decisions about organizational leadership (set objectives for, evaluate, and retain the CEO). <i>Voters should be able to stand for election for this important Commission.</i> It's very special that Nantucket has its own Regional Planning Agency and I hope our civic leaders and Town Meeting will agree that these reforms set it free to maximize its potential and achieve long term planning goals.
3	Have you done any research on the topic that can be shared? If yes, please feel free to attach any supplemental information.
Response	The NP&EDC is one of Massachusetts's 13 Regional Planning Agencies (RPA) and also serves as a Metropolitan Planning Organization (MPO) for regional transportation and transit planning. The enabling legislation for Regional Planning Agencies is MGL Chapter 40B, "The regional planning law". The NP&EDC is responsible for planning for the development of the Nantucket Islands Region. It is the only RPA with only one municipality (though the Nantucket Region has multiple villages and three islands). Other RPAs include from 7 to over 30 cities and towns. RPAs have different approaches to selecting Commissioners. Most Commissions are large (20+ members) and are comprised of members appointed by and from

Planning Boards and/or Select Boards of the towns in the region (each town appoints one delegate). The Martha's Vineyard Commission includes 9 members elected in an island-wide election, in addition to one member appointed by each Select Board and five members appointed by the Governor. Some RPAs have up to six minority appointees. The Cape Cod Commission has a Tribal appointee. The Metropolitan Area Planning Council, which includes the Boston metro area, has over 130 Councilors.

RPAs provide technical assistance, planning support, regional transportation planning and other services to the cities and towns in their region. They are empowered to apply for Transportation Improvement Program (TIP) funds and other State and Federal grants, including grants under the \$1 trillion bi-partisan infrastructure bill signed into law in 2021.

Other RPAs include the Cape Cod Commission (15 municipalities/19 Commissioners), Martha's Vineyard Commission (7 municipalities/22 Commissioners), Merrimack Valley Regional Planning Commission (15 municipalities /16 Commissioners), Berkshire Regional Planning Commission (32 municipalities /~64 Commissioners and Alternate Commissioners), etc. (see links below to their websites).

Most RPAs secure funding necessary to complete their work through State and Federal grants, and coordinate between sources and targets of grants. A small share is contributed from the municipalities in the district.

The NP&EDC has been amended to change its composition several times in the past, most recently in 2017, to remove the DPW. It took only 15 months for this administrative amendment to be approved by the state legislature. The proposed Home Rule petition, if approved by Town Meeting, is expected to also be approved through informal session.

Nantucket has a history of preferring elected boards and commissions, especially when creating an independent Commission through a Special Act. The HDC, the Harbor and Shellfish Advisory Board and the Land Bank are all elected bodies. The Community Preservation Committee also includes elected members.

Useful Links:

- <https://massmarpa.org/>
- <https://www.capecodcommission.org/>
- <https://mvpc.org/>
- <https://mvpc.org/wp-content/uploads/Annual-Report-2021-FINAL-MASTER-NL-020922-1.pdf>
- https://mvpc.org/wp-content/uploads/MVPC_AUDIT_0621_FINAL-031422.pdf
- <https://www.mass.gov/service-details/state-transportation-improvement-program-stip>
- <https://www.mass.gov/service-details/engaging-local-and-regional-officials>
- <https://www.transportation.gov/bipartisan-infrastructure-law>

4	What is your understanding of the cost implications (operating and capital), both immediate and long-term to the town? (example: personnel costs, maintenance, equipment, supplies, etc); and, what would be the proposed funding source?
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