

MEETING POSTING

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 | FINANCE COMMITTEE

Day, Date, and Time | TUESDAY, FEBRUARY 18, 2025 @ 4:00 PM

Location / Address | REMOTE PARTICIPATION VIA ZOOM
The meeting will be aired at a later time on the Town's Government TV
YouTube Channel
<https://www.youtube.com/channel/UC-sgxAlfdoxteLNzRAUHIxA>

**Signature of Chair or
Authorized Person** | STEVEN HUNTER

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!

AGENDA

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

Join Zoom Meeting

<https://us06web.zoom.us/j/84098190215?pwd=H0sOE2uPfOkhVnWbrmz9UZexidJo82.1>

Meeting ID: 840 9819 0215

Passcode: 204672

1. Call to Order
2. Approval of Agenda
3. Public Comment
4. Discussion, deliberation and potential motions on Warrant Articles for Annual Town Meeting 2025

Article	Primary Sponsor	Description
66	Caroline Baltzer et al	Zoning Bylaw Amendment: Regulating Short-Term Nantucket Vacation Rentals
67	Frederick McClure et al	Zoning Bylaw Amendment: Regulating Short-Term Rental Use
68	Patricia Wright et al	General Bylaw Amendment: Short-Term Rentals
69	Matthew Peel et al	General Bylaw Amendment: Short-Term Rentals

5. Committee Reports
6. Date of Next Meeting – Thursday, February 20, 2025 @ 4:00 PM (remote)
7. Other Business
8. Adjournment

February 17, 2024

Finance Committee
Town of Nantucket
Nantucket, MA 02554

Re: Public Comment on Warrant Articles 67 and 68 re Short Term Rentals

Dear Members of the Finance Committee,

I write on behalf of the Advisory Committee of Non-Voting Taxpayers (“ACNVT”). The ACNVT is a long-standing 15-member committee appointed by Nantucket’s Town Manager to make recommendations to the Select Board on issues of concern to the nonresident taxpayers of the Island.

Citizen Warrant Articles 67 and 68, a zoning bylaw and general bylaw respectively, dealing with Short-Term Rentals, are before you tomorrow, Tuesday, February 18, for discussion, deliberation, and potential motions prior to their consideration at Annual Town Meeting on May 3, 2025. The ACNVT has been active in the debate of Short-Term rentals over the past several years, with our concern focused on any proposed legislation that discriminates between resident and nonresident taxpayers and that violates the Dormant Commerce Clause of the United States Constitution.

Warrant Articles 67 and 68 as written, with their 30-day residency requirement even to be allowed to rent at all, as well as their tying of the number of days one can rent to the number of days one is resident in the property, would likely violate the Dormant Commerce Clause of the United States Constitution. The Short-Term rental business is clearly a part of interstate commerce. The courts have long held that a local government may not discriminate against interstate commerce by treating in-state and out-of-state economic interests differently. If they do so, it is considered “per se” invalid.

Under both Articles 67 and 68, Nantucket resident taxpayer homeowners would effectively qualify for 179 days of Short-Term rentals (i.e., one day less than the total number of days that the Lot is occupied by the Owner, which would by definition be 6 months to obtain the

Nantucket resident taxpayer designation). By contrast, “non-resident” taxpayers by definition are not resident in their homes in Nantucket for at least 6 months a year so they would not be eligible for the full 179 days of Short-Term Rental income, but rather only a possible maximum of one day less than the total number of days they actually occupy the Lot. This disparity of available days to engage in the Short-Term Rental market, of anywhere from 29 to 179 days a year, is a considerable difference, and given the income to be derived from Short-Term rentals is of significant value and hence discriminatory between Nantucket resident and non-resident taxpayers and violative of the Dormant Commerce Clause

The cases have held that the only way such a law could be found constitutional is if “it advances a legitimate local purpose that cannot be adequately served by reasonable nondiscriminatory alternatives.” Here the purpose articulated by the by-laws’ proponents is the need to simply reduce the number of short-term rentals on Nantucket, but that can be achieved by a non-discriminatory alternative, for example by placing a cap on the total number of STRs. Thus, the Town can expect a legal challenge, with all its attendant costs in time, money and disruption, and which it will likely lose, if the residency requirements of Article 67 and 68 remain as proposed.

Some say that the Dormant Commerce Clause concerns are not an issue because the Massachusetts Attorney General has approved similar bylaws in other jurisdictions in the Commonwealth. But as Town Counsel John Giorgio has correctly pointed out in the past, the Massachusetts Attorney General’s review of a bylaw is generally limited to whether the bylaw in question is consistent with the state constitution and state law. The State Attorney General does not typically analyze a by-law based on federal law or federal constitutional grounds.

It is for this one reason alone -- the unnecessary and unconstitutional discrimination between resident and non-resident taxpayers – that we of the Advisory Committee of Non-Voting Tax Payers oppose Articles 67 and 68 and urge that you recommend against passage of these bylaws at Town Meeting.

Respectfully submitted,

/s/

Peter J. Kahn
Vice Chair
Advisory Committee of Non-Voting
Taxpayers



Fw: STR Warrant Articles for Annual Town Meeting 2025

From Denice Kronau <dkronau@nantucket-ma.gov>

Date Tue 2/18/2025 8:19 AM

To Steven Hunter <shunter@nantucket-ma.gov>

Good morning Steven,

Can you please add this letter to the packet for today?

Thanks!

Denice

From: Mike Fargo <mikefargo99@gmail.com>

Sent: Tuesday, February 18, 2025 3:19 AM

To: Denice Kronau <dkronau@nantucket-ma.gov>; Jeremy Bloomer <jbloomer@nantucket-ma.gov>; Peter Schaeffer <pschaeffer@nantucket-ma.gov>; Rob Giacchetti <rgiacchetti@nantucket-ma.gov>; Joanna E. Roche <jeroche@nantucket-ma.gov>; Stephen Maury <smaury@nantucket-ma.gov>; Jill Vieth <jvieth@nantucket-ma.gov>

Subject: STR Warrant Articles for Annual Town Meeting 2025

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Alvin W. Fargo

February 17, 2025

Members of the Nantucket Finance Committee:

As your Committee meets to discuss and deliberate on the STR Warrant Articles for the Annual Town Meeting 2025, I want to bring to your consideration the situation of families like ours who own legacy seasonal cottages and who rely on short-term rental income to maintain them and to afford to keep them in our families. I am especially concerned because Articles 67 and 68, and to a lesser extent Article 69, include arbitrary and severe residency and rental day limitations which will be very injurious to our family.

My family has owned our Wauwinet beach cottage for 60 years. My mother and father purchased the cottage in 1965 as a 25th anniversary gift to each other. It is a seasonal beach cottage, not suitable for year-round use. Our cottage is mostly constructed of posts and beams, with only outer boards and shingles, and it can only be occupied from May to October.

My father set up a Fargo Family S corporation with only family members to own our cottage, with my father, my mother, my two sisters and I owning all the shares. As my father had planned, he and my mother passed on their shares annually to my sisters and me, and I have

since passed on my shares to my 3 sons. Our cottage has only 5 owners - all Fargos. Four generations of our family have loved our summer beach cottage.

From the very beginning, my father used short-term rentals to cover expenses in owning the cottage. Over the years our family has rented to very responsible and mostly repeat tenants to allow us to afford to keep our family home. All of the proceeds we receive from our tenants are reinvested in the maintenance of our cottage and go to our caretaker, local tradesmen and businesses and the payment of insurance and taxes.

Concern with residential neighborhood churn has been emphasized. We have no churn. Our tenants stay longer, and we have relatively few changes in occupancy between tenants. Last summer, for instance, all our tenants stayed two weeks or longer, and we had only two changes in occupancy between tenants in July and August. Our short-term rentals and our tenants do not cause anyone harm or disruption, and I believe that any limitation on the number of days we can rent, as set forth in Articles 67, 68 and 69, is unwarranted and unjust, and will be injurious to us.

Likewise, any requirement that we owners must spend some minimum number of days in our seasonal cottage is also unnecessary and unfair. While my parents lived within driving distance of Woods Hole and Hyannis to come to the island, almost all of our family now lives in California. Of course, we come to Nantucket each summer, but the total number of days our family units can spend in our home each summer varies for many reasons and requiring us to spend a minimum number of owner days in our home is arbitrary, unreasonable and unfair.

All of our family loves Nantucket! My parents, who lived in New Jersey, chose to be buried on Nantucket in a plot on Prospect Hill. Our family's love for Nantucket goes all the way through four generations, down to our youngest family member, a seventh grader who lives in California. She has declared that she wants to go to college in Boston so she can be close to Nantucket, "my favorite place in the world!"

Please do not recommend Articles 67, 68 or 69 which limit the number of days our family can rent to our very responsible tenants. It would break our hearts if we were forced to sell our family home. Thank you for your consideration.

Sincerely, Alvin W. Fargo

Citizen Warrant Article Questionnaire

Date Form Completed: February 17, 2025

Article Name: Article 69 General Bylaw Amendment: Short-Term Rentals

Sponsor's Name: Matthew Peel

Email Address: mattpeelsea@gmail.com

Date Received by Town Admin:

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

Article 69 offers a new approach and, if approved by ATM voters, will provide a way forward on STRs after four years and 19 unsuccessful warrant articles. It provides for a rational, healthy, and sustainable number of STRs for three years, during which time we stop arguing and start learning what Nantucket's STR profile is. Additionally, Article 69 puts some reasonable guard rails on STR use, cleans up unsupportable exemptions, closes loopholes in Chapter 123, and, most importantly, allows data collection and reporting.

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

Yes, with the passage of Article 69, our community gains from being able to move on from the divisive STR debate to focus on other huge, some say existential, issues facing Nantucket, many quite recent, and ultimately allows us to revisit the STR issue in three years with a more complete knowledge base and less rancor from all quarters.

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

Since last September's STM, we have conducted extensive research and are continuing to do so. We aim to gain a better and more accurate estimate of Nantucket's number of active STRs. Our research is ongoing as local real estate firms and national rental platforms update their rental calendars before the Summer vacation season of 2025. Our 1,350 STR number may prove too generous.

Our fully completed research and conclusions will be shared with the community well before 2025 ATM. We look forward to this opportunity.

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?

It is difficult to assess the impact on Room Occupancy Tax (ROT) collections that Article 69 may or may not have; this revenue source is relatively recent and has shown neither a favorable nor unfavorable trend line. Our analysis for FY2025 indicates a 5.07% decline in total ROT to \$12,985 million from \$13,678 million; this \$693,000 decrease equates to .40% (40 basis points) of Nantucket's FY 2025 budget.

Seemingly, annual ROT will fluctuate between \$12.5 million and \$13.5 million, with minimal increases owing to hotel room and STR price increases.

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?

The Town's Administration has previously determined Nantucket's Board of Health (BoH) will execute the outcome of any STR Warrant article passed at any ATM or STM and has budgeted salary of \$108,000 for an STR Compliance Officer. The annual Nantucket STR Certificate of Registration fee will be \$250. Assuming 1,350 registered STRs, this equals annual revenue of \$338,000 less salary expense of \$108,000 resulting in annual net revenue of \$230,000 which can be used for inspections and enforcement. Two members of our team met with Roque Miramontes on October 17 to discuss and explain our article.

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

We believe Article 69 is not discussed in any Town Plan or directive.

Nantucket Neighborhoods First
Annual Town Meeting 2025
General By-law Article Q&A

- **Why did we decide on a temporary cap rather than a permanent cap?**

The purpose of this article is to permit sufficient time to collect and analyze data to determine whether a permanent cap is needed. Nantucket is an island with limited space and a fragile environment. Up until this article was written and presented, limited and questionable data to make decisions on how many short-term rentals the Island and its residential neighborhoods can accommodate, without destroying its historical and community character, have been largely unavailable or open to dispute. Nantucket residents and voters need facts, not speculation, when making decisions that affect the Island's economy, environment, housing needs, community, and quality of residential life. With Nantucket's form of government, a and particularly after the recent explosion in growth, it is premature to suggest a permanent cap in the absence of solid metrics and quantitative analysis that produce reliable projections, including potential adverse impacts.

- **Why did we choose 36 months?**

This timeframe was chosen in order to be sure that data from one season does not skew data results. The Covid years created an exceptional period during which the cost and length of short-term rental visits were elevated far beyond the Island's normal pre-Covid experience. A full three years will permit analysis of the more typical Island experience. It is unwise to be making (or not making) decisions based upon one or two potentially fluctuating years when outliers and extremes can lead to unsustainable economic conditions and outcomes as in the case of Covid.

- **Why did we choose the limit of 1350?**

Because there is currently no reliable statistical data, this number was selected based upon data from the Nantucket Health Department, AirDNA (a worldwide data collection platform that tracks the data of 10 million Airbnb & Vrbo vacation rentals) and data presented by a spokesperson for Nantucket real estate agents/brokers at the Annual Town Meeting 2024.

The Health Department expects applications under its new requirements in the range of 1200-1500 following the release of 936 letters to known short-term rental registrants with the State early in 2024. It was the result of eliminating hundreds of duplicate registrations for the same address on that site. The average of 1200 plus 1500 is 1350. AirDNA's data show +/- 1300 current listings for Nantucket. Realtor Penny Dey's presentation at Annual Town Meeting reported the payment of 1758

properties that paid occupancy tax in 2022 during the wind down of Covid. In addition to legally operating short-term rentals, this number also included all hostelrys on Nantucket to include hotels, guest houses, vacation clubs, B&B's, etc. It is a number far higher than for short-term rentals alone. We averaged 936 letters sent by the Health Department, AirDNA's 1300 records (derived through documentation and conversations with representatives of AirDNA), and Ms. Dey's reported occupancy tax payments from 2022, a number obviously much higher than for short-term rentals alone. This average is 1331.

Accordingly, the number of 1350 was chosen as reasonable.

- **How did NNF arrive at 70 days for owners of one or two properties or two dwellings on one property?**

Nantucket Neighborhoods First has participants who short-term rent. We listened to their input. It was felt that this number, under a cap, would permit properly registered owners the ability to STR during the summer high season months of July and August, plus allow for additional shoulder season rentals. Useful, but now aging data presented to the Select Board on June 14, 2023 by Process First, indicates a downward shift between the pre-Covid period of 2017-2019 and 2022 in the average number of days per contract in the summer months and an upward shift in the number and average of short-term rentals in the shoulder seasons (page____) This number is not only a test of how much the Island can accommodate (up to 94,500 rental days) but also supports property owners that leave their properties open to short-term rent in the lighter periods that benefit the local economy.

The selection of 70 days during this period for an owner who STRs one property or two dwellings on one property, or a maximum of two properties under the same ownership permits a balanced approach that will reduce the disruptions due to frenetic changes of occupancy and possibly and discourage further investor interest in Nantucket. In its report to the Select Board, Process First noted that in 2021 and 2022, 23.1% of all sales were followed immediately by a registration to short-term rent (Page ____).

- **How will property owners get a certificate of registration to short-term rent from the Board of Health.**

We suggest that property owners who wish to short-term rent visit the Board of Health's web site to learn the application process, required documentation, and procedures. The Board of Health explained this in its letter in early 2024 to the verifiable 936 owners of short-term rentals. By October 17, 2024 only 410 applications had been received.

During this 36-month period, the NNF article suggests a fair way to support those who have engaged in the Nantucket tradition of renting short-term to pay the rising expenses of home ownership on Nantucket. It also encourages early filing of applications to take some of the burden off the Board of Health and Health Department. We have suggested that the continuous payment of occupancy tax under the same ownership be used as the primary criteria for ranking of applicants and then by the date of application as the second factor. Breaks in the chain of either the payment of occupancy tax or changes in ownership, even though the property has been short -rented in the past, will result in a lower ranking among the 1350 owners who receive a certificate of registration. "Other certifiable documentation" may also be submitted to support an application, but only when the form of ownership may be exempt from the payment of occupancy tax.

- **How will the temporary cap be enforced?**

We suggest that property owners who short-term rent thoroughly familiarize themselves with Chapters 123 and 338 of Nantucket's Bylaws along with the current application process and documentation required by the Board of Health. Chapter § 123-5 lays out the enforcement options available to the town for violations up to and including \$5,000 a day under §123-5(D). Applicants for a certificate of registration with the Town are required to accurately report the number of rental days in the prior year and are required to submit supporting documentation. Failure to follow the Board of Health's rules may result in the rejection of the application among more serious consequences such as being barred from short-term renting for a stipulated period.

It is hoped that, in addition to the fines and penalties that may be collected under this section, the payment to the town of up to \$337,500 each year in application fees will result in those moneys being earmarked for the Health Department to hire additional administrative and enforcement staff.

Most owners of properties in residential neighborhoods are aware of short-term rentals in their vicinity. A robust process has now been established by the Board of Health to investigate complaints that are filed regarding potential violations of either Chapter 123 or the Board of Health's requirements. Renting in excess of 70 days would be a violation.

- **What will happen if my application is not approved because the temporary limit will be reached.**

This will be a decision for the Board of Health, but the most likely outcome will be that the Health Department will manage a waiting list based upon criteria it

determines are the fairest. As properties are sold, ownership changes, or there may be a break in the continuous chain of occupancy payments (should a ranking system of that kind be used), owners who short-term rent and have an existing certificate of registration will either be removed from the 1350 approved owners and replaced by those on the waiting list or find themselves lower on the ranked order.

What if I want to STR my home in the future and the cap is full?

As indicated above, during this temporary cap, the Board of Health will establish a waiting list with priority being given to owners based on continuous years of rental history as evidenced by payment of Occupancy Tax to the Commonwealth of Massachusetts. Any Nantucket property owner is permitted to register with the Commonwealth of Massachusetts and to pay the \$250 a year fee to register with the Town through the Board of Health. We certainly cannot speak for decisions to be made by the Board of Health, but in other matters where permits are required by the Town, for moorings or taxi medallions, for example, for which the Town has set a limit, the process follows a FIFO procedure where those who apply are placed on a waiting list by the date of application. In this case, then, when an owner fails to re-register or the property is transferred to new ownership, or the owner is removed for other reasons, the owner next in line on the waiting list is offered the opportunity to receive a certificate of registration to short-term rent.

- **What is the relationship between NNF and Ack*Now?**
- No relationship exists. NNF is a completely separate and distinct organization from Ack*Now and receives no legal or financial support from that organization. NNF is completely self-funded and guided by its core group.

TOWN OF NANTUCKET FINANCE COMMITTEE
COMPARISON CHART OF FOUR SHORT-TERM RENTAL CITIZEN PETITIONS FOR 2025
ANNUALTOWN MEETING

February 18, 2025

***This is a high-level review of the four articles. There is more detail set forth in the warrant articles.**

Article Number and Lead Sponsor	Type of Bylaw	General Description	Details of Regulations, Comments of Town Counsel, Planning Board Recommendation.
Article 66 Caroline Baltzer	Zoning	Amend Use Chart by adding Short-Term Nantucket Vacation Rental (NVR) with a Y designation in all districts except CI which will have an N designation.	Adds a new section 139-38 stating that NVR's must have a valid Certification of Registration from the Board of Health and that an NVR must be in compliance with all applicable laws, by-laws, and regulations. Planning Board recommendation is to adopt.
Article 67 Federick McClure	Zoning	Amend the Use Chart by adding Accessory Short-Term Rental use and designating A in all columns with a note: Subject to the Requirements of a new section 139-38.	Limits ASTR's to Residential Districts. Adds a new section 139-38 stating that the lot must be used primarily for residential use by the owner at least 30 days a year (which need not be consecutive). An Accessory Short-Term Rental may be rented for a maximum of one day less than the number of days that the lot is occupied by the owner (which may include non-commercial use by family or friends and residential rentals of at least six months (without sublet). Minimum stay of 7 days during July and August. Minimum stay of 3 days the rest of the year. Planning Board motion is to take no action.
Article 68 Patricia Wright	General	Amend section 123 of the Town Code (General Laws) to add a definition of Accessory Short-Term Rental use.	Basically, the same regulations as Article 67, the difference being Article 68 is a general bylaw and Article 67 is a zoning bylaw. Because this is a use regulation, it is questionable whether these regulations can be enacted as a General Bylaw.
Article 69 Matthew Peel	General	Imposes a temporary cap for 36-months on STRs of 1350 Certificates of Registration which the Board of Health can issue. Requires Town to publish statistical data on STR's during the 36-month period.	Limits the number of days a dwelling unit may be rented to 70. Limits the number of STR's on a lot to two. Deletes the allowance for Time Sharing units.

(Emily Molden, et al)

ARTICLE 66

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

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

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

SHORT-TERM NANTUCKET VACATION RENTAL (NVR)

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

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

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

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

Or to take any other action related thereto.

(Caroline Baltzer, et al)

ARTICLE 67

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

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

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

SHORT-TERM RENTAL

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

ACCESSORY SHORT-TERM RENTAL

A Short-Term Rental use that complies with this bylaw.

2. Amend § 139-7A (Use Chart) by inserting “Accessory Short-Term Rental” between “Tertiary Dwelling” and “Apartment Building” in the Use column and inserting the designation “A” in all columns with a “Note: Subject to the requirements of §139-38.”
3. Add a new section to Chapter 139 as follows:

§139-38 ACCESSORY SHORT-TERM RENTALS

1. In residential districts, each Lot may be used as an Accessory Short-Term Rental as a permitted Accessory Use to a Principal Use, subject to the following conditions:
 - a. The Lot is used primarily for residential use by the Owner (see Paragraph 4 below) at least 30 days per calendar year (which need not be consecutive).
 - b. The Lot is used as an Accessory Short-Term Rental for a maximum of one day less than number of days that the Lot is occupied by the Owner (see Paragraph 4 below).
 - c. No owner shall engage in an Accessory Short-Term Rental use on more than one Lot at any one time. On Lots with multiple Dwelling Units, the Accessory Short-Term Rental limits set forth herein are cumulative of all Dwelling Units on a Lot, and there shall be only one Dwelling Unit used as an Accessory Short-Term Rental at any one time. Sublets are prohibited.
 - d. All Accessory Short-Term Rentals shall be registered with the Town and operated in accordance with General Bylaw § 123 of the Town Code.
 - e. If any provision in § 139-38 shall be held to be invalid by a court of competent jurisdiction, such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

2. Accessory Short Term Rentals during the months of July and August shall have a minimum stay of 7-days and a minimum stay of 3-days the remainder of the calendar year.
3. All other Short-Term Rentals in residential districts are prohibited.
4. For the purpose of this Section only, residential use by the Owner shall include non-commercial use by family or friends, and residential rentals of at least six months (without sublet).

Or to take any action relative thereto.

(Frederick McClure, et al)

ARTICLE 68

(General Bylaw Amendment: Short-Term Rentals)

To see if the Town will vote to amend Chapter 123 of the Town Code (Short-Term Rentals) as follows:

1. Amend § 123-2 (Definitions) by revising it as follows:

ACCESSORY SHORT-TERM RENTAL

A Short-Term Rental use on a Lot in a Residential District that is occupied by the Owner at least 30 non-consecutive days per calendar year; provided, however, that such short term rental use is allowed for a maximum of one day less than total number of days that the Lot is occupied by the Owner. All non-commercial use of the Lot by friends and family of the Owner shall count as occupied by the Owner.

2. Amend § 123-3 (Registration, permitting, inspection and fees) by revising subsection E as follows:

E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety. In order to facilitate such inspections, at the time of Registration, each operator shall provide a floor plan showing the STR layout and exits.

3. Add a new Section § 123-3A (Limitations on Accessory Short Term Rentals) as follows:

Accessory Short Term Rentals during the months of July and August shall have a minimum stay of 7-days and a minimum stay of 3-days the remainder of the calendar year.

Or to take any action relative thereto.

(Patricia Wright, et al)

ARTICLE 69

(General Bylaw Amendment: Short-Term Rentals)

To See if the Town will vote to amend Chapter 123 of the Town Code (Short-Term Rentals) as follows: *(NOTE: new language is shown as highlighted text, language to be deleted is shown by strikeout; these methods to denote changes are not meant to become part of the final text):*

Short-Term Rentals

§ 123-1. Purpose and Intent.

This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, § 14 and is intended to:

- (1) provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to ensure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.
- (2) prevent the further growth of residential dwellings owned by Corporations and other financial and commercial entities used for the purpose of Short-Term Rentals.
- (3) Continue to permit the operation of Short-Term Rentals by natural persons in order to protect the time-honored tradition of home rentals in Nantucket.
- (4) Allow the Town to implement the Short-Term Rental registration process and to collect sufficient data to accurately assess the practice of Short-Term Rentals including the impact (if any) this practice may have on affordable/attainable housing and to substantially develop additional regulations, if such data demonstrates additional regulation is necessary.
- (5) Collect and analyze comprehensive and comparable locally collected data across a sufficient time period to provide residents and voters an accurate factual foundation to inform their future decisions regarding the number of Short-Term Rentals that can be sustainably accommodated on Nantucket.
- (6) Use collected and analyzed local data to anticipate and minimize further adverse impacts of Short-Term Rentals on Nantucket's economy, fragile environment, infrastructure, local taxation, housing alternatives, and preservation of community and residential quality of life.

§ 123-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

CORPORATION

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

OPERATOR

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

OWNER

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

SHORT-TERM RENTAL

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

~~TIME SHARING OR TIME INTERVAL OWNERSHIP DWELLING UNIT OR DWELLING~~

~~A dwelling unit or dwelling in which the exclusive right of use, possession or ownership circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or occupancy is subject to either: a time share estate, in which the ownership or leasehold estate in property is devoted to a time share fee (tenants in common, time-share ownership, interval ownership) and a time share lease; or time share use, including any contractual right of exclusive occupancy which does not fall within the definition of "time share estate," including, but not limited to, a vacation license, prepaid hotel reservation, club membership, limited partnership or vacation bond, the use being inherently transient.~~

§ 123-3. Registration, Permitting, Prohibitions, Inspection and Fees.

- A. No person or other legal entity shall operate a short-term rental without having first obtained a certificate of registration from the Board of Health. An application

for a certificate of registration shall be on a form provided by the Town and shall contain the Department of Revenue identification number or proof of exemption under G.L. c. 64G. The operator shall provide with the application a certificate of registration issued by the Department of Revenue in accordance with § 67 of Chapter 62C of the General Laws.

- B. The annual fee for such certificate of registration shall be set forth in the regulations issued pursuant to § 123-4.
- C. The application for the certificate of registration shall include an attestation that the owner and/or operator is in compliance with all applicable federal, state and local laws, including but not limited to G.L. c. 64G and the Fair Housing Act, G.L. c. 151B, and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, and that the owner and/or operator of the property is current with all Town taxes, water, and sewage charges and other fees, subject to the requirements of Chapter 19, §§ 13 through 18, of the Town Code. Any property offered for a short-term rental shall not have any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, or stop work orders. Nothing contained herein shall relieve the owner or operator from complying with all local permits, rules and regulations issued by the Board of Health and other Town boards generally applicable to resident dwelling units.
- D. The Board of Health shall not issue any certificate of registration unless the Operator has:
 - (1) submitted a complete application and paid all associated fees;
 - (2) Provided contact information for the operator and persons designated to address any issues at the short-term rental within two hours' notice; and
 - (3) Provided the Town with a certificate of insurance evidencing liability insurance coverage for the short-term rental in an amount to be determined by the regulations issued pursuant to § 123-4.
- E. Operators are subject to inspection of the short-term rental by the Board of Health upon reasonable notice via consent or administrative warrant, or without such notice in the event of an imminent threat to public health or safety.
- F. Certificates of registration are valid for one year and may be renewed at the discretion of the ~~Town Board of Health~~, provided that the operator has complied with the provisions of this chapter and any associated regulations issued by the Board of Health during the preceding year. An application for renewal of a certificate of registration shall be submitted along with the annual fee no later than November 1 of the next year. A renewal application shall include an

attestation that the Short-Term Rental was operated in accordance with all bylaws and regulations of the Town during the previous year.

- G. The certificate of registration is issued to the operator and does not run with the land. If the short-term rental is sold or transferred out of ownership, a new application for a certificate of registration shall be filed by the new operator before short-term rentals can continue or resume.
- H. In order to collect and assess data pertaining to the number of Nantucket's Short-Term Rentals and their impact on the Island, the Town shall, for a period of 36 months beginning January 1, 2026, based upon applications received by the Town's Board of Health by November 1, 2025, limit the number of Nantucket Short-Term Rental certificates of registration issued to 1350 per calendar year.
- I. During this period, the Board of Health shall, by regulation, establish and operate an approval process for the issuance of certificates of registration which, should the applications for certificates of registration exceed the temporary limit, prioritizes applications based on the number of prior years of continuous Short-Term rental history under the same ownership as evidenced by the payment of occupancy tax to the Commonwealth of Massachusetts, or other certifiable documentation, and then by the date of application. Applications for an annual renewal of any certificate of registration must be filed by the preceding November 1st for each subsequent calendar year during this period.
- J. During this period, no owner or operator shall engage in a Short-Term Rental for a single Dwelling Unit on a Lot for which a certificate of registration has been issued for more than 70 days in the calendar year. For Lots containing more than one Short-Term Rental Dwelling unit, no owner or operator may receive a Nantucket Short-term Rental certificate of registration for more than two, and the total number of rental days for the calendar year for both dwellings combined shall not exceed 70. Each of the two Dwelling Units must receive a separate certificate of registration and each will be included in the total number of Short-Term Rentals allowed for the Town under Section H above. Owners of more than one Lot may apply for a certificate of registration for no more than two Lots, and the combined total number of rental days for both Lots may not exceed 70 days in a calendar year.
- H.-K. Short-Term Rentals are prohibited in dwelling units owned by a Corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC, Trust, or S Corporation only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.
- I.-L. Short-Term Rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs or law. Any Short-Term Rental in any sub-leased Dwelling Unit which

has not received a separate certificate of registration under the name of the sublessee for that specific property is also prohibited and shall be subject to the penalties set forth in Sections 123-5(D) below.

- ~~J. No Time-Sharing or Time-Interval Ownership Dwelling Unit or Units may engage in Short-Term Rental activities or be eligible to receive a certificate of registration for such unit; except that this section shall not apply to the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes; and this section shall not apply to natural persons or non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold on the open market. In addition, Time-Share or Time-Interval Ownership Dwelling Units shall be exempt from Sections H, I, J, and K, provided that the owner obtains a certificate of registration and provides sufficient evidence that the Unit was rented to one or more third parties for at least one period of less than 30 days prior to January 1, 2024.~~
- ~~K. Any person or other legal entity, except Corporations, but including LLC's, Trusts, and S Corporations, which paid the rooms excise tax on a Short-Term Rental dwelling unit in any calendar quarter prior to January 1, 2024 and which owned the property prior to May 7, 2024, shall be exempt from the requirements of Sections H, I, and J of this Chapter until the dwelling unit is transferred or conveyed, or the Rental Certificate is not renewed or is revoked by the Board of Health. If a property is bequeathed to a person or other beneficiary through a will, trust, or other instrument, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.~~
- M. During this 3-year period, beginning January 1, 2026, the Town will publish by March 1, 2026, and retain on its web site for the entire 36-month period, the Short-Term Rental statistical data for the preceding calendar year which shall include, at a minimum, (1) the number of applications received to Short-Term rent, (2) the number of certificates of registration granted, (3) the number of Short-Term Rental contracts and Short-Term Rental days by month, (4) the fees, fines, occupancy tax, and penalties collected in that calendar year, and (5) the number of applications on the Town's Short-Term Rental waiting list, should one be needed.

§ 123-4. Regulations.

The Board of Health, subject to the approval of the Select Board, shall promulgate regulations to carry out and enforce the provisions of this chapter. Such regulations may also include but are not limited to requirements to insure that the operation of the short-term rental does not create or cause a nuisance to the surrounding neighborhood due to unreasonable noise, overburdening of parking areas, and other nuisance conditions.

§ 123-5. Enforcement.

- A. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.
- B. Whoever violates any provision of this bylaw or a regulation promulgated hereunder may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, § 21D and the Town's non-criminal disposition bylaw (Chapter 1 of the Town Code). If noncriminal disposition is elected, then any person who violates any provision of this bylaw or regulation shall be subject to a penalty in the amount of \$100 for the first offense; \$200 for the second offense; and \$300 for a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.
- C. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the operator or the owner of the property by the Board of Health or its designee, after a certificate of registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said certificate of registration until the violation has been cured or otherwise resolved. Multiple violations by any operator may, at the discretion of the Board of Health and after a hearing, disqualify that operator from obtaining a certificate of registration for a period of up to three years.
- D. In accordance with G.L. c. 64G, § 14(v), the Town may assess a civil penalty not to exceed \$5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

§ 123-6. Severability.

If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Or take any other action relative thereto.

(Matthew Peel, et al)

ARTICLE 70

(General Bylaw Amendment: Finances/Rename Revolving Account/Add Revolving Account)

To see if the Town will vote to amend Chapter 19 (Finances), Article XIII (Revolving Accounts), §19-21 (Revolving accounts established) of the Code of the Town of Nantucket by renaming a Revolving Account; and adding a Revolving Account as