

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

<b>Article No.</b>	<b>Lead Petitioner</b>	<b>Article Description</b>	<b>Comment</b>
A.	Kelly Jackson	Zoning Map Change R-20 to CTEC and/or CN – Old South Road.	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting. The motion must specify the zoning district where these parcels will be placed.
B.	John F. McGrady, Jr.	Rescind vote under Article 77 of the 2018 Annual Town Meeting as to so much of the Article that that pertains to the taking of 10 Surfside Road and to return land to the care, custody, and control of the Nantucket School Committee to be held for school purposes.	This article is not in proper legal form. There are two steps required to transfer the custody of Town land. One is a declaration by the current custodial board that the land is no longer needed for the purposes for which it is held. The second is a two-thirds transfer vote by Town Meeting. Once both steps are accomplished, the land is transferred by operation of law and the prior votes cannot be rescinded. Once the School Committee votes that this land is no longer needed for the purpose for which it was held, the land will be under the control of the Select Board. In order to return the land to the custody of the School Committee, the procedures set forth in General Laws c. 40, §15A will have to be followed, including a vote by the Select Board that the land is no longer needed for the purposes for which the land is held, and Town

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			Meeting must vote by two-thirds to transfer the land back to the School Committee.
C.	John F. McGrady, Jr.	To direct the Select Board to allow at least 14 days between the Annual Town Meeting and the subsequent election.	This is a non-binding directory to the Select Board, which annually sets the date of the Annual Town Meeting and the Annual Town Election.
D.	Bruce Mandel	General Bylaw Amendment - Single-Use Plastics - Alcoholic Beverages Container	This article is not in proper legal form because it fails to adequately identify the proposed changes to the current bylaw. Specifically, the reference in §125A-2 to “Defined Products” is not sufficient to identify the types of containers that will be subject to the new prohibition. Subject to a scope determination by the Town Moderator, the defects can be cured in a positive motion by actually identifying the containers specifically by name.
E.	Bruce Mandel	General Bylaw Amendment - Single-Use Plastics - Tobacco Filters	This article is not in proper legal form because it duplicates the additional language proposed in Article D and suffers from the same defect. Moreover, the addition of subsection G (plastic tobacco filters) is not shown in highlighted text. Subject to a scope determination by the Town

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			Moderator, the defects can be cured in a positive motion.
F.	Joseph Minella	Home Rule Petition - Prohibiting Fertilizer	Approved as to form. A similar home rule petition was approved at the 2012 Annual Town Meeting under Article 77. The General Court did not act on the previous petition.
G.	David Buckley	Sewer District Map Change - 15 Milestone Crossing	Approved as to form. If the Select Board does not recommend the article, a positive motion will require a two-thirds vote at Town Meeting for passage.
H.	Jeffrey Booms	Home Rule Petition – Amend the Historic District Commission enabling legislation to encourage the adoption of solar power and renewable energy systems	Approved as to form.
I.	Theresa Williams	Home Rule Petition – Establish ombudsman to mediate disputes before the Town of Nantucket	This article is not approved as to form. There is insufficient information contained in the article to enable the preparation of a special act to be submitted to the General Court.

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J.	Clifford J. Williams	Appropriate \$300,000 to purchase a shredder for solid waste recycle and MRF	Approved as to form.
K.	Julie Bunting	Zoning Map Change - R-20 to CTEC and/or CN - Old South Rd	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting. The motion must specify the zoning district where this parcel will be placed.
L.	Dorothy Stover	Bylaw Amendment - Gender Equality on Beaches	Approved as to form.
M.	Campbell Sutton	General Bylaw Amendment - Town Wharf and Waterways Prohibited Activities – Extend until October 31 <sup>st</sup> the requirement that dinghies be removed from Town Property	Chapter 250 contains regulations regarding wharfs and waterways. This Chapter is not a General Bylaw of the Town. Town Meeting has no jurisdiction to make changes to regulations. Such is within the exclusive purview of the Select Board.
N.	Hillary Rayport	Home Rule Petition – Amend special act regarding makeup of the Nantucket Planning and Economic Development Commission	Approved as to form. However, the petition proposes the insertion of a new section 4B, but there is no text for the new section. Town Meeting cannot act to insert any new text by way

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			of a motion because the voters will not have been adequately warned of the new text.
O.	Anne Dewez	Zoning Bylaw Amendment - Pools, Hot Tubs, Spas – Definitions – Reduction in square footage of surface area for hot tub/ spas.	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.
P.	Anne Dewez	Zoning Bylaw Amendment – Table of Use Chart – Prohibiting Hot Tubs, Spas in Historic Districts	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.
Q.	Linda Williams	Zoning Map Change - R-20 to R-10L - Nobadeer Way	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.
R.	Linda Williams	Zoning Bylaw Amendment - Definitions and Word Usage – Apartments – Waiver of density requirements by special permit	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.
S.	Linda Williams	Zoning Bylaw Amendment - Swimming Pool - Residential – Reduce minimum square footage of lot from 7500 to 6000 sf.	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.

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T.	Linda Williams	Zoning Bylaw Amendment - Swimming Pool – Residential – eliminate minimum lot size in VR District.	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.
U.	Linda Williams	Zoning Bylaw Amendment – Allow Storage Containers by Special Permit in CMI	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.
V.	Linda Williams	Real Estate Acquisition – Yard Sale Program - Proprietors Rd - Off Tripp Dr/South Shore Rd	Approved as to form.
W.	Linda Williams	Real Estate Conveyance – Yard Sale Program - Proprietors Rd - Off Tripp Dr/South Shore Rd	Approved as to form.
X.	Linda Williams	Real Estate Acquisition – Yard Sale Program - Two Ways – Nobadeer Way	Approved as to form.
Y.	Linda Williams	Real Estate Conveyance – Yard Sale Program - Two Ways - Nobadeer Way	Approved as to form.
Z.	Ken Beaugrand	Appropriation - FY23 Community Preservation Committee	Approved as to form.

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AA.	Ken Beaugrand	Appropriation - Community Preservation Committee for Affordable Housing Trust	Approved as to form. This article only appropriates money for land acquisition and does not authorize the Town to acquire any land. Presumably, the Affordable Housing Trust will actually acquire suitable parcels of land under its independent authority pursuant to G.L. c. 44, §55C.
BB.	Ken Beaugrand	FY 22 Community Preservation Committee Budget Transfers	Approved as to form.
CC.	Clifford J. Williams	Sewer District Map Change - 44 Skyline Dr	Approved as to form. If the Select Board does not recommend the article, a positive motion will require a two-thirds vote at Town Meeting for passage.
DD.	Clifford J. Williams	Zoning Map Change - LUG-2 to R-5 or CN - 44 Skyline Dr	Approved as to form. This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting. The motion must specify the zoning district where this parcel will be placed.
EE.	Tobias Glidden	Zoning Bylaw Amendment – Protective Rights to Short-Term Rentals – Permits short-term rentals as of right for a	This zoning article should be referred to the Planning Board for a report and recommendation prior to Town Meeting.

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



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

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