

ARTICLE 39

(Bylaw: Short-term Rental Regulations)

To see if the Town will vote to amend the General Bylaws of the Code of the Town of Nantucket by adding a new Chapter 123 entitled "Short-Term Rental Registration" to read as follows:

Chapter 123

Short-term Rental Registration

§ 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 provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to insure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.

§123-2. Definitions.

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

- A. "Short-Term Rental" shall mean a dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least 1 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.
- B. "Operator" shall mean a person 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.
- C. "Transient Residential Facility" shall have the same meaning as in Chapter 139 of the Town Code.

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

- A. No person 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 section 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 -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 (2) 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, provided that the Operator has complied with the provisions of this Chapter and any associated regulations 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 1st of the next 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.

§ 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 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, section 21D and the Town's non-criminal disposition by-law (Chapter 1 of the Town Code). If non-criminal 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 one hundred dollars (\$100) for the first offense; two hundred dollars (\$200) for the second offense; and three hundred dollars (\$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.

§ 123-7. Effective date.

The provisions of this Chapter shall take effect on the day this bylaw becomes effective pursuant to General Laws Chapter 40, §21, or January 1, 2023, whichever is later.

Or take any other action relative thereto.

(Select Board)

ARTICLE 40

(Bylaw Amendment: Finances/Creation of New Revolving Account - Short-Term Rental Registration Program)

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 adding a new Revolving Account for Short-Term Rentals to read as follows:

Fund	Revenue Source	Authority to Spend	Use of Funds
Short-Term Rentals	Fees from Certificates of Registration	Town Manager with Approval of the Board of Health	Administration of Certificate of Registration Program

Or to take any action relative thereto.

(Select Board)

ARTICLE 41

(Short-term Rental Revolving Account: Spending Limits for FY 2023)

To see what spending limits the Town will establish for the Short-term Rental revolving account established pursuant to Chapter 44, section 53E½ of the Massachusetts General Laws and Section 19-21 of the Town Code for Fiscal Year 2023; or take any other action related thereto.

(Select Board)

ARTICLE 42

(Zoning Bylaw Amendment: Short Term Rentals)

To see if the Town will vote to amend Chapter 139 (Zoning) of the Code of the Town of Nantucket, as follows (NOTE: new language is shown as highlighted text, language to be deleted is shown by ~~strikeout~~; these methods to denote changes are not meant to become part of the final text and, further, that non-sustentative changes

to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Code of the Town of Nantucket):

1. Amend Zoning Bylaw, Section 2A (definitions) to as follows, with new definitions to be inserted in alphabetical order:

APARTMENT BUILDING(S)

A structure or structures containing a maximum of up to eight bedrooms in up to six dwelling units on a single lot ... with no commercial or other uses. The Planning Board may, as a condition of the issuance of a special permit, prohibit Short-Term rentals in all or a portion of the dwelling units. Apartment Building(s) shall be allowed in the following districts:...

SHORT TERM RENTAL

A dwelling unit or portion(s) thereof that is not a transient residential facility, where: (i) at least 1 room or dwelling unit is rented to an occupant or suboccupant; 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.

Short-Term Rentals are allowed as of right on residential properties including, but not limited to, a primary, secondary, tertiary, duplex, or accessory dwelling, apartment, apartment building(s), and garage apartments, unless specifically prohibited in a special permit issued by the Planning Board in accordance with this bylaw.

2. Amend Section 8D(2) and 8D(3) by adding a new subsection (e) in each, as follows:

(e) The Planning Board may, as a condition of the issuance of a special permit, prohibit Short-Term Rentals in all or a portion of the dwelling units on the lots subject to the special permit.

3. Amend Section 15 as follows:

In addition to the principal buildings, structures or uses permitted in a district, there shall be allowed in that district, as accessory uses, such activities as are subordinate and customarily incident to such permitted uses-including, but not limited to, the rental of rooms within an owner-occupied dwelling unit.

Or to take any other action related thereto.