

Warrant Article Questionnaire Non-Standard Town Agency Articles

Section III – Questions with Response Boxes – To Be Completed By Petition Sponsor

Article # 18	Date Form Completed: 9/16/22; Edited and Appended 10/8/22
Article Title: Home Rule Petition: Remove Minimum Seating Capacity Requirements for All Alcohol and Wine and Malt Beverages On Premises Licenses	
Sponsor Name: Select Board	Email: selectboard@natickma.org

Question	Question
1	Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.
Response	<p>The following motion has been approved by Town Counsel:</p> <p><i>Move that the Town vote to authorize the Select Board to petition the General Court to enact legislation in substantially the following form, provided that the General Court may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of the petition.</i></p> <p><i>An ACT authorizing the licensing authority of the town of Natick to establish minimum seating capacity for granting licenses for the sale of all alcoholic beverages or wine and malt beverages to be drunk on the premises.</i></p> <p><i>Be it enacted in the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:</i></p> <p><i>Section 1 – Notwithstanding section 11 of Chapter 138 of the General Laws or any other general or special law or vote of the electorate of the town of Natick to the contrary, the licensing authority of the town of Natick may determine what minimum seating capacity, if any, shall be required in a premises for which a license shall be granted for the sale of all alcoholic beverages or the sale of wine and malt beverages to be drunk on the premises.</i></p> <p><i>Section 2 – The authority conferred by this act shall not increase the number of licenses authorized to be granted by the licensing authority of the town of Natick for the sale of alcoholic beverages or wine and malt beverages to be drunk on the premises.</i></p> <p><i>Section 3 – This act shall take effect upon its passage.</i></p>

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2	At a summary level and very clearly, what is the proposed purpose and objective of this Warrant Article and the accompanying Motion?																			
Response	<p>This article removes one of the most significant and consistently cited barriers to (a) conducting business in Natick and (b) expanding options for members of the public seeking more and better dining and entertainment options in Natick.</p> <p>Natick has been disadvantaged by some of its legacy licensing policies and practices governing establishments that sell alcoholic beverages for on-premises consumption.</p> <p>This change would provide the Select Board, which is the authorized licensing authority by Natick Charter Sec 3-2 (d), greater flexibility to render licensing decisions that better align with newer concepts (e.g., smaller-sized establishments, brewpubs, etc.) in a rapidly evolving economy.</p> <p>Current legislation and policy language is arbitrary and subject to interpretation (see explanation in Item #3 below). Further, it has (a) prevented some local businesses from expanding and generating additional income and (b) harmed Natick's reputation as an attractive place to start and grow a restaurant, brewpub, or similar type of business focused on social interaction and engagement where food and/or beverages are consumed on the premises.</p>																			
3	Has this article or one of a very similar scope and substance been on a previous Warrant Article and what have been the actions taken by the Finance Committee, other Boards or Committees and Town Meeting?																			
Response	<p>This Article would effectively reverse EXTEND the actions of Town Meeting AND THE VOTERS OF NATICK in the past</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Warrant Period Ex: 2021 SATM</th> <th style="text-align: left;">Other Committees Ex: Planning Bd refer</th> <th style="text-align: left;">FinCom Action Ex: Referral</th> <th style="text-align: left;">Town Meeting Ex: Referral</th> </tr> </thead> <tbody> <tr> <td>2001 FATM</td> <td>(then) Board of Selectmen</td> <td>unknown</td> <td>Favorable Action</td> </tr> <tr> <td>2008 SATM</td> <td>(then) Board of Selectmen</td> <td>unknown</td> <td>Favorable Action</td> </tr> <tr> <td>2011 SATM</td> <td>(then) Board of Selectmen</td> <td>Favorable Action, 14-0-0</td> <td>Favorable Action</td> </tr> </tbody> </table> <p>Comments: In 1984, the (then) Natick Board of Selectmen added "Question 1" to the ballot for the November 6, 1984 election, proposing to allow restaurants to serve alcoholic beverages. At the time, the Board incorporated the following language into the ballot question: "...for restaurants and function rooms having a seating capacity of not less than 100 persons."</p>				Warrant Period Ex: 2021 SATM	Other Committees Ex: Planning Bd refer	FinCom Action Ex: Referral	Town Meeting Ex: Referral	2001 FATM	(then) Board of Selectmen	unknown	Favorable Action	2008 SATM	(then) Board of Selectmen	unknown	Favorable Action	2011 SATM	(then) Board of Selectmen	Favorable Action, 14-0-0	Favorable Action
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	<p>Once passed, this, in effect, created a minimum threshold for seating; however, over the years, this wording has been interpreted as requiring a minimum “number of seats” versus “seating capacity.” Subsequently, businesses seeking an on-premises license for “all alcohol” are required to have at least 100 seats, and those with a “malt beverage (beer) and wine” license must have between 50-99 seats (as of 2001). In 2008 (via the Board of Selectmen and vote of Town Meeting) the Town petitioned the State for 8 more licenses specifically to stimulate economic development in Natick Center. In 2011, by Home Rule Petition (via the Board of Selectmen and vote of Town Meeting), the lower limit for malt beverage and wine license was reduced to 15.</p>
4	Why is it required for the Town of Natick and for the Town Agency sponsor(s)?
Response	<p>This change would provide the Select Board greater flexibility to render licensing decisions that might better align with today’s, post-pandemic opportunities. As we emerge from the pandemic, the restaurant and hospitality sectors continue to be among the hardest hit. Consequently, businesses relying on smaller sized venues and innovative approaches to marketing (e.g., onsite brewing, various forms of entertainment, etc.) are likely to become more prevalent in the future.</p> <p>Further still, many available commercial properties in Natick simply cannot accommodate operations of the physical size required to support current seating requirements. Also, as concepts change and as the needs for already licensed venues to rearrange seating/layout for live entertainment, dancing, and socially interactive activities (e.g., karaoke, trivia, yoga events, art-making events, etc.), it is important that the Licensing Authority is not constrained by outdated and arbitrary limitations.</p> <p>Indeed, Natick has already missed significant opportunities to attract and retain potential businesses, due to these on-premises licensing limitations.</p> <p>As you may already be aware, every alcoholic beverage license holder in Natick must renew its license annually and in a public meeting of the Select Board. Thus, there is a “check” in place that allows the Select Board to evaluate each venue’s most recent operating history, including its floor layout(s) and seating plan(s). It is in the operators’ best interests to adhere to rules which are in place to govern safe serving practices, or they risk the real consequence of failing to renew their license.</p>
5	Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?
Response	No funding required. N/A.

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6	<p>Does this article act in any way in concert with, in support of, or to extend any prior action of Natick Town Meeting, Massachusetts General Laws or CMR's or other such legislation or actions?</p> <p>Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?</p>
Response	Yes. Please see answer in Item #3 above.
7	How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive Master Plan, and community values as well as relevant state laws and regulations?
Response	<p>By removing language which is arbitrary and open to interpretation, the proposed motion would enable the Licensing Authority greater flexibility to consider, and potentially approve, new economic opportunities for the Town.</p> <p>Expanding such commercial revenue opportunities helps the Town offset potential residential tax rate increases, one aspect of addressing the affordability and attractiveness of Natick.</p> <p>Further, by expanding opportunities for entrepreneurs and current Natick businesses to expand such venues in Natick, we are:</p> <ol style="list-style-type: none"> 1) affirming the "business friendly" message we seek to send to the market; 2) fostering more, and more diverse, dining and social options for Natick residents and visitors; and, 3) taking a concrete step toward addressing common themes as highlighted in a variety of studies conducted over the past 15+ years. For example: <ol style="list-style-type: none"> a. <u>Natick 2030+ Master Plan (2019)</u>: "Review and improve regulatory policies and procedures to more effectively respond to inquiries from both existing businesses and businesses looking to locate in Natick. This should include zoning, permitting, and utilities." b. <u>Natick Center Forward (2012)</u>: "Need for more restaurants/nightlife, need for more intensity/more variety..." <p>We have seen this feedback consistently not only in the above-cited examples, but also in the Natick 360 Strategic Plan, Natick Center planning charettes of the early 2000/2010s, subsequent economic development studies conducted in 2012 (EDSAT – Economic Development Self-Assessment Tool) and 2016 (Natick Economic Development Study and Action Plan), and among other popular forums e.g. Facebook</p>

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	<p>- groups such as, but not limited to, “Let’s Get a Pub in Downtown Natick,” “Natick Community and Government Chat,” and “Natick Talks.”</p> <p>Further, one of the major intentions of 2014 FATM Article 39 (which passed with Favorable Action) was to expand Natick Center’s restaurant base by offering tax incentives. We subsequently learned that a greater barrier to entry for many restaurant concepts sat within the Select Board policies; thus, not one business has availed itself of the program endorsed by Town Meeting’s vote in 2014.</p> <p>Representatives from Natick’s addiction and substance use coalition, Natick 180, presented to the Select Board (Public Hearing 8/24/22) and Board of Health (8/30/22) a memo which highlights feedback (from concerns and support to recommendations) on a more expansive/forthcoming Select Board review of related policies. The subject matter of this Article was addressed in that memo. In summary, Natick 180 recommended language similar to that of Medford, MA, which prescribes specific minimum numbers (and types) of seats. Please see Item #9 below for further explanation of Natick 180’s involvement to date, including a link to a public meeting when this memo was discussed and from where the complete memo may be downloaded by members of the public.</p>
8	Who are the critical participants in executing the effort envisioned by the article motion?
Response	The Select Board, as the Licensing Authority, would be exclusively responsible for decisions impacted by this change by engaging in a public meeting-based process. Administrative impacts would be minimal, requiring a small modification to Natick’s Licensing guidelines which are posted online and shared with applicants and license holders by administrative employees in the office of the Town Administrator and Select Board.
9	<p>What steps and communication has the sponsor attempted to assure that:</p> <ul style="list-style-type: none"> ● Interested parties were notified in a timely way and had a chance to participate in the process ● Appropriate Town Boards & Committees were consulted ● Required public hearings were held
Response	The Select Board conducts public meetings and public hearings for licensing applications, renewals, and policy changes on an annual and as-needed basis. This Article is focused exclusively on the proposed removal of the “Seating Capacity”

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	<p>language included in the Select Board’s current Policies and as Legislated by past Home Rule Petition.</p> <p>Additional information below is provided for context, and to highlight the process the Select Board is undertaking regarding the content of this article and related matters.</p> <p>We have tried in good faith to identify all of the meetings when the topic of this Article might have been discussed (and with votes/dates highlighted). Each of these meetings was open to the public with opportunity to comment. The public was notified about the Public Hearing which opened in August 2022, and of all Select Board meetings, in compliance with Open Meeting Law, with notice posted on the Town’s Website, available to interested parties by email/text subscription, and as proliferated through other organizations (e.g. Natick 180) and (unofficially) via the press and social media.</p> <p>The Select Board is currently in the process of undertaking a comprehensive review of all of its Policies, and in late 2021 decided to focus on alcohol licensing policies for its first in-depth review, assigning Mr. Joseph as the appointee to undertake this process and return to the Select Board with recommendations for subsequent discussion and decision. As a preliminary step in that process, a 4-member working group consisting of the (current) Select Board chair, Paul Joseph; the (current) Deputy Police Chief, Brian Lauzon, the Director of Community and Economic Development, Amanda Loomis, and the Town Administration’s Executive Assistant, Donna Donovan (who maintains all related records, engages Town Counsel, fields inquiries regarding licensing, and possesses extensive institutional knowledge of past permitting practices).</p> <p>This working group met approximately monthly from February 17, 2022 through July 26, 2022. ***These were not public meetings but rather interactions designed to (a) gather and assemble current policies and (b) reach out to constituents who’ve previously expressed interest in the topic of these policies and/or whom would be directly impacted. This would allow the working group to triage the major issues related to the current Board policies and propose an approach to consider changing them (which, would subsequently be done in public meetings and in further collaboration with interested stakeholders).</p> <p>Examples of the meetings and conversation spawned from this working group included:</p> <ul style="list-style-type: none">• (Current) SB chair meeting with members of the Health Department, including its director and the director of Natick 180, on March 4, 2022;
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- At least 10 in-person meetings/conversations were conducted with current and former Natick businesses owners; and,
- Meetings with representatives from the Natick Center Cultural District and the Natick Economic Development Committee.

Further outreach included an online survey to gather anecdotal feedback from community members and businesses owners. 149 respondents replied to this survey with the vast majority indicating feedback consistent with the proposal brought forward in this article. (see link provided below for data collected during this survey)

Further, as the Select Board's liaison to Natick 180, Mr. Joseph provided information periodically at N180 Steering Committee meetings and meetings of various subcommittees (e.g., its Policy and Action team). All Natick 180 meetings are public meetings which are posted and open to the public.

Select Board meetings were held on the following dates with agenda items as identified below:

- 5/18/22 Alcohol Policy Update
- 6/15/22 Alcohol Policy Review
- 6/29/22 Alcohol Policy Update
- 8/3/22 Alcohol Policy Review
- 8/24/22 Public Hearing/Modification and/or amendment of the rules and regulations for the sale of alcoholic beverages
- 9/7/22 Continuation Public Hearing/Modification and/or amendment of the rules and regulations for the sale of alcoholic beverages

In response to the comprehensive list of issues under consideration of the Working Group and the Select Board, Natick 180 issued a memo that highlights concerns, support, and recommendations to the Select Board regarding the alcohol policies under review. A link to this memo can be found via the link below.

For further background and to be as transparent as possible, all related documents cited above, or reviewed by these groups can be found on the Select Board's agenda for the 8/24/22 Public Hearing at the following URL:

<https://naticktown.novusagenda.com/agendapublic/CoverSheet.aspx?ItemID=12814&MeetingID=1055>

The above information is provided for context and to demonstrate the efforts undertaken to engage the public and other impacted stakeholders.

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	Officially, and directly relating to this Article, the Select Board sponsored this article, voted to include it on the Warrant (8/22/22), and voted to endorse Article 18 at the Select Board meeting of 9/7/22, passing unanimously 4-0-0.
10	Since submitting the article, have you identified issues that weren't initially considered in the development of the proposal?
Response	No.
11	If this Warrant Article is not approved by Town Meeting what are the consequences to the Town and to the sponsor(s)? Please be specific on both financial and other consequences?
Response	<p>Natick will continue to significantly limit its opportunities to retain, diversify and grow its base of restaurants and places for on-premises consumption of alcoholic beverages, especially in the Natick Center Cultural district, West Natick, and other areas in Town that do not offer the larger-sized commercial spaces available in the Rte. 9 area.</p> <p>Natick will forgo opportunities to consider newer, creative concepts that would be better suited for small-sized retail spaces and that offer innovative menus and experiences for their patrons.</p> <p>Significant opportunity costs include:</p> <ol style="list-style-type: none"> 1) <u>Direct, potential financial impacts, such as</u> <ol style="list-style-type: none"> a. lower income from New Growth; b. lower Local Options Tax revenues; and c. lower rents/commercial property assessments due to sub-optimal tenancy; and, 2) <u>Indirect costs, such as:</u> <ol style="list-style-type: none"> a. limited economic attractiveness to businesses looking to locate and grow in the MetroWest area; b. less vibrant quality of life due to limited numbers and varieties of restaurants and establishments offering on-premises alcoholic beverage services. <p>These types of businesses are frequently linked to the viability and attractiveness of communities that are sought by commercial site selection professionals and larger employers. Further, for more than 15 years, the general public has consistently expressed its strong desire to see more of these types of venues in Natick. The economic and social impacts of the pandemic have increased the importance and urgency for Natick to make the changes proposed by Article 18.</p>

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APPENDIX (Added 10/8/22):

At the Finance Committee meeting on September 13, 2022, a Member asked: **“How many total (On Premise Retail) licenses are currently available?”** There was some uncertainty to the answer based on a discrepancy between the Alcoholic Beverage Control Commission (ABCC) and Town records.

The Select Board chair and Town Administrator’s executive assistant subsequently met (virtually) with ABCC Licensing Supervisor Sean Walsh on Thursday, September 29th.

In summary, between State legislated permits (i.e., “quota” and permits which are exempt from counting towards quota, including Veterans clubs and “Farmer”/agricultural permits) and special legislation enacted for Natick (i.e., permits available outside of “quota”) in 2008 for the Downtown Mixed Use/HOOP-1 district, **the following table summarizes that the answer to the Fin Com Member’s question is: 24 ON Premise Retail licenses are currently available in Natick** (noting there is no specific limit to exemptions such as Vets clubs, etc.).

MGL Ch. 138, Sec 12 (ON Premise Retail) Licenses									
Type of License:	Licenses Allowed			Licenses Issued			Licenses AVAILABLE		
	Quota	Exemption from Quota (Veterans Club, Farmer Permit)	Special Legislation (DMU, HOOP-1)	Quota	Exemption from Quota (Veterans Club, Farmer Permit)	Special Legislation (DMU, HOOP-1)	Quota	Exemption from Quota (Veterans Club, Farmer Permit)	Special Legislation (DMU, HOOP-1)
(All) Alcoholic Beverages (AB)	40			23	2	2	17		
Malt (incl. Beer) and Wine (MW)	8	N/A	8	4	2	2	3	N/A	4
Malt, Wine, and Coridal (MWC)				1					
Subtotal by Column:	48	N/A	8	28	4	4	20	N/A	4
Total Potential Town Licenses --->			56+				56+(4 exempt) =		60
			Total Issued Licenses --->			36	minus		36
# of Licenses by Category --->	25 <i>Restaurant</i>	4 <i>Hotel/Innkeeper</i>	1 <i>Gen'l On-Prem</i>	2 <i>Club</i>	2 <i>Farmer PP</i>	2 <i>Vets Club</i>			↓
							Total AVAILABLE Licenses --->	24+	

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The “*Quota Breakdown As of: 9/29/22*” table below was provided to the Town by the ABCC and is an updated version of a document shared with the Fin Com on September 13th. It was recently learned that (a) ABCC relies on the Town to monitor and update its current inventory of Alcohol Licenses (i.e., the ABCC does not verify these figures annually), and (b) the ABCC had some (minor) errors in its records, which have subsequently been corrected (manually) below.

The information in the ABCC’s table is a bit confusing, hence we have provided the preceding table.

Additional Background, Calculating Natick’s Total Available On Premise Retail Licenses: Natick’s population grew to 37,006 as of the 2020 Census. By State law, the Town is entitled to 38 On Premises Retail Alcoholic Beverages licenses (1 per 1,000 of population or fraction thereof, so $37,006/1,000 \Rightarrow 37 + 1$) PLUS one license for every 10,000 residents or fraction thereof for every 10,000 residents OVER 25,000, or 2 additional licenses, for a quota limit total of 40 AB licenses.

In addition, for On Premises Malt and Wine licenses, the Town is entitled to 8 MW/MWC licenses (1 per 5,000 of population or fraction thereof, so $37,006/5,000 \Rightarrow 7+1$).

Based on Special Legislation enacted on behalf of Natick in 2008, the Town is entitled to 8 ADDITIONAL (“out of quota”) licenses. These licenses can be of either type, AB or MW/MWC and are restricted to the Downtown Mixed Use/HOOP-1 district.

There is no defined limitation on the number(s) of Exempt (e.g. Veterans Club, Farmer PP, etc) licenses available. Natick currently has 4 Exempt permits issued.

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COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF THE STATE TREASURER

ALCOHOLIC BEVERAGES CONTROL COMMISSION

95 Fourth Street, Suite 3 Chelsea, MA 02150-2358

Jean M. Lorizio, Esq.

Commission Chairman

QUOTA BREAKDOWN

As of: 9/29/2022

Town of: Natick (0768)

ANNUAL						
On Premise Retail			Exemption			
	Allowed	Total Issued	Special Leg	Vets Clubs	Farmer Series PP	Total Available in Quota
AB	40	27	2 3	2 1	0	17
WM	8	8	2	0	2	
WMC		1	0	0	0	3
Off Premise Retail			Exemption			
	Allowed	Total Issued	Special Leg	Vets Clubs	Farmer Series PP	Total Available in Quota
AB	8	7	0	0	0	1
WM	8	1	1	0	0	8
SEASONAL						
On Premise Retail			Exemption			
	Allowed	Total Issued	Special Leg	Vets Clubs	Farmer Series PP	Total Available in Quota
AB	0	0	0	0	0	0
WM		0	0	0	0	
WMC	0	0	0	0	0	0
Off Premise Retail			Exemption			
	Allowed	Total Issued	Special Leg	Vets Clubs	Farmer Series PP	Total Available in Quota
AB	0	0	0	0	0	0
WM	0	0	0	0	0	0

Annual	AB	SECTION 12
Club		2 2
General On-Premises		1
Hotel/Innkeeper		4
Restaurant		18
Veterans Club		2 2
Annual	WM	SECTION 12
Farmer Brewery Pouring Permit		1
Farmer Winery Pouring Permit		1
Restaurant		7