



**Town of Nahant**  
**334 Nahant Road, Nahant, MA 01908**  
**Tel. (781) 581-0018 Fax (781) 593-0340**

**NOTICE OF APPROVAL OF BY-LAWS**  
**From the NAHANT May 15 & 16, 2021 Annual Town Meeting**

In accordance with MGL Chapter 40, Section 32, notice is hereby given of the approval by the Attorney General's Office for the changes to *NAHANT's General By-laws*; Article 13 and 38 and *Zoning By-laws* under Article 30 of the May 2021 Annual Town Meeting Warrant and as voted on at the adjourned **Annual Town Meeting on May 15, 2021 and May 16, 2021.**

- **Article 13 – GBL** – Amend Article IV of the General Bylaws and Establish Fiscal Year Spending Limits
- **Article 30 – ZBL** – Zoning By-law Amendments- Marijuana
- **Article 38 – GBL** – Non Compostable Shopping Bag Reduction

Pursuant to MGL Chapter 40, section 32

**General By-laws** and amendments take effect on the date of this posting- September 30, 2021.

**Zoning Bylaws** and amendments are deemed to take effect from the time they were voted on and approved by Town Meeting – May 16, 2021

Claims of invalidity by reason of any defect in the procedure of adoption or amendment may only be made within 90 days of the posting of this notice.

Attached please find the Letter of Decision from the Attorney General's Office for above referenced By-laws along with the Certified Vote of each Article from Nahant's adjourned Annual Town Meeting May 15, 2021 and May 16, 2021.

Notice of Approval is posted at NAHANT's Town Hall, Library, Fire Dept., Police Station, the Town of Nahant Website Nahant.org. Copies can be viewed and obtained in the Town Clerk's Office at Nahant Town Hall, 334 Nahant Road, Nahant, Ma. 01908 M-TH 8:00am-4:00pm and Friday 8am-12:30pm or on the Town of Nahant Website

Articles 13, 30 and 38 were approved by Assistant Attorney General, Nicole Caprioli on September 13, 2021. **Asst. Attorney General, Nicole Caprioli, requested and was allowed an extension until October 28, 2021 for further review on Articles 24, 35 and 42.**

ATTEST:

  
Diane M. Dunfee, Town Clerk



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

MAURA HEALEY  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

September 13, 2021

Diane Dunfee, Town Clerk  
Town of Nahant  
334 Nahant Road  
Nahant, MA 01908

**Re: Nahant Annual Town Meeting of May 15, 2021 -- Case # 10200  
Warrant Article # 30 (Zoning)  
Warrant Articles # 13, 24, 35, 38 and 42 (General)**

Dear Ms. Dunfee:

**Articles 13, 30, and 38** - We approve Articles 13, 30, and 38 from the May 15, 2021 Nahant Annual Town Meeting. Our comments regarding Article 30 are provided below.

**Articles 24, 35 and 42** - The Attorney General's deadline for a decision on Articles 24, 35 and 42 is extended for an additional 45 days under the authority conferred by G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000. The agreement with Town Counsel for a 45-day extension is attached hereto. We will issue our decision on Articles 24, 35 and 42 on or before **October 28, 2021**.

**Article 30** – Article 30 amends the Town's zoning by-laws to: (1) amend Section 2.02, "Definitions," to add several new marijuana related definitions; (2) add a new Section 14, "Marijuana Establishments and Medical Marijuana Treatment Centers," and amend Section 4.13, "Table of Uses," to allow marijuana establishments (ME) and marijuana treatment centers (MTC) by special permit in the B-1 district and prohibit these uses in all other districts. We offer comments regarding the new Section 14 for the Town's consideration.

1. **Section 14.02 (A) – Number of ME and MTC**

Section 14.02 (A)(1) provides that the maximum number of marijuana retailers in the Town "shall be no more than one (1)." We approve this portion of the by-law that limits the number of marijuana retailers in the town to "no more than one (1)." However, the Town should consult with Town Counsel to determine if a ballot vote is required as a result of this amendment. General Laws Chapter 94G, Section 3 (a)(2)(ii) requires a ballot vote if the Town, by by-law, seeks to limit the number of marijuana retail licenses to fewer than 20% of the

licenses for the retail sale of alcoholic beverages not to be drunk on the premises where sold. Specifically, G.L. c. 94G, § 3 (a)(2)(ii) provides in relevant part as follows:

The...town shall submit any by-law...for approval to the voters pursuant to the procedure in subsection (e) before adopting the by-law...if it would:

\*\*\*\*\*

(ii) limit the number of marijuana retailers to fewer than 20 per cent of the number of licenses issued within the city or town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under section 15 of chapter 138[.]

It is not clear from the materials submitted to this Office whether a limit of “no more than one (1)” marijuana retailer in the Town places the Town in a situation where it must obtain ballot approval before the by-law takes effect. The Town should consult with Town Counsel to determine whether a ballot vote is needed as a result of Section 14.02 (A)(1) limiting marijuana retailers in the Town to “no more than one (1).”

2. Section 14.02 (B) – Location, Uses and Special Permit Granting Authority

Section 14.02 (B) (3) authorizes the Planning Board to adopt regulations for the implementation of this by-law as follows:

The Planning Board is hereby authorized to issue regulations by supermajority (5 members) vote consistent with this by-law and Mass. General Laws Chapter 40A, Section 9, that shall be effective immediately upon such vote until superseded by an amendment to this by-law approved at Town Meeting.

In the Planning Board’s report to Town Meeting, the Planning Board explained that it “intends to resume work after this Town Meeting to propose a more comprehensive by-law for consideration at the next Nahant Town Meeting” and that in the meantime, the purpose of Section 14.02 (B)(3) was to give the Planning Board “authorization to issue regulations consistent with Warrant Article 30 that could provide temporary additional protection to the town in certain areas, which would be effective in advance of another Town Meeting.”

In applying Section 14.02(B)(3), the Town and the Planning Board should be mindful that any regulations adopted by the Planning Board must be consistent with state law. *See American Lithuanian Naturalization Club v. Board of Health of Athol*, 446 Mass. 310, 321 (2006) (“A town may not promulgate a regulation that is inconsistent with State law.”) Moreover, the Town must ensure that any regulations are consistent with G.L. c. 94G, § 3, regulating the Town’s local control over marijuana establishments. The Town and the Planning Board should discuss with Town Counsel any proposed regulations adopted pursuant to Section 14.02 (B)(3) to ensure that they comply with state law.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the

**date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.**

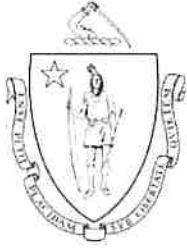
Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418

cc: Town Counsel Daniel G. Skrip



THE COMMONWEALTH OF MASSACHUSETTS  
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September 10, 2021

Daniel G. Skrip, Esq.  
Tempus Fugit Law LLC  
185 Devonshire Street, Suite 201  
Boston, MA 02110

**Re: Extension of 90-day review period of Articles 24, 35 and 42  
Nahant Annual Town Meeting of May 15, 2021  
Case # 10200**

Dear Attorney Skrip:

Pursuant to the requirements of G.L. c. 40, § 32, as amended by Chapter 299 of the Acts of 2000, the Attorney General and Town Counsel are authorized to extend the 90-day period provided for the Attorney General's review of town by-laws for not more than an additional 90 days. This letter serves to satisfy the requirements of G.L. c. 40, § 32, as amended. In light of our need for time to further discuss the proposed by-laws' consistency with state law, we hereby jointly agree to extend the Attorney General's review period of Articles 24, 35 and 42 for an additional 45 days. Our decision on Articles 24, 35 and 42 will now be due on **October 28, 2021**.

Please sign this letter to reflect your agreement and return the signed letter to us. We will then file the letter with the Town Clerk, with a copy to you. Thank you for your accommodation in this matter.

Very truly yours,

MAURA HEALEY  
ATTORNEY GENERAL

*Nicole B. Caprioli*

By: Nicole B. Caprioli  
Assistant Attorney General  
Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(508) 792-7600 ext. 4418

*Daniel G. Skrip* / nbc  
Town Counsel

September 13, 2021

Date

**ARTICLE 13. (Amend Article IV of the General By-Laws and Establish Fiscal Year Spending Limits)** To see if the Town will vote pursuant to Massachusetts General Laws Chapter 44, §53E½ to: (1) amend Section 8 of Article IV of the General By-Laws of the Town by establishing and authorizing two new revolving funds for use separately by the Board of Appeals and the Conservation Commission; and (2) establish fiscal year spending limits for such funds, all as set forth below; or take any other action relative thereto.

(1) Amend Section 8 of Article IV of the General By-Laws by adding:

C. Authorized Revolving Funds.

<b>FUND</b>	<b>REVENUE SOURCE</b>
Board of Appeals Revolving Fund	Fees paid pursuant to the Zoning Act or Zoning By-Laws
Conservation Commission Revolving Fund	Filing fees paid pursuant to the Wetlands Protection Act
<b>AUTHORITY TO SPEND FUNDS</b>	<b>USE OF FUNDS</b>
Board of Appeals	To pay for the expenses required for training, processing applications, holding hearings, etc.
Conservation Commission	To pay for consultant fees, expenses, etc. for administration and enforcement of the Wetlands Protection Act

(2) Vote to Establish Fiscal Year Expenditure Limits. (Note: This action is not a by-law amendment.) And, further, to establish FY2022 fiscal year spending limits for such funds in the amounts indicated, with such limits to be applicable from fiscal year to fiscal year unless adjusted by Town Meeting prior to July 1 for the ensuing fiscal year, as follows:

<b>FUND</b>	<b>SPENDING LIMIT</b>
Board of Appeals Revolving Fund	\$10,000
Conservation Commission Revolving Fund	\$20,000

**MOTION 13: BARBARA BEATTY** (Amend Article IV of the General By-Laws and Establish Fiscal Year Spending Limits) Majority vote I move that the Town amend Section 8 of Article IV of the General By-Laws authorizing two new revolving funds and establish spending limits therefor as printed in the warrant.

**VOTED:** Upon motion and duly seconded by Mr. Brown vote 501 in favor 75 opposed at 2:00pm

On 5/15/2021



A TRUE COPY, ATTEST:

*Deane M. Dunfee*

TOWN CLERK

**ARTICLE 30.** (Zoning By-law Amendments - Marijuana) To see if the Town will vote to amend the Nahant Zoning By-Laws by amending Section 2.02 (Definitions) to add Marijuana-related terms; by adding a new section – Section 14 (Marijuana Establishments [ME] and Medical Marijuana Treatment Centers [MTC]) – in an effort to abate the objectionable operational characteristics and minimize minor exposure to MEs and MTCs; and to amend Section 4.13 (Table of Use Regulations) to account for MEs and MTCs; a copy of these amendments are available for review in the Town Clerk’s office, or take any other action relative thereto.

**MOTION 30: JUDY ZAHORA** (Zoning By-law Amendments - Marijuana) 2/3rds vote & Planning Board

I move that the Town approve Article 30 as printed in Appendix 13 of the Report and Recommendations of the Advisory and Finance Committee and to include the amendments provided in the Report and Recommendation of the Planning Board

**Planning Board Amendment to the Article:**

**Zoning By-Law Amdendments/Additions – Marijuana**

**“SECTION 2.02 – DEFINITIONS:**

**Marijuana Cultivator:** Any entity licensed to cultivate, process and package Marijuana, and to transfer Marijuana to other Marijuana Establishments, but not to Consumers.

**Marijuana Establishments:** A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee: Marijuana Research Facility Licensee Social Consumption Establishment (as defined in 935 CMR 500.002): Social Consumption Establishment or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center.

**Marijuana Product Manufacturer:** An entity licensed to obtain, manufacture, process and package Marijuana or Marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

**Marijuana Research Facility:** The premises at which a Marijuana Research Facility Licensee is approved to conduct research.

**Marijuana Research Facility Licensee:** An academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or Medical Marijuana Treatment Center, that is licensed to conduct research.

**SECTION 14.01 – Purpose**

It is recognized that the nature of the substance cultivated, processed, and/or sold by Medical Marijuana Treatment Centers (MTC) and Marijuana Establishments (ME) may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety, and general well-being of the public, customers as well as patients seeking treatment. The specific and separate regulation of MTCs and MEs is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors.

**SECTION 14.02 – Number and Location of Marijuana Establishments and Medical Marijuana Treatment Centers**

**A. Number**

1. The maximum number of Marijuana Retailers shall be no more than one (1).
2. The maximum number of Marijuana Establishments (exclusive of Marijuana Retailers or MTCs) shall be no more than one (1).
3. The maximum number of MTCs shall be no more than one (1).

**B. Location, Uses and Special Permit Granting Authority**

1. MEs or MTCs are prohibited in all zoning districts, except as otherwise permitted by these By-laws, following the standards herein:
  - a. The Board of Selectmen shall negotiate and execute a Host community Agreement with the proposed ME or MTC.
  - b. Any ME or MTC must be located within whichever district permissible under Section 4.13, Table of Use Regulations.
  - c. Except during transportation, Marijuana or Marijuana products held at any ME or MTC shall be located within a secure indoor facility.
  - d. No use covered herein shall be allowed to disseminate or offer to disseminate Marijuana products or product advertising to minors or to allow minors to view displays or linger on the premises, except for MTCs.
2. Notwithstanding Section 9.08.A. of these Zoning By-Laws, the Planning Board shall be the Special Permit Granting Authority regarding MEs and MTCs.
3. The Planning Board is hereby authorized to issue regulations by supermajority (5 members) vote consistent with this by-law and Mass. General Laws Chapter 40A, Section 9, that shall be effective immediately upon such vote until superseded by an amendment to this by-law approved at Town Meeting.



**AMENDED TABLE OF USE REGULATIONS, ADDING TWO NEW ROWS AS FOLLOWS:**

**Section 4.13, Table of Use Regulations**

<b>Description of Use</b>	<b>Zoning Districts:</b>					
	<b>R-1</b>	<b>R-2</b>	<b>B-1</b>	<b>B-2</b>	<b>NR</b>	<b>P</b>
Marijuana Establishments	N	N	S	N	N	N
Marijuana Treatment Centers	N	N	S	N	N	N

**VOTED:** After reading of the Planning Board report by Mr. Dan Berman and upon motion and duly seconded by Mr. Brown requires 2/3rds vote 181 in favor 18 opposed at 3:34pm on 5/16/2021



**A TRUE COPY, ATTEST:**

*Diane M. Dwyer*

**TOWN CLERK**

**ARTICLE 38. (General By-law Amendment - Non-Compostable Shopping Bag Reduction)** To see if the Town will vote to amend the Nahant General By-Laws by adding a new Article - ARTICLE XIX: NON-COMPOSTABLE SHOPPING BAG REDUCTION – in an attempt to abate detrimental environmental impacts by eliminating the usage of thin-film, single-use plastic bags by all Retail Establishments in the Town of Nahant; a copy of this amendment is available for review in the Town Clerk’s office, or take any other action relative thereto.

**MOTION 38:** BARBARA BEATTY (General By-law Amendment-Non-Compostable Bags) Majority vote I move that the Town amend the General By-Laws by adding new Article - ARTICLE XIX: NON-COMPOSTABLE SHOPPING BAG REDUCTION as printed in Appendix 14 of the Report and Recommendations of the Advisory and Finance Committee

**VOTED:** After a brief discussion by Mr. Maxwell McDonough author of the citizens petition vote on the motion and duly seconded by Mr. Vanderslice vote 162 in favor and 19 opposed at 4:04pm on 5/16/2021



**A TRUE COPY, ATTEST:**

*Deane M. Dunfee*

**TOWN CLERK**