

THE CHARTER OF THE TOWN OF NAHANT

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CHARTER OF THE TOWN OF NAHANT

We, the people of the Town of Nahant, Massachusetts, in order to form a more perfect community, reaffirm the customary and traditional liberties of the people with respect to the conduct of our local government, and take fullest advantage of the Home Rule Amendment to the Constitution of the Commonwealth of Massachusetts, do hereby adopt this Home Rule Charter for our Town.

ARTICLE 1

POWERS OF THE TOWN

SECTION 1-1: INCORPORATION

The inhabitants of the Town of Nahant (hereinafter “the Town”) within the Town’s corporate limits as established by law, shall continue to be a body corporate and politic with perpetual succession under the name: Town of Nahant.

SECTION: 1-2: SCOPE AND INTERPRETATION OF TOWN POWERS

(a) The Town shall possess, exercise and enjoy all local governmental powers, rights and privileges under the constitution and laws of the Commonwealth of Massachusetts as completely and fully as though they were expressly enumerated in this charter.

(b) The powers of the Town under this charter shall be construed liberally in favor of the Town and the specific mention of particular powers is not intended to limit in any way the general powers of the Town as stated in this Article 1.

SECTION 1-3: FORM OF GOVERNMENT

This charter provides for the open Town Meeting – Selectmen form of government.

SECTION 1-4: INTERGOVERNMENTAL RELATIONS

The Town may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more municipalities, civil divisions, subdivisions, or agencies of the Commonwealth, other states, or of the United States government.

ARTICLE 2

TOWN MEETING

SECTION 2-1: LEGISLATIVE POWER

The legislative powers of the Town shall continue to be exercised by a Town Meeting open to all registered voters of the Town.

SECTION 2-2: QUORUM

The quorum necessary for the conduct of business shall be established by by-law.

SECTION 2-3: CLERK OF THE MEETING

The Town Clerk shall serve as clerk of the Town Meeting. The clerk shall give notice of all meetings to the public, keep the journal of the proceedings and perform such other duties as may be provided by this charter, by statute, by by-law or by Town Meeting vote.

SECTION 2-4: PRESIDING OFFICER

The Moderator shall preside at all sessions of the Town Meeting. In the event of the absence or disability of the Moderator, the Town Clerk shall call the meeting to order and shall preside until a temporary Moderator is chosen.

SECTION 2-5: MEETING

The Town Meeting shall meet one time each calendar year and shall be held at such time as shall be fixed by by-law. Special Town Meetings may be called as prescribed in Chapter 39 of the General Laws.

A Town Meeting shall, unless a different time or method is prescribed by law, be called by posting an attested copy of the warrant calling the same in at least four public places in the Town, not less than fourteen (14) days before the date fixed for the meeting.

SECTION 2-6: ELECTIONS

The regular elections of Town officers shall be held annually on the date fixed by by-law.

SECTION 2-7: CITIZEN PARTICIPATION

Any registered voter of the Town shall have the right to speak and vote at Town Meeting sessions, subject to such rules as may from time to time be adopted by the Meeting of by by-law.

ARTICLE 3

ELECTED OFFICIALS

SECTION 3-1: ELECTIVE OFFICIALS

The offices to be filled by ballot of the whole town shall be a Board of Selectmen, a Moderator, a School Committee, a Board of Assessors, a Town Clerk, a Planning

Board, Library Trustees, a Housing Authority, a Constable and such other members of regional authorities or districts as may be established by law, interlocal agreement or otherwise.

SECTION 3-2: ELIGIBILITY

Any registered voter of the Town shall be eligible to hold any elective Town office; but no elected Town official shall simultaneously hold any other elected Town office.

SECTION 3-3: COMPENSATION

Elected officials shall receive for their services such compensation as may be annually provided for that purpose by appropriation.

SECTION 3-4: SELECTMEN

(a) Composition, term of office: There shall be a Board of Selectmen consisting of three (3) members elected for three (3)-year overlapping terms, so that the term of office of one member expires each year.

(b) Powers and duties: The executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall have all of the executive powers given to Boards of Selectmen by general law, or otherwise, shall serve as the chief policy-making agency of the Town, and shall be responsible for the establishment of policy directive and guidelines to be followed by all Town agencies serving under it. It shall have the general direction and management of the property and affairs of the Town in all matters not otherwise provided for by this constitution, by-laws, or law, and it shall be the agent of the Town to institute, prosecute, defend and compromise any and all claims, actions and proceedings on behalf of or against the Town, or in which the

interests of the Town are, or may be, involved. It shall negotiate all contracts involving collective bargaining within its jurisdiction. It shall cause a record of all its official acts to be kept.

(c) Appointing powers: The Board of Selectmen shall appoint the Town Accountant, the Registrars of Voters and other election officials, the Conservation Commission, the Board of Appeals and the members of all other multiple-member bodies required to be appointed by it by by-law or for whom no other method of selection is provided by this charter or otherwise.

(d) Licensing authority: The Board of Selectmen shall be the license board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and impose restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all business for which it issues licenses.

(e) Other powers: The Board of Selectmen shall have the powers and duties which now, or from time to time, shall be vested in the following boards and offices: highway surveyor, water commissioners, sewer commissioners, cemetery commissioners, tree warden and Board of Health. The Selectmen shall appoint a Superintendent of Public Works and shall fix his compensation, provided that it shall not exceed the amount appropriated therefor by the Town. He shall administer, under the supervision of and direction of the Selectmen, a Department of Public Works and the highway, water, sewer, cemetery, tree warden and health departments. He shall also administer, under their supervision as the Selectmen, such other departments under their supervision as the Selectmen may designate, except the fire and police. He shall be responsible for the

administration of all departments within the scope of his duty, and shall hold office subject to the will of the Selectmen. He shall be specially fitted by education, training and experience to perform the duties of said office. He may or may not be a resident of the Town when appointed. During his tenure, he shall hold no other elective or appointive office, nor shall be engaged in any other business or occupation. He shall give bond to the Town for the faithful performance of his duties in such sum, upon such conditions and with surety or sureties as the Selectmen may require, the expenses of such bond to be borne by the Town, and shall, subject to the approval of the Selectmen, appoint such assistants, agents and employees as the performance of the duties of the various departments under his supervision may require.

SECTION 3-5: MODERATOR

- (a) Term of office: There shall be a Town Moderator elected for a term of one (1) year.
- (b) Powers and duties: The Moderator shall have the powers and duties provided for that office by law, by this charter, by by-law or by any Town Meeting vote.

SECTION 3-6: SCHOOL COMMITTEE

- (a) Composition, term of office: There shall be a School Committee, consisting of five (5) members, elected for three (3)-year overlapping terms so arranged that as nearly an equal number of terms as possible shall expire each year.
- (b) Powers and duties: The School Committee shall have all the powers and duties school committees may have under the Constitution and General Laws of the Commonwealth. **ATM voted 4/27/2002 to amend the Town Charter from a 7 member board to a 5 member board. AG approved 5 /21/2002**

SECTION 3-7: BOARD OF ASSESSORS

(a) Composition, term of office: There shall be a Board of Assessors, consisting of three (3) members, elected for three (3)-year overlapping terms, so arranged that the term of one member shall expire each year.

(b) Powers and duties: The Board of Assessors shall annually make a fair cash valuation of all of the estate, both real and personal, subject to taxation within the Town. It shall determine the annual tax rate and shall hear and decide all applications for abatement of such taxes. It shall have all of the other powers and duties which are given to boards of assessors by General Laws and such other powers, duties and responsibilities as may be provided by this charter, by statute, by by-law or by Town Meeting vote.

SECTION 3-8: TOWN CLERK

(a) Term of office: There shall be a Town Clerk elected for a term of one (1) year

(b) Powers and duties: The Town Clerk shall be the keeper of vital statistics for the Town, the custodian of the Town Seal and all records of the Town, shall administer the oath of office to all Town officers, elected or appointed, shall issue such licenses and permits as are required to be issued by Town Clerks, shall supervise and manage the conduct of all elections, and matters pertaining thereto, shall be the clerk of the Town Meeting, keep its records and, in the absence of the Town Moderator, serve as temporary presiding officer at the Town Meeting. The Town Clerk shall have all other powers and duties which are given to Town Clerks by general laws and such other powers, duties and responsibilities as may be provided by this charter, by statute, by by-law or by Town Meeting vote.

SECTION 3-9: PLANNING BOARD

(a) Composition, term of office: There shall be a Planning Board consisting of seven (7) members elected for five (5)-year overlapping terms, so arranged that as nearly an equal number of terms as possible shall expire each year.

(b) Powers and duties: The Planning Board shall make studies and prepare plans concerning the resources and present and future needs of the Town. It shall have the power to regulate the sub-division of land within the Town by the adopted rules and regulations governing such development. It shall have all the powers and duties given to planning boards by general laws and such additional powers and duties as may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 3-10: LIBRARY TRUSTEES

(a) Composition, term of office: There shall be a Board of Library Trustees consisting of three (3) members elected for three (3)-year overlapping terms, so arranged that the term of one member shall expire each year.

(b) Powers and duties: The Library Trustees shall be responsible for the management of the library and shall have such other powers, duties and responsibilities as may be provided by general laws, by this charter, by by-law, or by Town Meeting vote.

SECTION 3-11: HOUSING AUTHORITY

(a) Composition, term of office: There shall be a Housing Authority consisting of five (5) members. Four of these members shall be elected for five (5)-year overlapping terms so that the term of office of one member expires each year. The fifth member shall be a registered voter of the Town, appointed in the manner provided by law.

(b) Powers and duties: The Housing Authority shall have all of the powers and duties given to housing authorities by general laws and such additional powers and duties as may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 3-12: CONSTABLE

(a) Term of office: There shall be a constable elected for a term of one (1) year.

(b) Powers and duties: The Constable shall have all of the powers and duties given to constables by general laws and such additional powers and duties as may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 3-13: VACANCIES AND FORFEITURE OF OFFICE

(a) An elective office shall become vacant upon the death, resignation, or removal from office of said office-holder in a manner authorized by law.

(b) No office shall be considered vacant unless either a letter of resignation from the office-holder has been filed with the Town Clerk or the Board of Selectmen has, by majority vote, declared the office vacant.

(c) Any vacancy of an elective office, with the exception of the Board of Selectmen, shall be filled by a majority vote of the Board of Selectmen and the remaining members of the office, board or committee. The appointment shall be effective only until the next election of the Town, at which time the vacancy shall be filled by ballot for the unexpired term of the previously vacant office. In the event of a vacancy or vacancies in the Board of Selectmen, the remaining members or member may fill said vacancy by calling for a special election, in accordance with the provisions of the general laws.

ARTICLE 4

APPOINTIVE OFFICIALS

SECTION 4-1: TREASURER AND COLLECTOR

(a) Term of office: There shall be a Town Treasurer and Collector appointed by the Board of Selectmen for a term of one (1) year.

(b) Powers and duties: The Treasurer shall receive and take charge of money belonging to the Town and shall pay out and account for all Town funds, according to the order of the Town and its authorized officers. The Treasurer shall have all of the other powers and duties which are given to treasurers by general laws and such other powers, duties and responsibilities as may be provided by this charter, by by-law or by Town Meeting vote. The Collector shall collect all accounts which are due to the Town and shall, upon receipt of a tax list and warrant from the Board of Assessors, collect the taxes and any interest thereon and shall make a written return of his doings with the Board of Assessors. The Collector shall have all of the other powers and duties given to collectors by general laws and such other powers, duties and responsibilities as may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 4-2: ADVISORY AND FINANCE COMMITTEE

(a) Composition, term of office: There shall be an Advisory and Finance Committee consisting of nine (9) members, appointed by the Moderator for three (3)-year overlapping terms, so that the terms of office of three members expire each year. No elected or appointed Town officer or any Town employee, except members of the Personnel Board, shall be eligible for membership on said committee.

(b) Powers and duties: The Advisory and Finance Committee shall inform themselves concerning those affairs and interests of the Town, the subject matter of which generally is included in the warrants of its Town Meetings, may consider any and

all municipal questions affecting Town government and the conduct of Town affairs, for the purpose of making reports and recommendations thereon to the Town. It shall also have all of the powers and duties given to advisory and finance committees by general laws and such other powers and duties that may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 4-3: CONSERVATION COMMISSION

(a) Composition, term of office: There shall be a Conservation Commission consisting of seven (7) members, appointed by the Board of Selectmen, for three (3)-year overlapping terms, so arranged that as nearly an equal number of terms possible shall expire each year.

(b) Powers and duties: The Conservation Commission shall have all of the powers and duties which conservation commissions may have under the general laws and such other powers, duties and responsibilities as may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 4-4: BOARD OF APPEALS

(a) Composition, term of office: There shall be a Board of Appeals consisting of three (3) regular members, appointed by the Board of Selectmen for three (3)-year overlapping terms, so that the term of office of one member expires each year, and three (3) associate members, appointed by the Board of Selectmen for three (3)-year overlapping terms, so that the term of office of one member expires each year.

(b) Powers and duties: The Board of Appeals shall have all the powers and duties of boards of appeals under the Zoning Enabling Act, the Sub-division Control

Law, the Town's building and zoning by-laws, and such further powers and duties as may be provided by this charter, by by-law or by Town Meeting vote.

SECTION 4-5: OTHER COMMITTEES AND OFFICIALS

There shall be such other committees and offices of the Town as shall be provided for by by-law, by this charter or by Town Meeting vote.

SECTION 4-6: ELIGIBILITY

All members of Town Boards and commissions described in this Article 4 shall be registered voters of the Town.

SECTION 4-7: VACANCIES

Any vacancy in any board or commission of the Town, established pursuant to this Article 4, shall be filled by appointment by the appointing authority to such office for the unexpired portion of the term vacated.

ARTICLE 5

GENERAL PROVISIONS

SECTION 5-1: CHARTER CHANGES

This charter may be replaced, revised or amended in accordance with the procedures made available by Article LXXXIX of the amendments to the state constitution and any legislation enacted to implement said amendment.

SECTION 5-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid, the other provisions shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the

application of this charter and its provisions to any other persons and circumstances shall not be affected thereby.

SECTION 5-3: BY-LAWS

Subject only to express prohibition by general law or by this charter, the Town Meeting may, by by-law, re-organize, consolidate, abolish, create, merge, divide, alter the term of office, the manner or selection, or, if a multiple-member body, the number of members thereof, in whole or in part; establish such new Town agencies as it deems necessary or advisable, and may prescribe the functions, powers, duties and responsibilities of any such Town agency.

SECTION 5-4: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any town board or agency shall be placed on file in the office of the Town Clerk and made available for review by any person who requests such information. No such rule or regulation shall be effective until ten (10) days following the date it has been placed on file in the office of the Town Clerk.

SECTION 5-5: UNIFORM PROVISIONS

All boards, commissions and committees of the Town shall organize annually and elect a chairman and other necessary officers, establish a majority quorum requirement for meetings, adopt rules of procedure in voting, and maintain a journal of the proceedings, copies of which shall be a public record, signed by the clerk of each board and filed regularly with the Town Clerk. All such boards shall conduct their meetings in accordance with the Open Meeting provisions of general law.

ARTICLE 6

TRANSITIONAL PROVISIONS

SECTION 6-1: CONTINUATION OF EXISTING LAWS

All general laws, special laws, Town by-laws, votes, rules and regulations of or pertaining to the Town, which are in force when this charter takes effect, and which are not specifically or by clear implication repealed thereby shall continue in full force and effect until amended, repealed, or rescinded by due course of law or expire by their own limitation.

SECTION 6-2: CONTINUATION OF GOVERNMENT

All committees, commissions, boards, departments, officers and other agencies of the Town shall continue to perform their duties until re-appointed, re-elected, or until their successors are duly elected or appointed, or their duties have been transferred.

SECTION 6-3: CONTINUATION OF CONTRACTS AND OTHER OBLIGATIONS

All leases, contracts, franchises and obligations entered into by the Town or for its benefit prior to the effective date of this charter shall continue in full force and effect.

SECTION 6-4: PENDING ACTIONS AND PROCEEDINGS

No action or proceedings, civil or criminal, in law or in equity, pending at the time this charter takes effect, brought by or against the Town or any office, department or other agency thereof, shall be affected or abated by the adoption of this charter.

SECTION 6-5: TIME OF TAKING EFFECT

The provisions of this charter shall become effective upon the approval of the voters of the Town voting thereon.

The Nahant Charter Commission was elected at the Annual Town Election in April of 1979, under the provisions of the Home Rule Amendment to the Massachusetts Constitution.

The Charter was approved by voters of the Town at the Annual Town Election in April of 1980, and approved by the Attorney General in the same year.

In April of 1986, an amendment to the Charter was approved by the voters of the Town at the Annual Town Election and approved by the Attorney General in the same year. The amendment changed the office of Treasurer/Collector from an elected to an appointed position.

Charter Commission

Ronald Garmey, Chairman

Walter W. Welch, Jr., Vice-Chairman

Judith A. Dougherty, Secretary

Michael Cullinan

Jerome O. Evaul, Jr.

Leslie E. Fox, Jr.

Alfred J. Hosker, Jr.

David A. Hosker

Richard J. Lombard