

Town of Nahant General By-laws Article XXIV

Section 1 Nahant Affordable Housing Trust

There shall be a Nahant Affordable Housing Trust the purpose of which shall be to provide for the preservation and creation of affordable housing in the Town of Nahant (“Town”) for the benefit of low- and moderate-income households. The Trust shall be governed by Trustees in accordance with Massachusetts General Laws Chapter 44, Section 55C and the authority granted by Town Meeting, as revised from time to time.

Section 2 Name of the Trust

This trust shall be called the “Nahant Affordable Housing Trust (“Trust”).

Section 3 Purposes

The purpose of this Trust shall be to provide for the creation and preservation of affordable housing in the Town for the benefit of low and moderate income households and in furtherance of this purpose, to acquire by gift, purchase, or otherwise real estate and personal property, both tangible and intangible, of every sort and description; to use such property, both real and personal, in such manner as the Trustees shall deem most appropriate to carry out such purpose, provided however, that all property comprising this Trust and the net earnings thereof shall be used only in the Town exclusively for the benefit of all of the inhabitants of the Town for the creation and preservation of affordable housing for which this Trust was formed and no part of the activities of the Trust shall consist of propaganda or otherwise attempting to influence legislation or participation in or intervention in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office and no part of the net earnings of this Trust shall inure or be payable to or for the benefit of any private individual or corporation.

Section 4 Board of Trustees

There shall be a Board of Trustees (the “Board”) consisting of five (5) Trustees appointed by the Selectboard. The members of the Board shall be comprised of as follows: one (1) member of the Selectboard, or its designee; one (1) member of the Community Preservation Committee or its designee; one (1) member of the Planning Board or its designee; one (1) member who is a designee of the Advisory and Finance Committee but not a member; and the Town of Nahant’s Town Administrator.

Section 5 Tenure of Trustees

Only persons who are residents of the Town shall be eligible to hold the office of Trustee, except for Nahant’s Town Administrator. Trustees shall serve for a term not to exceed two years and may be re-appointed at the discretion of the Selectboard, as applicable. Any Trustee who ceases to be a resident of the Town shall cease to be a Trustee hereunder provided that a written notification of the change in residence has been filed with the Town Clerk. Any Trustee may resign by written instrument signed and acknowledged by such Trustee and duly filed with the Town Clerk. If a Trustee shall die, resign, or for any other reason cease to be a Trustee hereunder before his/her term of office expires, a successor shall be appointed by a joint meeting of the appointing authority and the remaining Trustees to fill such vacancy, provided that in each case the said appointment and acceptance in writing by the Trustee so appointed is filed with the Town Clerk. Upon the appointment or election of any succeeding Trustee and the filing of such appointment or a certificate of such election, the title to the Trust estate shall thereupon and without the necessity of any conveyance be vested in such succeeding Trustee jointly with the remaining Trustees. Reference to the Trustee shall mean the Trustee or Trustees for the time being hereunder. Of the original Trustees, three shall hold office until July 1, 2028 and two shall hold office until July 1, 2027.

Section 6 Meetings of the Trust

For the first five (5) years of its existence, meetings of the Trust shall be held not less than monthly and at all other times deemed advisable at such time and at such place as the Trustees shall determine. After the first five years, meetings of the Trust shall be held not less than quarterly and at all other times deemed advisable at such time and at such place as the Trustees shall determine.

Section 7 Powers of Trustees

The Trustees, for the carrying out of the above purposes and except as herein otherwise specifically provided, shall have the same powers with respect to all real estate and personal property at any time held by them as if they were the absolute owners thereof, and without limiting the foregoing generality:

- a) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the Nahant Community Preservation Committee for inclusion in its community preservation initiatives report, form CP-3, to the Department of Revenue;
- b) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- c) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Board deems advisable notwithstanding the length of any such lease or contract;
- d) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- e) to employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
- f) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
- g) to apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- i) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

- j) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- k) to carry property for accounting purposes other than acquisition date values;
- l) to, with Selectboard approval, borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge Trust assets as collateral;
- m) to make distributions or divisions of principal in kind;
- n) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Board may deem appropriate;
- o) to manage or improve real property; and to abandon any property which the Board determined not to be worth retaining;
- p) to hold all or part of the Trust property uninvested for such purposes and for such time as the Board may deem appropriate;
- q) to extend the time for payment of any obligation to the Trust; and
- r) to exercise such additional powers consistent with the provisions of this Bylaw and G.L. c. 44, §55C, as such section may be amended from time to time by Nahant Town Meeting.

The Trustees shall refrain from exercising any powers in such manner as to violate the provisions of this Bylaw or G.L. c. 44, §55C.

Section 8 Limitations on the Powers of Trustees

These powers shall be subject to the following limitations:

- a) any purchase, sale, lease, exchange, transfer, or conveyance of any interest in real property must be approved by four of the five voting members.
- b) the Trustees may incur debt, borrow money, grant mortgages, and pledge Trust assets only in an amount not to exceed 80% of the Trust's total assets.
- c) no debt incurred by the Trustees shall constitute a pledge of the full faith and credit of the Town and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town with an acknowledgement of said statement by the holder.

Section 9 Acts of Trustees

Except as specifically mandated by this by-law, a majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees. The Trustees may, by instrument executed by all the Trustees, delegate to any attorney, agent or employee such other powers and duties as they deem advisable, including power to execute, acknowledged or deliver instruments as fully as the Trustees might themselves and to sign and endorse checks for the account of the Trustees of the Trust. The Trustees shall not delegate the authority to amend or terminate the Trust and no such delegation shall be effective. No Trustee shall be required to give bond. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect

to the Trust Estate. No one dealing with the Trustees need inquire concerning the validity of anything the Trustees purport to do or see to the application of anything paid to or upon the order of the Trustees. No Trustee shall be liable for the acts, negligence or defaults of any other Trustee or any employee, agent, or representative of the Trustees selected with reasonable care, nor for errors in judgment, nor mistakes of law or fact made in good faith nor in reliance in good faith on advice of counsel not for other acts or omissions in good faith.

Section 10 Liability

Neither the Trustees nor any agent or officer of the Trust shall have the authority to bind the Town. The Trust is a public employer and the Trustees are public employees for the purposes of M, G. L. Chapter 258. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of M.G.L. Chapter 268A.

Section 11 Accounts

The books and records of the Trust shall be maintained by the Town Treasurer and audited annually by an independent auditor in accordance with accepted accounting practices. The results of the audit shall be provided to the Town.

Section 12 Duration of the Trust

This Trust shall be of indefinite duration. However, it may be terminated by a vote of Town Meeting provided that an instrument of termination, together with a certified copy of the Town Meeting vote, are duly recorded with the Registry of Deeds and the Land Registration Office.

Upon termination of the Trust, subject to the payment of or making provision for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Selectboard for affordable housing purposes. In making any such distribution, the Trustees may sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

Section 13 Authority shown by Record to be Conclusive; Certificate as to Facts

Every contract, deed, mortgage, lease and other instrument executed by the proper quantum of the Trustees as appears from instruments or certificates recorded with said Registry of Deeds and Land Registration Office to be Trustees hereunder shall be conclusive evidence in favor of any person relying thereon or claiming thereunder, that at the time of the delivery thereof this Trust was in full force and effect and that the execution and delivery of such instrument was duly authorized by the Trustees except that delegations of authority pursuant to Section 9 hereof and instruments of amendment pursuant to Section 10 hereof and an instrument of termination pursuant to Section 11 hereof shall be conclusive only if it appears that the delegations, amendments or termination have been executed by all of the Trustees. Any person dealing with the Trust property or the Trustees may always rely on a certificate signed by any person appearing from instruments or certificates so recorded to be a Trustee hereunder as to the identity of the then current Trustees or as to the existence or non-existence of any fact or facts which constitute conditions precedent to acts by the Trustees or in any other manner germane to the affairs of the Trust.

Section 14 Titles

The titles to the various Sections herein are for convenience only and are not to be considered part of said Sections nor shall they affect the meaning or the language of any such Section.

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