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Amended ATM April 25, 2009
Amended ATM April 27, 2013

POLICE BY-LAWS

ARTICLE VIII STREETS, SIDEWALKS AND PUBLIC WAYS

SECTION 1. No person shall drive, wheel, propel, or draw along any sidewalk or footway, any motorized vehicle, except children's carriages, tricycles or sleds drawn by hand, or wheel chairs.

SECTION 2. No person shall use a vehicle or a sled for coasting in or upon the roadway or any public way in the Town.

SECTION 3. Leaving vehicles unattended, and parking any vehicles shall be prohibited within the limits of private ways furnishing access for fire apparatus to any building.

SECTION 4. No person except employees in the Department of Public Works, in the lawful performance of their duties, or those acting under their orders, shall operate a motor vehicle of any type or description except wheelchairs in or on any public beach, park or playground.

SECTION 5. No person, except employees in the Department of Public Works in the lawful performance of their duties, shall make or cause to be made any excavation in a public street or way, for any purpose whatever, without first obtaining written permission from the Town Administrator. When an excavation is made in a public street or way for any purpose, or a private way furnishing access to any fire apparatus, the person or persons by whom or for whom such excavation is made, shall cause a rail or other sufficient fence to be placed so as to enclose such excavation and the dirt, gravel or other material thrown therefrom, and such fence shall be maintained the whole time that such excavation continues. Such fence, excavation and material excavated shall be lighted by a lantern, lanterns or other proper and sufficient light, from the beginning of twilight throughout the whole of every night during the entire time that such excavation or obstruction exists.

SECTION 6. No person shall place, dump or deposit, or cause to be placed, dumped or deposited upon any public or private location, merchandise, ashes, shavings, house dirt, filth, offal, rubbish, refuse or any kind, or any other materials, including motor vehicles or parts thereof, which shall in any way disfigure or obstruct the same. The word, "location", as used herein, shall mean lanes, alleys, courts, roads, avenues, parks, wharves or parking lots.

SECTION 7. The place now commonly referred to as the Town Dump, so assigned by the Board of Health, shall be under the jurisdiction of said Town Administrator, and no person shall be allowed to use said dump without permission from the Town Administrator.

SECTION 8. No person shall put, or cause to be put, in any catch-basin in any highway, any filth, sewage, slops or dirty water.

SECTION 9. No water from any conductor, gutter or pipe, shall be allowed to discharge on any sidewalk in the Town in such a manner as to flow over the sidewalk.

SECTION 10. No person shall break, dig up, or carry away any of the sward, gravel, sand, turf, stones or earth in or from any of the public ways or beaches or common lands, unless by order or license of the Town Administrator.

SECTION 11. No owner, or person having the charge or any horse, cow, sheep, goat or other grazing animal, shall permit the same to roam at large, or feed upon any public way or public land, even when accompanied by a keeper. No such animal shall be allowed upon any unenclosed land without a keeper.

SECTION 12. No person owning, harboring or having custody and control of a dog shall permit such dog to annoy any person peaceably standing, walking or riding outside the enclosure of its owner or keeper, nor to otherwise create a nuisance by reason of excessive barking or vicious disposition.

SECTION 13. Control of dogs

SECTION A. No person shall permit a dog owned or kept by him beyond the confines of the property of the owner or keeper, unless the dog is held firmly on a leash. **No person shall permit a dog, owned or kept by him, to enter on or remain on any part of Johnson School property. (rev.4-27-02) Article 37.**

No person shall permit a dog, owner or kept by him, to enter on or remain on any Town beach, from May through September 30 each year, except on the beach on Castle Road opposite the Coast Guard Station may be used year round for the exercise of dogs not on a leash.

SECTION B. Whoever violates this by-law will be punished as follows:

1. For the first offense, a ten dollar (\$10) fine
2. For the second offense, a twenty-five dollar (\$25) fine
3. For the third offense, a thirty-five dollar (\$35) fine
4. For each subsequent offense, a fifty dollar (\$50) fine

SECTION C.

1. The Town Administrator shall annually appoint a Dog Control Clerk, whose duties shall be to supervise and co-ordinate the processing of all violations of this Section 13. Said Clerk shall have the authority, subject to the approval of the Town Administrator, and to appropriation of funds therefor, to hire such personnel as may be necessary for the purpose of carrying out such duties.

2. The issuance of a citation by a police officer or the Dog Officer, for a violation of this Section 13, shall serve to give the owner of the dog notice to appear before the Dog Control Clerk, at any time during regular office hours, not later than twenty-one days after the date of such violation. A copy of the citation shall be given to the Dog Control Clerk, who shall maintain a docket of all such persons notified to appear.
3. Any person so notified to appear before said Clerk may appear before him or his designee and admit to the offense charged, either personally or through an agent duly authorized in writing or by mailing to said Clerk the citation, accompanied by the fine imposed, such payment to be made only by postal note, money order or check payable to the Town of Nahant. Payment of the fine established shall operate as a final disposition of the case.
4. A citation given as herein provided, shall be deemed a sufficient notice and a certificate of the officer giving such citation that it was given to the person charged in accordance with this by-law, shall be deemed prima facie evidence thereof and shall be admissible in any judicial or administrative proceedings as to the facts contained therein.
5. Should any person notified to appear hereunder fail to appear, or, having appeared, fail to pay the fine imposed or request a hearing on the matter, the Dog Control Clerk shall forthwith schedule the matter before a person, hereinafter referred to as a hearing officer, said hearing officer to be the Dog Control Clerk or such other person or persons as said Clerk may designate. Written notice of the date, time and place of said hearing shall be sent by first class mail to the person notified to appear hereunder. Said hearing shall be informal, the rules of evidence shall not apply and the decision of the hearing officer shall be final, subject to judicial review, as provided by Section 14 of Chapter 301 of the Massachusetts General Laws.
6. All fines received by the Town, pursuant to sub-section B hereof, shall be paid into the Town treasury. This section 13 was revised on April 26, 1986 and April 29, 1995

SECTION D. Disposal of Feces

1. Duty to Dispose. It shall be the duty of each person who owns, possesses, or controls a dog to remove and dispose of any feces left by his/her dog on any sidewalk, street or other public area. It shall further be the duty of each person who owns, possesses, or controls a dog to remove and dispose of any feces left by his/her by such dog.

2. **Duty to Possess Means of Removal.** No person who owns, possesses or controls a dog shall appear with such dog on any sidewalk, street, park or other public area without the means of removal of any feces left by such dog. Furthermore, no person who owns, possesses or controls a dog shall appear on any private property neither owned nor occupied by said person without means of removal of any feces left by such dog.
3. **Method of Removal and Disposal.** For the purpose of this subsection, the means of removal shall be any tool, implement, or other device, including but not limited to bags or other suitable containers, carried for the purpose of picking up and containing such feces. Disposal shall be accomplished by transporting such feces to such person's private trash container, a public trash container, or any other suitable place designated as appropriate by the Nahant Board of Health. Disposal in the storm drains is prohibited.
4. The provisions of this subsection D shall not apply to a physically handicapped person in sole custody of a dog.
5. **Penalties for Violation.** The initial violation of this subsection D shall be punished by a written warning from the Animal Control Officer. After issuance of said warning, subsequent violations shall be punished by a fine of ten dollars (\$10), for the first such offense in any twelve-month period; a fine of twenty-five dollars (\$25) for a second offense in any twelve-month period; and a fine of fifty dollars (\$50) for any third or subsequent offense in any twelve-month period.
6. **Enforcement.** This subsection shall be enforced by the Animal Control Officer consistent with other provisions of Article VIII, Section 12-A of the Town's By-laws. (Section D added 4/27/98)

SECTION 14. For the purpose of removing or plowing snow, or removing ice, from any public street or way, the Superintendent of Public Works may remove, or cause to be removed to some convenient place, any vehicle interfering with such work. The owner of such vehicle shall be liable for the cost of such removal and storage charges, if any, resulting from such removal.

**POLICE BY-LAWS
ARTICLE IX**

PUBLIC CONDUCT

SECTION 1. No person shall behave in a disorderly manner, or use any obscene language, while remaining upon any sidewalk, in any public way, lane, alley or other

public place; or while near any dwelling house, building, or any place to which the public has right of access as invitees, or while remaining upon any doorstep, or other projection from any house or building.

SECTION 2. No person shall loiter, saunter or continue to sit or stand in any public street, sidewalk, public space, or Town building, so as to obstruct or impede the free passage of any other persons, after being directed by a police officer to move on.

SECTION 3. No person shall disturb the public quiet by the unauthorized ringing of bells, nor by using any horn or other instrument in or upon a public way. This section shall not apply to the lawful use of warning devices on any motor vehicle.

SECTION 4. Owners of land which has been excavated shall erect barriers or take such other suitable measures within five (5) days after such owners have been notified in writing by the Town Administrator if, in his opinion, such excavation constitutes a hazard to public safety. The penalty for violation of this section shall not exceed \$200.00.

SECTION 5. No person shall drink any alcoholic beverages, (a) while in or upon any public way or alley, or any way to which the public has right of access, whether in or upon any vehicle, motor vehicle or on foot, (b) while in or upon any place to which the public has access as invitees or licenses, including, but not limited to parks, reservations, playgrounds and conservation land, or unless duly licensed by the Town Administrator or other proper licensing authority. All alcoholic beverages in possession of a person in violation of this by-law shall be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court, at which time they shall be returned to the persons entitled to lawful possession. (Rev. 4-88)

ARTICLE IX-A

RULES AND REGULATIONS OF MASSAGE OR CONDUCT OF AN ESTABLISHMENT FOR THE GIVING OF VAPOR, POOL, OR OTHER BATHS

SECTION 1. License required and fee: no person shall conduct an establishment for giving of massage or vapor, pool, shower, or the baths, for hire or reward, or advertise, or hold an establishment out as being engaged in the business of the giving of said baths, in the Town of Nahant, without receiving a license from the Board of Selectmen, acting as the Board of Health. The license fee for each establishment shall be one hundred dollars (\$100.00). A license issued to an establishment, shall not be transferable. All licenses shall expire December 31st following the date of issue.

SECTION 2. Definitions for the purpose of these regulations:

A. Establishment shall mean the room, or group of rooms, office, building, place of business, or premises where therapeutic or conditioning baths of water, vapor, or other substances are given.

B. Approved shall mean approved by the Board of Health.

SECTION 3. Exceptions and exclusions:

A. Establishments: These regulations shall not apply to hospitals, nursing homes, convalescent homes, health agencies or other similarly licensed institutions.

SECTION 4. Requirements for licensing of an establishment: Every establishment for the giving of vapor, pool, shower, or other baths, shall meet the following requirements:

- A. Applicant must submit to the Nahant Board of Health a completed application form, containing all information herein requested. False statements in said application shall be grounds for denial of a license request.
- B. Every licensee shall notify the Nahant Board of Health prior to any change of name, address, or ownership.
- C. No licensed establishment shall operate under any name or designation not specified on the license.
- D. No licensed establishment shall be kept open between the hours of 10:00 pm and 7:00 am, unless specifically authorized in writing by the Board of Selectmen.
- E. Every licensee shall permit the Nahant Board of Health or Police Department to inspect his/her place of business at any reasonable time, to the extent permitted by law.
- F. No establishment shall employ, or shall cause to be employed, a masseur or masseuse who has no license for the practice of massage issued by the Commonwealth 235, and regulation, 269 CMR 3.00, or whose of Massachusetts, Division of Registration pursuant to law, M.G.L. Chapter 112, sections 227 through massage license has been revoked or suspended within the past three years.
- G. It is forbidden to employ, or permit any person in or in the licensed premises to perform act or acts, or to simulate an act which violates the laws of the Commonwealth of Massachusetts or any local ordinances regarding illicit sexual conduct.
- H. If food is served, the establishment must be in compliance with Article X of the "State Sanitary Code"

- I. No alcoholic beverages shall be permitted in that portion of a building used for the purpose of giving, vapor or other baths as determined by the Nahant Board of Health.
- J. No person shall treat or be treated if afflicted with a communicable disease. However, they may treat or be treated when a written statement is received to the effect that the condition is no longer contagious.
- K. No person may operate an X-Ray, fluoroscope or other similar equipment unless licensed by the commonwealth of Massachusetts to practice a profession requiring the use of radiation equipment.
- L. All individuals employed by this establishment shall maintain a sufficient level of personal cleanliness, as determined by the Board of Health, and be properly clothed. It is forbidden to employ or permit any employee or to mingle with patrons, or in such attire so as to expose to view any portion of the areola of the female breast or any portion of the public hair, cleft of the buttocks or genitals.
- M. The establishment shall be connected to the public sewage system or a system approve by the Nahant Board of Health.
- N. All rooms shall be well-lighted, well-ventilated and properly heated, in accordance with local and/or state regulations, except during those periods declared s emergencies by local or state officials. Lighting in the areas used for massage or baths shall be of such intensity that all parts of the room are clearly visible at all times.
- O. There shall be a safe, adequate supply of hot and cold running water at all times.
- P. There shall be separate toilets, hand-washing facilities, showers and treatment rooms, if the establishment is to be used concurrently by both sexes.
- Q. All of the areas of the establishment, including the furniture and equipment therein, shall be kept in a sanitary condition at all times.
- R. All robes, sheets, towels, etc., which may come in direct contact with the body, shall be properly cleaned and stored in a sanitary manner. Single –service items are acceptable.
- S. No rooms for giving of vapor, or other baths shall be fitted with doors capable of being locked.
- T. No room or section of a building, licensed for the purpose of giving vapor or other baths, shall be used as a bedroom.
- U. The licenses of the establishment and all masseurs must be displayed in a conspicuous place.

SECTION 5. Denial of application for license or renewal thereof:

Any person or establishment, whose application for a license or license renewal is denied, may, within ten (10) days of said denial, request in writing a hearing upon the cause of said denial. The Board of Health may set a time and place for said hearing within a reasonable time, not to exceed fourteen (14) days.

SECTION 6. Suspension/revocation of license:

A. No license granted under these regulations, whether for individual practitioners or for establishments, may be suspended or revoked without a hearing.

B. Such license may be suspended or revoked if, after a hearing, the Nahant Board of Health finds that there is satisfactory proof that the license has:

1. Made a material false statement on the application form.
2. Violated or permitted a violation of these regulations or of any condition of the license.
3. Violated or permitted a violation of any law of the Commonwealth.

SECTION 7. Penalties: Whoever violates any provisions of these rules and regulations shall be punished by a fine of not more than one hundred dollars (\$100.00), or imprisonment for not more than six (6) months, or both, in accordance with General Laws, Chapter 140, Section 53, as amended.

SECTION 9. Separability: If any section, sub-section, sentence, clause, phrase or portion of these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions and such holding shall not affect the validity of the remaining portions thereof. (Rev. 4-09)

**ARTICLE X
PEDDLERS**

SECTION 1. No person either by himself or by his employees, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether such person has, carries or exposes for sale, a sample of the subject of such sale, or whether he is collecting advance payment on such sales, or not, within the corporate limits of the Town of Nahant, shall do so without first registering his or her name and residence with the Director of Public Safety. No person shall engage in any of the activities set forth in this section between the hours of 6:00 p.m. and 8:00 a.m.

ARTICLE XI FIREARMS

SECTION 1. No person shall fire or discharge a gun or firearm within the Town, except at a military exercise or review duly authorized by the military authorities of the Commonwealth, or on such occasion as the Town Administrator shall specially permit, or in the lawful defense of his person, provided, however, the above shall not apply to duly-licensed hunters shooting at game from small boats in the water, which are a minimum of 300 yards off the shore of Nahant, in conformity with the laws of the Commonwealth of Massachusetts.

ARTICLE XII TERRITORIAL WATERS OF NAHANT

SECTION 1. The following words shall have the meaning given unless a contrary intention clearly appears:

Harbormaster shall include Assistant Harbormaster.

Boat shall include ship, vessel, steamer or any other watercraft.

Person shall include individuals, corporations, societies, associations or partnerships.

SECTION 2. No master, or person acting as master, owner, custodian or other person, shall set a mooring within the limits of Nahant waters without first obtaining from the Harbormaster a permit to moor said boat. The Harbormaster shall approve the anchorage or a place of mooring said boat.

SECTION 3. No person carrying passengers for hire shall embark or disembark said passengers from any boat at any landing maintained by the Town, without prior approval of the Harbormaster.

SECTION 4. No boat shall exceed the speed of six (6) knots or cause a disturbing wake within the confines of Nahant Harbor, within one hundred fifty (150) feet of any mooring area, or within one hundred fifty (150) feet of the water's edge of any bathing beach.

SECTION 5. Any person S.C.U.B.A. diving in the waters of Nahant shall:

A. Display a diver's flag consisting of a red field and a white diagonal stripe, of sufficient size, not less than twelve (12) inches square.

B. Tow the aforesaid float and flag with him while he is submerged in water and surface thereunder, unless for commercial purposes, permission in writing is granted by the Harbormaster, for diving operations in a mooring area.

C. No person shall S.C.U.B.A. dive in or within sixty (60)-feet of a mooring area without approval of the Harbormaster. (Rev. 4-78)

SECTION 6. No person shall operate a boat in waters within one hundred fifty (150) feet of the water's edge of any bathing beach, public or private, or areas used for mooring, boat launching or landings, while towing water skis, aquaplanes or similar devices. No person shall use a surf board in a bathing area, except for an area adjacent to Little Nahant, bounded by Short Beach for a distance of about 300 feet and only when the area is clearly marked by signs and buoys and as otherwise regulated by the Town Administrator.

SECTION 7. The invalidity of any section or provision of these regulations shall not invalidate any other section or provision thereof.

SECTION 8. If a master or other person in charge of a vessel occupying a berth of float fails, after notice from the Wharfinger thereof or his agent, to remove his vessel from such berth within such time as the Harbormaster adjudges reasonable, or if the master or person in charge of such vessel has absented himself from the area of the berth for an unreasonable period of time, as adjudged by the Harbormaster, and cannot be contacted for the purpose of giving him notice to remove his vessel from such berth, the Harbormaster may cause such vessel to be removed to some other berth or towed to a mooring and the Town may recover the costs of such removal from the owner, agent, or master of said vessel. (Rev. 9-9-75)

“Article XIII entitled Non-Criminal Disposition of Violations”;

Article I. General Provisions

1. Definitions.

For the purpose of this chapter, the following words shall have the following

- A. "Board" means a governmental body of the Town government.
- B. "Commission" means a governmental body of the Town government.
- C. "Department head" means the person in charge of the operation of a department of the Town government of Nahant.
- D. "Enforcing officer" means any municipal officer of the Town government who takes cognizance of a violation of a specific rule or regulation of the Town who is empowered to enforce the provisions of this chapter in accordance with the provisions of G.L Chapter 40, Section 21D.

- E. "Municipal officer" means any official of the Town government with the responsibility for taking cognizance of a violation of specific rules or regulations of the Town in accordance with the provisions of this chapter and G.L Chapter 40, Section 21 D.
- F. "Offender" means any person alleged to be in violation of the rules and regulations of any municipal officer, board, commission or department of the Town.
- G. "Rules and regulations" means the duly promulgated standards, regulations or requirements, adopted in accordance with this chapter, of any municipal officer, board, commission or department of the Town of Nahant.

2. Applicable penalties.

Any person, firm or corporation violating any of the provisions of this chapter or the duly promulgated rules and regulations of any municipal officer, board, commission or department shall be subject to the general penalty provided for by the provisions of Article II, section 6 of this revision or by the specific penalties provided for by the rules and regulations of any municipal officer, board, commission or department.

3. Promulgation.

For the purpose of the promulgation of rules and regulations by any municipal officer, board, commission or department, the procedures used pursuant to the state administrative procedure law, Chapter 30A, General Laws, where in the opinion of the Nahant Chief of Police and/or the Town Counsel, they are applicable, are adopted and incorporated by reference.

Article II. - Noncriminal Disposition of Violations

1. Issuance of notice to appear.

Any municipal officer of the Town taking cognizance of a violation of a specific rule or regulation of the Town which he or she is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings , after giving said alleged offender a notice to cease and desist said violations, may give to the offender a written notice to appear before the Clerk of the Lynn Division District Court Department at any time during the court's office hours, but not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his or her required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender, whenever practicable, in acknowledgement that such notice has been received.

2. Delivery or mailing of notice.

A. The enforcing person shall, if possible, deliver to the offender a copy of the notice, as described in Article II, section 1, at the time and place of the violation. If it is not possible to deliver a copy of the notice to the offender at the time and place of the violation, the copy shall be mailed or delivered by the enforcing person, or by the head of his or her department or by any person authorized by such department head to the offender's last known address, within fifteen days after the violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

B. At or before the completion of each workday, or at the beginning of the first subsequent workday, the enforcing person shall give to his or her department head those copies of each notice of such violation he or she has taken cognizance of during the workday which have not already been delivered or mailed by him or her as aforesaid. The department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the Clerk of the Lynn Division District Court Department, before which the offender has been notified to appear.

3. Payment of fine.

Any person notified to appear before the Clerk of the Lynn Division District Court Department as provided in this article, may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the Town clerk with the notice described in this article, with the specific sum of money not exceeding the penalty set forth in Article II, section 6 of this revision, for each offense or as the Town, any municipal officer, board, commission or department shall fix as penalty for violation of the ordinance or rule or regulation. Such payment shall, if mailed, be made only by postal note, money order or check. The payment to the Town clerk of such sum shall operate as a final disposition of the case. (As provided for by Section 21 D of Chapter 40, General Laws, an appearance under this article shall not be deemed to be a criminal proceeding. No person so notified to appear before the Clerk of the Lynn Division District Court Department shall be required to report to any probation officer and no record of the case shall be entered in any probation records.)

4. Hearing-Failure to appear or pay fine.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself or herself of the procedures established pursuant to this article, he or she may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a judge, clerk or assistant clerk of the Lynn Division District Court Department, as the court directs, and if the judge, clerk or assistant clerk, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be

permitted to dispose of the as aforesaid, or such lesser amount as the judge, clerk or assistant clerk orders, which payment shall operate as a final disposition of the case. If the judge, clerk or assistant clerk, after hearing, finds that the violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this article shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk of the Lynn Division District Court Department fails to pay the fine provided under this article within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in section 3 of this section, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, rule or regulation.

5. Enforcing officers.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following titles and sections of these Ordinances are to be included within the scope of this chapter on noncriminal disposition, and that in addition to police officers who shall in all cases be considered enforcing persons for the purposes of this chapter, the municipal personnel listed below for each title shall also be enforcing persons:

(a) Animals.

Enforcing officers: Animal control officers or other duly authorized officer and the Nahant DPW Superintendent supervisor;

(b) Health and Safety Code.

Enforcing officers: Health agent and code enforcement officers or other duly authorized officer and the superintendent of public works and the assistant superintendent of public works and Town of Nahant firefighters and building inspectors and local inspectors;

(c) Public Peace, Safety and Welfare.

Enforcing officers: Health agent and code enforcement officers or other duly authorized officer;

(d) Streets and Sidewalks.

Enforcing officers: Superintendent of public works or other duly authorized officer;

(e) Public Services.

Enforcing officers: Superintendent of public works or Building Inspectors or other duly authorized officer;

(f) Buildings and Construction.

Enforcing officers: Building inspector and local inspectors or other duly authorized officer of the Town of Nahant;

(g) Environment.

Enforcing officers: Building inspector, local inspectors and chairperson of conservation commission or other duly authorized officer;

(h) Zoning.

Enforcing officers: Building inspector and local inspectors or other duly authorized officer.

6. Penalties.

A Unless otherwise provided by specific law or ordinance, the penalty to apply in the event of a violation of any ordinance enforced by the noncriminal disposition procedure in this chapter shall be as follows; not less than twenty-five dollars and not more than three hundred dollars per offense, in accordance with the fine structure hereinafter set forth:

| | |
|---|----------|
| 1 st offense: | Warning |
| 2 nd offense: | \$ 25.00 |
| 3 rd offense: | \$ 50.00 |
| 4 th offense: | \$100.00 |
| 5 th and subsequent offenses, absent any mitigating circumstances: | \$300.00 |

Each day on which a violation exists shall be deemed to be a separate offense.

B. Any person or entity who both fails to provide payment to the Town clerk as provided by Section 4 and fails to make written request for a hearing within twenty-one days to the Town clerk and the clerk magistrate of the Lynn District Court shall be assessed a late fee of fifty dollars. Written notice of this late fee shall be forwarded to such person or entity by regular mail by either the Town clerk or the enforcing officer.

The original penalty plus the late fee shall be due and payable to the Town clerk within thirty days of the date of the written notice.

C. If the original penalty and the late fee are not paid in full within thirty days from the written notice described in subsection B above, then the amount due to the city shall be three hundred dollars.

D. In the event that the initial violation resulting in a penalty under this Section is a violation of the State Sanitary Code or the Health Code set forth in the ordinances of the Town of Nahant, then the balance due to the Town from any penalties,

finer or late fees imposed under this Section shall constitute a lien on the property of the person or entity owing such charges in accordance with Chapter 497 of the Acts of 1991.

ARTICLE III - OFFENSES GENERALLY

1. Junk heaps, dumps and automobile graveyards.

All junk heaps, dumps or automobile graveyards, so-called, where old, discarded, worn-out or junked automobiles, or parts thereof, or appliances, used lumber, scrap metal or similar debris are gathered together, kept, deposited or allowed to accumulate, in such location or situation, either within or without the limits of any highway, so as to be unsightly, detracting from the natural scenery and injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances. Any person in violation of the provisions of this section shall be subject to the penalties set forth in ARTICLE II, section 6.

2. Dumpsters-Compactors.

No person, corporation, business, commercial establishment, public or private entity or residence shall within the Town of Nahant place or maintain on any real property exposed to public access or view a receptacle container or compactor, commonly referred to as a dumpster or compactor, for the storage, collection and disposal of refuse, rubbish, litter, trash or solid waste, which is not enclosed on four vertical sides by a perimeter enclosure, fence, facade or screen which restricts physical and visual access to the dumpster or compactor. Dumpsters and compactors located within the confines of buildings which restrict physical and visual access shall be exempt from the enclosure provisions of this section.

A. Containers, compactors, or dumpsters used by any person, corporation, business, commercial establishments, public or private entity or residence used for the storage of waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish shall be watertight and rodent-proof with tight-fitting covers. Said containers and container covers shall be made of metal or other durable, rodent-proof material. Tight-fitting covers for containers, compactors, or dumpsters shall be made of metal or other durable, rodent-proof material and shall be tightly secured at all times while awaiting final collection.

B. Any owner of any property for which a corporation, business, commercial establishment, public or private entity, or residence where said containers, compactors, or dumpsters are located, that is in violation of the provisions of this section shall be subject to the penalties set forth in ARTICLE II, section 6 of the Town of Nahant.

C. This provision shall not apply to any dumpster used for the actual collection of construction debris during or while in the active process of construction or demolition operating under a valid building permit issued for any structure or building;

but said dumpster must be emptied on a regular schedule when filled so as not to create any health hazard or condition.

Upon completion of any construction, as aforesaid, said dumpster must be removed forthwith: but, in no event later than ten (10) days following active construction work.

3. Accumulations of litter.

Whoever, being the owner or in control of any lot or premises in the Town, permits the disposal or accumulation of refuse, rubbish, junk, garbage or other litter thereon so as to thereby commit or maintain a nuisance is liable to the penalties provided in ARTICLE II, section 6.

4. Sanitary code violations.

The provisions of the sanitary code are hereby incorporated and adopted by reference in this health code. Therefore, any person or entities who violate a provision of such sanitary code shall be in violation of this health code and subject to the penalties set forth in ARTICLE II, section 6.

5. Wetlands protection law violations.

The provisions of the Town of Nahant wetlands protection laws set forth are hereby incorporated and adopted by reference in this health code. Therefore, any person or entity who violates a provision of the Ordinances of the Town of Nahant shall also be in violation of this health code and subject to the penalties set forth in SECTION II, section 6.

6. Storage of waste at a residence prior to collection.

The board of health shall require that all containers used for the storage of household waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish be physically placed prior to the weekly collection at a location on the exterior of the residence, firmly secured from animal intrusion as follows:

A. Containers used for the storage of household waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish shall be watertight and rodent-proof with tight-fitting covers. Said containers shall be made of metal or other durable, rodent-proof material and for the purpose of this chapter shall be referred to as "rodent-proof containers".

B. Only trash bags designated as rodent-resistant trash bags or compactor trash bags can be used for the storage of household waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish.

C. The owner of any dwelling that contains three or more dwelling units, the owner of any rooming house, and the owner of any other dwelling place shall provide as many rodent-proof containers, rodent-resistant trash bags and/or compactor bags for the storage of household waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish without the use of a rodent-proof container. Regular household trash bags may only be used when properly stored in rodent-proof containers.

D. Each occupant of each dwelling, dwelling unit, or rooming unit shall be responsible for the proper placement of his or her household waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish in rodent-proof containers, rodent-resistant trash bags, and/or compactor bags as required by this section.

E. Any owner or owner of any other dwelling that is in violation of the provisions of this section shall be subject to the penalties set forth in ARTICLE II, section 6.

7. Storage of wastes placed out for collection.

The board of health and the department of public works shall require that containers used for the collection of refuse within the Town of Nahant comply with the following standards:

A. All household waste, refuse, solid waste, garbage, litter, junk or other forms of rubbish set out for curbside collection shall be stored in rodent-proof containers and/or rodent-resistant trash bags. Said rodent-proof containers, rodent-resistant trash bags, and/or compactor bags shall not be filled in excess of its defined bag limits. Regular household trash bags shall not be placed on the sidewalk for curbside collection.

B. All refuse must be placed out for collection not later than seven a.m., (EST or EDT) when in effect on the day of collection. Anyone placing rubbish out after stop has been collected will be in violation of this revision. All acceptable refuse may be placed out for collection no earlier than five p.m., on the day before scheduled collection. No person, firm or corporation shall place out for collection, any refuse that does not comply with this revision;

C. No person shall place any rodent-proof container, container of ashes, rubbish and/or ordinary commercial wastes upon any sidewalk or way for collection by the Town of Nahant or its employees or agents unless the same shall be so covered or otherwise secured as to prevent the ashes or other contents thereof from blowing or otherwise escaping therefrom into or upon any street or way or part thereof. Private parties, firms or corporations may collect ordinary commercial and/or extraordinary commercial and industrial wastes provided that such collection shall be made only when

said wastes are enclosed in tight metal or rigid containers which shall be nonleakable and the vehicle in which such wastes are carried including garbage and ordinary commercial wastes shall be subject to supervision of the department of public health and licensed therefore in accordance with statute. No person shall place refuse for collection in front of any building where the refuse was not generated.

D. Any owner or owner of any other dwelling that is in violation of the provisions of this section shall be subject to the penalties set forth in ARTICLE II, section 6.

8. Littering or dumping.

No person shall throw or place, or cause to be thrown or placed, in or upon any street or public place, or into any catch basin of any sewer or drain, or into any drainage ditch in the Town, any dirt, filth, garbage, rubbish, shavings, refuse or waste matter of any kind. Any person in violation of the provisions of this section shall be subject to the penalties set forth in ARTICLE II, section 6.

9. Trailers.

- A. No trailer shall be used for human habitation in the Town, whether for temporary or permanent use, and whether or not placed on a foundation.
- B. "Trailer" means any vehicle or object on wheels and having no motive power of its own, but which is drawn by or used in combination with a motor vehicle.

Any person in violation of the provisions of this section shall be subject to the penalties set forth in ARTICLE II, section 6.