

WARRANT

For Annual Town Meeting Election, Monday, April 4, 2022
and Meeting to Act on Articles in the Warrant
Saturday, June 18, 2022 at 9:00 a.m. in the
Walter Silveira Auditorium at the
Elizabeth I. Hastings Middle School.

2022 MAR 15 A 9:04

COMMONWEALTH OF MASSACHUSETTS

BRISTOL: SS

To the Constable of the Town of Fairhaven in said county

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Fairhaven qualified to vote in town elections to meet as follows:

For election, Monday April 4, 2022

Precinct One – Town Hall - William Street entrance

Precinct Two – Hastings Middle School - Ash Street entrance

Precinct Three – Hastings Middle School - Ash Street entrance

Precinct Four – Fire Station Meeting Room - 146 Washington Street

Precinct Five – Recreation Center - 227 Huttleston Avenue

Precinct Six – Recreation Center - 227 Huttleston Avenue

In said precincts in said town on Monday, April 4, 2022 at ten o'clock in the forenoon then and there to bring their ballots for question to be voted by ballot, viz:

One Town Clerk for three years, three Select Board Members for three years, two years and one year (terms to be determined by ballot count), two School Committee members for three years, one Board of Health member for three years, one Commissioner of Trust Funds for three years, one Commissioner of Trust Funds for one year (unexpired term), one Board of Public Works member for three years, two Planning Board members for four years, one Housing Authority member for 5 years, and Town Meeting Members in accordance with Section 2 of Chapter 285 of the Acts of 1930 and amendments thereto establishing in the Town of Fairhaven Representative Town Government by limited Town Meeting as follows:

Precinct One 24 for 3 years - 1 for 1 year

Precinct Two 24 for 3 years - 3 for 2 years - 12 for 1 year

Precinct Three 23 for 3 years - 7 for 1 year


Precinct Four 25 for 3 years

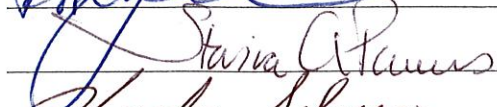
Precinct Five 23 for 3 years

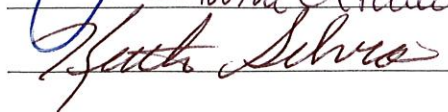
Precinct Six 24 for 3 years - 1 for 1 year

The polls shall be open from 10:00 AM to 8:00 PM. and the inhabitants qualified as Town Meeting Members shall meet on Saturday, June 18, 2022 at 9:00 AM in the Walter Silveira Auditorium of the Elizabeth Hastings Middle School to act upon the following articles:

Fairhaven Select Board:







I, Linda Fredette, Constable of the Town of Fairhaven, do hereby certify that I have duly served this Warrant as required by the General Laws of Massachusetts and the By-Laws of the Town of Fairhaven by posting an attested copy thereof in the precinct/polling locations on 3 11 8 2022.



WARRANT

**Town Meeting to Act on Articles in the Warrant
Saturday, June 18, 2022 at 9:00 a.m. in the
Walter Silveira Auditorium at the
Elizabeth I. Hastings Middle School.**

ARTICLE 1: MEASURER OF WOOD AND BARK

To see if the Town will vote to instruct the Select Board to appoint a Measurer of Wood and Bark.

Petitioned by: Select Board

ARTICLE 2: TOWN REPORT

To receive the Annual Report of Town Officers.

Petitioned by: Select Board

ARTICLE 3: REPORT OF COMMITTEES

To hear and act upon the reports of any committees, or committee appointed in Town Meeting and to choose any committees or committee the Town may think proper and to raise and appropriate a sum of monies for the expense of same, or to take any other action with relation to either of said matters, as the Town may deem necessary and proper.

Petitioned by: Select Board

ARTICLE 4: SETTING SALARIES OF TOWN OFFICERS

To see if the Town will vote to fix the compensation of the Town's Elected Officers and that said compensation be effective July 1, 2022.

A. Select Board	\$33,500.00
B. Town Clerk	\$66,961.00
C. Moderator	\$1,000.00
D. Tree Warden	\$7,321.00
E. Board of Health	\$5,170.00

Or take any other action relative thereto.

Petitioned by: Town Administrator

ARTICLE 5: BILLS OF PRIOR YEAR – Paid from FY22 funds

To see if the Town will vote to pay the bills of prior year.

<u>Vendor</u>	<u>Amount</u>	<u>Petitioner</u>
A. Stryker	\$680.00	Fire Department
B. Corvel Corporation	\$6.85	Fire Department

and others that may be brought forward.

Petitioned by: Town Administrator

ARTICLE 6: FY22 GENERAL FUND OPERATING BUDGET ADJUSTMENTS

To see if the town will vote to amend Article 9 of the June 12, 2021 Town Meeting “General Fund Operating budget-FY22” as follows:

- A. \$7,600.00 be transferred from Surplus Revenue (Free Cash) to the Bristol County Agricultural High School
- B. \$111,177.00 be transferred from Surplus Revenue (Free Cash) to Greater New Bedford Regional Vocational Technical High School
- C. \$65,000.00 be transferred from Surplus Revenue (Free Cash) to Police Department-Salaries

Petitioned by: Town Administrator

ARTICLE 7: SEWER CAPITAL IMPROVEMENTS REVENUE FY22 TO STABILIZATION FUND

To see if the Town will vote to transfer from the Sewer Retained Earnings of June 30, 2021 Sewer Capital Fee \$302,073.00 to the Sewer Capital Improvements Stabilization Fund or to take any other action relative thereto:

Petitioned by: Board of Public Works

ARTICLE 8: GENERAL FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$56,028,953.00 to fund the FY23 General Fund Operating Budget or take any other action relative thereto:

Petitioned by: Select Board

ARTICLE 9: WATER ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$3,492,634.00 to fund the balance of the FY23 Water Enterprise Fund Operating Budget or take any other action relative thereto:

Petitioned by: Board of Public Works

ARTICLE 10: SEWER ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$4,332,234.00 to fund the balance of the FY23 Sewer Enterprise Fund Operating Budget or take any other action relative thereto:

Petitioned by: Board of Public Works

ARTICLE 11: TOWN CABLE ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$207,722.00 to fund the balance of the FY23 Town Cable Television Enterprise Fund Operating Budget or take any other action relative thereto:

Petitioned by: Select Board

ARTICLE 12: SCHOOL CABLE ENTERPRISE FUND OPERATING BUDGET

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a \$161,759.00 to fund the balance of the FY23 School Cable Television Enterprise Fund Operating Budget or take any other action relative thereto:

Petitioned by: Select Board

ARTICLE 13: GENERAL FUND CAPITAL PLAN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of monies; to fund Capital Equipment/Projects in the General Fund or take any other action relative thereto:

A. Fire Engine 2 Tool Project	\$35,000.00
B. Replace Voting Machines	\$38,000.00
C. Ambulance / Stretcher Replacement	\$325,000.00
D. Police Cruiser Replacements	\$134,000.00
E. High School-Repair and Replace Southeast & Southwest Gables	\$2,275,000.00
F. Computer Hardware Equipment Replacement	\$30,000.00
G. Life Pak 15 Replacement (3 Units)	\$96,000.00
H. Replace Loader	\$220,000.00
I. Computer Server for offsite electronic storage	\$24,000.00
J. Beach Mat to provide for handicap access to Town Beach	\$25,000.00
K. Replace Boiler at Town Hall	\$125,000.00
L. Council on Aging /Recreation Building Roof Replacement (design & construction)	\$54,000.00
M. Replacement of Engines on Harbormaster Boat	\$51,000.00
N. Hydraulic Rescue Tools	\$41,000.00
O. Upgrade Town/School Phone System	\$223,000.00
P. Replace window blinds/shades at Town Hall	\$21,000.00
Q. Control Desk Radio Upgrade	\$48,000.00

Or other project that may be presented at Town Meeting.

And to meet this appropriation \$1,165,000.00 be transferred from Surplus Revenue (Free Cash), \$300,000.00 transferred from Ambulance RRA to partially fund C. Ambulance/Stretcher Replacement, and \$25,000.00 transferred from the Waterways Fund to partially fund. M. Replacement of Engines on Harbormaster Boat, and \$100,000.00 transferred from the High School Trust Fund, and borrow \$2,175,000.00 for E. High School-Repair and Replace Southeast & Southwest Gables.

Petitioned by: Select Board and Capital Planning Committee

ARTICLE 14: WATER ENTERPRISE CAPITAL PLAN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$1,148,000.00 from the Water Enterprise account to fund Capital Equipment/Projects or take any other action relative thereto:

- | | |
|--|----------------|
| A. Utility Truck with Plow | \$73,000.00 |
| B. Repainting Sconticut Neck Water Tower | \$1,000,000.00 |
| C. Water Gate Valve Maintenance | \$75,000.00 |

Petitioned by: Board of Public Works

ARTICLE 15: SEWER ENTERPRISE CAPITAL PLAN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$54,825,000.00 from the Sewer Enterprise account to fund Capital Equipment/Projects or take any other action relative thereto:

- | | |
|---|-----------------|
| A. Sewer Treatment Plant Upgrade | \$50,000,000.00 |
| B. Inflow and Infiltration Prevention | \$250,000.00 |
| C. Sunset Beach Sewer Extension | \$1,000,000.00 |
| D. South St Taber St Force Main Upgrades | \$3,500,000.00 |
| E. Blower Building Roof Replacement-Treatment Plant | \$75,000.00 |

Petitioned by: Board of Public Works

ARTICLE 16: ROADWORK

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of monies not to cumulatively exceed \$425,000.00 in the aggregate without regard to individual line items to do the following roadwork, in the order of priority as determined by the Board of Public Works or take any other action relative thereto:

- A. Bayview Avenue - Highland Ave to Manhattan Ave, reconstruct, hard-surface, install drainage, curbing and sidewalks a distance of approximately 1325 feet.

Petitioned by: Board of Public Works

- B. Farmfield Street - Green St to Pleasant St - reconstruct, hard-surface, install drainage, curbing and sidewalks a distance of approximately 1000 feet.

Petitioned by: Board of Public Works

- C. Bonney Street - Reconstruct, hard-surface and install drainage on Bonney Street from #45 Bonney westerly to the end a distance of approximately 200 feet.

Petitioned by: Board of Public Works & Sheri Bettencourt

ARTICLE 17: – STATE AID TO HIGHWAYS

- A. To see if the Town will vote to authorize the Board of Public Works to accept and enter into contract for the expenditure of any funds allotted or to be allotted by the Commonwealth of Massachusetts for the construction, reconstruction and improvements of Town roads, or take any other action relative thereto.
- B. To see if the Town will vote to appropriate and transfer from available funds a sum of monies for capital improvements on local roads, subject to the conditions detailed by the Massachusetts Highway Department pursuant to the M.G.L. and Transportation Department’s Chapter 90 Guidelines, or to take any other action relative thereto.

Petitioned by: Board of Public Works

ARTICLE 18: FUNDING CAPITAL STABILIZATION FUND

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, including surplus revenue (Free Cash) and reimbursement from the state for school capital projects, to be deposited in the Capital Stabilization Fund as authorized by Chapter 40, Section 5B of the General Laws, or take any other action relative thereto

Petitioned by: Town Administrator

ARTICLE 19: AMBULANCE STABILIZATION

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of monies not to cumulatively exceed \$70,000.00 to be deposited in an Ambulance Stabilization Fund as authorized by Chapter 40 Section 5B of the General Laws, or take any other action relative thereto.

Petitioned by: Fire Chief

ARTICLE 20: SOCIAL DAY CARE CENTER

To see if the Town will vote to authorize the Fairhaven Council on Aging to expend in the Fiscal Year 2023 a sum of monies not to cumulatively exceed \$175,000.00 from the Grant Account known as “Receipts Reserved for Appropriation for Fairhaven Supportive Social Day Program” for the purpose of providing a Social Day Program for Senior Citizens or take any other action relative thereto.

Petitioned by: Council on Aging

ARTICLE 21: PROPAGATION OF SHELLFISH

To see if the Town will vote to raise and appropriate, borrow or transfer an amount not to exceed \$18,000.00 from available funds for the propagation of shellfish, or take any other action relative thereto.

Petitioned by: Harbormaster/Shellfish Warden

ARTICLE 22: COMMUNITY PRESERVATION PROGRAM APPROPRIATIONS

To see if the Town will vote to appropriate or to reserve for later appropriation, and to authorize the Community Preservation Committee to expend or reserve, from the Community Preservation Fund available funds and FY23 Estimated Receipts as set forth herein, the following amounts for community preservation purposes, with such expenditures to be subject to conditions to be specified in applications and award letters from the Community Preservation Committee, with each item considered a separate appropriation:

PROPOSED FISCAL YEAR 2023 COMMUNITY PRESERVATION BUDGET	
APPROPRIATIONS	
Purpose	Recommended Amounts
Reserve for Appropriation	
A. Acquisition, creation, and preservation of Open Space, and its rehabilitation and restoration (FY23 Estimated Receipts)	\$65,000.00
B. Acquisition, creation, and preservation of Historic Resources, and its rehabilitation and restoration (FY23 Estimated Receipts)	\$65,000.00
C. Acquisition, creation, and preservation of Community Housing, and its rehabilitation and restoration (FY23 Estimated Receipts)	\$65,000.00
Spending Appropriations	
D. Board of Public Works – Library Sidewalks (Undesignated Balance)	\$93,000.00
E. Fairhaven Historical Commission – Spring St Firehouse Renovations (Undesignated Balance)	\$18,000.00
F. Fairhaven Pickleball Association – Pickleball Courts at Livesey Park (Open Space Reserved \$90,000.00 & Undesignated Balance \$90,000.00)	\$180,000.00
G. Whitfield Manjiro Friendship Society – Whitfield Manjiro Cultural Center (Historic Resources Reserved)	\$60,000.00
Administrative Spending Appropriation	
H. To fund the Community Preservation Committee’s annual expenses as follows: Personal Service –\$2,600.00; Purchase of Services – \$3,400.00; Supplies – \$500.00; Other charges/expenders – \$2,000.00.	\$8,500.00
Total Recommended Appropriations	\$554,500.00

And, whereas Massachusetts General Law, Chapter 44B requires that the Town appropriate for spending, or set-aside for future spending, from the fund balance at least 10% for open space, 10% for historic preservation, and 10% for community housing.

And, whereas the existing reserves and recommended appropriations for open space, historic preservation, and community housing each exceed 10% of the Community Preservation Fund Estimated Receipts.

And, whereas Town Meeting may vote to delete any of the recommended amounts.

Therefore, in the event that recommended amounts are deleted, vote to appropriate as a reserve for future spending from the FY 2023 Community Preservation Fund Estimated Receipts the minimum necessary amounts to allocate not less than 10% (\$65,000.00) for open space, not less than 10% (\$65,000.00) for historic preservation, and not less than 10% (\$65,000.00) for community housing.

, or take any other action relative thereto.

Petitioned by: Community Preservation Committee

ARTICLE 23: REVOLVING FUNDS

To see if the Town will authorize and / or re-authorize the following Revolving Accounts under the provisions of Massachusetts General Law Chapter 44 Section 53 E ½ under the following terms:

Revolving Fund	Authorized to Spend	Revenue Source	FY23 Limit
Hazardous Materials	Fire Chief	Disposal fees/charges	\$ 100,000.00
Sustainability	Sustainability Committee	Fees/charges	\$ 10,000.00
Hoppy's Landing	Select Board and/or Town Administrator	Fees/charges from users of Hoppy's Landing	\$ 25,000.00
Town Hall Auditorium	Town Administrator	Town Hall auditorium rental fees	\$ 2,000.00
Park Utilities	Board of Public Works	User fees	\$ 2,000.00
(NEW) Shellfish Mitigation	Marine Resources	Mitigation fees	\$ 25,000.00
Mooring Fees	Marine Resources	Mooring fees	\$ 2,000.00
Mattress Recycling	Board of Health	Fees from mattress disposal	\$ 1,000.00
Hoarding Remediation	Board of Health	Revenue from textile recovery boxes	\$1,000.00
Wellness	Wellness Committee	Fees, BCBS reimbursements, vendors	\$2,500.00

Or take any other action relative thereto:

Petitioned by: Town Administrator

ARTICLE 24: FUND LABOR CONTRACTS

To see if the town will vote to fund contracts for the clerical, police, dispatchers, fire, highway, water and sewer unions or take any other action relative thereto:

- A. Clerical Union
- B. Police Union
- C. Dispatchers Union
- D. Fire Union
- E. Highway Union
- F. Water Union
- G. Sewer Union

Petitioned by: Town Administrator

ARTICLE 25: RETIREMENT COLA

To see if the Town will vote to accept an increase of the COLA base for retirees beginning July 1, 2022 from \$14,000.00 to \$15,000.00 consistent with the provision of Chapter 188, Section 19, of the Acts of 2010. For a total authorization of \$64,041.00 or take any other action relative action thereto.

Petitioned by: Retirement Board

ARTICLE 26: ADDITIONAL FUNDS TO SUPPLEMENT ARTICLE 16B FROM THE OCTOBER 20, 2020 MEETING-WATER DEPT VAN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$12,500.00 from the Water Enterprise Retained Earnings to fund Water Department Van, or take any other action relative thereto:

Petitioned by: Board of Public Works

ARTICLE 27: AMEND CHAPTER 194 STORM MANAGEMENT - EROSION AND SEDIMENT

To see if the Town will vote to amend Chapter 194 Stormwater Management, Illicit Discharge, Soil Erosion, Sediment Control or take any other action relative thereto:

CHAPTER 194

STORMWATER MANAGEMENT, ILLICIT DISCHARGE, SOIL EROSION, SEDIMENT CONTROL BY-LAW

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ARTICLE I – GENERAL PROVISIONS

SECTION 1. Purpose

- A. The purpose of this bylaw is to protect the public health, safety, and general welfare of the residents of the Town of Fairhaven, and to protect Fairhaven’s natural resources, water bodies, groundwater, and environment by regulating illicit connections and discharges to the storm drain system and controlling the adverse effects of construction site stormwater runoff and post-construction runoff. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, and groundwater. The harmful impacts of illicit discharge, soil erosion, and sedimentation are:
 - 1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands, groundwater and drinking water supplies;
 - 2) Contamination of drinking water supplies;
 - 3) Contamination of downstream coastal areas;
 - 4) Erosion of stream channels and downstream coastal areas;
 - 5) Alteration or destruction of aquatic and wildlife habitat;
 - 6) Overloading or clogging of municipal stormwater management systems; and
 - 7) Flooding.
- B. The objectives of this bylaw are:

- 1) Protect water resources;
- 2) Protect groundwater and surface water from degradation;
- 3) Promote infiltration and the recharge of groundwater;
- 4) Comply with state and federal statutes and regulations relating to stormwater discharges including total maximum daily load requirements;
- 5) To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and reduce or eliminate pollutants entering the Town's MS4 from existing uses;
- 6) To prohibit illicit connections and unauthorized discharges to the MS4 and require their removal;
- 7) To establish minimum construction and post construction stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;
- 8) To establish provisions for the long-term responsibility for, and maintenance of, structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
- 9) To ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

SECTION 2. Definitions

APPLICANT: Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Land Disturbance Permit for proposed land-disturbance activity.

BEST MANAGEMENT PRACTICES (BMPs): An activity, procedure, restraint, or structural improvement that helps to reduce the quantity of or improve the quality of stormwater runoff. Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT: The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as hereafter amended.

DEVELOPMENT: The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISCHARGE OF POLLUTANTS: The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.

DISTURBANCE OF LAND: Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

EROSION: The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN: A document containing a narrative, drawings and details developed by a qualified professional engineer (PE) or a Certified Professional in Erosion and Sedimentation Control (CPESC), which includes best management practices, or equivalent measures

designed to control surface runoff and erosion and sedimentation during pre-construction and construction related land disturbance activities.

GROUNDWATER: Water beneath the surface of the ground.

ILLICIT CONNECTION: A surface or subsurface drain or conveyance which allows an illicit discharge into the municipal storm drain system, including without limitation sewage, process wastewater, or wash water, and any connections from indoor drains, sinks, or toilets, regardless of whether said connection was previously allowed, permitted, or approved before the effective date of the Stormwater Management Bylaw.

ILLICIT DISCHARGE: Direct or indirect discharge to the municipal storm drain system that is not composed entirely of stormwater, except as exempted in Article II §D (2). The term does not include a discharge in compliance with an NPDES stormwater discharge permit or resulting from fire-fighting activities exempted pursuant to Article II §D(1) of the Stormwater Management Bylaw.

IMPERVIOUS SURFACE: Any material or structure on or above the ground that prevents water from infiltrating the underlying soil. "Impervious surface" includes without limitation roads, paved parking lots, sidewalks, and rooftops.

IMPOUNDMENT: A stormwater pond created by either constructing an embankment or excavating a pit which retains a temporary or permanent pool of water.

INFILTRATION: The act of conveying surface water into the ground to permit groundwater recharge and the reduction of stormwater runoff from a project site.

LAND-DISTURBING ACTIVITY or LAND DISTURBANCE: Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material. This includes, but is not limited to, clearing, grubbing, grading, digging, cutting, excavation of soil, or placement of fill.

LAND USE OF HIGHER POTENTIAL POLLUTANT LOAD (LUHPPL): Land uses or activities with higher potential pollutant loadings, as defined in the Massachusetts Stormwater Management Standards such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, outdoor storage and loading areas of hazardous substances or marinas.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS: The Standards issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 §. 40 and Massachusetts Clean Waters Act G.L. c. 21, §. 23-56. The Standards address stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity and quality of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM: The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Fairhaven.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by United States Environmental Protection Agency or jointly with the Commonwealth of Massachusetts that authorizes the discharge of pollutants to waters of the United States.

NONSTORMWATER DISCHARGE: Discharge to the municipal storm drain system not composed entirely of stormwater.

OPERATION AND MAINTENANCE PLAN: A plan setting up the functional, financial and

organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to ensure that it continues to function as designed.

OUTFALL: The point at which stormwater flows out from a point source into waters of the Commonwealth.

OWNER: A person with a legal or equitable interest in property.

PERSON: An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

POINT SOURCE: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

PRE-CONSTRUCTION: All activity in preparation for construction.

POLLUTANT: Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, whether originating at a point or nonpoint source, that is considered toxic or detrimental to humans or the environment and is or may be introduced into any storm sewer, water works or waters of the commonwealth. Pollutants shall include but are not limited to:

- a) Paints, varnishes, and solvents;
- b) Oil and other automotive fluids;
- c) Nonhazardous liquid and solid wastes and yard wastes;
- d) Refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnance, accumulations and floatables;
- e) Pesticides, herbicides, and fertilizers;
- f) Hazardous materials and wastes;
- g) Sewage, fecal coliform and pathogens;
- h) Dissolved and particulate metals;
- i) Animal wastes;
- j) Rock; sand; salt; soils;
- k) Construction wastes and residues; and
- l) Noxious or offensive matter of any kind.

RECHARGE: The process by which groundwater is replenished by precipitation through the percolation of runoff and surface water through the soil.

REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface on previously developed sites.

RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.

SEDIMENTATION: The process or act of deposition of sediment.

SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.

SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL: Any earth, sand, rock, gravel, or similar material.

STABILIZATION: The use, singly or in combination, of mechanical, structural, or vegetative methods, to prevent or retard erosion.

STORMWATER: Runoff from precipitation or snow melt and surface water runoff and drainage.

STORMWATER AUTHORITY: Town of Fairhaven Conservation Commission or its authorized agent(s).

STORMWATER MANAGEMENT PLAN (SWMP): A plan required as part of the application for a Land Disturbance Permit.

TOXIC OR HAZARDOUS MATERIAL OR WASTE: Any material which, because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Toxic or hazardous materials include any synthetic organic chemical, petroleum product, heavy metal, radioactive or infectious waste, acid and alkali, and any substance defined as "toxic" or "hazardous" under MGL c. 21C and c. 21E, and the regulations at 310 CMR 30.000 and 310 CMR 40.0000.

WASTEWATER: Any sanitary waste, sludge, or septic tank or cesspool overflow, and water that during manufacturing, cleaning or processing comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, vernal pools, springs, impoundments, estuaries, wetlands, coastal waters, and groundwater.

WETLANDS: As specifically defined in the Massachusetts Wetlands Protection Act and Fairhaven Wetlands Bylaw but generally include tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water) environments, including freshwater marshes around ponds and channels (rivers and streams), brackish and salt marshes; common names include marshes, swamps & bogs.

SECTION 3. Authority

This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the home rule statutes, and the regulations of the Federal Clean Water Act found at 40 CFR 122.34.

SECTION 4. Responsibility for administration

- A. The Stormwater Authority shall administer, implement and enforce this bylaw. Any powers granted to or duties imposed upon the Stormwater Authority may be delegated in writing by Stormwater Authority to any employees or agents of the Town.

SECTION 5. Waivers

- A. Following a public hearing in accordance with the Stormwater Regulations on a waiver request, the Stormwater Authority may waive strict compliance with any requirement of this bylaw or the rules and regulations promulgated hereunder, where:
- 1) such action is allowed by federal, state and local statutes and/or regulations; and
 - 2) is in the public interest; and
 - 3) is not inconsistent with the purpose and intent of this bylaw.

- B. Any applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purposes or objective of this bylaw.
- C. If in the Stormwater Authority's opinion, additional time or information is required for review of a waiver request, the Stormwater Authority may continue a hearing to a certain date announced at the meeting. In the event the applicant objects to a continuance, or fails to provide requested information, the waiver request shall be denied.

SECTION 6. Compliance with EPA's General Permit for MS4s in Massachusetts

This bylaw is intended to further the objectives of and to act in concert with any existing federal, state or local laws concerning storm water discharges in the Town of Fairhaven, including but not limited to the requirements of the United States Environmental Protection Agency's most recent General Permit for MS4s, and nothing in this bylaw is intended to limit or restrict the authority of any board, commission or officer of the Town to act in accordance with any federal, state and local laws within their jurisdiction, and in the event of a conflict, the more stringent requirements will control.

SECTION 7. Regulations

The Stormwater Authority may adopt, and periodically amend, regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures and administration of this Stormwater Bylaw by majority vote after conducting a public hearing to receive comments. Such hearing shall be advertised in a newspaper of general local circulation, once in each of two successive weeks, the first publication being at least fourteen (14) days prior to the hearing date. Failure of the Stormwater Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Bylaw.

Such regulations, rules or guidance may include without limitation, provisions for the establishment of one or more categories of administrative review approvals for specific types or sizes of projects. Administrative review applications that meet all the standard requirements may be issued by one or more agents designated in writing by the Stormwater Authority, without the requirement for a public hearing as detailed in Article III of this bylaw. Administrative review approval shall comply with all other provisions of this Bylaw.

SECTION 8. Severability

The provisions of this bylaw are hereby declared to be severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

ARTICLE II – DISCHARGES TO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

SECTION 1. Applicability

Article II of this bylaw shall apply to all discharges of water entering the municipally owned storm drainage system or going, directly or indirectly, into a watercourse, or into the waters of the Commonwealth, that is generated on any developed or undeveloped lands except as explicitly exempted in this bylaw or where the Stormwater Authority has issued a waiver in accordance with Article I Section 5. The Stormwater Authority designates the Fairhaven Department of Public Works as the enforcing agency for Article II of this Bylaw.

SECTION 2. Prohibited Activities; Exemptions.

- A. Illicit discharges. No person shall dump, discharge, spill, cause or allow to be discharged any pollutant or non-stormwater discharge into the municipal separate storm sewer system (MS4), onto an impervious surface directly connected to the MS4, or, directly or indirectly, into a watercourse, or into the waters of the Commonwealth.
- B. Illicit connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of municipal storm drain system. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written consent from the Stormwater Authority or its designee.
- D. Exemptions.
 - 1) Discharge or flow resulting from fire-fighting activities.
 - 2) The following non-stormwater discharges or flows are exempt from the prohibition of non-stormwaters provided that the source is not a significant contributor of a pollutant to the municipal storm drain system or, directly or indirectly, into a watercourse, or into the waters of the Commonwealth:
 - (a) Waterline flushing;
 - (b) Flow from potable water sources, with the exception of landscape irrigation and lawn watering;
 - (c) Springs;
 - (d) Natural flow from riparian habitats and wetlands;
 - (e) Diverted stream flow;
 - (f) Rising groundwater;
 - (g) Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20), or uncontaminated pumped groundwater (e.g. sump pump), provided that where a pump intake exists inside a structure, the operator seeks a permit from the Stormwater Authority prior to discharge and thereafter discharges in accordance with the requirements of the permit and applicable laws and regulations to be issued by the Stormwater Authority;
 - (h) Water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), crawl space pumps, or air-conditioning condensation;
 - (i) Discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
 - (j) Discharge from street sweeping;
 - (k) Dye testing, provided verbal notification is given to the Stormwater Authority and the Department of Public Works prior to the time of the test;
 - (l) Non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations; and

- (m) Discharge for which advanced written approval has been received from the Stormwater Authority as necessary to protect public health, safety, welfare or the environment.

SECTION 3. Additional Prohibited Pollutants

Pet Waste: Dog feces is a major component of stormwater pollution; it shall be the duty of each person who owns, possesses, or controls a dog to remove and properly dispose of any feces left by the dog on any public or private property neither owned nor occupied by said person. It is prohibited to dispose of dog feces in any public or private storm drain, catch basin, wetland, or water body or on any paved or impervious surface. Persons walking dogs must carry with them a device designed to dispose of dog feces including, but not limited to, a plastic bag or "pooper scooper." For specific requirements and penalties for violations see Chapter 87 Section 10 "Sanitary disposal of dog excrement".

SECTION 4. Emergency Suspension of Storm Drainage System Access

The Stormwater Authority or the Department of Public Works may suspend municipal storm drain system access to any person or property without prior written notice when such suspension is necessary to stop an actual or threatened discharge of pollutants that present imminent risk of harm to the public health, safety, welfare or the environment. In the event any person fails to comply with an emergency suspension order, the Stormwater Authority or the Department of Public Works may take all reasonable steps to prevent or minimize harm to the public health, safety, welfare or the environment.

SECTION 5. Notification of Spills

Notwithstanding other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of or suspects a release of materials at that facility or operation resulting in or which may result in discharge of pollutants to the municipal drainage system or waters of the Commonwealth, the person shall take all necessary steps to ensure containment and cleanup of the release. In the event of a release of oil or hazardous materials, the person shall immediately notify the Municipal Fire and Police Departments. In the event of a release of nonhazardous material, the reporting person shall notify the authorized enforcement agency no later than the next business day. The reporting person shall provide to the Stormwater Authority and the Department of Public Works written confirmation of all telephone, facsimile or in-person notifications within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

SECTION 6. Enforcement

The Stormwater Authority or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

- A. Civil relief. If a person violates the provisions of this bylaw, or any associated regulations, permit, notice, or order issued thereunder, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders.
 - 1) The Stormwater Authority or its authorized agent or designee may issue a written order to enforce the provisions of this bylaw or any regulations thereunder, which may include:
 - (a) Elimination of illicit connections or discharges to the MS4;

- (b) Performance of monitoring, analyses, and reporting;
 - (c) That unlawful discharges, practices, or operations shall cease and desist;
 - (d) That measures shall be taken to minimize the discharge of pollutants until such time as the illicit connection shall be eliminated; and
 - (e) Remediation of contamination in connection therewith.
- 2) Said orders shall specify a deadline by which the required action shall be completed and the Stormwater Authority or its designee may further advise that, should the violator or property owner fail to perform the required action or remediation within the specified deadline, the Town may, at its option, undertake such work, at the owner and/or violator's sole costs and expense, that it deems necessary to protect public health, safety and welfare.
 - 3) Within 60 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in MGL c. 59, § 57 after the 31st day at which the costs first become due.
- C. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be \$300. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- D. Non-Criminal Disposition. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as set forth in MGL c. 40, § 21D and in the Bylaws of the Town of Fairhaven, Chapter 1 Section 6: Noncriminal disposition of violations. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- E. Entry to perform duties under this bylaw. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.
- F. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.

SECTION 7. Transitional Provisions

Residential property owners with illicit discharges, connections and/or obstructions to the MS4 shall have a period of 60 days from the effective date of this bylaw to remove such discharges, connections and/or obstructions, unless immediate removal is required for the protection of public health, safety, welfare or the environment. The Stormwater Authority may extend the time for compliance by regulation or by waiver in accordance with Section 6 of this Bylaw.

ARTICLE III – STORMWATER MANAGEMENT AND LAND DISTURBANCE

SECTION 1. Applicability

- A. Article III of this Bylaw shall apply to all activities that result in disturbance of 20,000 square feet of land or more that drains to the municipal separate storm sewer system (MS4). Except as authorized by the Stormwater Authority or as otherwise provided in this Bylaw, no person shall perform any activity that results in disturbance of 20,000 square feet of land or more. A Land Disturbance Permit is required for disturbance of greater than 20,000 square feet of land or for a proposed use that is listed as a land use of higher potential pollutant loads as defined in the Massachusetts Stormwater Management Standards.
- B. Exemptions:
- 1) Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling conducted in such a way as not to cause a nuisance;
 - 2) Construction of fencing that will not substantially alter existing terrain or drainage patterns;
 - 3) Construction of utilities other than drainage (gas, water, sewer, electric, telephone, etc.) which will not alter terrain or drainage patterns or result in discharge of sediment to the MS4;
 - 4) Normal maintenance and improvement of land in agricultural or aquacultural use; and
 - 5) Disturbance or redevelopment of land that is subject to jurisdiction under the Wetlands Protection Act that demonstrate compliance with the Massachusetts Stormwater Management Standards and the Town of Fairhaven Stormwater Management Regulations as reflected in a valid Order of Conditions issued by the Conservation Commission.
 - 6) The Stormwater Authority is authorized to enact regulations to effectuate the purposes of this bylaw, including but not limited to regulations outlining the application requirements for review specified in Section A hereof. Any person that fails to follow the requirements of a Land Disturbance Permit and the related Erosion and Sedimentation Control Plan, and Operations and Maintenance Plan issued under the Stormwater Management Regulations shall be in violation of the Town of Fairhaven Bylaws.

SECTION 2. Approval and/or Permit

An applicant seeking an approval and/or permit shall file an appropriate application with the Stormwater Authority in a form and containing information as specified in this bylaw and in regulations adopted by the Stormwater Authority. Approval or permit must be obtained prior to the commencement of land disturbing or redevelopment activity based on thresholds described in the Stormwater Management Regulations.

SECTION 3. Entry

Entry to perform duties under this bylaw. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Stormwater Authority, its agents, officers, and employees may enter upon privately owned property for the purpose of performing their duties under this bylaw and regulations and may make or cause to be made such examinations, surveys or sampling as the Stormwater Authority deems reasonably necessary.

SECTION 4. Inspection and Site Supervision

The Stormwater Authority or its designated agent shall make inspections of the work subject to this Bylaw to determine compliance with the Bylaw and regulations and orders of the Stormwater Authority.

SECTION 5. Surety

The Stormwater Authority may require the applicant to post before the start of land disturbance or construction activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by the Stormwater Authority and be in an amount deemed sufficient by the Stormwater Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Authority may release part of the bond as each phase is completed in compliance with the permit.

SECTION 6. Final Reports

Land Disturbance Permit: Upon completion of work, the applicant shall submit a Final Report, including a topographical as-built plan stamped by a MA Professional Land Surveyor (PLS) and a MA Registered Professional Engineer (P.E.) as applicable, certifying that the site has been developed in substantial compliance with the approved plan including all permanent erosion control devices, stormwater management facilities and, and any approved changes and modifications. Any discrepancies from the approved plan should be noted in the cover letter. The final report shall also include documentation to verify the stormwater management system has been properly operated and maintained in accordance with the approved O&M Plan. discrepancies shall be noted in the cover letter.

SECTION 7. Enforcement

The Stormwater Authority or its authorized agent shall enforce this bylaw, and any associated regulations, orders, violation notices, and enforcement orders and may pursue all civil and criminal remedies for such violations. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

- A. Civil relief. If a person violates the provisions of this bylaw, or any associated regulations, permit, notice, or order issued thereunder, the Stormwater Authority may seek injunctive relief in a court of competent jurisdiction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
- B. Orders. The Stormwater Authority or its authorized agent may issue a written order to enforce the provisions of this bylaw or any regulations thereunder, which may include:
 - 1) A requirement to cease and desist from the land-disturbing activity until there is compliance with the bylaw and provisions of the Land Disturbance Permit
 - 2) Maintenance, installation or performance of additional erosion and sediment control measures;
 - 3) Monitoring, analyses, and reporting
 - 4) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

Said orders shall specify a deadline by which the required action shall be completed and the Stormwater Authority or its designee may further advise that, should the violator or property owner fail to perform the required action or remediation within the specified deadline, the Town may, at its option, undertake such work, at the owner and/or violator's sole cost and expense, that it deems necessary to protect public health, safety and welfare.

- C. Within thirty (30) days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner will be notified of the costs incurred by the Town, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Stormwater Authority within thirty (30)

days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within thirty (30) days following a decision of the Stormwater Authority affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the cost shall become a special assessment against the property owner of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate provided in G.L. Chapter 59, s 57 after the thirtieth (30) day at which the costs first become due.

- D. Criminal Penalty. Any person who violates any provision of this bylaw, regulation, permit, approval or order issued there under, may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300). Each day such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- E. Non-Criminal Disposition. Any person who violates any provision of this bylaw, regulation, order or permit issued thereunder may be penalized by non-criminal disposition as an alternative to criminal prosecution or civil action, the Town of Fairhaven may elect to utilize the non-criminal disposition procedure set forth in MGL c. 40, § 21D and in the Bylaws of the Town of Fairhaven, Chapter 1 Section 6: Noncriminal disposition of violations. Each day or part thereof that such violation occurs or continues shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- F. Appeals. The decisions or orders of the Stormwater Authority shall be final. Further relief shall be to a court of competent jurisdiction.

Petitioned by: Board of Public Works

ARTICLE 28: TREE WARDEN FROM ELECTED TO APPOINTED

To see if the Town will vote to amend the Town of Fairhaven By-Laws by adding the following section: The Tree Warden shall be appointed by the Town Administrator with the approval of the Select Board, and shall exercise the duties of Tree Warden and of insect pest control. Such Tree Warden shall be qualified by training and experience in the field of arboriculture and licensed with the Department of Food and Agriculture in accordance with the provisions of section ten of chapter one hundred and thirty-two B of the general laws. The term of such appointment shall be for three years.

Petitioned by: Board of Public Works

ARTICLE 29: AMEND BPW BY-LAW SOLID WASTE & RECYCLING

To see if the town will vote to add a section to the Town of Fairhaven By-laws or to take any other action relative thereto:

- a. Customers shall place solid waste and recycling curbside prior to 7:00 am on the designated collection day but no earlier than 5:00 pm on the day prior to the designated collection day.
- b. Customers shall remove all acceptable solid waste containers from the public layout (street or sidewalk) as soon as practicable or, in any event, no later than 5:00 pm on the designated collection day for the area.

Petitioned by: Board of Public Works

ARTICLE 30: TOWN HALL REPAIRS

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds \$16,000.00 from Surplus Revenue (Free Cash) to do the following projects, or take any other action relative thereto:

- A. Replace Curved Windows \$8,000.00
- B. Repair Clock Gears \$8,000.00

Petitioned by: Select Board

ARTICLE 31: PROPAGATION OF SHELLFISH – DISTURBED BY DREDGING—FY22

To see if the Town will vote to transfer an amount not to exceed \$23,396.00 from Shellfish Mitigation Fees for the propagation of shellfish, or take any other action relative thereto.

Petitioned by: Harbormaster/Shellfish Warden

ARTICLE 32: UPDATE GENERAL PROVISIONS OF BYLAW, SECTION 1-6, NONCRIMINAL DISPOSITION OF VIOLATIONS

To see if the Town will vote to amend Chapter 1 General Provisions Section 1-6 Noncriminal disposition of violations D, in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this section, the following officers of the Town shall be enforcing persons with respect to the following enumerated bylaws, rules and regulations. The penalties set forth shall apply to a violation of each of the enumerated bylaws, rules and regulations. (12) Wetlands (Chapter 192).

- A. Enforcing person(s): the Chair of the Conservation Commission or the Commission’s Agent
- B. Fines: \$300.00 for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

Petitioned by: Conservation & Sustainability

ARTICLE 33: CLIMATE CHANGE VULNERABILITY ASSESSMENT GRANT MATCH

To see if the Town will vote to appropriate \$10,000.00 Surplus Revenue (Free Cash) as a local match for a state grant to conduct a town-wide coastal vulnerability and risk assessment of municipal infrastructure and natural resources considering exposure to sea level rise and coastal storms.

Petitioned by: Conservation & Sustainability

ARTICLE 34: MUNICIPAL LIGHT PLANT

To see if the town will vote pursuant to M.G.L. C.164 Sec.36 to acquire a municipal light plant and to authorize such plant to construct, purchase or lease, and maintain such facilities as may be necessary for the distribution or the operation of a telecommunications system for municipal use or for the use of its customers, pursuant to M.G.L. C.164 Sec.47E, or as otherwise authorized by law, or to take any other action thereto:

Petitioned by: Broadband Study Committee

ARTICLE 35: MUNICIPAL LIGHT PLANT

To see if the Town will vote to petition the General Court for the passage of special enabling legislation authorizing the Town to authorize, issue and sell revenue bonds to finance the development of

telecommunications facilities, fund any necessary reserves, pledge revenues from the operation of telecommunications facilities and all costs associated therewith, which special enabling legislation shall be in the following form subject to such changes as the General Court shall recommend and the Select Board shall approve; or to take any other action relative thereto.

AN ACT RELATIVE TO THE ISSUANCE OF REVENUE BONDS FOR THE CONSTRUCTION AND RECONSTRUCTION OF TELECOMMUNICATIONS FACILITIES BY THE TOWN OF FAIRHAVEN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the town of Fairhaven, when authorized by a two thirds vote as defined in Section one of Chapter forty-four, may borrow money by the issue of its revenue bonds to pay costs of designing, engineering, constructing and reconstructing telecommunications facilities, which revenue bonds shall be payable from rates and charges collected by the Town for the provision of telecommunications services, acting through its Municipal Light Board. Such project costs may include all costs, whether incurred prior to or after the issue of bonds or notes hereunder, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, demolition or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project and for a reasonable period thereafter, planning, engineering, finance advisory and legal services, administrative expenses, the funding of notes issued for project costs as hereinafter provided, such reserves for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation. Any bonds or notes issued pursuant to this act shall not be subject to the limitation on indebtedness set forth in section 10 of Chapter 44 of the General Laws.

SECTION 2. The bonds of each issue shall mature at a time or times not exceeding thirty years from their dates of issue and may be made redeemable before maturity with or without premiums. Subject to the provisions of this act, the treasurer with the approval of the select board, shall determine the date or dates of the bonds, their denomination or denominations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the commonwealth, their interest rate or rates, including rates variable from time to time as determined by such index, banker's loan rate or other method, maturity or maturities, redemption privileges, if any, and the form and other details of the bonds. The bonds shall be signed by the town treasurer, shall be countersigned by a majority of the select board either manually or by facsimile, and shall bear the seal of the town or a facsimile thereof. The town may sell its bonds in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest, as the officers authorized to issue the same shall determine.

SECTION 3. Any bonds issued under this act may be secured by a resolution or by a trust or security agreement between the town and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, or by a trust or security agreement directly between the town and the purchasers of the bonds, and such resolution or trust or security agreement shall be in such form and executed in such manner as may be determined by the authorized officers. Such trust or security agreement or resolution may pledge or assign, in whole or in part, the revenues held or to be received by the town from or on account of the operation of its telecommunications facilities, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the town, and the proceeds thereof. Such trust or security agreement or resolution may contain such provisions for protecting and enforcing the

rights, security and remedies of the bondholders as may, in the discretion of the authorized officers, be reasonable and proper and not in violation of law. Without limiting the generality of the foregoing, such agreement or resolution may include provisions defining defaults and providing for remedies in the event of default, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the town in relation to the custody, safeguarding, investment and application of moneys, the issue of additional or refunding bonds, the fixing, revision and collection of fees, charges and other revenues, the use of any surplus bond proceeds, the establishment of reserves, the construction and operation of the telecommunication facilities, and the making and amending of contracts relating to the bonds. It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues or other moneys under a trust or security agreement or resolution and to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or other credit facilities as may be required by the town acting hereunder. Any such trust or security agreement or resolution may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders.

SECTION 4. Any pledge of revenues, contract or other rights to receive revenues, or the proceeds thereof made by the town under this act shall be valid and binding and shall be deemed continuously perfected for the purposes of the Uniform Commercial Code and other laws from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the town shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the town, irrespective of whether such parties have notice thereof. Neither the resolution, any trust or security agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the town and no filing need be made under the Uniform Commercial Code.

SECTION 5. The Town, when authorized by its Select Board, may issue refunding bonds for the purpose of paying any of its bonds issued pursuant to this act at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such times prior to the maturity or redemption of the refunding bonds as the select board may determine. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium on the bonds, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other expenses from the proceeds of such refunding bonds as may be required by a trust or security agreement or resolution securing the bonds. The authorization and issue of refunding bonds, the maturities and other details of such bonds, the security for the bonds, the rights of the holders of the bonds, and the rights, duties and obligations of the town in respect to the same shall be governed by the provisions of this act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

SECTION 6. Any bonds issued under authority of this act may be issued by the town pursuant to lines of credit or other banking arrangements under such terms and conditions not inconsistent with this act, and under such agreements as the authorized officers may determine to be in the best interests of the town. In addition to other security provided herein or otherwise by law, bonds issued by the town under this act may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued to the town by any bank, trust company or other financial institution, within or without the commonwealth, and the town may pledge or assign any of the rates and charges collected by the town for the provision of telecommunications services as security for the reimbursement by the town to the issuers of such letters or lines of credit, insurance or credit facilities of any payments made thereunder.

SECTION 7. Any debt service fund, construction fund, debt service reserve fund, depreciation reserve fund or other fund established in connection with the issuance of bonds under this act shall be kept separate from other moneys of the town. The moneys deposited in any such funds, together with income

derived from any investments held as part of such funds, shall be expended without further authorization or appropriation as provided for in the trust or security agreement or resolution establishing such funds.

SECTION 8. All moneys received pursuant to the provisions of this act, whether as proceeds from the issue of bonds, as revenues, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

SECTION 9. The provisions of this act shall be deemed to provide an additional and alternative method for the effectuation of the purposes of this act and shall be construed to be supplemental to, and not in derogation of, powers otherwise conferred by law on the town, provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or rule, the provisions of this act shall be controlling.

SECTION 10. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes issued under this act shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until after such delivery.

SECTION 11. The owner of real property located in the town may enter into an agreement with the Municipal Light Board, or if there is none, the Town acting through its Select Board to pay a fixed assessment for a right of access of that real property to one or more service connections to the town's telecommunications facilities. A notice of such agreement, or of multiple agreements, shall be recorded as a betterment and except as otherwise set forth herein, or by the agreement of the parties hereunder, shall be subject to the provisions of chapter 80 relative to the apportionment, division, reassessment and collection of assessment, abatement and collections of assessments, and to interest; provided, however, that for purposes of this section, such lien shall take effect by operation of law on the day immediately following the due date of such assessment or apportioned part of such assessment and such assessment may bear interest at a rate determined by the Town Treasurer, or by agreement with the owner at the time such agreement is entered into between the Town or its municipal light board and the property owner. In addition to remedies available under Chapter 80, the property owner shall be personally liable for payment under the agreement; provided, however, that upon assumption of such personal obligation to a purchaser or other transferee of all of the original owners interest in the property at the time of conveyance and the recording of such assumption, the owner shall be relieved of such personal liability.

An agreement between an owner and the Town or its Municipal Light Board pursuant to this act shall not be considered a breach of limitation or prohibition contained in a note, mortgage or contract on the transfer of an interest in property, provided that the lien established by an agreement under this act shall be subordinate to all previously recorded notes, mortgages, contracts, executions or attachments.

Notwithstanding any provision of Chapter 183A to the contrary, the organization of unit owners of a condominium may petition the town or its Municipal Light Board to enter into an agreement pursuant to this act. Such agreement shall: (i) be approved by a majority of the unit owners; (ii) include an identification of the units and unit owners subject to the agreement; and (iii) include a statement by an officer or trustee of the organization of unit owners certifying that the required number of unit owners have approved the agreement. As between the affected unit owners and the town, such certification shall be conclusive evidence of the authority of the organization of unit owners to enter into the agreement. A notice of such agreement shall be recorded as a betterment in the registry of deeds or registry district of the land court where the master deed is recorded and shall be otherwise subject to the provisions of chapter 80 as provided for in this act. The assessment under such agreement may be charged or assessed to the organization of unit owners but shall not constitute an assessment of common expenses. Instead, the allocable share of the assessment shall attach as a lien to the units identified in the recorded notice and the owners of such units shall also be personally liable for their allocable share of the assessment as provided for in this section.

The assessment charged pursuant to all agreements authorized by this act shall be a uniform charge for each service connection allowed under such agreements, provided that if the Town's telecommunications facilities are constructed in separate phases within distinct geographic areas of the town, the assessment charged shall be uniform within each geographic area, but may differ from one such geographic area to another. The Municipal Light Board, or if there is none, the Town acting through its select board, may determine from time to time, to increase the charge, based upon generally accepted consumer price indexes. The assessment charged pursuant to an agreement shall remain unchanged for the term of that agreement.

Revenues received by the Town or its Municipal Light Board from charges assessed under this act shall be used first to pay amounts due under long-term obligations of the Town or its Municipal Light Board related to the town's telecommunications facilities, and any remaining receipts shall be used to offset operational costs of the town's telecommunications facilities.

SECTION 12. This act shall take effect upon its passage

Petitioned by: Broadband Study Committee

ARTICLE 36: WETLANDS BYLAW UPDATES

To see if the Town will vote to amend the Wetlands By law; or take any other action thereto.

[HISTORY: Adopted by the Annual Town Meeting of the Town of Fairhaven 5-10-1988 by Art. 58 (Ch. XXIX of the 1934 Bylaws). Amendments noted where applicable.]

GENERAL REFERENCES

Conservation Commission – See Ch. 8

Subdivision of land – See Ch. 322

§ 192-1. Purpose.

The purpose of this chapter is to protect the wetlands, related water resources and adjoining land areas in the Town of Fairhaven by controlling activities deemed by the Fairhaven Conservation Commission likely to have a significant or cumulative effect upon wetland values, including but not limited to the following: public or private water supply, groundwater, flood control, erosion and sedimentation control, storm damage prevention, water pollution control, fisheries, land containing shellfish, wildlife habitat, recreation, aesthetics, agriculture values, and the ability of resource areas to mitigate impacts from climate change (collectively, the "wetland values protected by this chapter").

§ 192-2. Regulated activities.

[Amended 5-1-2010 STM by Art. 13]

Except as permitted by the Fairhaven Conservation Commission or as provided in this chapter, no person shall remove, fill, dredge, build upon or alter the following resource areas:

- A. Any freshwater or coastal wetland, marsh, wet meadow, bog, or swamp; or within 100 feet of these resource areas.
- B. Any bank, beach, creek, dune, lake, river, pond, stream, estuary, or ocean; or within 100 feet of these resource areas.
- C. Any land under lakes, rivers, ponds, streams, estuaries or the ocean.
- D. Lands subject to flooding or inundation by groundwater or surface water, lands subject to tidal action, coastal storm flowage, or flooding
- E. The Coastal Resilience Zone (CRZ)
- F. Land in the Nasketucket River Basin Overlay District.

§ 192-3. Exceptions.

- A. The permit and application required by this chapter shall not be required for maintaining, repairing or replacing an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone or other telecommunication services, provided that the structure or facility is not substantially changed or enlarged.
- B. The permit and application required by this chapter shall not apply to emergency projects necessary for the protection of the health or safety of the public, provided that:
 - 1) The work is to be performed by or has been ordered to be performed by an agency of the Commonwealth of Massachusetts or a political subdivision thereof.
 - 2) Advance notice, oral or written, has been given to the Commission or its agent prior to commencement of work or within 24 hours after commencement.
 - 3) For any work proposed to the north of the eastern terminus of the New Bedford Harbor hurricane barrier, and within one hundred (100) feet of a wetland resource are protected under the Massachusetts Wetlands Protection Act and corresponding regulations and this Bylaw and corresponding regulations, notice shall also be provided to the United States Environmental Protection Agency (EPA), which is implementing the cleanup of the New Bedford Harbor Superfund Site.
 - 4) The Commission or its agent certifies the work as an emergency project.
 - 5) The work is performed only for the time and place so certified for the limited purposes necessary to abate the emergency.
 - 6) Within 21 days of commencement of an emergency project a permit application shall be filed with the Conservation Commission for review as provided by this chapter.
- C. Upon failure to meet these requirements and any other requirements imposed by the Commission pursuant to this chapter, the Commission may, after notice and a public hearing, revoke or modify an emergency project certification and order restoration and mitigation measures.

§ 192-4. Permit application and requests for determination.

- A. Written application shall be filed with the Conservation Commission to perform regulated activities regulated as defined in § 192-2. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the environment. No activities shall commence without receiving and complying with a permit issued pursuant to this chapter.
- B. In its discretion the Commission may accept the notice of intent and plans filed under MGL c. 31, § 40 (the Wetlands Protection Act) as the application and plans under this chapter. Any person desiring to know whether or not the proposed activity of an area is subject to this chapter may request a determination for the Commission in writing. Such a request for determination shall contain data and plans specified by the regulations of the Commission.
- C. At the time of an application or request, the applicant shall pay a filing fee specified in the regulation of the Commission, said fee to be in addition to any fee required by MGL c. 131, § 40 (the Wetlands Protection Act). The Commission may establish filing fees in amounts reasonably designed to recover the cost to the Town of processing such application, including the cost to the Town of professional services for design review, site inspection and testing and related services. The Commission may waive the filing fee for an application or request filed by a government agency and shall waive all fees, costs and expenses for a request for determination filed by a person who is not the owner or a person acting on behalf of the owner.

§ 192-5. Notice and hearings.

- A. At the same time any person files an application or request for determination with the Conservation Commission, he/she shall give written notice thereof, by certificate of mailing, certified mail, or hand delivery to all abutters according to the most recent records of the Assessors, including those across a traveled way, a body of water or a Town line. The notice to

abutters shall enclose a copy of the application or request, with plans, or shall state where copies may be examined by abutters. When a person requesting a determination is other than the owner or a person acting on behalf of the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner(s) as well as the person making the request. For any work proposed to the north of the eastern terminus of the New Bedford Harbor Hurricane Barrier, and within one hundred feet (100) feet of a wetland resource area protected under the Massachusetts Wetlands Protection Act and corresponding regulations and this Bylaw and corresponding regulations, notice shall also be provided to the United States Environmental Protection Agency (EPA), which is implementing the cleanup of the New Bedford Harbor Superfund Site. This notice to EPA shall enclose a copy of the application or request, with plans.

- B. The Commission shall conduct a public hearing on any application or request for determination, with written notice given, at the expense of the applicant, in a newspaper of general circulation in the Town at least five working days prior to the hearing.
- C. The Commission shall commence the public hearing within 21 days from receipt of a completed application or request for determination and shall issue its permit, denial or determination in writing within 21 days of the close of said public hearing. In its discretion, the Commission may combine this hearing under this chapter with a hearing conducted under MGL c. 131, § 40 (the Wetlands Protection Act).
- D. The Commission shall have the authority to continue any hearing to a date certain announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information offered by the applicant or others, information and plans required of the applicant deemed necessary by the Commission in its discretion or comments and recommendations of other Town boards and officials. If the applicant objects to a continuance or postponement, the hearing shall be closed, and the Commission shall take action on the information then available to it.

§ 192-6. Permits; determinations and conditions.

- A. If, after a public hearing, the Conservation Commission determines that the activities which are the subject of the application are not likely to have a significant or cumulative effect upon the wetlands values protected by this chapter, the Commission shall, within 21 days of the close of the hearing, issue a permit for the activities requested. Such permit shall be without conditions. If, after a public hearing, the Conservation Commission determines that the activities which are the subject of the application are likely to have a significant or cumulative effect upon any or all of the wetlands values protected by this chapter, the Commission shall, within 21 days of the close of the hearing, issue a permit for the activities requested, in which case the Commission shall impose conditions which it deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions, or deny a permit.
- B. The Commission may deny a permit for the following reasons:
 - 1) Failure to meet the requirement of this chapter.
 - 2) Failure to submit necessary information and/or plans requested by the Commission.
 - 3) Failure to meet the design specifications, performance standards and other requirements in regulations of the Commission.
 - 4) Failure to avoid or prevent unacceptable significant or cumulative effects upon any or all of the wetland values protected by this chapter.
- C. A permit shall expire three years from the date of issue. Any permit may be renewed once for an additional period, up to three years, provided that a written request for renewal is received by the Commission prior to expiration and that the Commission may grant such extension as it finds necessary to allow completion of the permitted work.
- D. Any permit issued under this chapter may be revoked or modified by the Commission after public notice and notice to the holder of the permit and a public hearing thereon, upon a finding of the existence of circumstances which would justify the denial of or imposition of conditions on a permit.

- E. In its discretion, the Commission may combine the permit or other action on an application issued under this chapter with the order of conditions issued under the Wetlands Protection Act.

§ 192-7. Regulations.

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to achieve the purposes of this chapter. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this chapter.

§ 192-8. Definitions.

The following definitions shall apply in the interpretation and implementation of this chapter:

AESTHETICS

Includes, without limitation, the relevant qualities to be protected under the bylaw which are due to those natural and natively scenic impressions of all resource areas protected under this Bylaw, including but not limited to our shores, ponds, lakes, streams, rivers, harbors, and the lands bordering them. The aesthetic trust of the Commission shall be the preservation of a perception of the land which is most conducive to a natural aquatic system, a wildlife habitat, and a protective buffer between wetland resources and human development activities.

ALTER

Includes, without limitation, the following activities when undertaken to, upon, within or effecting resource areas protected by this chapter:

- A. Removal, excavation or dredging of soil, sand, loam, peat, gravel or aggregate materials of any kind.
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns or flood retention characteristics.
- C. Drainage or other disturbance of water level or water table.
- D. Dumping, discharging or filling with any material which may degrade water quality.
- E. Placing of fill or removal of material which would alter elevation.
- F. Driving of piles, erection, alteration or repair of buildings or structures of any kind.
- G. Placing of obstructions or objects in water.
- H. Destruction of plant life, including cutting of trees.
- I. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of water.
- J. Any activities, changes or work which may cause or tend to contribute to pollution or any body of water or groundwater.

CUMULATIVE EFFECT

An effect that is significant when considered in combination with other activities that have occurred, that are occurring simultaneously, or that are reasonably foreseeable, whether such other activities are contemplated as a separate phase of the same project, or arise from unrelated but reasonably foreseeable future projects. Future effects of sea level rise, coastal or inland flooding, or other future climate change effects are included among cumulative effects.

COASTAL FLOOD RISK AREA

Any land which is subject to any inundation caused by coastal storms up to and including that predicted to be caused by the 1% annual storm for the Target Year, as defined by the best available coastal flooding model.

HEREOF FAIL NOT, and make due return of this warrant to the Town Clerk at the time and place of the meeting aforesaid.

Given under our hands this 1 day of June in the year two thousand twenty-two.

Select Board of Fairhaven,



Stasia Powers, Chair



Leon Correy III, Vice-Chair



Robert Espindola, Clerk



Charles Murphy Sr.



Keith Silvia

A true copy, Attest:

Constable of Fairhaven

I, Linda Fredette, Constable of the Town of Fairhaven, do hereby certify that I have duly served this Warrant as required by the General Laws of Massachusetts and the By-Laws of the Town of Fairhaven by posting an attested copy thereof in the six precincts and/or polling place on June 1, 2022.



Linda Fredette- Constable