

# **WARRANT**

**For Annual Town Meeting Election, Monday, April 4, 2016  
and Meeting to Act on Articles in the Warrant  
Saturday, May 7, 2016 at 9:00 a.m. in the  
Walter Silveira Auditorium at the  
Elizabeth I. Hastings Middle School.**

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, 2016

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, 2016 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, one Selectman for three years, two School Committee members for three years, one Board of Health member for three years, one Commissioner of Trust Funds for three years, one Board of Public Works member for three years, two Planning Board members for four years, one Planning Board member for 1 year unexpired term, one Housing Authority member for 4 years unexpired term, 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 2 years
Precinct Two:	24 for 3 years – 2 for 1 year
Precinct Three:	23 for 3 years – 1 for 2 years – 10 for 1 year
Precinct Four:	25 for 3 years
Precinct Five:	23 for 3 years
Precinct Six	24 for 3 years

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, May 7, 2016 at 9:00 AM in the Walter Silveira Auditorium of the Elizabeth Hastings Middle School to act upon the following articles:

## **ARTICLE 1 – MEASURER OF WOOD AND BARK**

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

*Petitioned by: Board of Selectmen*

## **ARTICLE 2 – TOWN REPORT**

To receive the Annual Report of Town Officers.

*Petitioned by: Board of Selectmen*

## **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 money 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.

*Petition by: Board of Selectmen*

## **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, 2016.

	Request
A. Board of Selectmen (3 members)	A. \$ 15,600.00
B. Town Clerk	B. \$52,981.00
C. Moderator	C. \$ 800.00
D. Tree Warden	D. \$6,631.00
E. Board of Health	E. \$ 4,000.00

Or take any other action relative thereto.

*Petitioned by: Board of Selectmen*

## **ARTICLE 5 – FY17 GENERAL FUND OPERATING BUDGET**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund the FY17 General Fund Operating Budget or take any other action relative thereto

*Petitioned by: Board of Selectmen*

## **ARTICLE 6 – FY17 SEWER ENTERPRISE FUND OPERATING BUDGET**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund the FY17 Sewer Enterprise Fund Operating Budget or take any other action relative thereto

*Petitioned by: Board of Public Works*

## **ARTICLE 7 – FY17 WATER ENTERPRISE FUND OPERATING BUDGET**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund the FY17 Water Enterprise Fund Operating Budget or take any other action relative thereto

*Petitioned by: Board of Public Works*

## **ARTICLE 8 – FY17 RECREATION ENTERPRISE FUND OPERATING BUDGET**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund the FY17 Recreation Enterprise Fund Operating Budget or take any other action relative thereto

*Petitioned by: Board of Selectmen*

## **ARTICLE 9 – FY17 GENERAL FUND CAPITAL PLAN**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to fund the following Capital Equipment/Projects from the General Fund for FY2017 or take any other action relative thereto:

A. Replacement of Two (2) Police Cruisers	\$78,345.00
B. Police SafeBoat	\$30,000.00
C. Highway Equipment - Replace vehicle #26 (dump truck)	\$150,000.00
D. Hastings Middle School flooring	\$153,408.00
E. Harbormaster Truck	\$40,000.00
F. Public Facilities Improvement Plan	<u>\$45,000.00</u>
<b>TOTAL</b>	<b>\$496,753.00</b>

*Petitioned by: Board of Selectmen and Capital Planning Committee*

## ARTICLE 10 – SEWER ENTERPRISE CAPITAL PLAN

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money from the Sewer Enterprise Account to fund the following Capital Equipment/Projects for FY2016 or take any other action relative thereto:

A. Rehab Clarifiers	\$2,600,000.00
B. Rehab PT building	\$1,290,000.00
C. Rehab Railroad and Pilgrim Pump	\$2,804,000.00
D. Inflow and Infiltration Remediation	\$800,000.00
E. Design Fee	\$491,000.00
F. Engineering Services for Construction	\$697,000.00
 TOTAL	 \$8,682,000.00

*Petitioned by: Board of Public Works and Capital Planning Committee*

## ARTICLE 11 – ROADWORK

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to cumulatively exceed \$300,000 to do the following roadwork, or take any other action relative thereto:

- A. Union Street – Reconstruct, hard-surface and install drainage on Union Street from Green Street to Walnut Street.

*Petitioned by: Board of Public Works*

- B. Harding Road – Reconstruct and hard-surface Harding Road from Alden Road to Main Street.

*Petitioned by: Board of Public Works*

- C. Capeview Street – Reconstruct and hard-surface and install drainage on Capeview Street from the end of the existing pavement to Sunrise Court.

*Petitioned by: Board of Public Works*

- D. Winsegansett/Sippican Street – Reconstruct and hard-surface Winsegansett Ave from Sippican Street to the end, 205 feet, and Sippican Street from the intersection of Winsegansett Ave to the end, 280 feet.

*Petitioned by: Alex Kalife and Others*

## **ARTICLE 12 – TRANSFER FROM HOWLAND ROAD SETTLEMENT AGREEMENT**

To see if the Town will vote to transfer from the General Fund to the State Aid to Highways Account 023-950-00-5851-03-0495, the sum of \$66,768.84. This money was originally paid by the Board of Public Works from available road work funds to cover part of the cost of the Howland Road project. The Town received repayment of that money as part of the settlement of its claims arising from that project, and that repayment was deposited into the Town's General Fund. The proposed transfer will return that money to the Board of Public Works and make it available for the construction, reconstruction and improvements of Town roads, or to take any other action relative thereto.

*Petitioned by:* Board of Public Works

## **ARTICLE 13 – 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 money for capital improvements on local roads, subject to the conditions detailed by the Massachusetts Highway Department pursuant to the MGLS and Transportation Department's Chapter 90 Guidelines, or to take any other action relative thereto.

*Petitioned by:* The Board of Public Works

## **ARTICLE 14 – CAPITAL STABILIZATION FUND**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to cumulatively exceed \$500,000 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:* Board of Selectmen and Capital Planning Committee

## **ARTICLE 15 – AMBULANCE STABILIZATION**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to cumulatively exceed \$50,000 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:* The Fire Chief

## **ARTICLE 16 – SOCIAL DAY CARE CENTER**

To see if the Town will vote to authorize the Fairhaven Council on Aging to expend in the Fiscal Year 2017 a sum of money not to cumulatively exceed \$140,000.00 from the Grant Account known as “Receipts Reserved for Appropriation for Social Day Program” for the purpose of providing a Social Day Program for Senior Citizens or take any other action relative thereto.

*Petitioned by:* The Council on Aging

## **ARTICLE 17 – PROPAGATION OF SHELLFISH**

To see if the Town will vote to raise and appropriate, borrow or transfer \$17,500.00 from available funds for the propagation of shellfish, or take any other action relative thereto.

*Petitioned by:* Board of Selectmen

## **ARTICLE 18 – FEMA GRANT FOR LADDER 1 – 10% MATCH**

To see if the Town will vote to raise and appropriate, borrow or transfer from available a sum of money not to exceed \$90,000 for a ten (10) percent match for a FEMA grant to replace Ladder 1, or take any other action relative thereto.

*Petitioned by:* Fire Chief

## **ARTICLE 19 – FEMA – 5% MATCH FOR NEW FIRE EQUIPMENT**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$1,302.00 for a five (5) percent match for a FEMA grant to replace Personal Protective Equipment (PPE) and aging equipment, or to take any other action relative thereto.

*Petitioned by:* Fire Chief

## **ARTICLE 20 – CULTURAL COUNCIL FUNDING**

To see if the Town will vote to raise and appropriate, borrow or transfer \$2,500.00 from available funds for the Fairhaven Cultural Council, or to take any other action thereto.

*Petitioned by:* Fairhaven Cultural Council

## **ARTICLE 21 – TOWN MASTER PLAN**

To see if the Town of Fairhaven will vote to raise and appropriate, borrow or transfer \$85,000.00 from available funds to hire a consultant to work with the Town to prepare a Master Plan in compliance with MGL Chapter 41, section 81D; or to take any other action relative thereto.

*Petitioned by:* Planning Board

## **ARTICLE 22 – WATER MANAGEMENT ACT**

To see if the Town will vote to raise and appropriate, borrow or transfer \$5,000.00 from available Water Retained Earnings for engineering and legal fees associated with the Department of Environmental Protection Water Management Act Water Withdrawal Permit or to take any other action relative thereto.

*Petitioned by:* Board of Public Works

## **ARTICLE 23 – COLA BASE INCREASE IN FY17**

To see if the Town will vote to accept the Fairhaven Retirement Board vote to increase the COLA base for retirees beginning July 1, 2016 from \$12,000.00 to \$13,000.00. This request is consistent with the provision of Chapter 188, Section 19, of the Acts of 2010 and further to see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$60,000 to fund the first year of this retirement benefit change.

*Petitioned by:* Retirement Board

## **ARTICLE 24 – WIND TURBINE ELECTRICITY PURCHASE**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money to purchase electricity generated by Fairhaven Wind. Revenue generated from NSTAR for the wind turbines power purchase will be deposited into the Town Treasury and will offset expenditures made under this appropriation, or take any other action relative thereto.

*Petitioned by:* Board of Selectmen

## **ARTICLE 25 – STREET LIGHTS**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds a sum of money not to exceed \$800.00 per light for the installation and maintenance of the following street light or to take any other action relative thereto:

- A. One light at Roy Street, pole # 93/2

*Petitioned by:* Barry Sullivan and others

- B. One light at 192 Balsam Street, pole # 299/50

*Petitioned by:* Sharon Ristuccia and others

## **ARTICLE 26 – 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	Use of Funds	Revenue Source	FY17 Limit
Hazardous Materials	Fire Chief	To fund Hazardous Materials Clean Up Account – including but not limited to the purchase of equipment and supplies and the hiring of full-time and/or part-time personnel	Disposal feed/charges	\$ 100,000
Sustainability	Sustainability /Green Committee	To fund the expenses of the Sustainability Committee	Fees/charges	\$ 10,000
Hoppy's Landing	Board of Selectmen	To fund improvements, maintenance and repairs of Hoppy's Landing facility	Fees/charges from users of Hoppy's Landing	\$ 25,000
Town Hall (NEW ACCOUNT)	Town Administrator	To fund improvements, maintenance and repairs of the Town Hall auditorium	Town Hall auditorium rental fees	\$ 2,000
Park Utilities	Board of Public Works	For park lighting during sporting events	User fees	\$ 2,000
			Total	\$ 139,000

Or take any other action relative thereto:

*Petitioned by:* Board of Selectmen

## **ARTICLE 27 – TRANSFER FROM SURPLUS REVENUE**

To see if the Town will vote to transfer a sum of money from Surplus Revenue for the reduction of the tax levy, or take any other action relative thereto.

## **ARTICLE 28 – STREET ACCEPTANCES**

- A. To see if the Town will vote to accept the layout of a parcel of land shown as Welcome Street on a plan entitled “Street Acceptance Plan, Welcome Street, Fairhaven, Massachusetts”, scale: 1” = 20’, dated September 10, 2015 and prepared by Thompson Farland, Professional Engineers/Surveyors, 398 County Street, New Bedford, MA., said Welcome Street is 40.00 feet in width and contains 9,129 square feet.



Beginning at a stone bound in the southerly line of Washington Street, said bound marking the northeast corner of land now or formerly of Jose Rodriques DeAlmeida and Vivina S. Almeida and the northwest corner of Welcome Street;

Thence running in the south line of Washington Street, N 62°-48'-00" E, 40.35' feet to a corner and land now or formerly of Wally C. Therrien;

Thence turning and running by land now or formerly of the said Therrien and Edward William DeCosta, Jr. and Denise DeCosta, S 34°-43'-30" E, 225.58 feet to a corner and land now or formerly of Leslie P. Knowles;

Thence turning and running by land now or formerly of the said Knowles,

S 55°-16'-30" W, 40.00 feet to a corner and land now or formerly of Micheal S. and Jo-Ann T. Aguiar;

Thence turning and running by land of the said Aguiar and Jose Rodriques DeAlmeida and Vivina S. Almeida, N 34°-43'-30" W, 230.86 feet to Washington Street and the point of beginning.

Or to take any action thereon.

*Petitioned by:* Linda Therrien and Others

- B. To see if the Town will accept Treasure Bay Lane from Reservation Road to the end, a distance of approximately 214.84 feet, more or less.

*Petitioned by:* Susana LaChat and Others

- C. To see if the Town will vote to accept the layout of a parcel of land shown as Rockland Street on a plan entitled "Street Layout and Acceptance Plan for Rockland Street", scale: 1" = 30', dated March 9, 2016 and prepared by GCG Associates, Inc., Wilmington, MA., said Rockland Street is 50.00 feet in width and contains 27,521 square feet +/-.

Beginning at the intersection of the northeasterly sideline of Point Street and the northerly sideline of Rockland Street; thence turning and running along the northerly sideline of Rockland Street;

A bearing of N 56° 27' 20" E, a distance of 541.20' to a stone bound at a point of curvature; thence turning and running along a curve to the left on the northerly sideline of Rockland Street;

With a radius of 15.38', a length of 22.72' to a stone bound at the intersection of the northerly sideline of Rockland Street and the southwesterly sideline of Sconticut Neck Road; thence turning and running along the southwesterly sideline of Sconticut Neck Road;

A bearing of S 28° 10' 00" E, a distance of 50.22' to the intersection of the southwesterly sideline of Sconticut Neck Road and the southerly sideline of Rockland Street at a point

of curvature; thence turning and running along a curve to the left on the southerly sideline of Rockland Street;

A radius of 12.74', a length of 21.21' to a stone bound; thence turning and running along the southerly sideline of Rockland Street;

A bearing of S 56° 27' 20" W, a distance of 528.32' to the intersection of southerly sideline of Rockland Street and the northeasterly sideline of Point Street; thence turning and running along the northeasterly sideline of Point Street;

A bearing of N 42° 49' 39" W, a distance of 50.66' to the point of beginning;

Or take any other action thereon.

*Petitioned by:* Board of Public Works

## **ARTICLE 29 – 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 FY17 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:

<b>PROPOSED FISCAL YEAR 2017 COMMUNITY PRESERVATION BUDGET</b>	
<b>APPROPRIATIONS</b>	
<b>Purpose</b>	<b>Recommended Amounts</b>
<b>A.</b> Buzzards Bay Coalition: Mattapoisett Valley Drinking Water Protection and Trails Project.	\$ 80,000
<b>B.</b> Fairhaven Housing Authority – Dana Court – Boilers Replacement Project	\$ 50,000
<b>C.</b> Planning and Economic Development Department – Master Plan - Housing Element	\$ 25,000
<b>D.</b> Fairhaven High School – North Elevation Window Restoration Project Ph. 2.	\$ 70,000
<b>E.</b> Library Exterior Restoration Project Ph. 3	\$159,000
<b>F.</b> Historical Commission – Academy Building – Exterior Siding Project.	\$ 45,000

<b>Administrative Spending Appropriation</b>	
<b>G.</b> To fund the Community Preservation Committee's annual expenses as follows: Personal Service –\$6,700; Purchase of Services – \$3,400; Supplies – \$500; Other charges/expenders – \$2,000.	\$ 12,600
<b>Total Recommended Appropriations</b>	<b>\$441,600</b>

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 2017 Community Preservation Fund Estimated Receipts the minimum necessary amounts to allocate not less than 10% (\$50,000) for open space, not less than 10% (\$50,000) for historic preservation, and not less than 10% (\$50,000) for community housing;

or take any other action relative thereto.

*Petitioned by:* Community Preservation Committee

## **ARTICLE 30 – PROTECTION OF WATER SOURCES AND SUPPLY**

To see if the Town will vote the following by-law under Chapter 187 – Water, Part 3 – Water Supply § 187-13 or to take any other action relative thereto/

### **A. Purpose**

The purpose of this by-law is to recognize that the contamination of any pond, stream, surface, or sub-surface water in the Town of Fairhaven would pose a significant hazard to the health of the inhabitants of the Town and, therefore, to protect such water sources from contamination.

### **B. Water Withdrawal Prohibition**

Except as hereinafter provided, no person shall withdraw water from surface water (including but not limited to wetlands, stream channels, lakes, springs, ponds) within the Town of Fairhaven into any tank vehicle, or into any tank contained in or on any vehicle.

### **C. Exception**

The prohibitions contained in Paragraph B above shall not apply to withdrawals associated with the following:

1. Any withdrawal permitted under a permit issued by any agency of the Town of Fairhaven, Commonwealth of Massachusetts and/or the United States Government.
2. Any withdrawal associated with agricultural operations by either the owner of a private water supply or any other person or entity having withdrawal rights in said water body.
3. Any withdrawal associated with firefighting or training activities associated with firefighting.
4. Any withdrawal by a riparian landowner for personal use provided said withdrawal is less than 100 gallons per day.

**D. Violations, Penalties; Enforcement**

Any person or entity in violation of the provisions herein shall be fined by a fine of \$100 for the first violation and \$200 for each subsequent violation. Each day on which a violation exists shall constitute a separate violation.

This by-law shall be enforced under the Non-Criminal Disposition provisions of M.G.L. Chapter 40, Section 21D and may be enforced by the Conservation Commission, Board of Health, and Fire Department, or their designees. This by-law may also be enforced by the Fairhaven Police Department.

*Petitioned by:* Board of Public Works

**ARTICLE 31 – REZONING PETITION – 294 HUTTLESTON AVE**

To see if Town Meeting will vote to amend the Zoning Map as follows:

Rezone the following described lot from Business (B) to Apartment/Multifamily (RC): Assessor's Map 31B, Lot 60B as described in the Bristol County Registry of Deeds Book 9524, Page 174, or to take any other action relative thereto.

*Petitioned by:* Antonio Martinho

**ARTICLE 32 – AMENDMENT TO ZONING BYLAWS**

To see if the Town will enact the following amendments to the Zoning Bylaw Chapter 198 Section 29, Special permits for certain intensive nonresidential and multifamily site developments, by adding the following, or to take any other action relative thereto.

**§ 198-29 Special permits for certain intensive nonresidential and multifamily site developments**

**G Security for Special Permits.**

1. General. The SPGA, as a condition of granting a special permit, may require that the performance of the conditions and observance of the safeguards of such special permit be secured by one, or in part by one and in part by the other, of the methods described in the following provisions. The SPGA shall administer this securing of performance by either:

- (a) A proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the SPGA to secure performance of the conditions and observance of the safeguards of such special permit; or,
  - (b) A covenant running with the land, executed and duly recorded by the owner of record, whereby the conditions and safeguards included in such special permit shall be performed before any lot may be conveyed other than by mortgage deed. Nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant of the entire parcel of land, the development of which is governed by the special permit.
2. Reduction of Security. Until completion of the development the penal sum of any deposit or security held under § 198.29.G.1.a above may from time to time be reduced by the SPGA to an amount not less than 15% of the value of work originally estimated.
  3. Release of Security. Upon the completion of the development or upon performance of the conditions and safeguards imposed by such special permit, security for the performance of which was given, the applicant shall send by registered mail to the SPGA, an affidavit that the conditions and safeguards in connection with which such security has been given have been complied with. If the SPGA determines that the conditions and safeguards of the special permit have been complied with, it shall release the interest of the Town in such security, return or release the security to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged. If the SPGA determines that the conditions or safeguards included in the special permit have not been complied with, it shall specify the conditions or safeguards with which the applicant has not complied in a notice sent by registered or certified mail to the applicant.
  4. Failure to Act. If the SPGA fails to send such a notice within 60 days after it receives the applicant's affidavit, all obligations under the security shall cease and terminate, any deposit shall be returned and any such covenant become void.
  5. Failure to Complete Work. Upon failure of the applicant to complete such work to the satisfaction of the SPGA and in accordance with all applicable plans, regulations and specifications, the Town shall be entitled to enforce such bond or to realize upon such securities to the extent necessary to complete all such work without delay.

*Petitioned by:* Planning Board

### **ARTICLE 33 – AMENDMENT TO ZONING BYLAW - AUTO, BOAT SALES, RENTAL, SERVICE**

To see if the Town will enact the following amendments to the Zoning Bylaw Chapter 198 Section 16, Use Regulation Schedule. The additions are indicated in text that is **(bold and underlined)**. The deletions are indicated in strikethroughs (~~aaaa~~), Delete current Chapter 198, Section 25, Location of Automobile Services in its entirety and replace it with the following new Chapter 198, Section 25, Location of Automobile and Boat Services, and amend Chapter 198, Section 33, Definitions and word use as follows, or to take any other action relative thereto.

#### **§ 198-16. Use Regulation Schedule** **Use Regulation Schedule**

**District**

<b>Activity or Use</b>	<b>RR &amp; RA</b>	<b>RB</b>	<b>RC</b>	<b>P</b>	<b>B</b>	<b>I</b>	<b>AG</b>	<b>MU<sup>14</sup></b>	<b>WRP<sup>16</sup></b>
Motor Vehicle, Boat, sales, rental, service <sup>x</sup>	N	N	N	N	<u>YA</u>	<u>YA</u>	N	<u>NA</u>	N

**Body Work &**

<b>Painting</b>	N	N	N	N	A	N	N	N	
-----------------	---	---	---	---	---	---	---	---	--

<sup>x</sup>

See § 198-25.

**§ 198-25 Location of Automobile and Boat Services**

- A. No portion of the front or side lines of a public garage, automobile repair shop, greasing station, service station, gasoline filling station, boat service facility, or any of their appurtenances or accessory uses, shall hereafter be placed within fifty (50) feet of any residential district. No driveway to such premises shall be in any part within fifty (50) feet of any residential district. Required spaces for public and employee parking shall conform to the standards as determined by §198.27 Parking, Loading and Landscaping Requirements. Retail display areas shall meet the setbacks as provided for in 198-18 and be designed as described in 198.27.E.
- B. No filling station shall hereafter be located closer to a lot line than the minimum required setback plus an additional fifteen (15) feet, and no filling shall be done except into motor vehicles, boats or approved containers standing on the property of the filling station.
- C. A yard, building or other facility for the storage, display, dismantling, junking or similar disposal or use of overage or wrecked motor vehicles, or boats shall be classed as an industrial use. Automobile services permitted as a commercial use shall include gasoline filling stations supplying fuel, oil and automobile accessories to motor vehicles, lubrication and minor repair services. Boat services permitted as a commercial use shall include oil and accessories to boats, lubrication and minor repair services.
- D. Repairs requiring removal of vehicular or boat motors, transmissions, differentials or similar major elements are permitted only within the building interior. Body work and painting are allowable uses in the Industrial District by special permit. The number of external storage of motor vehicles or boats requiring repair shall be determined by special permit. No required parking facility or spaces shall be used for servicing, repair, storage, or display of merchandise or motor vehicles or boats for sale or rental or for any other purpose that interferes with its availability for required parking. No motor vehicle or boat kept for repairs can be stored externally for more than 60 days from the date the motor vehicle or boat is accepted for repair. The exterior storage of any parts including tires, and used motor vehicle or boat parts is not a permitted use. A 6-foot solid screening fence is required, except in a front yard, to shield motor vehicles or boats stored externally adjacent to a residential district. The screening fence must run along all property lines facing the residential property. All wrecked or dismantled motor vehicles must be stored in an enclosed building. The outside overnight storage area shall be shown on the site plan.
- E. No motor vehicle or boat repair shop which has been permitted pursuant to this § 198-25, or which pre-existed the enactment of this section, shall expand, alter, or intensify its repair use, unless such expansion, alteration, or intensification in use has been allowed by a special permit issued pursuant to this section.
- F. The Planning Board shall be the Special Permitting Granting Authority (SPGA) for all uses under § 198-25.

**§ 198-27      Parking, loading, and landscaping requirements**

F.      Used Car Dealerships. Except as otherwise provided by the Fairhaven Code, the number of motor vehicles and the location for the storage of those vehicles on a licensed property shall be determined following Special Permit application as determined by §198-8. The Board of Selectmen/Building Commissioner shall require licenses that are issued for the operation of this type of facility, which will conform to any approved Special Permit.

**§ 198-33      Definitions and word use**

FILLING STATION - The use of a building or structure or any portion thereof for the purpose of dispensing motor fuel from fixed equipment into the fuel tanks of motor vehicles and the services incidental thereto. The words "filling station" include the words "automotive service station."

MOTOR VEHICLE - Vehicles that have their own motive power and that are used for the transportation of people or goods on streets. Motor vehicle includes motorcycles, passenger vehicles, trucks, and recreational vehicles with motive power.

*Petitioned by:*      Planning Board

**ARTICLE 34 – LEGISLATIVE ARTICLE AMENDMENTS – BPW AND TOWN ADMINISTRATOR**

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court,

- (a) to repeal Chapter 389 of the Acts of 2014, An Act Relative to the zoning
- (b) in the Town of Fairhaven, and

(b) to amend Chapter 381 of the Acts of 2014, An Act Establishing the Position of Town Administrator in the Town of Fairhaven.

The purpose of these petitions is to remove from the authority of the Board of Selectmen that authority presently delegated to the Board of Public Works; and also to further clarify the authority and duties of the Town Administrator

The proposed amendments to Chapter 381 of the Acts of 2014 are:

1. Striking therefrom subsection (c) of Section 1, and inserting the following in its place:

“(c) appoint the town counsel and any special counsels, and all members of committees, boards and commissions except the finance committee and except those appointed by the moderator, elected by the voters or under the jurisdiction of the school committee or of the board of public works and may make appointments to temporary posts and committees the board creates for special purposes;” and by

2. Striking therefrom subsection (e) of Section 2, and inserting the following in its place:

“(e) Manage and direct the daily reporting and supervision of all town departments under the jurisdiction of the board of selectmen including: assessors, building commission, council on aging, police, civil defense, animal control officer, gas inspector, plumbing inspector, wiring inspector and weights and measures inspector, recreation, tree planning, finance, finance

director, collector, treasurer, accounting, veterans, town counsel, other committees appointed by and under the jurisdiction of the board of selectmen and the fire department, subject to section 42 of chapter 48 of the General Laws, but not including the school department, and the public works department.” , and by

3. Striking therefrom subsection (g) of Section 2, and inserting the following in its place:

“(g) Except with respect to the school department, and the public works department, the town administrator shall have sole authority over the administration of personnel policies for all town employees. With respect to the fire department, such authority shall be subject to section 42 of chapter 48 of the General Laws. The town administrator shall act as the personnel board under all applicable laws and by-laws, except as otherwise set forth in this act. The personnel board as presently constituted shall be eliminated upon the appointment of the town administrator. The town may enact by-laws establishing the wages, salaries and other benefits of employees, which shall be consistent with the authority granted to the town administrator in this act.

Notwithstanding the elimination of the personnel board, all actions taken prior to the appointment of the town administrator by the personnel board within its authority, and by any other town official or board, with respect to personnel, including the appointment of all officers and employees, shall continue in full force and effect subject to future action by the town administrator within the town administrator’s authority.” and by

4. Striking therefrom subsection (k) of Section 2, and inserting the following in its place:

“(k) With the approval of the board of selectmen, negotiate all collective bargaining agreements on behalf of the town, except for the school department and the public works department. The town administrator may seek the assistance of labor counsel if the town administrator deems it necessary to effect successful negotiations. All final agreements must be approved and executed by the board of selectmen.” and by

5. Striking therefrom subsection (m) of Section 2, and inserting the following in its place:

“(m) Submit to the board of selectmen a written proposed budget for town government for the ensuing fiscal year. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current and ensuing 5 years. The proposed budget shall include proposed expenditures for both current operations and capital projects during the ensuing year, detailed by department, committee, agency, purpose and position and proposed financing methods. The proposed budget shall include estimated revenues and free cash available at the close of the fiscal year, including estimated balances in special accounts. The town may, by by-law establish additional financial information and reports to be provided by the town administrator. To assist the town administrator in preparing the proposed annual budget of revenue and expenditures, the finance director, all boards, officers and committees of the town, including the school committee and the board of public works, shall furnish to the town administrator, in a writing in such a form as the town administrator shall establish, all relevant information in their possession, including a detailed estimate of the appropriations required and any available funds.” and by

6. Striking therefrom subsection (v) of Section 2, and inserting the following in its place:



“(v) Manage and oversee the use, maintenance, security and, with the approval of the board of selectmen, regulate the rental for all the town buildings, properties and facilities, including information technology, except those under the jurisdiction of the school department or the public works department, unless so requested by either of those departments.” and by

7. Striking therefrom subsection (x) of Section 2, and inserting the following in its place:

“(x) With the approval of the board of selectmen, prosecute, defend and settle all litigation for or against the town or its officers and employees, subject to such appropriation as may be necessary to effect settlement, except for litigation involving only the school department or the public works department, unless so requested by either of those departments.”

Or to take any other action thereon.

*Petitioned by:* Town Administrator

### **ARTICLE 35 – BATES – TABER HOUSE LAND EXCHANGE**

To see if the Town will authorize the Selectmen to purchase from Adventist Heritage Ministry (“AHM”), or its successor or assignee, for one dollar or other valuable non-monetary consideration, a parcel of land shown as Fairhaven Assessors’ Map 14, Lot 23, located at 191 Main Street, identified as “Area ‘B’” in the ANR Plan of 191 Main Street, Fairhaven, Massachusetts, prepared by Romanelli & Associates for AHM dated September 15, 2015, being 726 square feet in area; and, simultaneously therewith, to sell AHM, or its successor or assignee, for one dollar or other valuable non-monetary consideration, that portion of the lot shown as Fairhaven Assessors’ Map 14, Lot 149, located at 191 Main Street, identified as “Area ‘A’” in the same ANR plan, being 726 square feet in area.

*Petitioned by:* Board of Selectmen

### **ARTICLE 36 – ELIMINATE REFERENCES TO “EXECUTIVE SECRETARY” IN TOWN BYLAWS AND CODE**

To see if the Town will vote to delete the entire *Chapter 28: Executive Secretary* from the Town Code; and

To delete the phrase “Executive Secretary” wherever it appears in the Town Code, and insert in its place the phrase “Town Administrator.” The phrase appears at:

- §37-2 Appointment of Director; duties and qualifications
- §40-2 Committee established
- §61-2 Applicability
- §61-5 Adoption and amendment of policies and plans
- §73-2 Conditions and components
- §61-2 Applicability
- §493-3 Filing, time limits, and notice
- §A501-1 List of acceptances

*Petitioned by:* Board of Selectmen

**ARTICLE 37 – LEGISLATION FOR A NEW BEER AND WINE LICENSE – PIZZERIA BRICK**

To see if the Town of Fairhaven will vote to authorize the Board of Selectmen to petition the General Court for the passage of legislation authorizing the issuance of a Restaurant/Beer and Wine license to Pizzeria Brick, Inc., 213 Huttleston Ave, in the Town of Fairhaven, notwithstanding any limitations on the number of licenses issued under the provisions of Chapter 138 of the Massachusetts General Laws as amended. This license is non-transferable to another location, but the licensing authority may grant the license to a new applicant at the same location.

*Petitioned by:* John Goggin and others

**ARTICLE 38 – OTHER BUSINESS**

To act upon any other business which may legally come before this meeting.

And you are hereby directed to serve this warrant by posting an attested copy thereof on or near the front or main entrance of the polling place in Precinct 1, Town Hall; and on or near the entrance of the polling place in Precinct 2 and 3, Elizabeth I. Hastings Middle School, School Street; and on or near the entrance of the polling place in Precinct 4, Fire Station meeting room, 146 Washington Street; and on or near the front or main entrance of the polling place in Precinct 5 and 6, Recreation Center, 227 Huttleston Ave; seven days at least prior to the date of the meeting.

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 14th day of March in the year two thousand sixteen.

Selectmen of Fairhaven,

A true copy, ATTEST:

Constable of Fairhaven