

**ANNUAL TOWN MEETING – SATURDAY, JUNE 12, 2021**  
**(Meeting conducted remotely via zoom webinar)**  
**WALTER SILVEIRA AUDITORIUM – ELIZ. HASTINGS MIDDLE SCHOOL**  
**TOWN MEETING MEMBERS PRESENT 226 – QUORUM REQUIRED 40**

Meeting called to order by Moderator at 9:24 AM.  
The National Anthem was played.  
A moment of silence was held for the deceased.  
The Moderator introduced those seated on stage.  
All town meeting members present were sworn in by Town Clerk, Carolyn Hurley.  
The Moderator stated that the warrant has been properly served and that there was a quorum  
Instructions were given to the Town Meeting Members.  
Voted that the reading of the warrant and the return of service be omitted. Seconded.  
Voted that the Moderator be allowed to refer to the article by number and title only. Seconded.  
Voted that all the appropriations voted at this town meeting be placed on the Tax Levy for the  
fiscal year from July 1, 2021 through June 30, 2022. Seconded.

Town Meeting Members present:

Precinct 1 –	49
Precinct 2 –	38
Precinct 3 –	20
Precinct 4 –	46
Precinct 5 –	35
Precinct 6 –	38
<b>TOTAL</b>	<b>226</b>

**ARTICLE 1: MEASURER OF WOOD AND BARK**  
By majority vote, the town voted to instruct the Selectmen to appoint a Measurer of Wood and Bark.

**ARTICLE 2: TOWN REPORT**  
By majority vote, the town voted to receive the Annual Report of town officer.

**ARTICLE 3: REPORT OF COMMITTEES**  
*MOVED TO PASS OVER*

**ARTICLE 4: SETTING SALARIES OF TOWN OFFICERS-FY22**  
By majority vote, the town voted to adopt/amend the following sums of money:  
A) Board of Selectmen - \$20,601  
B) Town Clerk - \$66,961  
C) Moderator - \$1,000 transfer from Surplus Revenue/Free Cash  
D) Tree Warden - \$7,321  
E) Board of Health - \$5,170

**ARTICLE 5: BILLS OF PRIOR YEAR – Paid from FY21 funds**  
By 4/5ths vote, the town voted to approve the following amounts, with funds coming from Surplus Revenue/Free Cash:

Southcoast Physicians Service...	\$122.22	Fire Department
SMG Compass Medical .....	\$362.21	Fire Department
Corvel Corp .....	\$41.10	Fire Department
HKT Architects .....	\$1,222.16	Fire Department

**ARTICLE 6: FY21 GENERAL FUND OPERATING BUDGET ADJUSTMENTS**  
By majority vote, the town voted to amend Article 4 of the October 10, 2020 Special Town Meeting “General Fund Operating Budget-FY21” as follows:

- \$9,000 be transferred from Surplus Revenue (Free Cash) to Assessors, Contracted Services.
- \$50,000 be transferred from Surplus Revenue (Free Cash) to Town Hall, Contracted Services.

**ARTICLE 7: ROADWORK-FY21**

By majority vote, the town voted the sum of \$340,600 be appropriated from Surplus Revenue (Free Cash) for the following streets:

- A. \$88,800 - Bellevue Street – Reconstruct, hard-surface and install drainage on Bellevue Street from Adams Street to Francis Street, a distance of approximately 400 feet.
- B. \$173,000 - Fisherman Road – Reconstruct, hard-surface and install drainage on Fisherman Road from Balsam Street to Ebony Street, a distance of approximately 1,425 feet.
- C. \$78,000 - Massasoit Avenue– Reconstruct, hard-surface and install drainage on Massasoit Avenue from Adams Street to Francis Street, a distance of approximately 400 feet.

and that the Board of Public Works is authorized to expend these funds in the aggregate without regards to individual line items so long as the expenditures do not exceed the amount so appropriated.

**ARTICLE 8: SEWER CAPITAL FEE– FY21**

By majority vote, the town voted to transfer from the Sewer Retained Earnings of June 30, 2020 Sewer Capital Fee, \$296,868 to the Sewer Capital Improvements Stabilization Fund.

**ARTICLE 9: GENERAL FUND OPERATING BUDGET – FY22**

By majority vote, the town voted the following sums of money to fund the FY22 General Fund Operating Budget:

9) GENERAL FUND OPERATING BUDGET- FY22		Tax Levy	Transfer Borrow Funding	Explanation
<b>MODERATOR</b>				
Salaries & Wages	\$ 1,000	\$ 1,000		
<b>SELECTMEN/TOWN ADMINISTRATOR</b>				
Salaries & Wages	\$ 302,287	\$ 302,287		
Operating Expenses	\$ 33,699	\$ 33,699		
<b>HUMAN RESOURCES</b>				
Salary & Wages	\$ 91,535	\$ 91,535		
Operating Expenses	\$ 21,300	\$ 21,300		
<b>ACCOUNTING</b>				
Salary & Wages	\$ 144,656	\$ 144,656		
Operating Expenses	\$ 50,213	\$ 50,213		
<b>FINANCE DIRECTOR (TREASURER/COLLECTOR)</b>				
Salaries & Wages	\$ 375,842	\$ 375,842		
Operating Expenses	\$ 126,141	\$ 126,141		
<b>TOWN CLERK/ELECTIONS</b>				
Salaries & Wages	\$ 124,972	\$ 124,972		
Operating Expenses	\$ 29,425	\$ 29,425		
<b>ASSESSORS</b>				
Salaries & Wages	\$ 188,248	\$ 188,248		
Operating Expenses	\$ 88,668	\$ 88,668		

<b>TOWN HALL</b>				
Salaries & Wages	\$ 48,894	\$ 48,894		
Operating Expenses	\$ 60,515	\$ 60,515		
<b>TOWN MEETING/FINANCE COMMITTEE</b>				
Salaries & Wages	\$ 400	\$ 400		
Operating Expenses	\$ 7,745	\$ 7,745		
<b>PLANNING BOARD</b>				
Salaries & Wages	\$ 3,200	\$ 3,200		
Operating Expenses	\$ 3,990	\$ 3,990		
<b>PLANNING AND ECONOMIC DEVELOPMENT</b>				
Salaries & Wages	\$ 124,436	\$ 124,436		
Operating Expenses	\$ 16,173	\$ 16,173		
<b>ECONOMIC DEVELOPMENT COMMITTEE</b>	\$ 8,000	\$ 8,000		
<b>BOARD OF APPEALS</b>				
Salaries & Wages	\$ 2,196	\$ 2,196		
Operating Expenses	\$ 3,528	\$ 3,528		
<b>LEGAL EXPENSE</b>	\$ 170,000	\$ 170,000		
<b>CONSERVATION COMM/SUSTAINABILITY</b>				
Salaries & Wages	\$ 80,859	\$ 80,859		
Operating Expenses	\$ 20,754	\$ 13,254	\$ 7,500.00	Transfer from Wetland Protection Fund
<b>BUZZARD'S BAY ACTION COMM.</b>	\$ 1,520	\$ 1,520		
<b>POLICE /ANIMAL CONTROL</b>				
Salaries & Wages	\$ 4,027,623	\$ 4,027,623		
Operating Expenses	\$ 390,865	\$ 382,865	\$ 8,000.00	Transfer from Animal Control Gift Fund
<b>FIRE /EMERGENCY MANAGEMENT</b>				
Salaries & Wages	\$ 2,858,310	\$ 1,658,310	\$ 1,200,000.00	Transfer from Ambulance Receipts Reserved for Appropriation Fund
Operating Expenses	\$ 345,715	\$ 345,715		
<b>BUILDING</b>				
Salaries & Wages	\$ 180,796	\$ 180,796		
Operating Expenses	\$ 10,800	\$ 10,800		
<b>MARINE RESOURCES</b>				
Salaries & Wages	\$ 165,083	\$ 115,083	\$ 50,000.00	Transfer from Waterways Fund
Operating Expenses	\$ 36,431	\$ 36,431		
<b>WEIGHTS AND MEASURES</b>				
Salaries & Wages	\$ 7,140	\$ 7,140		
Operating Expenses	\$ 300	\$ 300		

STREET LIGHTING	\$ 60,000	\$ 60,000		
FAIRHAVEN PUBLIC SCHOOLS	\$ 22,179,843	\$ 22,179,843		
GNBRVT HIGH SCHOOL	\$ 2,080,413	\$ 2,080,413		
BRISTOL COUNTY AGGIE HS	\$ 168,335	\$ 168,335		
BPW ADMINISTRATION				
Salaries & Wages	\$ 204,944	\$ 204,944		
Operating Expenses	\$ 9,977	\$ 9,977		
HIGHWAY DIVISION				
Salaries & Wages	\$ 1,215,054	\$ 1,215,054		
Operating Expenses	\$ 642,922	\$ 632,922	\$ 10,000.00	Transfer from Subdivision Management
Snow and Ice Removal	\$ 60,000	\$ 60,000		
TREE				
Salaries & Wages	\$ 42,023	\$ 42,023		
Operating Expenses	\$ 14,569	\$ 14,569		
SANITATION (Recycling & Waste Disposal)				
Operating Expenses	\$ 1,516,469	\$ 1,516,469		
BOARD OF HEALTH				
Salaries & Wages	\$ 151,764	\$ 151,764		
Operating Expenses	\$ 27,902	\$ 27,902		
COUNCIL ON AGING				
Salaries & Wages	\$ 179,910	\$ 161,910	\$ 18,000.00	Transfer from Social Day Care Receipts Reserved for Appropriation
Operating Expenses	\$ 32,278	\$ 32,278		
VETERANS SERVICES				
Salaries & Wages	\$ 81,972	\$ 81,972		
Operating Expenses	\$ 681,800	\$ 681,800		
COMMISSION ON DISABILITY	\$ 1,000	\$ 1,000		
RAPE CRISIS PROJECT	\$ 2,000	\$ 2,000		
MILLCENT LIBRARY	\$ 703,601	\$ 703,601		
RECREATION				
Salaries & Wages	\$ 198,803	\$ 198,803		
Operating Expenses	\$ 125,700	\$ 125,700		
PARK				
Salaries & Wages	\$ 119,612	\$ 119,612		
Operating Expenses	\$ 40,129	\$ 40,129		
TOURISM				

Salaries & Wages	\$ 75,523	\$ 75,523		
Operating Expenses	\$ 21,532	\$ 21,532		
<b>FINE ARTS</b>	\$ 200	\$ 200		
<b>HISTORICAL COMMISSION</b>	\$ 16,750	\$ 16,750		
<b>MEMORIAL/VETERANS DAY</b>	\$ 2,500	\$ 2,500		
<b>CULTURAL COUNCIL</b>	\$ 2,750	\$ 2,750		
<b>CONSOLIDATED INFORMATION</b>	\$ 497,261	\$ 497,261		
<b>TECHNOLOGY</b>				
<b>CONTRIBUTORY RETIREMENT</b>	\$ 3,691,389	\$ 3,691,389		
<b>GROUP INSURANCE</b>	\$ 4,776,200	\$ 4,776,200		
<b>MA EMPLOYMENT SECURITY</b>	\$ 75,000	\$ 75,000		
<b>TOWN INSURANCE</b>	\$ 850,000	\$ 850,000		
<b>MEDICARE ASSESSMENT (EMPLOYER SHARE)</b>	\$ 430,000	\$ 430,000		
<b>WINDTURBINE ELECTRIC EXPENSE</b>	\$ 775,000	\$ 775,000		
<b>DEBT SERVICE</b>				
Principal	\$ 787,000	\$ 637,000	\$ 150,000.00	Transfer from Overlay Surplus
Interest	\$ 252,320	\$ 252,320		
Principal Authorized but not issued	\$ 36,625	\$ 36,625		
Interest Authorized but not issued	\$ 40,453	\$ 40,453		
Interest on Temp Loans	\$ 4,000	\$ 4,000		
<b>RESERVE FUND</b>	\$ 100,000	\$ 100,000		
<b>O(ther) P(ost) E(mployment) B(enefits) RESERVE</b>	\$ 200,000	\$ 200,000		
<b>COLA FOR NON-UNION EMPLOYEES</b>	\$ 2,645	\$ 2,645		

**ARTICLE 10: WATER ENTERPRISE FUND OPERATING BUDGET – FY22**

By majority vote, the town voted the following sums of money to fund the balance of the FY22 Water Enterprise Fund Operating Budget:

<b>10) WATER ENTERPRISE FUND OPERATING BUDGET- FY22</b>				
Salaries and Wages	\$ 641,346.00		\$ 2,742,022.00	From Water Enterprise
Operating Expenses	\$ 595,425.00		\$ 60,000.00	From Water Retained Earnings
Water District	\$ 1,353,746.00			
Reserve Fund Water	\$ 50,000.00			
Debt	\$ 49,012.00			
Interest on Debt	\$ 12,493.00			

Authorized and Unissued Debt	\$ 100,000.00			
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# **ARTICLE 11: SEWER ENTERPRISE FUND OPERATING BUDGET – FY22**

By majority vote. The town voted the following sums of money to fund the balance of the FY22 Sewer Enterprise Fund Operating Budget:

<b>11) SEWER ENTERPRISE FUND OPERATING BUDGET- FY22</b>				
Salaries and Wages	\$ 1,224,431.00		\$ 3,274,986.00	from Sewer Enterprise
Operating Expenses	\$ 1,206,325.00		\$ 73,053.00	from Sewer Betterment Stabilization West Island
Reserve Fund Sewer	\$ 50,000.00		\$ 3.00	from Sewer Betterment Stabilization Boulder Park
Debt	\$ 513,941.00		\$ 23.00	from Sewer Betterment Stabilization Nancy Street
Interest on Debt	\$ 267,858.00		\$ 82,490.00	from Sewer Betterment Stabilization Sconticut Neck Road
Authorized but unissued Debt	\$ 168,000.00			

# **ARTICLE 12: TOWN CABLE TELEVISION ENTERPRISE FUND OPERATING BUDGET – FY22**

By majority vote, the town voted the sum of \$183,045 for Town Cable Salaries and Wages, \$35,600 for Town Cable Expenses and \$27,391 for Town Cable Indirect Costs (to cover costs in the General Fund) for a total of \$246,036 of which \$196,449 be appropriated from Estimated Receipts and \$49,587 from the Town Cable Retained Earnings.

# **ARTICLE 13: SCHOOL CABLE TELEVISION ENTERPRISE FUND OPERATING BUDGET – FY22**

By majority vote, the town voted the sum \$140,002 for School Cable Salaries and Wages, \$44,251 for School Cable Expenses and \$28,154 for School Cable Indirect costs (to cover costs in the General Fund) for a total of \$212,407 of which \$154,352 be appropriated from Estimated Receipts and \$58,055 from the School Cable Retained Earnings

# **ARTICLE 14: GENERAL FUND CAPITAL PLAN– FY22**

By 2/3rds vote, the town voted the following sums of money to fund Capital Equipment/Projects in the General Fund:

<b>14) GENERAL FUND CAPITAL PLAN - FY22</b>				
A) SCBA Replacement	\$ 491,800.00		\$ 491,800.00	Borrow
B) ACO Replacement Truck	\$ 51,459.00		\$ 25,729.00	from Surplus Revenue/Free Cash
			\$ 25,730.00	from ACO Donation Account
C) Police Cruiser Replacement	\$ 120,500.00		\$ 120,500.00	from Surplus Revenue/Free Cash
D) Harbor/Shellfish Warden Truck Replace	\$ 50,300.00		\$ 50,300.00	from Surplus Revenue/Free Cash
E) Computer Hardware Equip Replace	\$ 30,000.00		\$ 30,000.00	from Surplus Revenue/Free Cash
F) Fire Engine replaces Engine 2	\$ 625,000.00		\$ 625,000.00	Borrow
G) Plotter Scanner	\$ 20,000.00		\$ 20,000.00	from Surplus Revenue/Free Cash
H) Dashboard Cameras	\$ 69,000.00		\$ 69,000.00	Transfer from Surplus Revenue/Free Cash

**ARTICLE 15: WATER ENTERPRISE CAPITAL PLAN – FY22**

By majority vote, the town voted the sum of \$150,000 be transferred from retained earnings in the Water Enterprise Account to pay costs of the Akin Street water main replacement project, including the payment of all costs incidental and related thereto.

**ARTICLE 16: SEWER ENTERPRISE CAPITAL PLAN – FY22**

By majority vote, the town voted the sum of \$670,000 by transferring \$670,000 from retained earnings in the Sewer Enterprise Account

- A. Pump Station Improvement Design \$270,000
- B. Inflow & Infiltration Study \$250,000
- C. New Pick-Up Truck \$75,000
- D. Blower Building Roof \$75,000

**ARTICLE 17: ROADWORK – FY22**

By majority vote, the town voted the sum of \$400,000 be appropriated from Surplus Revenue (Free Cash) and that the Board of Public Works is authorized to expend these funds in the aggregate without regards to individual line items so long as the expenditures do not exceed the amount appropriated.

- B. Cove Street – Reconstruct, hard-surface and install drainage on Cove Street from Hathaway to Beachwood a distance of approximately 586 feet.
- C. Eaton Road – Reconstruct, hard-surface and install drainage on Eaton Road from Briercliffe Road to Waybridge Road a distance of approximately 210 feet.
- D. Littleneck Road – Reconstruct, hard-surface and install drainage on Littleneck Road from Balsam to Ebony Street a distance of approximately 1,060 feet.
- E. Pleasant Street – Reconstruct, hard-surface and install drainage on Pleasant Street from Washington Street to South Street a distance of approximately 1,150 feet.

**ARTICLE 18: STATE AID TO HIGHWAYS – FY22**

- A. By majority vote, the town voted 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.
- B. By majority vote, the town voted to transfer from available funds the sum of \$512,050 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:

**ARTICLE 19: FUNDING CAPITAL STABILIZATION FUND – FY22**

To see if the Town will vote to raise and appropriate, borrow or transfer from available funds, including surplus revenue (Free Cash) 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.

*MOVED TO PASS OVER*

**ARTICLE 20: AMBULANCE STABILIZATION – FY22**

By majority vote, the town voted the sum of \$65,000 be transferred from Ambulance Receipts Reserved for Appropriations to the Ambulance Stabilization Fund as authorized by Chapter 40 Section 5B of the General Laws.

**ARTICLE 21: SOCIAL DAY CARE CENTER – FY22**

By majority vote, the town voted to authorize the Fairhaven Council on Aging to expend in the Fiscal Year 2022 a sum of money not to cumulatively exceed \$175,000.00 from the Special Revenue Fund 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.

**ARTICLE 22: PROPAGATION OF SHELLFISH-FY22**

By majority vote, the town voted the sum of \$15,000 be raised and appropriated for the propagation of shellfish.

**ARTICLE 23: COMMUNITY PRESERVATION PROGRAM APPROPRIATIONS – FY22**

By majority vote, the town voted 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 FY22 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 2022 COMMUNITY PRESERVATION BUDGET	
APPROPRIATIONS	
Purpose	Recommended Amounts
Reserve for Future Appropriation	
Acquisition, creation, and preservation of Open Space, and its rehabilitation and restoration.	0
Acquisition, creation, and preservation of Historic Resources	0
Acquisition, creation, and preservation of Community Housing	0
Spending Appropriations	
A. DPW-Skate Board Park Resurface (reserved Open Space \$150,000 & Estimated Receipts \$50,000)	\$200,000
B. FHA-Green Meadow Roof (reserved Community Housing \$60,000 & Estimated Receipts \$5,000)	\$65,000
C. FHC-Academy Building Front Door (reserved Historic \$60,000 & Undesignated Fund Balance \$20,000)	\$80,000
D. FHC-Old Stone School Exterior (Undesignated Fund Balance)	\$15,000
E. FHS-High School Windows Phase 4 (Estimated Receipts)	\$70,313
F. Millicent Library Chimney (Undesignated Fund Balance)	\$136,360
G. Unitarian Church (Estimated Receipts)	\$193,439
H. Whitfield-Manjiro Carriage House Ext (Estimated Receipts \$50,000 & Undesignated Fund Balance \$10,000)	\$60,000



<b>Administrative Spending Appropriation</b>	
I. To fund the Community Preservation Committee's annual expenses for; Personal Service; Purchase of Services; Supplies; Other charges/expenditures (Estimated Receipts)	\$ 15,000
<b>Total Recommended Appropriations</b>	<b>\$835,112</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 2022 Community Preservation Fund Estimated Receipts the minimum necessary amounts to allocate not less than 10% (\$65,000) for open space, not less than 10% (\$65,000) for historic preservation, and not less than 10% (\$65,000) for community housing.

#### **ARTICLE 24: NEW REVOLVING FUND- MOORING FEES**

By majority vote, the town voted to authorize a "Mooring Fee Revolving Account" under the provisions of Massachusetts General Law Chapter 44 Section 53E1/2, by adding the following paragraph to §2-6 of the Town bylaws: "G. Mooring Fee Revolving Fund. (1) Mooring Fee Revolving Fund. There shall be a separate fund called the "Mooring Fee Revolving Fund" authorized for use by the Harbor Master and the Town Administrator. (2) Revenues. The Town Accountant shall establish the Mooring Fee Revolving Fund as a separate account and credit to the fund all of the mooring fees charged and received by the Harbor Master. (3) Purposes and expenditures. During each fiscal year, the Harbor Master and/or the Town Administrator may incur liabilities against and spend monies from the Mooring Fee Revolving Fund to fund the promotion of small boat use and access to the coastal waterways of the Town. (4) Fiscal years. The Mooring Fee Revolving Fund shall operate for fiscal years that begin on or after July 1, 2021." and to see if the Town will vote to authorize a total amount that may be expended from the Mooring Fee Revolving Fund for Fiscal Year 2022.

#### **ARTICLE 25: MASSACHUSETTS HISTORICAL COMMISSION GRANT MATCH**

By majority vote, the town voted to appropriate \$30,000.00 as a local match for a grant from the Massachusetts Historical Commission of \$15,000.00 to update 125 of the Historic Assets Surveys in the Town (of about 293 records) on the Massachusetts Cultural Resource Information System (MACRIS)

#### **ARTICLE 26: FEMA GRANT-ENGINE TO ENGINE 2 – 5% MATCH**

By majority vote, the town voted to transfer from Surplus Revenue (Free Cash), \$31,250 for required 5% matching funds associated with FEMA Grant for the acquisition of a Fire Engine \$625,000.

#### **ARTICLE 27: FEMA GRANT-AIR PACKS 5% MATCH**

By majority vote, the town voted to transfer from Surplus Revenue (Free Cash), \$24,585 for required 5% matching funds associated with FEMA Grant for the replacement of Fire SCBA Airpacks \$491,702.

#### **ARTICLE 28: PORT AUTHORITY GRANT 25% MATCH-NEW ENGINES ON HARBORMASTER BOAT**

By majority vote, the town voted to transfer from Surplus Revenue (Free Cash), \$10,905 for required 25% matching funds associated with Port Security Grant for the replacement of two (2) engines \$43,617 for the Harbormaster Boat.

#### **ARTICLE 29: FAIRHAVEN PUBLIC SCHOOLS PROCUREMENT OFFICER CONTRACTS**

By majority vote, the town voted, pursuant to G.L. c. 30B, § 12(b), to authorize it's procurement officer to award contracts for Fairhaven Public Schools student transportation services, Fairhaven Public Schools food services, and Fairhaven Public Schools extended day services for a term not to exceed five years, including any renewals, extensions, or options.

#### **ARTICLE 30: AMENDMENT TO ZONING MAP: FLOOD INSURANCE RATE MAP**

By 2/3rds vote, the town voted to enact the following mandatory amendments to the Zoning Bylaw Chapter 198 Section 28, Floodplain and Nasketucket River Basin Districts:

- 1) Add to 198-28.A panels: 25005C0391H, 25005C0392G, 25005C0394H, 25005C0411G, 25005C0413G dated July 6, 2021.
- 2) Delete from 198-28.A panels: 25005C0391F, 25005C0392F, 25005C0394F, 25005C0411F, 25005C0413F dated July 7, 2009.
- 3) In 198-28A revise the date of the Bristol County Flood Insurance Study (FIS) report date to July 6, 2021.
- 4) Add 198-28C as follows: The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.
- 5) Add 198-28C as follows: If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.
- 6) Add 198-28C as follows: The Town of Fairhaven hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.
- 7) Add 198-28C(3) as follows: The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.
- 8) Add 198-28C(4) as follows: Variances to local Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP): A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.
- 9) Add 198-28C(5) as follows: Permits are required for all proposed development in the Floodplain Overlay District: The Town of Fairhaven requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- 10) Add 198-28C(6) as follows: Assure that all necessary permits are obtained: Fairhaven's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all

necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

- 11) Add 198-28C(7) as follows: The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.
- 12) Add 198-28C(8) as follows: If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to: FEMA Region I Risk Analysis Branch Chief 99 High St., 6<sup>th</sup> floor, Boston, MA 02110. And copy of notification to: Massachusetts NFIP State Coordinator MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114
- 13) Add 198-28F: Revise date in preamble.
- 14) Add 198-28F.12 as follows: Base flood elevation data for subdivision proposals: When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
- 15) Add 198-28F.13 as follows: Unnumbered A Zones: In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for flood proofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- 16) Add 198-28F.14 as follows: Recreational vehicles: In A1-30, AH, AE Zones, V1-30, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- 17) Add 198-28I: Definitions not found in the State Building Code. Definitions not found in the State Building Code

National Flood Insurance Program (NFIP) definitions are found in Title 44 of the Code of Federal Regulations, section 59.1. The definitions below refer to their source; if the definition is from the MA building code, it is from the 9<sup>th</sup> Edition, which meets the minimum standards of the NFIP.

In order for the bylaw or ordinance to be clearly understood, it is necessary to define technical terms or key words. An understanding of these terms is a prerequisite to effective administration of the floodplain management bylaw or ordinance.

*Per FEMA Region I, these additional definitions must be included in local bylaws or ordinances.*

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOOD BOUNDARY AND FLOODWAY MAP** means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

**FLOOD HAZARD BOUNDARY MAP (FHBM.)** An official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY.** The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. [Base Code, Chapter 2, Section 202]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.* [Referenced Standard ASCE 24-14]

**RECREATIONAL VEHICLE** means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY** - see FLOODWAY.

**SPECIAL FLOOD HAZARD AREA.** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30. [Base Code, Chapter 2, Section 202]

**START OF CONSTRUCTION.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days

after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STRUCTURE means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

SUBSTANTIAL REPAIR OF A FOUNDATION. When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

VARIANCE means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

#### ZONES, FLOOD – Definitions of Flood Zones

### **ARTICLE 31: ADOPTION OF WATER WAYS REGULATION BYLAW-FY22**

By majority vote, the town voted to authorize the Board of Selectmen to enact comprehensive regulations regarding the waterways of the Town of Fairhaven, by

A.) Deleting Chapter 145 of the Town code and inserting in its place the following:

“Chapter 145 Waterways

#### §145 – 1 Regulatory Authority

The Board of Selectmen shall have the authority to adopt, and from time- to-time to amend, such comprehensive regulations for the use of the waterways of the Town of Fairhaven as may be recommended to them by the Harbormaster.

#### §145 – 2 Penalties for Violation

Except as otherwise provided by law, the penalty for a violation of the waterways regulations enacted hereunder, shall be \$ 300.00. Each day that such violation continues shall be deemed a separate violation. The monetary penalty set forth herein shall be in addition to any applicable regulatory penalty, including but not limited to, the suspension or revocation of any license or permit, or the disqualification of the violator from obtaining any license or permit.

#### §145 – 3 Non-criminal Disposition

Fines assessed hereunder may be recovered by indictment, or on complaint to the District Court, or by non-criminal disposition in accordance with §21D of Ch. 40 of the General Laws.”  
and

B.) Amending §1 – 6,D. (2) by deleting the phrase:

“shellfish department regulations, mooring and anchorage regulations, boat ramp parking regulations”, and inserting in its place

“waterways regulations of the Board of Selectmen”

and by deleting §§ 1-6D, (10) and (11);

and

C.) Deleting Chapter. 177 Union Wharf Fees

**ARTICLE 32: REVOLVING FUNDS – FY22**

By majority vote, the town voted to 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	FY22 Limit
Hazardous Materials	Fire Chief	Disposal fees/charges	\$ 100,000
Sustainability	Sustainability Committee	Fees/charges	\$ 10,000
Hoppy's Landing	Board of Selectmen and/or Town Administrator	Fees/charges from users of Hoppy's Landing	\$ 25,000
Town Hall Auditorium	Town Administrator	Town Hall auditorium rental fees	\$ 2,000
Park Utilities	Board of Public Works	User fees	\$ 2,000
NEW Mooring Fees	Marine Resources	Mooring Fees	\$ 2,000
Mattress Recycling	Board of Health	Fees for mattress disposal	\$ 2,000
Hoarding Remediation	Board of Health	Revenue from textile recovery boxes	\$ 1,000

**ARTICLE 33: LAND ACQUISITION AND ENGINEERING DESIGN SERVICES FOR PUBLIC SAFETY FACILITY AND DISPOSAL OF BRIDGE STREET PIER – FY22**

To see if the Town will

- A. transfer from the Capital Stabilization Fund a sum of money to
  - 1) purchase or acquire by eminent domain all or part of the property located at 172 Bridge Street and shown on assessors’ map 26 / lot 1, and
  - 2) engage an architect/engineer to design a public safety facility at that location, and
- B. authorize the Selectmen to convey the pier, formerly a public landing, at the west end of Bridge Street in Fairhaven, Massachusetts, along with the boat ramp located on the north side of that pier, together containing about 49 square rods, as shown more fully on

**ARTICLE 34: MUNICIPAL LIGHT PLANT/TELECOMMUNICATIONS FACILITY-FY22**

By majority vote, the town voted, 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.

**ARTICLE 35: SHORT-TERM RENTALS AND COMMUNITY IMPACT FEE GENERAL BYLAW AMENDMENT**

By majority vote, the town voted that the following subsections (35A, 35B and 35C) should be voted separately'

**ARTICLE 35A: SHORT-TERM RENTALS GENERAL BYLAW AMENDMENT**

By majority vote, the town voted to add the following General Bylaw Chapter 190 for the administration and enforcement of Short-Term Rental Properties.

**§ 190-1 Purpose.**

The purpose of this chapter is to provide for administration and enforcement of the Fairhaven Short-Term Rental Properties Bylaw, which provides for registration of short-term rental units in order to protect the health, safety, and welfare of both the occupant(s) of those rental housing units and the general public and to maintain the quality of life in residential neighborhoods of the Town. Further, this bylaw is intended to provide for the orderly operation of short-term rentals within the Town and prevent negative impacts on neighborhood character, housing availability, house prices, availability of long-term rental units and impacts on infrastructure services such as sewer, parking, access, fire codes, building code enforcement and snow removal. These regulations are also intended to assist the Board of Health, the Building Department and the Fire Department in the enforcement of state and local health and safety laws and regulations related to short-term rental units and to provide a method for correcting violations when conditions require immediate attention in situations associated with Short-Term Rentals.

**§ 190-2 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**BUILDING COMMISSIONER.** The Building Commissioner of the Town of Fairhaven or his designee.

**COTTAGE COLONY.** A group of three or more detached dwellings, legally in existence at the time of adoption of this ordinance, located on a single lot, which are customarily occupied on a seasonal basis.

**DWELLING.** Any building or area in a building used or intended for use for human habitation, including, but not limited to, apartments, condominiums, cottages, guesthouses, one-, two- or multiple-unit residential buildings/dwellings, except those licensed under any state or local laws or regulations other than those licensed under this chapter.

**OCCUPANCY.** The use or possession of or the right to use or possess a short-term rental of not more than 30 consecutive days.

**OCCUPANT (GUEST).** Any individual residing overnight in a short-term rental.

**OPERATOR (HOST).** Any Person or entity operating a short-term rental.

**OPERATOR'S AGENT.** A Person who, on behalf of an operator of a short-term rental: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a

property offered for rent. An “operator’s agent” shall include, but not be limited to, a property manager, property management company or real estate agent.

OWNER. Any Person, as defined immediately below, who alone or severally with others has legal or equitable title or a beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or other person appointed by the courts.

PERSON. An individual, partnership, trust or association, with or without transferable shares, joint stock company, a corporation which is not publicly traded, society, club, firm, organization, institution, estate, receiver, trustee, assignee or referee any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any other combination of individuals, directly or indirectly or through any agent, employee, stockholder, officer or other person or any subsidiary whatsoever acting as a unit, including a governmental unit other than the Town of Fairhaven or any of its agencies.

SHORT-TERM RENTAL. A residential or mixed-use dwelling unit or any bedroom within a dwelling rented out through the use of advance reservations, for a fee, for a period of not more than 30 consecutive calendar days, excluding: Cottage Colonies, as defined herein; hotels licensed under M.G.L. Chapter, 140, Section 6; motels licensed under M.G.L. Chapter 140, Section 32B; lodging establishments licensed under M.G.L. Chapter 140, Section 23 or; bed & breakfast establishments licensed under Chapter 198 of the Code of the Town of Fairhaven

### **§ 190-3 Short-Term Rental Registration.**

Registration is Required. Short Term Rentals shall only be allowed in one or two family or multi-family dwelling units (excluding accessory buildings).

- A. No owner shall rent, or offer to rent, any Short-Term Rental prior to registering with the Fairhaven Building Department. No tenant or lessee of an Owner shall let or sub-let a Short-Term Rental.
- B. Limits on total number of registrations within the Town shall be 64 active units or less, until December 31, 2022; thereafter not more than 120 Short Term Rentals shall be allowed in Town at any one time.
- C. Compliance. A dwelling used as a Short-term Rental shall at all times be in compliance with the provisions of all state and local health and safety laws, bylaws and regulations, including, but not limited to; Chapter 198-24 Noise, Litter and Smoke Standards, Chapter 198-23 Home Occupations, the Fair Housing Act, G.L. c. 151B and local equivalents and regulations related thereto, and all other regulations applicable to residential dwellings, except as specifically set forth otherwise herein.
- D. Application Required. The Owner of the dwelling shall be required to complete a Fairhaven Short-Term Rental registration application with the Fairhaven Building Department. The Applicant shall also provide proof each Short Term Rental is registered with the Massachusetts Department of Revenue.
- E. Abutter Notification: For an initial application to register a property as a Short Term Rental, the Applicant is required to send notification informing abutters within 300’ and provide proof to the Town of the notification using one of the following methods: Hand delivery; Certified mail, return receipt requested; Certified mail. Proof of abutter notification shall be included with the application.
- F. The Fairhaven Building Commissioner shall, in accordance with the above sections, issue a certificate of registration which shall expire on the following December 31, provided that the certificate may be renewed each year. The Building Commissioner will share the list of Short Term Rentals with the Police and Fire Department.
- G. Registration Renewal. Short-term rental registrations shall be renewed annually upon payment of the renewal fee.
- H. Fees. The fee for a Short-term rental registration or a renewal of a registration shall be \$200 and thereafter a schedule of fees for permits as authorized under Chapter 190 shall be as established and revised from time to time by the Board of Selectmen.
- I. Non-Transferability. Short-term rental registrations shall be granted solely to an Owner and shall not be transferable or assigned to any other person, legal entity, or address. The registration does not run with the property; it shall be terminated upon sale or transfer of the property for which the registration has been issued.



- J. Determination: Any person aggrieved by a determination made by the Building Commissioner regarding a registration may file an appeal for review to the Select Board for a hearing and re-determination.

**§ 190-4 Publication of Registration Number.**

The Town-issued registration number shall be included on any listing offering the Short-term Rental for rent.

**§ 190-5 Contact Information of Owner, Operator and/or Operator's Agent.**

- A. An Owner of a Short-term Rental shall provide the Fairhaven Building Department with his/her current residential address and telephone number upon application for a Registration as well as a full and complete list of persons (as defined above) or who have a direct or indirect interest in any property for which a Short-term Rental Registration in the Town of Fairhaven has been issued or for which a Short-term Rental Registration application is pending.
- B. If the Owner is a corporation, the name, address, and telephone number of the president and legal representative of the corporation shall be provided. If the Owner is a realty trust or partnership, the name, address, and telephone numbers of the managing trustee or partner shall be provided.
- C. The name and contact information of the Operator must be provided, along with the name and contact information of an Operator's Agent, if different from the Operator, who is able to respond in person to any issues or emergencies that arise during occupancy within one (1) hour of contact by the Fairhaven Building Commissioner to complaints regarding the condition or operation of the Short-term Rental. Contact information must include a telephone number that is available 24 hours per day, 7 days a week to Short-term Rental Occupants and the above-stated public safety agencies. This contact information shall be included in the application for a Short-term Rental Registration and shall be posted conspicuously within the rental unit.

**§ 190-6 Posting of Notices**

The Town shall provide information to each registered Operator summarizing the regulations for Short-term rentals. For each Short-term Rental Registration issued, this will include, but shall not be limited to: the name and 24-hour contact information of the Operator or Operator's Agent designated in the application, requirements for trash removal, occupancy requirements, parking, and noise restrictions. The Operator shall:

- A. Provide each occupant a copy of the provided information; and
- B. Post the information, along with the Short-term Rental Registration, in a conspicuous location within the Short-term Rental.

**§ 190-7 Specific Standards of Short-Term Rental Properties**

- A. Trash Removal. The Short-term Rental Operator shall be responsible for ensuring that household trash is removed from the premises immediately after Occupancy is concluded or once per week, whichever is more frequent.
- B. Parking. On-site parking of one space per Short-term Rental bedroom.
- C. Renting for durations of less than twenty (20) consecutive hours shall not be permitted.
- D. Commercial meetings and uses are prohibited in Short-term Rentals.
- E. Each Short-term Rental shall contain functional smoke detectors and carbon monoxide alarms. In addition, the Operator shall provide and maintain one 2.5 lb. multi-purpose fire extinguisher on each floor.

**§ 190-8 Occupancy Requirements**

The maximum number of Occupants in a Short-Term Rental shall be two per each bedroom, plus an additional two total.

**§ 190-9 Keeping of Register**

The Operator or Operator's Agent shall be responsible for keeping a register containing the name of the Occupant who is the leaseholder, total number of occupants, and dates of occupancy. The register shall be retained for a period of two (2) years.

### **§ 190-101 Ineligible Units**

The following are not eligible to be rented or offered to rent as Short-term Rentals:

- A. Dwellings designated as below market rate or income-restricted, that are subject to affordability covenants, or that are otherwise subject to housing or rental assistance under local, state, or federal law;
- B. Accessory dwelling units per 198-32.1.
- C. Dwellings subject to any requirement of local, state, or federal law that prohibits the leasing or subleasing of the unit or use of the unit as a Short-term Rental;
- D. Dwellings that are the subject of any outstanding building, sanitary, zoning, or fire code violations, orders of abatement, stop work orders, unsafe orders, or cease and desist orders.

### **§ 190-11 Failure to Pay Municipal Taxes, Fees, Assessments, and Charges.**

The privilege of receiving or holding a Short-term Rental Registration is contingent upon the timely payment of municipal and district taxes, fees, assessments, and charges. Failure of a Person to comply with this requirement shall be cause, after notice and hearing pursuant to the requirements of G.L. c. 40, § 57, for denial, suspension, amendment, or revocation of a Short-Term Rental Registration for any and all property in which the person holds a direct or indirect ownership interest, as above defined.

### **§ 190-12 Inspections**

Short-term Rentals shall be subject to a mandatory initial inspection and thereafter inspections every two (2) years by the Fairhaven Building Commissioner, Fire Department, Health Department or other duly authorized authority from the Town.

### **§ 190-13 Complaint Process, Violations**

- A. Complaint. A complaint alleging that a Short-term Rental is in violation of this Chapter or any applicable law, code or regulation may be filed with the Fairhaven Building Commissioner. The complaint must contain the Short-term Rental address, unit number, date and nature of alleged violation(s), and name and contact information of complainant.
- B. Written notice of any violations of this chapter shall be treated as a complaint and may also be initiated by the Building Commissioner. The notice shall specify the nature of the violation to the Occupant and Owner and the time within which compliance must be achieved. The requirements of this subsection shall be satisfied by mailing such notice, through the United States Postal Service by certified mail, or by delivering in hand such notice as memorialized by an affidavit of any Town employee or officer authorized to serve any form of process notice to the Owner or legal representative named on the registration application.
- C. Any notice required or contemplated by this chapter shall be deemed sufficient if delivered to or mailed to the mailing address listed by the owner on the Short-term Rental Registration application then on file with the Fairhaven Building Department. A written change-of address notice signed by the Owner/s and delivered to the Fairhaven Building Department may be filed at any time.
- D. Review of Complaint. The Building Commissioner shall investigate complaint(s) within a reasonable timeframe and shall determine whether there may be a violation. If the alleged violation is under the jurisdiction of another city or state or federal agency, the Commissioner shall refer the complaint to such agency for further action. Upon a finding of a potential violation, the Commissioner or designee shall serve notice of the violation upon the Owner of the Short-term Rental. The Building Commissioner shall keep records of all complaints received and determinations made.
- E. Offering an Ineligible Unit as a Short-term Rental. Any person who offers a unit as a Short-term Rental, where such unit is not an eligible Dwelling Unit or is not registered, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation. The Commissioner or a designee may also seek an injunction from a court of competent jurisdiction prohibiting the offering of the unit as a Short-term Rental.

- F. Failure to Obtain a Registration. Any person who offers an eligible Dwelling Unit as a Short-term Rental without a valid Short-term Rental Registration, or any person who offers an eligible Dwelling Unit as a Short-term Rental while the unit's registration is suspended, may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- G. Failure to Comply with Notice of Violation. Any person who fails to comply with any notice of violation or other order issued pursuant to this section by the Commissioner or a designee for a violation of any provision of this section may be fined in accordance with the fine schedule herein on a per violation per day basis. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.
- H. Right to Hearing. A person upon whom a notice of violation has been served may request a hearing by filing a written petition requesting a hearing on the matter with the Fairhaven Building Department within fourteen days after the day the notice of violation was served. Upon receipt of a petition for hearing, the Commissioner shall notify the complainant of the place, date and time of the hearing. The hearing shall be conducted by a Hearing Officer designated as such by the Town Administrator and shall occur no later than three (3) weeks after the date the Fairhaven Building Department receives the petition for hearing. The time period in which violations must be remedied shall be stayed upon receipt of the petition for a hearing until such time as the hearing is held and the Hearing Officer has issued a decision.
- I. Decision. Within seven days after the conclusion of the hearing, the Commissioner or designee shall sustain, modify, or withdraw the notice of violation and shall inform the person upon whom a notice of violation has been served, in writing, of its decision and the reasons therefor. If the Fairhaven Building Department sustains or modifies the notice of violation, said violation shall be remedied within the time period allotted as issued or in the modification.
- J. Violations of an unoccupied dwelling shall be corrected prior to occupancy. Violations found in an occupied dwelling shall be corrected within the time specified as determined by the Building Commissioner.
- K. If a written petition for a hearing is not filed within fourteen (14) days after the notice of violation has been served, or if, after a hearing, the notice of violation has been sustained in any part, each day's failure to comply with the notice of violation within the time allotted as issued or modified shall constitute a separate violation.

#### **§ 190-14 Registration Suspension, Modification and Revocation**

In addition to, and not in lieu of, the penalties that may be assessed pursuant to this chapter, the Fairhaven Building Commissioner, after notice and public hearing, may suspend, revoke or modify any or all registration approvals issued hereunder to an Owner for violation of these regulations or of any conditions imposed by the Fairhaven Building Commissioner, notwithstanding that a violation may have been found with respect to one or more, but not all of the registered properties held by an owner. These remedies shall be non-exclusive.

#### **§ 190-15 Judicial Appeals**

Any person aggrieved by a final decision of the Hearing Officer and Fairhaven Building Commissioner with respect to a notice of violation or any other order issued under this section may seek relief therefrom in any court of competent jurisdiction.

#### **§ 190-16 Penalties**

If any Occupant, Operator or Owner violates any provision of this chapter, the Owner may be subject to a fine in accordance with the following: \$150 1st Offense, \$300 2nd Offense and each subsequent offense. Each day that a violation exists constitutes a separate offense.

#### **§ 190-17 Enforcement**

The Town may enforce the provisions of this chapter by any or all of the following: the noncriminal disposition process of M.G.L. c. 40, s. 21D; by seeking to restrain a violation by injunction; and by filing a complaint in any court of competent jurisdiction.

### **§ 190-18 Regulations**

The Fairhaven Building Commissioner may adopt regulations, policies and procedures for the implementation of this chapter.

### **§ 190-19 Severability**

Each provision of this Chapter shall be construed as separate. If any part of this Chapter shall be held invalid for any reason, the remainder shall continue in full force and effect. In the event of a conflict between this Chapter and any other Chapter of the General Code of Fairhaven, this Chapter 190 shall control.

### **§190-20 Annual Reporting**

The Town Administrator shall publish annually in the Town of Fairhaven Annual Report on the statistical data relating to Short-term Rentals.

### **§190-21 Room Occupancy Excise and Community Fees.**

Short-term rentals subject to the provisions of this bylaw are subject to the Room Occupancy Excise under G.L. c.64G and short-term rental community impact surcharge.

## **ARTICLE 35B and 35C: Community Impact Fee**

2021 PROPOSED GENERAL BYLAW AMENDMENT TO COLLECT A 3% COMMUNITY IMPACT FEE ON SHORT TERM RENTALS.

Two proposed amendments to the Town Bylaw Chapter that would allow the Town to adopt a general bylaw that would impose a three percent (3%) Community Impact Fee, per Section 3D (b) of M.G.L. Chapter 64G, to be paid monthly on the total amount of rent for each transfer of occupancy of any professionally managed short-term rental units and on short-term rental units located within a two-family or three-family dwelling that includes the operator primary residence. By statute, thirty five percent (35%) of all community impact fees received pursuant to this Order shall be dedicated to either affordable housing or local infrastructure projects within the Town. The Town of Fairhaven already has a six percent (6%) Hotel Room Occupancy Tax that automatically applies to Short Term Rentals as of July 1, 2019 based on the State law (Section 3D (b) of M.G.L. Chapter 64G).

### **35B: Community Impact Fee (Professionally managed short-term rental units)**

By majority vote, the town voted to accept the provisions of Section 3D (a) of M.G.L. Chapter 64G, and hereby imposes a 3 percent (3%) community impact fee on the total amount of rent for each transfer of occupancy of a professionally managed short -term rental unit that is located within the Town. All community impact fees received pursuant to this Order shall be paid to the Department of Revenue monthly by the operator.

*Note: This bylaw would take effect beginning November 15, 2021*

### **35C: Community Impact Fee (two or three-family dwelling that includes the operator primary residence)**

By majority vote, the town voted to accept the provisions of Section 3D (b) of M.G.L. Chapter 64G, and hereby imposes a 3 percent (3%) community impact fee on the total amount of rent for each transfer of occupancy within a two-family or three family dwelling that includes the operator primary residence short-term rental unit that is located within the Town. All community impact fees received pursuant to this Order shall be paid to the Department of Revenue

## **ARTICLE 36: AMENDMENT TO BPW BY-LAW SOLID WASTE & RECYCLING CURBSIDE**

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 7:00 pm on the designated collection day for the area.

*MOVED TO PASS OVER*

## **ARTICLE 37: AMENDMENTS TO THE TOWN'S PLANNING BY-LAWS**

### **CHAPTER 198-31.1 STORMWATER MANAGEMENT**

By 2/3rds vote, the town voted to enact the following mandatory amendments to the Zoning Bylaw Chapter 198-31.1 Stormwater Management required by *the General Permit for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems in Massachusetts (MS4 Permit)* administered through the United States Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) or take any other action relative thereto:

1. Add to end of preamble as follows: This section shall also apply to all new special permits subject to § 198-29 that disturb one (1) or more acres of land regardless of whether they increase the impervious area of a property.
2. Add to § 198-31.1.A(1) as follows: Stormwater management for each development shall "be designed consistent with or more stringent than the requirements of the Massachusetts Stormwater Handbook, shall comply with Chapter 194: Stormwater Management, Illicit Discharge, Soil Erosion, Sediment Control Bylaw and Adhere to the standards and requirements of Regulations issued there under and shall" accomplish the following:
3. Add § 198-31.1.(1)B(1) as follows: Stormwater management systems for New Development and Redevelopment projects shall meet minimum requirements of the *General Permit for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems in Massachusetts (MS4 Permit)* including:
  - (a) New Development Projects shall provide removal of 90% of the average annual (not per storm) load of Total Suspended Solids (TSS) generated from the total post-construction impervious area on the site AND 60% of the average annual (not per storm) load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site. Average annual pollutant removal requirements are achieved through one of the following methods:
    - i. Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or State approved BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance; or
    - ii. Retain the volume of runoff equivalent to, or greater than, one (1.0) inch multiplied by the total post-construction impervious surface area on the site; or
    - iii. Meeting a combination of retention and treatment that achieves the above standards.
  - (b) Redevelopment projects shall provide removal of 80% of the average annual (not per storm) post-construction load of Total Suspended Solids (TSS) generated from the total post-construction impervious area on the site AND 50% of the average annual (not per storm) load of Total Phosphorus (TP) generated from the total post-construction impervious surface area on the site. Average annual pollutant removal requirements are achieved through one of the following methods:

- i. Installing BMPs that meet the pollutant removal percentages based on calculations developed consistent with EPA Region 1's BMP Accounting and Tracking Tool (2016) or other BMP performance evaluation tool provided by EPA Region 1, where available. If EPA Region 1 tools do not address the planned or installed BMP performance any federally or State approved BMP design guidance or performance standards (e.g. State stormwater handbooks and design guidance manuals) may be used to calculate BMP performance; or
  - ii. Retaining the volume of runoff equivalent to, or greater than, 0.80 inch multiplied by the total post-construction impervious surface area on the site; or
  - iii. Meeting a combination of retention and treatment that achieves the above standards.
- (c) Redevelopment activities that are exclusively limited to maintenance and improvement of existing roadways, (including widening less than a single lane, adding shoulders, correcting substandard intersections, improving existing drainage systems, and repaving projects) shall improve existing conditions unless infeasible and are exempt from Section 1.b. Roadway widening or improvements that increase the amount of impervious area on the redevelopment site by greater than or equal to a single lane width shall meet the requirements of Section 1.b.

#### **ARTICLE 38: STREET ACCEPTANCE ROBERT STREET**

To see if the Town will vote to accept the layout of a parcel of land shown as Robert Street on a plan entitled "Street Layout and Acceptance Plan for Robert Street", scale: 1" = 30', dated 10 October 2, 2019 and prepared by GCG Associates, Inc., Wilmington, MA., said Robert Street is 40 feet in width and contains 15,745 square feet +/-.

*MOVED TO PASS OVER*

#### **ARTICLE 39: HISTORIC TOWN HALL LAMPS**

To see if the town will vote to raise and appropriate, borrow or transfer from available funds a sum of money for the purchase and installation of four (4) decorative street lamps on three (3) sides of Town Hall. One (1) on Walnut Street, one (1) on William Street, and two (2) on Center Street. Cost not to exceed \$25,000.00 or take any action relative thereto:

*MOTION FAILED*

#### **ARTICLE 40: AUTHORIZE BOARD OF SELECTMEN TO PETITION TO IMPOSE A CHECKOUT BAG CHARGE**

By majority vote, the town voted to authorize the Selectboard to petition the General Court to adopt legislation, as set forth below, to implement a minimum charge of \$0.10 for all new checkout bags distributed in the Town of Fairhaven, which legislation would have the underlying purposes of 1) incentivizing consumers to reuse checkout bags, the most environmentally sustainable and economical option, 2) allowing consumers to have the choice of not paying for unwanted or unneeded new checkout bags, 3) allowing collected money to be retained by the retailer so as to help businesses defray the costs of switching to more environmentally sustainable checkout bag options, and 4) reducing the generation of waste and associated costs of disposal and recycling that must be borne by the Town and its residents; provided, however, that the General Court may make clerical and editorial changes of form only to said bill, unless the Selectboard approves amendments to the bill prior to enactment by the General Court; and provided further that the Selectboard shall be authorized to approve any such amendments which shall be within the scope of the general public purposes of this petition.

#### **AN ACT AUTHORIZING THE TOWN OF FAIRHAVEN**

## TO ESTABLISH A FEE FOR CHECKOUT BAGS

SECTION 1. The following words, unless the context clearly requires otherwise, shall have the following meanings:

“Checkout Bag” shall mean a bag provided by a retail establishment to a customer at the point of sale. Checkout bags shall not include bags, whether plastic or not, in which loose produce or products are placed by the consumer to deliver such items to the point of sale or check out area of the store.

“Retail Establishment” shall mean any business facility that sells goods directly to the consumer whether for or not for profit, including but not limited to, retail stores, restaurants, pharmacies, convenience and grocery stores, liquor stores, and seasonal and temporary businesses.

SECTION 2. (a) Notwithstanding any general or special law to the contrary, any retail establishment which makes available checkout bags in the Town of Fairhaven shall charge for each such bag equal to or greater than \$0.10 per checkout bag, as established by regulations to be duly promulgated by the Fairhaven Board of Health.

(b) All monies collected pursuant to this section shall be retained by the retail establishment.

(c) Any charge for a checkout bag shall be separately stated on a receipt provided to the customer at the time of sale and shall be identified as the “checkout bag charge” thereon.

SECTION 3. (a) The Health Agent for the Fairhaven Board of Health or his/her designee shall have authority to enforce this law and any regulations promulgated there under. This law may be enforced through any lawful means in law or in equity, including but not limited to, noncriminal disposition pursuant to G.L. c. 40 § 21D and Article VI of the Town of Fairhaven General Bylaws.

(b) The Fairhaven Board of Health may adopt and amend rules and regulations to effectuate the purposes of this law.

SECTION 4. If any provision of this law is declared to be invalid or unenforceable, the other provisions shall be severable and shall not be affected thereby.

SECTION 5. This act shall take effect three months after its passage

## ARTICLE 41: ZONING BY-LAW CHANGE CHAPTER 198-33 DEFINITIONS AND WORD USE

By 2/3rds vote, the town voted, as amended, to enact the following amendments to the Zoning Bylaw chapter 198-33 to add, remove and/or change definitions from Massachusetts General Law to the definitions section (198-33) and other locations within the Fairhaven Codebook where the revised definitions reside. The proposal is to amend Zoning Chapter 198—33 Definitions and word use, by adding the following definitions, deleting definitions ~~xxx~~, or modifying existing definitions by adding the text shown in ***bold and italicized***.

**24-HOUR BASIS:** The actual time that a person is an occupant within a facility for the purpose of receiving care. It shall not include a facility that is open for 24 hours and is capable of providing care to someone visiting the facility during any segment of the 24 hours.

**AMBULATORY CARE FACILITY:** Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less than 24-hour basis to persons who are rendered incapable of self-preservation by the services provided.

**ACCESSORY BUILDING:** A subordinate building, the use of which is customarily incidental to that of the principal building or of the land and which is located on the same lot with the principal buildings or use. ***Not allowed without the Principal Structure on the same lot.***

ANCILLARY: Subordinate: often with to/or auxiliary

ASSISTED LIVING RESIDENCE: A residential development subject to certification under MGL c. 19D, which provides room and board; provides assistance with activities of daily living for three or more adult residents who are not related by consanguinity or affinity (i.e., by blood or marriage) to their care provider; and collects payments or third party reimbursement from or on behalf of residents to pay for the provision of assistance. Dwelling units in assisted living residences shall not be considered multifamily or garden apartment units

BEDROOM: See Sleeping Unit.

BOARDING HOUSE: A building arranged or used for lodging for compensation, with or without meals.

CARE SUITE: In Group 1-2 occupancies, a group of treatment rooms, care recipient sleeping rooms and the support rooms or spaces and circulation space within the suite where staff are in attendance for supervision of all care recipients within the suite, and the suite is in compliance with the requirements of Section 407.4.

CLINIC, OUTPATIENT: Buildings or portions thereof used to provide medical care on less than a 24-hour basis to persons who are not rendered incapable of self-preservation by the services provided.

Congregate living facilities: A building or part thereof that contains sleeping units where residents share bathroom or kitchen facilities or both.

CONSTANTLY ATTENDED LOCATION: A designated location at a facility staffed by trained personnel on a continuous basis where alarm or supervisory signals are monitored and facilities are provided for notification of the fire department or other emergency vehicles.

CUSTODIAL CARE: Assistant with day to day living tasks; such as assistance with cooking, taking medication, bathing, using toilet facilities and other tasks of daily living. Custodial care includes persons receiving care who have the ability to respond to emergency situations and evacuate at a slower rate and/or who have mental and psychiatric complications.

DETOXIFICATION FACILITIES: Facilities that provide treatment for substance abuse, serving care recipients who are incapable of self-preservation or who are harmful to themselves or others.

DOCK OR PIER: Any structure, floating or fixed, attached or adjacent to land, and placed in or and extending into coastal inland waters (in the case of tidal waters, seaward of the mean high tide line) which is restricted to waterfront owners for their private use and is designed, or is suitable for access to vessels, for swimming or any other similar purpose.

DORMITORY: A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associates rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

DWELLING UNIT OR SLEEPING UNIT, MULTISTORY. SEE "Multistory unit".

**DWELLING UNIT *A single unit providing complete, independent living facilities for one or more persons, including permanent provision for living, sleeping, eating cooking and sanitation.***

FOSTER CARE FACILITIES: Facilities that provide care to more than five children, 2 ½ years of age or less.

GROUP HOME: A facility for social rehabilitation, substance abuse or mental health problems that contains a group housing arrangement that provides custodial care but does not provide medical care.

GUEST ROOM: A room used or intended to be used by one or more guests for living or sleeping purposes.



HALFWAY HOUSE: A place for helping people adjust to society after being imprisoned, hospitalizes, etc.

HEIGHT OF SIGN: The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

HOSPITALS AND PHSYCHIATRIC HOSPITALS: Facilities that provide care or treatment for the medical, psychiatric, obstetrical, or surgical treatment of care recipients who are incapable of self-preservation.

INCAPABLE OF SELF-PRESERVATION. Persons who, because of age, physical limitations, mental limitations, chemical dependency or medical treatment, cannot respond as an individual to an emergency situation.

INTENDED TO BE OCCUPIED AS A RESIDENCE: This refers to a dwelling unit or sleeping unit that can or will be used all or part of the time as the occupant's place of abode.

LODGING HOUSE: A one-family dwelling with five or fewer guest rooms where one or more occupants are primarily permanent in nature and compensation is provided for the guest rooms. A building licensed as a "lodging house" in accordance with M.G.L. c 140, ss 22 through 31 shall comply with 780 CMR requirements according to its appropriate use and occupancy classification.

MEDICAL CARE. Care involving medical or surgical procedures, nursing or for psychiatric purposes.

MOTEL or HOTEL: Residential occupancies containing sleeping units where the occupants are primarily transient in nature

MULTISTORY UNIT: A dwelling unit or sleeping unit with habitable space located on more than one story.

NONFAMILY ACCOMMODATIONS: Boardinghouses, lodging houses, guesthouses, tourist homes, dormitories or similar accommodations. Accommodations shall be considered hotels or motels if having a sign in excess of two square feet or other departure from residential character or if having a specified term of residence of less than one week, except where there is a resident family on the premises and accommodations for fewer than 10 nonresidents. Accommodations having individual kitchen facilities (two or more of the following: stove, refrigerator, sink) shall be considered dwelling units.

NURSING, CONVALESCENT OR REST HOME: ***Incapable Self Preservation.*** Premises for the care of three or more persons as licensed by the Massachusetts Department of Public Health.

NURSING HOMES. Facilities that provide care, including both intermediate care facilities and skilled nursing facilities where any of the persons are incapable of self-preservation.

OCCUPANT LOAD: The number of persons for which the means of egress of a building or portion thereof is designed.

OCCUPIABLE SPACE: A room or enclosed space designed for human occupancy in which individuals congregate for amusement, educational or similar purposes or in which occupants are engaged at labor, and which is equipped with means of egress and light and ventilation facilities meeting the requirements of this code.

OUTPATIENT CLINC: See "Clinic, outpatient"

OWNER: Any person, agent, operator, entity, firm or corporation having any legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding an interest or title to the property; or otherwise having possession or control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSONAL CARE SERVICE. The care of persons who do not require medical care. Personal care involves responsibility for the safety of the persons while inside the building.

RELIGIOUS WORSHIP, PLACE OF: A building or portion thereof intended for the performance of religious services.

SLEEPING UNIT: A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SUMMER CAMPS FOR CHILDREN: Premises with residential facilities operated solely between April and October for recreational and other purposes. For requirements see section 429.

TEMPORARY STRUCTURES: An accessory tent or construction shanty (*180 days subject to 780 527 CMR*) to be used for less than one year.[25]

TOWNHOUSE: A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.

TRANSIENT: Occupancy of a dwelling unit or sleeping unit for not more than 30 days.

VARIANCE: The Board of Appeals may grant upon petition after a public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority *specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district* in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. (per Chapter 40A Section 10)

#### **ARTICLE 42: ZONING BY-LAW CHANGE Chapter 198-29.6 – SOLAR PHOTOVOLTAIC ENERGY FACILITIES**

To see if the town will vote to amend the bylaws Chapter 198-29.6 – Solar Photovoltaic Energy Facilities (SPEF) to allow solar power for export in the business and Industrial Districts as an accessory use with a special permit.

*MOVED TO PASS OVER*

#### **ARTICLE 43: DISCONTINUE PORTION DEAN ST & LIVESEY PARKWAY**

By majority vote, the town voted to discontinue that portion of Dean Street east of its intersection with Adams Street, and that portion of Livesey Parkway (formerly known as Spruce Street) south of its intersection with Morton Street, both as appearing on assessors map 22A.

#### **ARTICLE 44: CHANGE TREE WARDEN FROM ELECTED TO APPOINTED**

To see if the Town will vote to amend the town bylaws by adding the following section:

The tree warden shall be appointed by the Board of Selectmen, 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.

*MOTION FAILED*

#### **ARTICLE 45: TRANSFER FROM SURPLUS REVENUE-FY22**

By majority vote, the town voted to transfer \$285,200 from Surplus Revenue for the reduction of the tax levy.

**ARTICLE 46: CITIZENS PETITION-CHANGE THE NAME OF THE BOARD OF SELECTMEN TO SELECT BOARD**

By majority vote, the town voted to adopt and to strike the word "Board of Selectmen" where it appears in the Town by-laws, other than Chapter 198 (zoning), and in its place insert the word "Select Board"

**ARTICLE 47: CITIZENS PETITION-INCREASE BOARD OF SELECTMENT FROM THREE (3) TO FIVE (5)**

By majority vote, the town voted to adopt the following article:

In accordance with the Articles of the Constitution of the Commonwealth, the Fairhaven Board of Selectmen is hereby directed to petition the General Court for passage of the act relative to the Town Board of Selectmen, providing as follows:

Section 1: Notwithstanding any general or special law to the contrary, the number of members on the Fairhaven Board of Selectmen shall be increased from three (3) to five (5). The Board of Selectmen shall annually elect a chairperson from among its members.

Section 2: At the first Annual Town Election to occur following the passage of this act by the Massachusetts General Court, three (3) Selectmen shall be elected. The candidate receiving the highest number of votes in that election shall serve a three (3) year term, the candidate receiving the second highest number votes shall serve a two (2) year term and the candidate receiving the third highest number of votes shall serve a one (1) year term. Thereafter, as the terms of Selectmen expire, successors shall be elected for terms of three (3) years.

Section 3: This act shall take effect upon its passage.

**ARTICLE 48: CITIZENS PETITION-CREATE A NEW NINE MEMBER CHARTER COMMITTEE**

By majority vote, the town voted, as amended, to create a new nine-member committee, to be known as the Fairhaven Charter Committee, to be appointed by the Moderator, which committee shall be charged with the review of all aspects of local government organization and structure, including, without limitation, regional relationships and the operation of all Town departments, boards, committees and commissions, elected and appointed, and make a report or recommendations to the 2022 Annual Town Meeting, or such later town meeting as the Moderator may approve, with the goal of presenting a proposed charter at the 2022 Annual Town Meeting, which special legislation would be forwarded to the General Court for review and approval, in accordance with the Home Rule Amendment, Section 8, and further to raise and appropriate or transfer from available funds a sum of \$10,000.00 to pay for the expenses of such Committee.

**AMENDMENT:** If there are members who choose to resign from the committee, the Moderator

shall continue soliciting letters of interest and appoint replacements.

**ARTICLE 49: CITIZENS PETITION-ESTABLISH AN ETHICS COMMITTEE**

To see if the Town shall vote to establish an ethics committee which shall be elected by the town voters each year at the time of the Spring Election. This will be a three member board and anyone serving on this board cannot have any dealings with the town from which they receive financial gain. Members of this board cannot serve on any other board elected or appointed. For the purposes of the first election the person with the highest vote total will serve for three years, the person who receives the second highest vote total will serve for two years, and The Ethics Board will have the following responsibilities and powers. They can investigate any conduct which appears to be unethical or illegal. They can ask for the records from any town board which would include minutes of meetings, e-mails, and any other correspondence which is asked that pertains to their inquiry. If malfeasance is found they can go directly to town meeting with a recommendation with options that include a: call for censure, a vote of no confidence, and an impeachment of a town official. Furthermore as representatives of the town they can ask for the Attorney General to investigate any activity which through their inquiry they found to be illegal or in violation of the open meeting law. Furthermore if they feel that a committee or member of a committee is operating in violation of the bylaws of the town they will contact that board and ask that immediate action to remedy the violation.

*MOVED TO PASS OVER*

**ARTICLE 50: CITIZENS PETITION-ESTABLISH TERM LIMITS FOR ELECTED BOARD MEMBERS**

*MOVED TO PASS OVER*

**ARTICLE 51: CITIZENS PETITION-AMEND TOWN BYLAW CHAPTER 115 "RIGHT TO FARM"**

To see if the Town will vote to amend Town bylaw Chapter 115 "Right to Farm, Section 3 and Chapter 405 "ANIMALS" Section 2 to clarify the permitting requirement for animals is. Waived on all parcels greater than 5 Acres in the Town of Fairhaven as these parcels are determined to be zoned as Agricultural in Chapter 155 Section -3 in the current Fairhaven bylaws.

*UNABLE TO VOTE ON ARTICLE, DUE TO LANGUAGE IN THE WARRANT*

**ARTICLE 52: CITIZENS PETITION-AMEND TOWN BYLAW CHAPTER 516 "RECALL ELECTIONS"**

To see if the Town will vote to amend Town bylaw Chapter 516: "Recall Elections", Section 2 to reduce the registered voter signature requirement from twenty (20) percent to ten (10) percent as follows:

"The recall petitions shall be returned and filed in the office of the Town clerk within Thirty days following the date the petitions were issued, signed by at least 10 percent of the total number of registered voters duly recorded on the registration list of the Town clerk as of the preceding Town election."

*UNABLE TO VOTE ON ARTICLE, DUE TO LANGUAGE IN THE WARRANT*

**ARTICLE 53: CITIZENS PETITION-AMEND TOWN BYLAW CHAPTER 516 "RECALL ELECTIONS"**

*MOVED TO PASS OVER*

**ARTICLE 54: CITIZENS PETITION-REZONE PORTIONS OF 267 HUTTLESON AVENUE**

By 2/3<sup>rd</sup> vote, the town voted, as amended, an article for the Rezone of the following described property Portions of 267 Huttleston Avenue from (Existing Zoning) multi-family to Proposed Zoning: Business.

AMENDMENT: This zoning change becomes effective only after the following requirements are met, a covenant is drawn that declares all areas cited Conservation Restricted in the site map attached to this proposal be protected perpetuity by being designated Conservation Restricted Area by the petitioner filed with the MA, D.E.P. and said CR in place

**ARTICLE 55: CITIZENS PETITION-STREET LIGHT REQUESTS**

By majority vote, the town voted the following sum of \$1,600 for the installation and maintenance of the following street lights.

A) \$800 - One light pole at 16 Saltmarsh Road, pole #179/11. Move light from pole #179/12 to 179/11.

B) \$800 – That a street light be placed at 10 Saltmarsh, pole #179/13.

**ARTICLE 56: CITIZENS PETITION-AMENDMENT TO TOWN BY-LAW CHAPTER 50-13 PART 2**

By majority vote, the town voted to amend Town By-law c50-13 Part 2 (Televised Meeting take another action relative thereto.

Amend the following title and section:

Part 2 Televising Board Meetings and Allowing Remote Public Participation  
50-10 Broadcast/recording/remote public participation required.

All meetings of Town boards, commissions and committees shall be broadcast live and/or recorded for future broadcast over the local cable television network and online viewing as well as allow virtual remote participation via a live online platform such as Zoom or similar service unless emergency, operational or technical conditions suspend the requirements hereof, as

determined by the Town Administrator, for broadcasts over the public access and government channels or the School Superintendent for broadcasts over the education channel. Members of the public may participate with comments if allowed by the Chair of the committee.  
C50-13 Compliance with Open Meeting Law Nothing contained in this bylaw shall be so construed as to conflict with the requirements of the Open Meeting Law, MGL 30A

**ARTICLE 57: REHAB NEW WING ROGERS SCHOOL**  
*MOTION FAILED*

**ARTICLE 58: LAND ACQUISITION NORTH STREET**  
To see if the town will raise and appropriate, borrow or transfer from available funds a sum of money to purchase or take by eminent domain all or part of 0 North Street, further identified as Lot 43 on Assessors Map 15, or take any other action relative thereto  
*MOVED TO PASS OVER*

**ARTICLE 59: AMENDMENT TO THE TOWN’S GENERAL BY-LAW CHAPTER 194 STORMWATER MANAGEMENT, ILLICIT DISCHARGE, SOIL EROSION, SEDIMENT CONTROL BY-LAW**  
By majority vote, the town voted on #7 only:

7. To add to §194-9 Stormwater Management Plan the following at the end:
- a. The Plan shall meet the standards defined in Bylaw 198-31.1.A.
  - b. The Plan shall Utilize the 24 hour rainfall data taken from the NOAA Atlas 14 [https://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html](https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html) (or most current data from NOAA) and type III storm.

**ARTICLE 60: ZONING BY-LAW CHANGE CHAPTER 198-16 USE REGULATION SCHEDULE.**

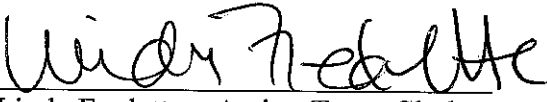
By 2/3rds vote, the town voted to accept the following amendment:  
This article proposes to amend Chapter §198-16 Use Regulation Schedule by adding new use:

RESIDENTIAL USES									
Activity or use	RR & RA	RB	RC	P	B	I	AG	MU	WRP
Short Term Rental <sup>23</sup>	Y	Y	Y	N	N	N	Y	Y	N

NOTES:  
<sup>23</sup> Registered pursuant to Chapter §190 Short Term Rental Properties

**ARTICLE 61: OTHER BUSINESS**  
NONE

Motion to adjourn sine die at 9:58 PM on Monday, June 14, 2021. Seconded.

  
Linda Fredette – Acting Town Clerk