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**ARTICLE I**  
**Incorporation**  
**Powers of the Town**

**Section 1:           Incorporation**

The present Town of Fairhaven, Massachusetts, within its territorial limits as now or may be hereafter established by law, is hereby reincorporated and continued as a body politic and corporate under the name: Town of Fairhaven.

**Section 2:           Short Title**

This document shall be known and may be cited as the Fairhaven Home Rule Charter. For the purposes of this document, it is referred to as "the Charter".

**Section 3:           Powers of the Town**

It is the intent and purpose of the voters of the Town of Fairhaven, through the adoption of this Charter and its amendments, to secure for the Town all of the powers possible to secure under the constitution and statutes of the Commonwealth of Massachusetts, as fully and as completely as though each such power were specifically and individually enumerated herein.

**Section 4:           Form of Government**

It is the intent of this Charter to adopt the representative Town Meeting – Select Board – Town Administrator form of government. The Town Meeting will serve as the legislative authority, and the Select Board shall serve as the Executive branch with authority for the fiscal, prudential and municipal affairs of the Town.

## Section 5: Interpretation of Powers

The powers of the Town under the Charter shall be construed and interpreted liberally in favor of the Town, and the specific mention of any particular power is not intended to limit in any way the general powers of the Town as stated in Section 3 herein.

## Section 6: Intergovernmental Relations

Consistent with any constitutional or statutory provisions, the Town may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise with any one or more municipalities, civil divisions, sub-divisions, or agencies of the Commonwealth, other States, or of the United States government.

# ARTICLE II

## Legislative Branch

### **2-1 TOWN MEETING**

Representative Town Meeting (Fairhaven)

### **2-2 PRESIDING OFFICER**

The Town Moderator presides over each Town Meeting and is responsible for the orderly conduct of these meetings. The Moderator declares the outcome of all votes and determines matters of procedure (see GL 39, §15, 17)

- The Moderator is elected for a 3 year term
- The Moderator jointly appoints the at-large Finance Committee member and members of the Greater New Bedford Regional Vocational Technical High School Committee chosen as provided in Section 3-4, shall preside at all Town Meetings, regulate the proceedings, decide all questions of order and make public declaration of all votes. In the event of the absence or the disability of the Town Moderator, the duties shall fall to the Deputy Town Moderator, and if that individual is unable to serve, thereafter to the Town Clerk. This individual shall call the meeting to order and shall preside until a temporary Town Moderator is chosen, as prescribed in M.G.L. ch.39 §14

### **2-3 TIME OF MEETING**

#### **FREQUENCY**

#### **Annual Town Meeting**

- **Annual Town Meeting**

Each town must hold an annual Town Meeting and unless otherwise provided by special law or charter, must be held in Feb, Mar, Apr or May (SOS Guide)

Must be called by the Select Board o Requires 7 days notice prior to meeting

(GL 39, §10)

The Annual Town Meeting shall primarily be concerned with the determination of all matters that have a fiscal effect on the Town, including, but not limited to, the adoption of an annual operating budget covering all Town agencies.

### · **Special Town Meeting**

Additional Town Meetings are called special meetings. They may be called as many times during the year as necessary (SOS Guide)

Can be called by the Select Board or upon request in writing of 200 registered voters (GL 39, §10) o Requires 14 days notice prior to meeting (GL 39, §10)

- The Select Board may call additional Town Meetings at other times to act on the legislative business of the Town in an orderly and expeditious manner by the issuance of warrant. Must be called by the Select Board Requires 7 days notice prior to meeting (GL 39, §10)

## **2-4 TOWN MEETING WARRANTS**

It is the public notice and agenda for a Town Meeting o Pursuant to GL 39, §10: Ø Every town meeting must be called through a warrant

**(a) In General** – Every Town Meeting shall be called by a Warrant issued by the Select Board which shall state the time and place of the Meeting and, by separate Articles, the subjects which are to be acted upon. The warrant lists all matters to be voted on at the Town Meeting as well as the date, time and location

- The warrant is prepared by the Select Board
- For an Annual Town Meeting the warrant must be posted at least 7 days before the Annual Meeting or 14 days before a Special Town Meeting

**(b) Initiation of Warrant Articles** – Warrant Articles shall be initiated as provided for by state law, including but not limited to M.G.L. ch.39 §10.

**(c) Warrants** – After voting to open any Annual Town Meeting or Special Town Meeting Warrant, the Select Board, within the ensuing twenty-four hours, shall

post notice of such vote on the Town's principal bulletin board and on the Town's website. The warrant for any Town Meeting shall be served by posting a printed copy thereof at or near the front entrance of the Town Hall and at or near the public entrances of all the polling places in the Town at least seven days before the date of said meeting.

The notice shall identify the opening and closing dates of the Warrant, and shall identify the place or places where citizen petitioned articles may be submitted. No Annual or Special Town Meeting Warrant may close until such notice has been posted for at least ten calendar days. Subsequent to the posted Warrant opening and closing dates, the Select Board may vote to reopen and close the Warrant in order to receive additional Warrant Articles.

**(d) Circulation of Warrant** – Annual and Special Town Meeting Warrants shall be posted

1. On the Town Clerk bulletin board
2. On the Town website
3. In local media.

No later than two weeks before the Annual Town Meeting and any Special Town meeting, the Select Board shall deliver the Warrant to the Finance Committee and Moderator. Copies of the Warrant for any Special Town Meeting shall be delivered to the Finance Committee and Moderator at least twenty-one (21) calendar days before the commencement date of such Meeting.

## **2-5 COMMITTEES**

### **Appointment to Committees**

Unless noted elsewhere in the Charter, members of any committee established with the primary purpose to perform a legislative function shall be appointed by the Town Moderator. The Town has the authority, by direct vote, to determine that certain members of particular committees shall serve by virtue of another office which they hold. This authority may not be used to defeat the clear intent of this provision.

### **1. Bell Committee**

The bell committee was formed in September 2015 for the purpose of removing the bell from Oxford School and finding a new suitable location to display the Bell.

### **2. Belonging Committee**

The Belonging Committee will strive to identify and promote activities designed to further efforts of the core values of diversity, Equity and Inclusion, and to advocate for the human and civil rights of all.

### **3. Bikeway Committee**

Fairhaven Bikeway Committee is dedicated to promoting bicycling throughout the community for recreation and everyday use. We seek to make Fairhaven's streets and paths safe for all users and to educate cyclists, pedestrians and motorists on safe and lawful road use. We will work with local, state and federal entities and local businesses to create and expand cycling networks and facilities in Town and connecting to surrounding communities. Through planning, education and encouragement, we will make Fairhaven a healthy community of riders.

### **4. Broadband Study Committee**

The mission of the Fairhaven Broadband Study Committee is to provide continuity between past committee work and the Municipal Light Plant Board which will be formed at a future date. This will include initiatives to advance the planning and evaluation for a potential deployment of an open access fiber network which is owned by the residents of Fairhaven. Follow [this link](#) for more information.

### **5. Cable Advisory Committee**

Information about Cable Advisory Committees can be found at [Mass.gov](http://Mass.gov)

### **6. Capital Planning Committee**

The Capital Planning Committee was adopted by the Annual Town Meeting of the Town of Fairhaven [5-3-2014 by Art. 26](#).

### **7. Charter Committee**



The new nine-member Fairhaven Charter Committee was established at the [June 12, 2021 Remote Annual Town Meeting](#). The 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. The sum of \$10,000 has been appropriated by Town Meeting to pay for the expenses of such Committee.

#### **8. Community Preservation Committee**

The Community Preservation Committee (CPC) started in 2005 after Fairhaven voters adopted the Community Preservation Act (CPA). The Community Preservation Committee is charged with studying the needs, possibilities and resources of the Town of Fairhaven regarding community preservation. Appointments to the committee have been made by the Board of Select Board (4); Planning Board (1); Conservation Commission (1); Housing Authority (1); Historic Commission (1); Board of Public Works (1) for staggered three year terms.

The CPC oversees Fairhaven's Community Preservation Fund, selected preservation projects and recommends selected projects to Town Meeting for funding. Preservation projects may include acquiring, preserving and creation open space, historic resources, land for recreation use and community housing.

#### **9. Dog Park Committee**

Developing a list of possible sites for the dog park and prioritizing the sites based on specific criteria such as location, utilities, parking, impact on neighbors, environmental issues, etc. and make a recommendation to the Board of Select Board as to the most suitable location.

#### **10. Economic Development Committee**

The mission of the Fairhaven Economic Development Committee is to provide the Select Board with guidance on the enhancement of the existing business community, ways to attract new business and encourage development. The result of programs, from this guidance, will have a goal to enhance overall economic impact. These programs will result in a growth in business activity, jobs and revenue. The Select Board acknowledges that a strong business community is essential to the financial well-being of the Town.

The membership shall consist of shall consist of five (5) at-large members with ties and experience in Fairhaven, to be appointed by the Select Board; one (1) voting representative member from the Select Board; and one voting representative from the Planning Board, to be appointed by the Planning Board. Two (2) Alternate Non- Voting members, appointed by the Select Board. In the event that there is no quorum of the 7 full voting members, alternate members may act as voting members for the purposes of quorum for that meeting. The alternate member(s) will be chosen by seniority in service as alternate members on the committee. The Planning and Economic Development Director shall serve as non-voting ex-officio staff member. All terms shall be one year terms.

### **11. Finance Committee**

Once developed, the budget is presented to the finance committee, representing the legislative branch, the town meeting. In effect, the local finance committee has the same role as the House Ways and Means Committee in the State Legislature. It is the finance committee's responsibility to receive the budgets from the executive branch (either as a collective whole or individually by department), analyze them, have hearings where the department heads and the public can testify, and present a balanced budget to town meeting. That budget should reflect the finance committee's decisions based upon their best judgement of the issues and finances of the town. The budget before town meeting is the finance committee's and it is their job to explain and defend it. This does not preclude department heads or the town administrator, if any, from being called upon to answer questions or explain items in more detail, but it is the finance committee's budget If the select board or town

administrator disagrees with any item, they can submit a substitute motion, as is the right of any participant at town meeting. At this stage, the select board have an advantage over a governor in that they can participate in the town meeting process. However, they have the disadvantage of not being able to veto what town meeting passes. The statutory backing for this analysis is Chapter 39, Section 16, of the Massachusetts General Laws.

#### **12. Hazard Mitigation Planning Committee**

Under the direction of the Department of Planning & Economic Development, the Town has hired a consulting team to assist the Town in developing a Local Natural Hazards Mitigation Plan encompassing the entire Town of Fairhaven. The development of a Local Natural Hazards Mitigation Plan is essential to the Town's efforts towards improving the overall emergency preparedness and identifying ways to mitigate the impacts of future natural hazards. Upon completion the Hazard Mitigation Plan will be submitted to State and Federal plan reviewers for approval and then adopted by the Board of Select Board. This planning process will take 18 months and is anticipated to conclude in May of 2018.

#### **13. Lagoa Friendship Pact Committee**

The Lagoa Friendship Pact Committee shall provide input and suggestions for a variety of current and foreseeable community, civic, cultural, educational and other activities that expand its partnership with the Municipality of Lagoa, Portugal. The Committee is advisory in its capacity and shall not supersede or take the place of the Select Board to determine ultimate courses of action.

#### **14. Local Emergency Planning Committee**

By vote of the Board of Select Board on May 27, 2014 the Local Emergency Planning Committee shall consist of of department heads and/or representatives from the Police, Fire, Schools, Council on Aging, BPW, Building, and Housing and additionally, will have a Select Board's representative and three at-large seats for residents.

#### **15. Marine Resources Committee**

The Marine Resources Committee is an advisory board to the Select Board involving matters relating to tidal waterways and associated public facilities such as marine ramps, docks, wharves, piers and moorings.

#### **16. Master Plan Update Committee**

## **17. Open Space and Recreation Committee**

## **18. Rogers Re-Use Committee**

The Rogers Study / Re Use Committee is an appointed Seven (7) member advisory board. Committee is appointed by the Select Board and reports to the Select Board involving matters relating to the former Rogers School property.

In that capacity the Committees work will include, but not limited to reviewing any proposals received for the re use of the former school property and providing advice to the Select Board on the proposals received. The committee will provide advice to the board of Select Board on all possibilities for reuse of the former school property. The committee at the request of the Board of Select Board will assist the town staff in all processes or help in needed matters regarding the former school. The Rogers Study / Re Use Committee is an Ad hoc committee and will serve until the work of the committee is completed as determined by the Board of Select Board after which time the committee will be disbanded.

## **19. School Committee**

The School Committee is an elected six-member board. Members are elected to three-year terms.

## **20. Sustainability Committee**

The Fairhaven Sustainability Committee is an advisory committee reporting to the Selectboard involving matters relating to sustainable practices, environmental regulations, green initiatives, and the environmental health of Fairhaven.

## **21. Town Administrator Screening Committee**

The Town Administrator Screening Committee is responsible for presenting the names of 2-4 individuals, who shall be considered finalists, to the Town Select Board for consideration as appointment as the Town Administrator of Fairhaven. The Screening Committee members shall use their best judgment and understanding of the criteria for selection of the Town Administrator that is outlined in the [Position Statement](#) that has been

prepared by the Town's recruitment consultant with the input and information of the Select Board and other town officials; and that will be utilized in conducting outreach to solicit candidates for the position. The Screening Committee shall work collaboratively with the Town's recruitment consultant in executing their responsibilities.

## **2-6 AVAILABILITY OF TOWN OFFICIALS**

All department heads shall attend the sessions of each Town Meeting for the purpose of providing the Town Meeting with information pertinent to Warrant Articles. If any such person is deterred by illness or other reasonable cause, that person shall designate a deputy to attend in their place. If anybody required to attend the Town Meeting sessions under this section is not a resident of the Town they shall, notwithstanding, be entitled to speak in order to provide the Town Meeting with information on matters pertinent to their responsibilities. The Town Moderator shall call for a roll call at each Town Meeting session.

## **2-7 CLERK OF MEETING**

The Town Clerk shall be the Clerk of the Town Meeting. The Clerk shall give notice of all adjourned sessions of any Town Meeting in the manner determined by by-law, keep the record of its proceedings and perform such other duties as may be provided by general law, by Charter, by by-law or by other Town Meeting vote.

## **2-8 RULES OF PROCEDURE**

The procedure and conduct of the business meetings of the Town not herein provided for shall be governed by Robert's Rules of Parliamentary Practice so far as they are applicable and are not inconsistent with the bylaws of the Town

# ARTICLE III

## Elected Officers

### Article III – Elected Officers

#### Section 3-1 General Provisions

##### 3-2 Select Board

A. The Select Board shall in all cases, not otherwise provided for by law, bring suit, in the name of the town, against the principal and sureties, or either or any of them, named in any bond given to the town by any officer, agent, contractor or other person, for breach of the conditions of such bond.

B. The Select Board shall cause the appearance and answer of the town to be entered and made in all suits brought against the town at law or in equity, except as otherwise provided in this chapter, and may employ counsel to defend the same. It may commence and prosecute suits at law and in equity, in the name of and on behalf of the town, in all cases not otherwise provided by law or by this chapter, and may employ counsel therein.

C. The Select Board shall consider all claims made against the town and may settle any just claim, provided that in no case shall a settlement be so made by a payment of more than \$250 without authority of the town.

D. The Select Board shall have the power to sell, without the vote of the town, any and all personal property belonging to the town and no longer needed at public auction or private sale upon such terms as the Select Board deems proper, provided that the value does not exceed 250.

E. The Select Board shall furnish the Finance Committee on or before the first of February of each year with a statement of expenditures of each department or fund of the town with the amount appropriated therefor or income therefrom, for the preceding fiscal year. It shall likewise furnish a comparative statement showing receipts and expenditures of each department or fund for the preceding two years. It shall report the amounts of maturing notes or bonds, also the amount of interest (to be paid) and any order outstanding indebtedness of the town to be paid during the next fiscal year.

F. The Select Board shall have the power to grant licenses to junk dealers. Before such licenses shall be granted, all premises shall be inspected by the Select Board or its agent, making a written report on the same and due notice of hearing being given. All such licenses may be revoked at any time if places are improperly conducted or if in violation of state laws governing the same.

## I. Educational Goals & Policies; Management & Leadership

State law: The school committee establishes educational goals and policies for the schools in the district, consistent with the requirements of law and the statewide goals and standards established by the Board of Education. (G.L. c. 71, [[section]] 37) The school committee's status as the "employer" for collective bargaining purposes remains unaltered by Education Reform. (G.L. c. 150E, [[section]] 1)

## II. Budget

State law: The school committee reviews and approves budgets for public education in the district. (G.L. c. 71, [[section]] 37) The committee must hold a public hearing on the proposed annual budget. (G.L. c. 71, [[section]] 38N) The school committee has authority to determine expenditures within the total appropriation voted by the city or town. The city or town appropriating body is authorized to make non-binding monetary recommendations to increase or decrease certain items allocating such appropriations, but it may not limit the school committee's authority to determine expenditures within the total appropriation. (G.L. c. 71, [[section]] 34)

## III. Staffing

### A. Hiring authority for particular positions

1. Superintendent, assistant/associate superintendents, school business administrator, administrator of special education, school physicians and registered nurses, legal counsel, supervisors of attendance

State law: The school committee is responsible for appointing personnel to the following positions:

1. *Superintendent*: The school committee has the power to select and terminate the superintendent, and to establish his or her compensation. (G.L. c. 71, [[section]] 37)
2. *Assistant or associate superintendents*: On the recommendation of the superintendent, the committee may establish the positions of and appoint assistant or associate superintendents, who shall report to the superintendent. The superintendent recommends to the school committee candidates for appointment to the position of assistant or associate superintendent. The committee shall approve or disapprove the appointment, but shall not unreasonably withhold its approval. If the superintendent requests, the committee shall explain its disapproval of a recommended candidate. The

committee sets the compensation of the superintendent and the assistant or associate superintendents. (G.L. c. 71, [[section]] 59)

3. School business administrator; administrator of special education; school physicians and registered nurses; supervisors of attendance; legal counsel: The Education Reform Act did not change several pre-existing statutes that refer to the school committee appointing certain personnel. G.L. c. 71, [[section]] 41 states that "a school committee may award a contract to ... a school business administrator for a period not exceeding six years... ." G.L. c. 71B, [[section]] 3A states that "a school committee ... shall appoint a person to be its administrator of special education." G.L. c. 71, [[section]] 53 says, "The school committee shall appoint one or more school physicians and registered nurses... ." G.L. c. 76, [[section]] 19 says, "Every school committee shall appoint, make regulations governing and fix the compensation of one or more supervisors of attendance."

Three sections of the General Laws authorize the school committee to engage legal counsel: G.L. c. 71, [[section]] 16 (j) (powers of regional district school committees); G.L. c. 71, [[section]] 37E (authorizing the school committee to employ legal counsel in connection with collective bargaining); and G.L. c. 71, [[section]] 37F (authorizing the school committee to employ legal counsel for the general purposes of the committee).

## B. Levels of compensation

State law: The school committee establishes policies on levels of compensation for school principals and for other administrators and personnel not assigned to particular schools. (G.L. c. 71, [[section]] 59B) "Compensation" is a broader term than salary; it includes, for example, benefits such as group insurance. *Allison v. Whittier Regional Voc. School Dist.*, 445 N.E. 2d 625 (1983). In establishing policies on compensation, the school committee is also bound by St. 1993, c. 495, [[section]] 140, a special act of the Legislature, which states that a principal's rights to accrued sick, personal or vacation leave acquired before June 18, 1993 shall not be impaired or denied.

## C. Hiring practices and policies

State law: All educational personnel hired by the school district must be appropriately certified for the position in which they are employed, unless the district has requested and received from the Department of Elementary and Secondary Education a waiver of the certification requirement. The school committee continues to have authority under the certification statute to "prescribe additional qualifications" for educator positions, beyond basic certification. (G.L. c. 71, [[section]] 38G)

The school committee establishes the educational goals and policies for the school district. (G.L. c. 71, [[section]] 37) The superintendent appoints administrators, principals, staff not assigned to particular schools and athletic coaches. (G.L. c. 71,



[[section]][[section]] 59B, 47A) The principal hires all teachers and other personnel assigned to the school, consistent with district personnel policies and budgetary restrictions and subject to the superintendent's approval. (G.L. c. 71, [[section]] 59B)

#### D. Collective bargaining

State law: The school committee continues to be the "employer" of school employees for collective bargaining purposes. (G.L. c. 150E, [[section]] 1) The Education Reform Act made only one change concerning participants: the chief executive officer of the city or town (or his or her designee) shall participate and vote as a member of the school committee in collective bargaining. If a town does not have a town manager or administrator, the chairman of the board of selectmen (or his or her designee) shall so participate and vote. In regional school districts, the municipal chief executive officers elect one of their number to represent them, in accordance with Board of Education regulations. (G.L. c. 150E, [[section]] 1; 603 CMR 42.00)

#### F. Performance standards; supervision and evaluation

State law: The school committee, upon the recommendation of the superintendent, establishes performance standards for teachers and other employees in the district. These performance standards must be consistent with and supplemental to the Regulations on Evaluation and [Principles of Effective Teaching and Administrative Leadership](#) adopted by the Board of Education in July 1995. (G.L. c. 71, [[section]] 38 and 603 CMR 35.00)

The school committee establishes teacher performance standards in accordance with the following procedure:

1. it must hold a public hearing to solicit comment on the proposed standards;
2. it must bargain with the teachers' association to agree on the standards and procedures; and
3. if the parties cannot agree on teacher performance standards within a reasonable period of time, the standards shall be determined by binding interest arbitration. (G.L. c. 71, [[section]] 38)

#### G. Professional development

State law: The school committee adopts the professional development plan for all principals, teachers and other professional staff employed by the district. It must update the plan annually, and set forth a budget for professional development. The plan shall include training related to the statewide curriculum frameworks and other skills required for effective implementation of education reform, including participatory decision-making, parent and community involvement, and training for members of school councils. The plan may also include teacher training to address gender bias in the classroom. (G.L. c. 71, [[section]] 38Q)

The school improvement plan formulated by the principal and school council at each school shall address professional development for the staff in that school. (G.L. c. 71, [[section]] 59C)

#### H. Discipline and dismissal

State law: The school committee has authority to discipline or terminate the employment of the superintendent, in accordance with state law and the terms of the contract of employment. (G.L. c. 71, [[section]] 59)

The superintendent has authority to discipline or dismiss any employee of the school district, subject to the provisions of state law and the terms of any contract of employment. (G.L. c. 71, [[section]] 42) Only a superintendent may dismiss a principal. (G.L. c. 71, [[section]] 41)

The principal may dismiss or demote any teacher or other person assigned full-time to the school, subject to the approval of the superintendent. (G.L. c. 71, [[section]] 42)

The superintendent may suspend any employee of the school district, and the principal may suspend any teacher or other employee assigned to the school, subject to the provisions of G.L. c. 71, [[section]] 42D. The employee is entitled to review the decision to suspend with the superintendent or principal if the decision was made by the principal.

Standards and procedures for dismissal of certain personnel, including principals and teachers, and for arbitration of disputed dismissals and suspensions, are found in G.L. c. 71, [[section]][[section]] 41, 42 and 42D.

#### 3-4 Town Moderator/Assistant Town Moderator

The moderator shall preside and regulate the proceedings, decide all questions of order, and make public declaration of all votes, and may administer in open meeting the oath of office to any town officer chosen thereat. If a vote so declared is immediately questioned by seven or more voters, he shall verify it by polling the voters or by dividing the meeting unless the town has by a previous order or by-law provided another method. If a two thirds, four fifths or nine tenths vote of a town meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the clerk; provided, however, that a town may decide by by-law or vote not to take a count and record the vote if a two-thirds vote of a town meeting is required by statute; and provided, further, that if the vote is unanimous, a count need not be taken, and the clerk shall record the vote as unanimous.

A town may pass by-laws, subject to this section, for the regulation of the proceedings at town meetings. Such by-laws shall be approved and published in the manner prescribed by section thirty-two of chapter forty.

In any town having a representative town meeting form of government the town meeting members shall not use the secret ballot when voting in the exercise of the corporate powers of said town or on

any motion unless two thirds of the town meeting members present and voting thereon vote that a secret ballot be used.

### 3-5 Town Clerk

The town clerk shall record all votes passed at town meetings held during his term of office. They shall administer the oaths of office to all town officers who apply to be sworn, and shall make a record thereof and of the oaths of office taken before justices of the peace of which certificates are filed. They shall, immediately after every annual election of town officers, transmit to the state secretary, on blanks to be furnished by them, a complete list of all town officers elected and qualified and shall promptly report to the secretary any changes in such officers. They shall, except in the county of Suffolk, within seven days after the qualification of a constable make return of his name to the clerk of the courts and to the sheriff of the county. They shall make and keep an index of instruments entered with him required by law to be recorded, which shall be divided into five columns, with appropriate headings for recording the date of reception, the names of parties and the book and page on which each instrument is recorded. It shall be open to public inspection.

### 3-6 Board of Health

Compliance with state and federal regulations. Control of communicable disease will be effected by strict compliance with federal and state laws and regulations, including but not limited to the provisions of MGL c. 111, §§ 92 through 121A, as amended. § 416-2. Authority of Board of Health. A person afflicted with or exposed to a disease dangerous to the public health shall be subject to such restraint as the Board of Health may deem necessary for the protection of the public.

### 3-7 Board of Public Works

There shall be established in the Town of Fairhaven, a board of public works, hereinafter called the board, consisting of five members at large. Upon the expiration of the term of any member, his successor shall be elected at an annual Town election to serve for a term of three years. In all cases the members of the board shall serve until their successors are qualified. The members of the board shall, after each annual Town election, elect from among its members a chairperson and a clerk for the ensuing year. In the case of a vacancy, the board of selectmen shall, within thirty days, fill such vacancy until the next annual Town election, when a member shall be elected to fill an unexpired term resulting from such vacancy. No person shall serve on the board who holds an elected or appointed office in said Town other than Town meeting member and no employee of the Town shall serve on the board.

### 3-8 Housing Authority

Section 26. A housing authority shall have the following powers in addition to those set forth in section eleven or elsewhere in this chapter:--

(a) To make studies of housing needs and markets, including data with respect to population and family groups and their distribution according to income groups, the amount and quality of available

housing and its distribution according to rentals and sales prices, employment, wages and other factors affecting housing needs and markets, and surveys and plans for housing related to community development, including desirable patterns for land use and community growth, and to make such studies, surveys and plans available to the federal government, the department and other state agencies, other operating agencies, the public and the building, housing and supply industries;

(b) To conduct investigations and disseminate information relative to housing and living conditions and any other matter deemed by it to be material in connection with any of its powers and duties;

(c) To determine what areas within its jurisdiction constitute substandard, decadent or blighted open areas;

(d) To prepare plans for the clearance of such decadent, substandard or blighted areas and to clear open areas whenever necessary or desirable to provide for the equivalent elimination of substandard buildings in accordance with section thirty-three provided that no housing authority in any city or town in which a redevelopment authority has been organized shall initiate such a clearance project without the approval of such redevelopment authority and the approval of the municipal officers of the city or town;

(e) To provide housing projects for families of low income;

(f) To provide projects or parts thereof for elderly persons of low income;

(g) To provide housing for families of low income in rural areas in accordance with provisions set forth in section twenty-seven;

(h) To undertake and provide relocation projects in order to house for a limited period families who are displaced by an urban renewal project or other public improvement involving the elimination of dwelling units whenever such project or public improvement is determined upon and it or an urban renewal agency finds that there exists in the city or town an acute shortage of housing and that there are no adequate means available for immediate relocation of persons and families displaced from that project area;

(i) To lease, operate and, subject to section thirty-two, establish or revise schedules of rents for any project or part thereof undertaken by it; and

(j) To undertake as a separate project the renovation, remodeling, reconstruction, repair, landscaping and improvement of an existing housing project or part thereof, including the reduction of undesirable unit densities in an existing housing project as deemed necessary by the department for the improvement of an existing housing project assisted by the commonwealth pursuant to section thirty-four or forty-one; provided, that an equal number of low-rent relocation units are provided to replace those occupied units which are removed in the reduction of an undesirable unit density; and provided, further, that the plans for each such project shall be undertaken in accordance with rules and regulations promulgated by the department for such projects; and provided, further, that notwithstanding the provisions of any other law, where the funding for such project or any similar state or federally funded undertaking with respect to low-rent housing exceeds fifteen million dollars, the number of households living on the original site when funds are or were committed exceeds two hundred and a receiver has been appointed for the housing authority pursuant to section one hundred and twenty-seven H of chapter one hundred and eleven, the award of construction, reconstruction, installation, demolition, maintenance, alteration, remodeling or repair contracts shall be governed by the provisions of section thirty-nine M of chapter thirty, and shall include a requirement for certification of ability to furnish labor that can work in harmony with all

other elements of labor employed or to be employed in the work, and shall not be subject to the provisions of sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine; and provided, further, that notwithstanding the provisions of any other law, where the funding for such project or any similar state or federally funded undertaking with respect to low rent housing exceeds fifteen million dollars, the number of households living on the original site when funds are or were committed exceeds two hundred and a receiver has been appointed for the housing authority pursuant to section one hundred twenty-seven H of chapter one hundred eleven, the receiver shall award contracts for construction, reconstruction, installation, demolition, maintenance, alteration, remodeling or repair of any building as provided in sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine and the receiver shall not only prequalify general bidders as set forth in section forty-four D but shall also prequalify sub-bidders for all classes of work for which sub-bids are required in accordance with prequalification requirements the receiver shall establish. The receiver shall also include as a prequalification requirement for both general bidders and for sub-bidders for each such contract that each general bidder and each sub-bidder be able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on each contract.

(k) To undertake as a separate project the demolition, clearance, preparation for sale, including the payment of relocation costs for occupants of such existing housing projects, and sale or other disposition of any of all of any existing housing project or part thereof assisted by the commonwealth, pursuant to section thirty-four, notwithstanding the provisions of clause (d) or section thirty-four, provided, that the department shall first have:

*[ Paragraph (1) of clause (k) effective until July 18, 2021. For text effective July 18, 2021, see below.]*

(1) found that all or a substantial portion of such existing housing project or part thereof no longer provides decent, safe and sanitary housing, as determined by the department of public health or the office of public safety and inspections of the division of professional licensure, and, in the judgment of the department, such project or part thereof cannot feasibly be operated or renovated pursuant to the provisions of this chapter;

*[ Paragraph (1) of clause (k) as amended by 2021, 39, Sec. 72 effective July 18, 2021. See 2021, 39, Sec. 128. For text effective until July 18, 2021, see above.]*

(1) found that all or a substantial portion of such existing housing project or part thereof no longer provides decent, safe and sanitary housing, as determined by the department of public health or the office of public safety and inspections of the division of occupational licensure, and, in the judgment of the department, such project or part thereof cannot feasibly be operated or renovated pursuant to the provisions of this chapter;

(2) approved the proposed project, including a relocation plan for occupants of the existing project and a plan to make housing available on the land where the existing project is situated, at least twenty-five per cent of the units of which shall be for low income persons or families, which project may include plans to use a portion of such land for a public purpose ancillary to such development and approved by the department;

(3) approved the sale and the terms thereof, if the land is to be sold, which shall be at the fair market value for the proposed reuse, as determined by MHFA and approved by the department, and in accordance with the cooperation agreement referred to below;

(4) determined that the availability of funds to the housing authority for such project is conditioned upon the occurrence of the initial mortgage loan closing for the development of new or rehabilitated

housing on the land where the existing project is situated; and the execution of a cooperation agreement by the MHFA and the department which shall establish a procedure for selection of a developer best qualified to develop, own and operate the new or rehabilitated housing on the existing land, for providing for such development of the new housing within a reasonable time in accordance with MHFA-approved contracts, and for assuring continued occupancy of at least twenty-five per cent of the dwelling units in the new development by families of low income;

(5) determined that the proceeds of such sale or other funds available to the housing authority for such project, or both, shall not be less than the amount necessary to pay in full the principal of and interest on the outstanding obligations of the housing authority with respect to such existing project if the whole is sold or not less than that percentage of such obligations which the original cost of the part sold bears to the total original cost of the entire existing project if a part is sold. Such amount of proceeds or other funds necessary to pay in full such obligations or percentage thereof shall be deposited in trust for the benefit of the holders of such outstanding obligations and until and unless all such obligations are paid and discharged in full said proceeds and other funds shall be expended solely for payment of principal and interest thereon.

(6) found that representatives of all occupants of such existing housing project, selected by the occupants in a manner approved by the department, have fully participated in the development of the project proposal and that all occupants of such existing housing projects have adequate notice and an opportunity to review the proposed project and relocation plan and an opportunity to present their views at a public hearing which shall be held by the department.

(l) To provide housing projects or specific parts thereof, or cooperative apartments, community residences and such other forms of congregate housing, or housing in separate dwelling units, for low income handicapped persons or low income families, of which one or more than one person is handicapped, or persons whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging; provided, that such housing may be provided in newly constructed buildings, or in buildings purchased or leased, and that may be made renovated as necessary, or in buildings already owned by local housing authorities that may be made accessible; and to provide living facilities for persons essential for the well-being of such handicapped persons or families; and to provide other such facilities as are necessary to the well-being of the handicapped residents of such housing; and to contract with various corporations for the provision of services to the handicapped residents, including but not limited to staffing, management and maintenance of such housing; provided further, that such contracting shall be in accordance with guidelines and directives or rules and regulations, or either, promulgated or issued by the department, and that such contracting shall be approved by the department.

(m) To participate in the development of low and moderate income housing undertaken or assisted pursuant to federal legislation and to finance mortgage loans for the construction or rehabilitation of low and moderate income housing, which may include ancillary commercial facilities to the extent permitted by the then applicable regulations of the department, and to purchase, or participate in the purchase of, securities which are secured by such mortgage loans. A local housing authority may create, designate or approve agencies or instrumentalities to provide such housing and do all other things necessary or desirable to secure financial or other forms of assistance from the federal government including the exemption from federal income taxation of interest on bonds or notes of such housing authority issued with respect to such housing. Low and moderate income housing shall be financed under this paragraph only after the housing authority shall, pursuant to regulations adopted by the department, have found (A) that persons and families whose annual incomes are less than eighty per cent of the median income in the area in which such housing is to be constructed or rehabilitated, as determined by the department, can afford the rentals, including the

provision of heat, electricity and hot water, set for twenty per cent of the units in the project on the basis of the use of not more than thirty per cent of their annual income or such greater portion of their annual income as may be required by laws or regulations applicable to any housing subsidy program of any agency of the United States government or the commonwealth to be used in connection with the proposed project or any laws or regulations applicable to the exemption of the interest on the bonds or notes of the housing authority from federal income taxation and (B) either (1) that the other tenants occupying the project shall pay a rental not less than one-seventh of their annual income but in no event greater than the maximum rental which could be obtained for such unit in light of the rentals charged for comparable units within the same market area; or (2) that the project is located in a blighted open area, or any decadent area, or any substandard area. Any bonds, notes or other securities issued by any local housing authority, or any agency or instrumentality designated or approved by any such authority, pursuant to the provisions of this paragraph, shall not create or imply any obligation or indebtedness of any kind on the part of any local housing authority, the commonwealth, or any political subdivision thereof. The department may promulgate such rules and regulations as it may deem necessary to further the purposes of this paragraph.

(n) to disseminate to and receive from other housing authorities information, including personal data as defined in section one of chapter sixty-six A, which could have a direct bearing on a determination as to whether an individual or household is qualified for selection or placement in accordance with state or federal eligibility or tenant selection regulations; provided, that in instances where the department of housing and community development or a nonprofit corporation is administering a state or federal housing program, a housing authority may disseminate to and receive such information for the aforementioned purpose from the department of housing and community development or a nonprofit corporation. Such information may be disseminated for the aforementioned purpose among the department of housing and community development and any nonprofit corporations administering a state or federal housing program. Any personal data, as defined in section one of said chapter sixty-six A, which is received by a housing authority, the department of housing and community development, or a nonprofit corporation pursuant to this paragraph, shall be used, maintained and disseminated further in accordance with the provisions of said chapter sixty-six A and this paragraph. Whenever such information is disseminated by a local housing authority, the department of housing and community development, or a nonprofit corporation, a copy of all such information and the names of the agencies which received it shall be sent to said individual or household. The department of housing and community development shall promulgate such rules and regulation as it deems necessary to further the purposes of this paragraph.

(o) To provide in the case of a unit in a housing project occupied by an elderly person of low income or a handicapped person of low income, for the installation, removal, or maintenance of air conditioner units, stoves, and such other personal property of said elderly person or such handicapped person as the housing authority may determine necessary to maintain the building and to protect the safety of tenants residing therein.

(p) Notwithstanding this section or section 34 to the contrary, to dispose of or demolish any part or all of an existing housing project assisted by the commonwealth pursuant to chapter 689 of the acts of 1974, chapter 167 of the acts of 1987 or chapter 705 of the acts of 1966, if: (1) the department and the housing authority have determined that it is not financially feasible to bring the units up to a reasonable program standard for occupancy or permissible to convert the units to another low-rent housing program; (2) the inventory of available housing units remaining in the surrounding community is not substantially diminished as a result of such demolition; and (3) for units financed pursuant to chapter 705 of the acts of 1966, the units were vacant as of November 1, 2012, or, for

units financed by the chapter 689 of the acts of 1974 or chapter 167 of the acts of 1987, the department has received written confirmation from both the department of developmental services and the department of mental health that those units are obsolete and inappropriate for housing their respective clients. Upon approval by the department, the authority may dispose of the property by sale, ground lease or other transfer of its interest in the property; provided, that the department shall review and approve of any appraisal and request for proposals related to the disposition, as well as the selection of the selected bidder. The request for proposals shall provide that, in reviewing responses to the request for proposals, first priority for selecting from among the responsive and responsible bidders shall be those bidders that offer a feasible plan to provide housing on the site that is permanently affordable to households under 80 per cent of area median income as defined by the department. Those bidders shall obtain the property for \$1, subject to an enforceable agreement to meet the requirements of its proposal. If no responsive and responsible bidder meets the above standard, the property shall be sold to the bidder offering the highest price for the property. Notwithstanding anything to the contrary in this chapter, proceeds from the disposition, after paying for the costs of the disposition, shall be deposited in an expendable trust controlled by the department, the purpose of which shall be to fund capital improvements that the department determines are necessary and appropriate at existing housing developments that serve households that would have been eligible for occupancy of the units that had been sited on the property.

### 3-9 Planning Board

Every city and every town having a population of more than ten thousand at the last preceding national census shall, and towns having a population of less than ten thousand may, create a planning board, which shall make careful studies of the resources, possibilities and needs of the town, particularly with respect to conditions injurious to the public health or otherwise in and about rented dwellings, and make plans for the development of the municipality, with special reference to proper housing of its inhabitants. In cities the said board shall be appointed by the mayor, subject to confirmation by the council, and in towns shall be elected at the annual town meeting or be appointed in such manner as an annual town meeting may determine.

No planning board shall be established under this section after December thirty-first, nineteen hundred and thirty-six, but any such board established under this section or corresponding provisions of earlier laws and existing on said date shall continue until its existence is terminated under section eighty-one B.

### 3-10 Commissioner of Trust Fund

Any city or town, except Boston, may create a board of commissioners of trust funds, consisting of three persons who shall have the management of all trust funds given or bequeathed for the benefit of the town or the inhabitants thereof, unless the donor in making the gift or bequest shall otherwise provide. In cities the commissioners shall be appointed by the mayor and confirmed by the council. In towns they shall be elected in the same manner as other town officers. At the time of creating said board there shall be appointed or elected one member for one year, one member for two years, and one member for three years; and there shall be appointed or elected annually thereafter one member for three years. Vacancies shall be filled by the mayor, with the approval of the council, or by the selectmen.

### 3-11 Town Meeting Members



Section 4. Other than the officers designated in the by-laws of the town as town meeting members at large, the representative town meeting membership shall in each precinct consist of the largest number divisible by three which will admit of a representation thereof in the approximate proportion which the number of inhabitants therein bears to the total number of inhabitants in the town, and which will cause the total elected membership to be as nearly two hundred and forty as may be.

The registered voters in every precinct shall, at the first annual town election held after the establishment of such precinct, and the registered voters of any precinct affected by any revision of precincts at the first annual town election following such revision, conformably to the laws relative to elections not inconsistent with this chapter, elect by ballot the number of registered voters in the precinct, other than the officers designated in the by-laws as town meeting members at large, provided for in the first sentence of this section, to be town meeting members of the town. The first third, in the order of votes received, of members so elected shall serve three years, the second third in such order shall serve two years, and the remaining third in such order shall serve one year, from the day of the annual town meeting; in case of a tie vote affecting the division into thirds, as aforesaid, the members elected from the precinct shall by ballot determine the same; and thereafter, except as is otherwise provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect, for the term of three years, one third of the number of elected town meeting members to which such precinct is entitled, and shall at such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of elected town meeting members in such precinct.

The terms of office of all elected town meeting members from every precinct revised as aforesaid shall cease upon the election as hereinbefore provided of their successors. The town clerk shall, after every election of town meeting members, forthwith notify each such member by mail of his election.

### 3-12 Recall of Elected Officials

An act providing for recall elections in the Town of Fairhaven.

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

SECTION 1. Any person who holds an elected office in the Town of Fairhaven, with more than six months remaining in the term of such office on the date of filing of the affidavit, referred to in section two, may be recalled from office by the registered voters in said town, in the manner herein provided.

SECTION 2. 50 or more voters of the Town of Fairhaven may file with the Town clerk of said Town an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The Town clerk shall deliver to the said voters petition blanks demanding said recall, printed forms of which he shall keep available. Said blanks may be completed by writing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the persons who filed the affidavit and the grounds for recall as stated in the affidavit; they

shall demand the election of a successor to the office; and they shall be dated and signed by the Town clerk. A copy of the petition shall be kept on file in the office of the Town clerk in a record book maintained for that purpose. The recall petitions shall be returned and filed in the office of the Town clerk within fourteen days following the date the petitions were issued, signed by at least 20 percent of the total number of registered voters duly recorded on the registration list of the Town clerk as of the preceding Town election.

[Amended by Ch. 82, Acts of 2002, approved 4-4-2002]

The Town clerk shall, within twenty-five hours following such filing, submit said petitions to the registrars of voters who shall, within seven days certify thereon the number of signatures which are names of registered voters of the town.

SECTION 3. If the petition shall be certified by the registrars of voters to be sufficient, the Town clerk shall forthwith submit the same to the board of selectmen. Upon its receipt of the certified petition, the board of selectmen shall within forty-eight hours give written notice of said petition and certificate to the person whose recall is sought. If said officer does not resign his office within five days following delivery of the said notice, the board of selectmen shall order an election to be held not less than sixty nor more than ninety days after the date of the registrars' certificate of the sufficiency of the petition. If, however, another Town election is to occur within one hundred days after the date of the certificate, the board of selectmen shall hold the recall election on the date of said other Town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

SECTION 4. An officer whose recall is sought may be a candidate to succeed himself at the recall election. The nomination of candidates, the publication of the warrant for the recall election, and the conduct of the same shall all be in accordance with the provisions of laws relating to elections, unless otherwise provided in this act.

[Amended by Ch. 82, Acts of 2002, approved 4-4-2002]

SECTION 5. The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled in the election he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided herein.

If the officer is recalled in the election, he shall be deemed removed upon the qualification of his successor who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

SECTION 6. Ballots used at a recall election shall contain the following propositions in the order indicated:-

For the recall of (name of officer)

Against the recall of (name of officer)

Adjacent to each proposition, there shall be a place to mark a vote. After the propositions shall appear the word "Candidates" followed by the names of candidates arranged alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question is in the negative, the ballots for the candidates need not be counted, except as provided in section three above.

SECTION 7. No recall petition shall be filed against an officer within 6 months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby until at least six months after the election at which his recall was submitted to the voters.

## ARTICLE IV

### Town Administrator

The town administrator shall be the chief administrative officer of the town of Fairhaven and shall act as the agent for the board of selectmen. The town administrator shall be responsible to the board of selectmen for coordinating and administering all town affairs under the jurisdiction of the board of selectmen. The town administrator's powers and duties shall include those outlined in subsections (a) to (aa), inclusive.

- (a) Consult and advise the board of selectmen regarding its policies and implement those policies.
- (b) Attend all meetings of the board of selectmen, except when excused, and consult with and advise

the board of selectmen on all matters that come before the board.

(c) Attend all town meetings and advise the town meeting on all warrant articles within the jurisdiction of the board of selectmen.

(d) Attend all finance committee meetings, except when excused by the board of selectmen, and keep the finance committee informed on all matters under the jurisdiction of the town administrator that come before the committee.

(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 or the public works department. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(f) Review and advise the board of selectmen on all warrants for the payment of town funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws. § A502-6 § A502-6 :2

(g) Except with respect to the school department, and except with respect to the hiring and firing of employees within 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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(h) Administer the town's insurance policies, including the ability to settle claims; provided, however, that all insurance contracts and claims settlements shall receive the approval of the board of selectmen.

(i) With the approval of the board of selectmen, appoint and remove all department heads under the direct control of the town administrator. Each department head, with the approval of the town administrator, shall appoint and remove all department staff within their respective departments. All appointments shall be based entirely on merit and fitness. All appointments and terminations shall be conducted in accordance with the General Laws, personnel policies, by-laws of the town of Fairhaven and any applicable employment contracts; provided, that fire department appointments shall also be subject to section 42 of chapter 48 of the General Laws.

(j) With the approval of the board of selectmen, reorganize any departmental structures under the jurisdiction of the town administrator.

(k) With the approval of the board of selectmen, negotiate all collective bargaining agreements on behalf of the town, except for the school department. In collective bargaining negotiations with unions representing employees in the public works department, the town will be represented by the town

administrator, the superintendent of public works and a member of the board of public works. 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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(l) With the approval of the board of selectmen, establish compensation packages for all town employees under the jurisdiction of the town administrator, not subject to a collective bargaining agreement. Such compensation shall not exceed the amount appropriated therefor by town meeting and shall be subject to all applicable laws and bylaws.

(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 § A502-6 § A502-6 :3 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 bylaw 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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(n) Report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the necessary tax rate.

(o) Establish calendar dates by which the proposed budget, revenue statement and tax rate estimate are to be submitted to the board of selectmen.

(p) Submit annually to the board of selectmen a 5-year capital improvements program, or the same as approved by a formal capital planning committee, to include: (i) a list of all capital improvements and supporting data proposed to be undertaken during the next 5 years; (ii) cost estimates, methods of financing and recommended time schedule; and (iii) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

(q) Advise the board of selectmen at least monthly, of all departmental year-to-date revenues.

(r) Direct action as deemed necessary to ensure that all operating and capital budgets under the direct control of the town administrator are maintained in accordance with the town meeting vote that approved those budgets and coordinate efforts with the governing bodies of those departments not under the direct supervision of the town administrator to ensure that those operating and capital budgets are maintained in accordance with the town meeting vote that approved those budgets.

(s) Keep and complete records of the office of the town administrator and annually submit to the board of selectmen, unless requested to do so more frequently, a full report of the operations of the office.

(t) Be responsible for coordination of operational and strategic planning for the town.

(u) Serve as the procurement officer for the town, establish and enforce procurement policies and guidelines in accordance with applicable state laws.

(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 § A502-6 § A502-6 :4 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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(w) Prepare the application of all town warrants for approval by the board of selectmen.

(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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(y) Delegate and direct any qualified town official or employee to carry out any duty that is within the authority of the town administrator.

(z) During a temporary absence, with the approval of the board of selectmen, the town administrator may designate a qualified administrative employee or officer to exercise the powers and perform the duties of the town administrator.

(aa) Perform any other duties or tasks assigned by the board of selectmen, assigned by the town meeting or mandated by applicable state law. SECTION 3. The town administrator of the town of Fairhaven shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town administrator. The town administrator may, without notice, cause the affairs of any division or department under the town administrator's supervision, or the conduct of any officer or employee thereof, to be examined. SECTION 4. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town of Fairhaven or any other authority, which are in force in the town on the effective date of this act, not inconsistent with this act, shall continue in full force and effect. SECTION 5. No contract existing, and no action at law or suit in equity, or other proceeding pending, on the effective date of this act shall be affected by this act. SECTION 6. The town of Fairhaven shall be governed by this act. To the extent that this act modified or repeals existing General Laws and special acts or the by-laws of the Town of Fairhaven, this act shall govern. SECTION 7. This act shall not impair the rights or obligations of any person holding a town office, or employed by the town, on its effective date, except those duties assigned by this act to another officer or employer, and except those duties which are subsequently assigned to another officer or employee pursuant to this act. No person who continues in the permanent full-time service or employment of the town shall forfeit their pay, grade or time in service as a result of this act. SECTION 8. This act shall take effect upon its acceptance by the town of Fairhaven by a vote at the town meeting. § A502-6 § A502-6 :

## ARTICLE V

### Fiscal Procedures

#### **5-1 Fiscal Year**

##### **§ 56-1 Powers and duties of Select Board.**

[Amended 2-25-1939 by Art. 7; 6-14-2021 ATM by Art. 46]

The Select Board shall furnish the Finance Committee on or before the first of February of each **year** with a statement of expenditures of each department or fund of the town with the amount appropriated therefor or income therefrom, for the preceding **fiscal year**. It shall likewise furnish a comparative statement showing receipts and expenditures of each department or fund for the preceding two **years**. It shall report the amounts of maturing notes or bonds, also the

amount of interest (to be paid) and any order outstanding indebtedness of the town to be paid during the next **fiscal year**.

### § 2-3 **Expenditure limitations.**

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this part without appropriation subject to the following limitations:

#### C.

The total amount spent during a **fiscal year** shall not exceed the amount authorized by Town Meeting on or before July 1 of that **fiscal year**, or any increased amount of that authorization that is later approved during that **fiscal year** by the select board and Finance Committee.

## **5-2 School Committee Budget**

### **The following taken from FY23 Preliminary Draft Budget Recommendation from District Administration to the Fairhaven School Committee**

BUDGET BY STATE CODES The school department budget is presented in compliance with the state classification system. This classification system enables the Commissioner to determine each school district's actual net school spending in the prior year and the estimated net school spending in the current year from information contained in the End-of-Year Pupil and Financial Report. Each school district shall report the following expenditures in the annual Department of Education End-of-Year Pupil and Financial Report in accordance with G.L. c. 72, s.3. The following State Codes are utilized in the FY23 Budget Proposal: 1000 ADMINISTRATION: Activities which have as their purpose the general direction, execution, and control of the affairs of the school district that are system wide and not confined to one school, subject, or narrow phase of school activity. 2000 INSTRUCTIONAL SERVICES: Instructional activities involving the teaching of students, supervising of staff, and developing and utilizing curriculum materials and related services. 3000 OTHER SCHOOL SERVICES: Services other than instructional provided for students. 4000 OPERATION and MAINTENANCE OF PLANT: Housekeeping activities relating to the physical plant and maintenance activities for grounds, buildings, and equipment. 5000 FIXED CHARGES: Retirement and insurance programs, rental of land and buildings, debt service for current loans, and other recurring items, which are not generally provided for under another function. 9000 PROGRAMS WITH OTHER SCHOOL DISTRICTS: Transfers of payments to other school districts or to non-public schools for services provided to students residing in the sending city or town. The state code classification system specifies the criteria for reporting functional categories of expenditures and gives the specific items, which should be reported under these categories. Thus, the following presentation of our FY23 Fairhaven Public School District Budget is presented in compliance with the state classification system. We present our budget



that is in alignment with the annual Department of Education End-of-Year Pupil and Financial Report in accordance with G.L. c. 72, s.3.

**The following information provided by Nicole Potter School Business Administrator**

The FY24 budget is presented utilizing the cost centers of District Leadership and Operations, Teaching and Learning (the Elementary Educational Program, the Secondary Educational Program), and Student Services. Each cost center is presented by utilizing the previously described state code system and its corresponding definition provided by the Department of Education.

The services needed to deliver the educational program to our students are presented in the salary portion of each cost center. The operational portion of each cost center shows the actual expenditures of the previous three years, the budgeted figure for the current year, and the requested figure for FY24.

The figures presented in the salary portion are presented based on the educational program. Each component of the educational program is broken down by school, department/area, the number of personnel in each area, and the total amount of the expenditure to deliver that specific component of the salary budget. The level service projections of contractual obligations for all collective bargaining units for each current employee determines the increase to the FY24 budget figure. We itemize the base salary of every employee, taking into consideration any step increases, lane changes, stipends, known retirements, early retirement incentives and longevity, and any other contractual obligations.

To develop the operational portion of the budget, we continue to use a zero-based philosophy - not a percentage-based increase. This process begins at zero. In November, we meet with the building principals and present them with blank templates regarding dues and fees, supplies and materials, new equipment, equipment replacement, teaching and instructional materials, textbooks and workbooks, and staffing requests. The operational budget development causes building principals to inventory existing items and provides needed resources for our teachers and students.

This FY24 preliminary budget recommendation from the administration to the school committee begins with the overall salary budget summary and the overall operational budget summary. The details of each cost center and educational program that comprise these summary documents are presented throughout the remainder of the document.

### **5-3 Submission of Proposed Town Budget**

§ A502-6Town Administrator. Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

#### SECTION 1.

The board of selectmen shall:

(f) Review and advise the board of selectmen on all warrants for the payment of town funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.

g) review the annual proposed budget submitted by the town administrator and make recommendations with respect to the annual proposed budget as the board deems advisable; provided, however, that the town administrator shall present the budget to the town meeting, incorporating the recommendations of the board of selectmen;

(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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

### **Finance Committee**

#### **§ 33-7 Annual report.**

The Finance Committee shall, annually, not later than one week prior to the time fixed for the Annual Town Meeting, prepare and publish for the benefit of Town Meeting members and voters and distribute to the same its recommendations as to the several articles on the warrant coming under its jurisdiction, and the amounts required to be appropriated to cover the expenditures of the various departments of the town for the next fiscal year. It shall also report, in detail, the amounts of maturing bonds or notes and the amount required for interest or other outstanding indebtedness of the town. It shall also at the same time prepare and publish a comparative statement, in parallel columns, of each department of funds and the expenditures thereof for the previous two years. It shall at the same time report and publish estimates of revenues from all sources, as far as possible, with the probable amount to be levied and raised by taxation to defray the expenses and liabilities of the town for the next ensuing fiscal year

## **5-4 Budget Message**

§ 40-4 Report of anticipated capital outlays to **Committee**.

Code/Ch 40: Capital Planning Committee

By October 15 of each year, each department, board, **committee** and commission shall provide to the **Committee** information concerning all anticipated capital outlays requiring Town Meeting appropriation for the ensuing five-year period.

## **5-5 Proposed Budget**

### **Finance Committee**

#### **§ 33-3 Duties.**

[Amended 2-29-1936 ATM by Art. 43]

The duties of the Finance Committee shall be to thoroughly investigate all articles on the warrant for the Annual and Special Town Meetings that call for appropriations of money for town purposes and also all articles that in any way may affect the finances of the town, and shall report in writing to the Town Meeting members its recommendations thereto.

S 37-1 Director of Finance; Divisions.

There shall be a Department of Finance which will be under the direction of the Director of Finance. The Department of Finance shall provide personnel and equipment to the offices of the Treasurer, Board of Assessors, Town Accountant, Town Collector and Purchasing Officer, which shall be the Divisions of the Department of Finance. The Director of Finance will coordinate the activities of the various Divisions of the Department of Finance and, subject to applicable law, shall supervise the operation of those Divisions

S 37-2 The Director of Finance shall be responsible for the operation of the Finance Department including the Divisions of Accounting, Collection, Assessing, Treasury and Purchasing. The Director of Finance shall be responsible for assisting the Town Administrator in the preparation of the budget and the long-range strategic financial plan. The Director of Finance shall be responsible for planning and implementing the computerization of the financial records of the Town.

[Amended 5-7-2016 ATM by Art. 36]

#### **§ 37-1.1 Role of Director of Finance.**

[Added 5-4-2013 STM by Art. 5]

The Director of Finance shall act as treasurer and collector

In addition to those duties otherwise established by law, the specific duties and qualifications of the Director of Finance shall be as follows:

(1)

The Director of Finance shall be responsible for the operation of the Finance Department including the Divisions of Accounting, Collection, Assessing, Treasury and Purchasing. The Director of Finance shall be responsible for assisting the Town Administrator in the preparation of the budget and the long-range strategic financial plan. The Director of Finance shall be responsible for planning and implementing the computerization of the financial records of the Town.

[Amended 5-7-2016 ATM by Art. 36]

## **5-6 Progression of Proposed Budget**

### **Use of Revolving Accounts**

#### S2-2 Purpose

This part establishes and authorizes revolving funds for use by Town departments, boards, committees, agencies or officers in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E 1/2.

The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the select board and Finance Committee

#### S 2-3 Expenditure Limitations

A department or agency head, board, committee or officer may incur liabilities against and spend monies from a revolving fund established and authorized by this part without appropriation subject to the following limitations:

##### **A.**

Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund (except for those employed as school bus drivers).

##### **B.**

No liability shall be incurred in excess of the available balance of the fund.

##### **C.**

The total amount spent during a fiscal year shall not exceed the amount authorized by Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the select board and Finance Committee.

## **5-7 Financial Public Records**

### 2-5 Procedures and Reports

Except as provided in MGL c. 44, § 53E 1/2, and this part, the laws, charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this part. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board, committee, agency or officer on appropriations made for its use.

## **5-8 Approval of Financial Warrants**

### **§ A502-2 Limited Town Meetings**

Section 5. The articles in the warrant for every Town meeting, so far as they relate to the election of the Town officers, Town meeting members, and, as herein provided, to referenda and all matters to be acted upon and determined by ballot of the town, shall be acted upon and determined by the voters in their respective meetings by precinct. All other articles in the warrant for any Town meeting, beginning with the elected, shall be acted upon and determined exclusively by Town meeting members at a meeting to be held at such time and place as shall be set forth by the selectmen in the warrant for the meeting, subject to the referendum provided for by section eight.

## **Article VI- Administrative Organization**

### **6-1 Bylaws (pages 1-5)**

**6-2 Municipal Departments (pages 6-19. I included anything referring to what may or may not be a municipal department to be on the safe side.)**

### **6-3 Personnel Organization Plan (pages 10-22)**

## **ARTICLE VI**

### **6-1 Bylaws**

## **(Excerpts from the Fairhaven bylaws on bylaws)**

### **§ 1-1 The recodification of bylaws.**

The bylaws of the Town of Fairhaven are hereby recodified. This recodification does not affect the continued application of the substantive provisions of those bylaws previously in effect, except where those substantive provisions have been expressly or clearly amended by this recodification.

[1]

*Editor's Note: The bylaws as they appear in this Code were accepted by vote of the Special Town Meeting on May 3, 1997, under Article 13. A copy of said Article 13 is on file in the office of the Town Clerk.*

### **§ 1-2 Violations and penalties.**

[Amended 5-2-1992 ATM by Art. 14]

The penalty for any violation of these bylaws, when not otherwise provided for by Town bylaws, shall be the forfeiture and payment of a fine not exceeding \$100 to be paid into the Town treasury and credited to the surplus account.

### **§ 1-3 Amendments.**

These bylaws may be amended or repealed at any Town meeting if passed by the members present and voting.

### **§ 1-4 When effective.**

These bylaws shall take effect upon approval and publication in the manner required by law.

### **§ 1-5 Prosecution for offenses.**

Except when otherwise provided by law, prosecution for offenses under the bylaws of the Town may be made by any constable or police officer of the Town.

### **§ 1-6 Noncriminal disposition of violations.**

[Added 5-2-1992 ATM by Art. 14 (Ch. XXXV of the 1934 Bylaws); amended 5-7-1994 STM by Art. 18 (Ch. XXXVII of the 1934 Bylaws)]

**A.**

Any person taking cognizance of a violation of any of the specific bylaws, rules or regulations set forth in Subsection **D** which he or she is empowered to enforce, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the Clerk of the District Court at any time during office hours, not later than 21 days after the date of such notice, for noncriminal disposition of the violation, pursuant to MGL c. 40, § 21D. The following infractions may be subject to noncriminal disposition pursuant to the civil infraction procedure:

**1)** Any violation of an order of the Board of Health relating to public health which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Sanitary Code or other state regulations or any bylaw, rule or regulation;

**2)** Any violation of an order of a Town building official relating to public safety which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Building Code or other state regulations or any bylaw, rule or regulation;

**3)** Any violation of an order of a Town fire official relating to public safety which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Fire Prevention Code or other state regulations or any bylaw, rule or regulation; or

**4)** Any violation of any other bylaw or any rule or regulation of any Town officer, board or department.

**B.**

The civil assessment for each infraction subjected to noncriminal disposition shall be \$300 unless a lesser amount is otherwise provided for in these bylaws.

**C.**

Any assessment collected pursuant to noncriminal disposition shall be paid into the Town treasury unless otherwise directed by these bylaws.

**D.**

In addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this section, the following officers of the Town shall be enforcing persons with respect to the following enumerated bylaws, rules and regulations. The penalties set forth shall apply to a violation of each of the enumerated bylaws, rules and regulations.

**1) Board of Health rules and regulations, Chapters 401 through 491:**

[Amended 5-1-1999 ATM by Art. 17]

**a) Enforcing person(s):** Board of Health, Health Agent and designated agents of the Board of Health.

**b) Fine:** \$100 for the first offense, \$200 for the second offense and \$300 for the third and subsequent offenses.

**(2) Waterways regulations of the Select Board:**

[Amended 5-3-2008 ATM by Art. 45; 6-14-2021 ATM by Art. 31; 6-14-2021 ATM by Art. 46]

**a) Enforcing person:** Harbormaster, Assistant Harbormaster, Shellfish Deputies.

**b) First offense:** \$50 and/or suspension of license or permit for 30 days; second offense: \$100 and/or suspension of license or permit for 60 days; third offense: \$150 and/or suspension of license or permit for 30 days; persons caught fishing in a posted area: \$200.

**(3) Zoning bylaws, Articles I through IV of Chapter 198:**

**a) Enforcing person:** Building Commissioner.

**b) Fine:** \$50 per offense.

**(4) Recycling bylaw (Chapter 164, Part 2):**

**a) Enforcing person:** Health Agent.



**b)** Fine: \$25 per offense.

**(5)** Driveway and Sidewalk Construction bylaw (Chapter **169**, Part **4**):

[Added 6-7-2003 ATM by Art. 12; amended 10-29-2008 STM by Art. 11]

**a)** Enforcing person: Superintendent of Public Works, or his designee.

**b)** Fine: \$100 for each offense, except performing, or allowing unlicensed contractors to perform, work shall be \$300 for each offense.

**(6)** Water bylaw (Chapter **187**):

[Added 6-7-2003 ATM by Art. 11]

**a)** Enforcing person: Public Works Superintendent, or his designated agents.

**b)** Fine: \$50 first offense; \$100 for second and subsequent violations.

**(7)** Alcoholic beverages (Chapter **83**):

[Added 2-11-2004 STM by Art. 21]

**a)** Enforcing person: Police Officer, or his or her designated agents.

**b)** Fine: \$100 per offense.

**(8)** Fire prevention and protection (Chapter **122**).

[Added 10-18-2005 STM by Art. 10]

**a)** Enforcing person(s): Fire Chief and his/her designee.

**b)** Fines: \$100 per offense.

**(9)** Vehicles and traffic.

[Added 5-3-2008 ATM by Art. 46]

**a)** Enforcing person(s): police officer, or his or her designated agents.

**b)** Fines: \$20 for each offense. Each day that any violation continues shall constitute a separate offense.<sup>1</sup>

*Editor's Note: Former Subsection D(10), regarding waterway user fees, and Subsection D(11), regarding waterways, moorings, and boat usage, which immediately followed, were repealed 6-14-2021 ATM by Art. 31.*

**(10) Wetlands (Chapter 192).**

[Added 6-18-2022 ATM by Art. 32]

**a)** Enforcing person(s): the Chair of the Conservation Commission or the Commission's agent and/or as designated by the Conservation Commission.

**b)** Fines: \$300 for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

**§ 1-7 Maintenance of bylaws.**

[Added 5-6-1998 ATM by Art. 7]

**A.**

The Town Clerk shall maintain one volume of the Town bylaws as recodified by Annual Town Meeting on May 3, 1997, and with it shall keep all subsequent amendments and additions to the bylaw in the form originally adopted by Town Meeting along with a record of the vote taken and of approval by the Attorney General, if applicable.

**B.**

The Town Clerk shall acquire sufficient copies of the Town bylaws for distribution to the various Town agencies and officers. Those copies shall remain the property of the Town and shall be numbered and a record kept by the Town Clerk of the agency or officer having possession of each copy. The Town Clerk shall, from time to time, and in any event at least annually, amend those copies in her possession to reflect amendments and additions to the bylaw and shall provide copies of those amendments and additions to each agency or officer having possession of a copy of the bylaws. The copies of the bylaws shall not otherwise be altered except with the express permission or direction of the Town Clerk. Upon termination from his position, a public officer having possession of a copy of the bylaw shall return it to the Town Clerk.

**C.**

The Town Clerk may include in the codified bylaws policies, rules and regulations enacted by the various Town agencies or officers, as well as the text of special legislation applicable to the Town, a list of legislation accepted by vote of the Town, a list of the designated special municipal employees, and such other information as the Clerk deems appropriate from time to time. Town agencies and officers who enact or amend any such policy, rule, regulation or list shall submit the text of that enactment to the Town Clerk for inclusion in the codification.

**ARTICLE VI**

**6-2 Municipal Departments**

**Excerpt from the Fairhaven by laws on Municipal Depts (those included or mentioned on Org Chart)**

**Department of Finance**

Department of Finance which will be under the direction of the Director of Finance. The Department of Finance shall provide personnel and equipment to the offices of the Treasurer, Board of Assessors, Town Accountant, Town Collector and Purchasing

Officer, which shall be the Divisions of the Department of Finance. The Director of Finance will coordinate the activities of the various Divisions of the Department of Finance and, subject to applicable law, shall supervise the operation of those Divisions.

**§ 37-1 Director of Finance; Divisions.**

There shall be a

**§ 37-1.1 Role of Director of Finance.**

[Added 5-4-2013 STM by Art. 5]

The Director of Finance shall act as treasurer and collector.

**§ 37-2 Appointment of Director; duties and qualifications.**

**A.**

The Director of Finance shall be appointed by the Select Board for a term of one to three years and may be removed at its discretion. The Director of Finance shall be sworn to the faithful performance of his/her duties. During the time that he/she holds office, he/she shall hold no elective Town office, but he/she may be appointed by the Select Board or, with its approval, by any other Town officer, board, committee or commission to any other Town office or position consistent with the office. He/she shall receive such aggregate compensation, not exceeding the amount appropriated therefor, as the Select Board may determine. He/she shall act by and for the Select Board in any matter which it may assign to him/her relating to the administration of the financial affairs of the Town or of any Town office or department under its supervision and control or, with the approval of the Select Board, may perform such other duties as may be requested of him/her by any other Town officer, board, committee or commission.

[Amended 6-14-2021 ATM by Art. 46]

**B.**

In addition to those duties otherwise established by law, the specific duties and qualifications of the Director of Finance shall be as follows:

**(1)**

The Director of Finance shall be responsible for the operation of the Finance Department including the Divisions of Accounting, Collection, Assessing, Treasury and Purchasing. The Director of Finance shall be responsible for assisting the Town Administrator in the preparation of the budget and the long-range strategic financial plan. The Director of Finance shall be responsible for planning and implementing the computerization of the financial records of the Town.

[Amended 5-7-2016 ATM by Art. 36]

**(2)**

The Director of Finance shall be professionally qualified for the position in terms of training and experience.

**(3)**

He/she shall have a bachelor's degree in business or public administration or a related field. A master's degree and a CPA are desirable.

**(4)**

He/she shall have a minimum of eight years of experience in public or private sector financial management, at least half of which shall be in a supervisory position, and shall have knowledge of computers, accounting and budgeting.

**(5)**

He/she shall have a demonstrated ability to work diplomatically with citizens and employees and shall be able to be bonded.

**C.**

The Select Board may from time to time vary the duties and qualifications of the Director of Finance if it finds that such variance is in the best interest of the Town and does not derogate from the intent of the bylaws and is not otherwise contrary to law.

[Amended 6-14-2021 ATM by Art. 46]

**§ 37-3 Board of Assessors.**

[Amended 5-3-2008 STM by Art. 30]

**A.**

The Board of Assessors shall consist of three members, appointed by the Select Board to serve on a part-time basis for a term of three years.

[Amended 6-14-2021 ATM by Art. 46]

**B.**

A member of said Board of Assessors serving on the effective date of this section shall continue to serve for the balance of the term for which he/she was appointed.

**C.**

The members of the Board of Assessors shall be responsible for hearing appeals and deciding abatements. The Select Board may from time to time vary the duties and qualifications of the members of the Board of Assessors if it finds that such variance is in the best interest of the Town and does not derogate from the intent of the bylaws and is not otherwise contrary to law.

[Amended 6-14-2021 ATM by Art. 46]

**§ 37-4 Division of Purchasing; Purchasing Officer.**

**A.**

There shall be a Division of Purchasing within the Department of Finance, which division shall be under the direction of a Purchasing Officer. The Purchasing Officer shall be appointed by the Select Board for a term of one to three years and may be removed at its discretion. He/she shall be sworn to the faithful performance of his/her duties. He/she may be appointed by the Select Board or, with its approval by another Town officer, board, committee or commission, to any other Town office or position consistent with his/her office. He/she shall receive such aggregate compensation, not exceeding the amount appropriated therefor, as the Select Board may determine.

[Amended 6-14-2021 ATM by Art. 46]

**B.**

The Purchasing Officer, under the general direction of the Treasurer, shall be responsible for the operation of the Purchasing Division. The duties shall include central purchasing, contract administration, risk management and inventory control.

**C.**

The Purchasing Officer shall be qualified for the position in terms of education and training. He/she shall have an associate of arts degree in business or a related field. A bachelor's degree would be preferred. He/she shall have a minimum of five years of experience doing administrative work in the private or public sector, preferably in the areas of purchasing, contract administration or risk management, with the knowledge of computers desirable. He/she shall have a demonstrated ability to work diplomatically with the public, vendors and employees.

**D.**

The Select Board may vary the duties and qualifications of the Purchasing Officer if it finds such variance is in the best interest of the Town and does not derogate from the intent of the bylaws and is not otherwise contrary to law.

[Amended 6-14-2021 ATM by Art. 46]

**A502-6Town Administrator.**

**AN ACT ESTABLISHING THE POSITION OF TOWN ADMINISTRATOR IN  
THE TOWN OF FAIRHAVEN.**

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

SECTION 1. The executive powers of the town of Fairhaven shall be vested in the board of selectmen, who shall have all the powers given to boards of selectmen by the General Laws, except for those executive powers granted to the town administrator.

The board of selectmen shall serve as the chief goal-setting and policy-making agency of the town of Fairhaven. The duties and responsibilities for day-to-day management of the town shall be delegated to the town

administrator. The board shall act through the adoption of policy directives and guidelines which shall be implemented by the town administrator and the officers and employees appointed by, or under the authority of, the board. Individual selectmen shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board.

The board of selectmen shall:

- (a) enact rules and regulations to implement policies and to issue interpretations;
- (b) exercise, through the town administrator, general supervision over all matters affecting the interests or welfare of the town;
- (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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]
- (d) have general administrative oversight of such boards, committees and commissions appointed by the board of selectmen;
- (e) have the responsibility and authority for licenses and other quasi-judicial functions as provided by the General Laws and by the by-laws of the town of Fairhaven;
- (f) issue all town meeting warrants;



(g) review the annual proposed budget submitted by the town administrator and make recommendations with respect to the annual proposed budget as the board deems advisable; provided, however, that the town administrator shall present the budget to the town meeting, incorporating the recommendations of the board of selectmen;

(h) appoint, and may re-appoint, and enter into a contract for the employment of a town administrator for a term of not more than 3 years, who shall be a person with executive and administrative qualifications and especially fitted by education, training and experience to perform the duties of the office; provided, that the town may from time to time, by by-law, establish such additional qualifications as it deems necessary and appropriate;

(i) remove the town administrator at any time, for just cause following a formal procedure including a written intent to dismiss, a written response and a public hearing, to be completed within 30 days after the issuance of a written intent to dismiss, in accordance with the terms of the town administrator's contract;

(j) set the compensation for the town administrator, not to exceed an amount appropriated by the town meeting; and

(k) designate a qualified person as acting town administrator to perform the duties of the office during any vacancy exceeding 30 days, caused by the town administrator's absence, illness, suspension, removal or resignation; provided, that the appointment of an acting town administrator shall be for a period not to exceed 180 days.

SECTION 2. The town administrator shall be the chief administrative officer of the town of Fairhaven and shall act as the agent for the board of selectmen.

The town administrator shall be responsible to the board of selectmen for coordinating and administering all town affairs under the jurisdiction of the board of selectmen.

The town administrator's powers and duties shall include those outlined in subsections (a) to (aa), inclusive.

- (a) Consult and advise the board of selectmen regarding its policies and implement those policies.
- (b) Attend all meetings of the board of selectmen, except when excused, and consult with and advise the board of selectmen on all matters that come before the board.
- (c) Attend all town meetings and advise the town meeting on all warrant articles within the jurisdiction of the board of selectmen.
- (d) Attend all finance committee meetings, except when excused by the board of selectmen, and keep the finance committee informed on all matters under the jurisdiction of the town administrator that come before the committee.
- (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 or the public works department. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(f) Review and advise the board of selectmen on all warrants for the payment of town funds as prepared by the town accountant in accordance with section 56 of chapter 41 of the General Laws.

(g) Except with respect to the school department, and except with respect to the hiring and firing of employees within 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.

[Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(h) Administer the town's insurance policies, including the ability to settle claims; provided, however, that all insurance contracts and claims settlements shall receive the approval of the board of selectmen.

(i) With the approval of the board of selectmen, appoint and remove all department heads under the direct control of the town administrator. Each department head, with the approval of the town administrator, shall appoint and remove all department staff within their respective departments. All appointments shall be based entirely on merit and fitness. All appointments

and terminations shall be conducted in accordance with the General Laws, personnel policies, by-laws of the town of Fairhaven and any applicable employment contracts; provided, that fire department appointments shall also be subject to section 42 of chapter 48 of the General Laws.

(j) With the approval of the board of selectmen, reorganize any departmental structures under the jurisdiction of the town administrator.

(k) With the approval of the board of selectmen, negotiate all collective bargaining agreements on behalf of the town, except for the school department. In collective bargaining negotiations with unions representing employees in the public works department, the town will be represented by the town administrator, the superintendent of public works and a member of the board of public works. 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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(l) With the approval of the board of selectmen, establish compensation packages for all town employees under the jurisdiction of the town administrator, not subject to a collective bargaining agreement. Such compensation shall not exceed the amount appropriated therefor by town meeting and shall be subject to all applicable laws and by-laws.

(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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]

(n) Report on the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the necessary tax rate.

(o) Establish calendar dates by which the proposed budget, revenue statement and tax rate estimate are to be submitted to the board of selectmen.

(p) Submit annually to the board of selectmen a 5-year capital improvements program, or the same as approved by a formal capital planning committee, to include: (i) a list of all capital improvements and supporting data proposed to be undertaken during the next 5 years; (ii) cost estimates, methods of

financing and recommended time schedule; and (iii) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

(q) Advise the board of selectmen at least monthly, of all departmental year-to-date revenues.

(r) Direct action as deemed necessary to ensure that all operating and capital budgets under the direct control of the town administrator are maintained in accordance with the town meeting vote that approved those budgets and coordinate efforts with the governing bodies of those departments not under the direct supervision of the town administrator to ensure that those operating and capital budgets are maintained in accordance with the town meeting vote that approved those budgets.

(s) Keep and complete records of the office of the town administrator and annually submit to the board of selectmen, unless requested to do so more frequently, a full report of the operations of the office.

(t) Be responsible for coordination of operational and strategic planning for the town.

(u) Serve as the procurement officer for the town, establish and enforce procurement policies and guidelines in accordance with applicable state laws.

(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. [Amended by  
Ch. 269, Acts of 2020, approved 1-6-2021]

- (w) Prepare the application of all town warrants for approval by the board of selectmen.
  
- (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. [Amended by Ch. 269, Acts of 2020, approved 1-6-2021]
  
- (y) Delegate and direct any qualified town official or employee to carry out any duty that is within the authority of the town administrator.
  
- (z) During a temporary absence, with the approval of the board of selectmen, the town administrator may designate a qualified administrative employee or officer to exercise the powers and perform the duties of the town administrator.
  
- (aa) Perform any other duties or tasks assigned by the board of selectmen, assigned by the town meeting or mandated by applicable state law.

SECTION 3. The town administrator of the town of Fairhaven shall have access to all municipal books, papers and documents or information necessary for the proper performance of the duties of the town administrator. The town administrator may, without notice, cause the affairs of any division or department

under the town administrator's supervision, or the conduct of any officer or employee thereof, to be examined.

SECTION 4. All laws, by-laws, votes, rules and regulations, whether enacted by authority of the town of Fairhaven or any other authority, which are in force in the town on the effective date of this act, not inconsistent with this act, shall continue in full force and effect.

SECTION 5. No contract existing, and no action at law or suit in equity, or other proceeding pending, on the effective date of this act shall be affected by this act.

SECTION 6. The town of Fairhaven shall be governed by this act. To the extent that this act modified or repeals existing General Laws and special acts or the by-laws of the Town of Fairhaven, this act shall govern.

SECTION 7. This act shall not impair the rights or obligations of any person holding a town office, or employed by the town, on its effective date, except those duties assigned by this act to another officer or employer, and except those duties which are subsequently assigned to another officer or employee pursuant to this act. No person who continues in the permanent full-time service or employment of the town shall forfeit their pay, grade or time in service as a result of this act.

SECTION 8. This act shall take effect upon its acceptance by the town of Fairhaven by a vote at the town meeting.

## **Council on Aging**

### **§ 16-1 Establishment.**



A Council on Aging as authorized by Chapter **495** of the Acts of 1956<sup>1</sup> as amended is hereby established.

[1]

*Editor's Note: See MGL c. 40, § 8B.*

§ 16-2**Title.**

The name of the Council shall be the Fairhaven Council on Aging.

§ 16-3**Appointment of members; terms.**

[Amended 1-26-1977 STM by Art. 21; 5-6-1980 ATM by Art. 23; 6-14-2021 ATM by Art.

46]

The Council shall consist of seven members appointed by the Select Board. The initial Council appointed after the acceptance of this amendment shall consist of three members appointed for terms of three years; two members appointed for terms of two years; and two members appointed for terms of one year. Thereafter, when the term of any member expires, his or her successor shall be appointed for a term of three years. In all cases, the members of the Council shall serve until their successors are qualified.

## **Conservation Commission**

§ 8-1 **Membership; election of officers.**

[Amended 6-14-2021 ATM by Art. 46]

There shall be a Conservation Commission consisting of seven members appointed by the Select Board and who may be removed by said Board pursuant to the provisions of MGL c. 40, § 8C. The Commission shall elect by majority vote from among the members a Chair and a Co-Chair, each for a term of one year.

§ 8-2 **Duties and authorities.**

The Conservation Commission shall have the duties and authorities as set forth in MGL c. 40, § 8C, and any other applicable law or regulation, and without intending to limit those duties and authorities thereby created, it shall also be the duty of the Conservation Commission to:

**A.**

Advise other officers and agencies of the town, if so requested by any such officer or agency, in the use of land owned or controlled by the town.

**B.**

Administer the provisions of Chapter 192, Wetlands.

**§ 220-1**

List of special municipal employees.

The following list of special municipal employees was approved by the Board of Selectmen 1-17-1989. Amendments noted where applicable.

Board of Appeals

Planning Board

School Committee

Inspector of Wires

Sealer of Weights and Measures

Inspector of Petroleum

Tree Warden

Town Moderator

Finance Committee

Board of Health

Milk Inspector

Registrars of Voters

Safety Council

Call Firemen

Call or Spare Policemen

Board of Fire Engineers

Civil Defense

Commissioner of Trust Funds

Plumbing Inspector

Moth Superintendent

Public Weighers

Field Driver and Pound Keeper

Measurer of Wood and Bark

Shellfish Advisory Board  
School Dentist  
Sanitary Inspector  
Natural Resource Officers  
Board of Retirement  
Fence Viewer  
Town Forest Committee  
Library Trustees  
Council on Aging members  
Board of Public Works  
Historical Commission  
Industrial Development Financing Authority  
Southeast Regional Transit Authority Advisory Board  
Joint Transportation Planning Group of the Southeast Regional Planning and Economic  
Development District  
Delegates to the Southeast Regional Planning and Economic Development District  
Affirmative Action Officer  
Civil Service Director  
Conservation Commission  
Data Processing Advisory Board  
Lottery Arts Council  
Veterans Burial Agent  
New Bedford/Fairhaven Harbor Commission  
Personnel Board  
Recreation Commission  
New Bedford/Fairhaven Harbor Master Planning Committee  
Tourism Committee  
Fair Housing Coordinator  
Affordable Housing Committee  
Mattapoisett River Water Supply Protection Advisory Committee  
Consultant to the Fairhaven Conservation Commission

[7-27-19896]

Director of Veterans Services

[5-13-1996]

Veterans Agent

[5-13-1996]

Tourism Director

[5-13-1996]

Fairhaven High School Building Committee

[7-11-1994]

Cable Television Committee

[8-5-1996]

Greater New Bedford Regional Vocational Technical High School, School Committee

[6-6-2002]

Conservation Agent

[3-3-2003]

Conservation Commission Secretary

[4-7-2003]

Board of Appeals Secretary

[4-7-2003]

Coalition for Buzzards Bay Attorney

[Added 7-25-2005]

Planning and Economic Development Department Attorney

[Added 1-18-2011]

Greater New Bedford Regional Vocational Technical High School (RVT) Attorney

[Added 4-25-2011]

Town Government Study Committee

## **ARTICLE VI**

### **6-3 Personnel Organization Plan.**

§ 61-1 Purpose and authorization.

The purpose of this chapter is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This chapter is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth, MGL c. 41, §§ 108A and 108C, and Chapter 381 of the Acts of 2014, An Act Establishing the Position of Town Administrator in the Town Of Fairhaven.

**§ 61-2Applicability.**

[Amended 6-14-2021 ATM by Art. 46]

All departments and positions shall be subject to the provisions of this chapter, except elected officers, employees of the School Department, and any other employee who is excluded by law. Notwithstanding anything contained herein to the contrary, the Town Administrator shall not be subject to the provisions of this chapter. Any department head may be exempted from the provisions of this chapter upon recommendation by the Town Administrator and vote of the Select Board. Any such exemption shall take effect upon the adoption of an employment contract between the Town and the department head. If there is a conflict between this chapter or any plans, policies, rules or regulations promulgated pursuant to this chapter and an approved collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.

**§ 61-3Human Resources Director.**

[Amended 6-14-2021 ATM by Art. 46]

With the approval of the Select Board, the Town Administrator shall appoint a Human Resources Director who by experience and education is qualified to administer this chapter and any plans, policies, rules or regulations promulgated pursuant to this chapter.

**§ 61-4Personnel system.**

A personnel system shall be established by the promulgation of policies pursuant to § **61-5**. The personnel system shall make use of modern concepts of personnel management and shall include but not be limited to the following elements:

**A.**

Method of administration. A system of administration will be incorporated which assigns specific responsibilities for all elements of the personnel system, including maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews and evaluation of the personnel system.

**B.**

Classification plan. A position classification plan for all employees subject to this chapter shall be established, based on similarity of duties performed and the responsibilities assumed, so that the same qualifications may be reasonably required for and the same schedule of pay may be equitably applied to all positions in the same class. No employee may be appointed to a position not included in the classification plan.

**C.**

Compensation plan. A compensation plan for all positions subject to this chapter shall consist of a schedule of pay grades, which may include minimum, maximum and intermediate rates for each grade; an official list indicating the assignment of each position to specific pay grades; and vacations, holidays, sick leave, other leave and all other benefits, provided that the payment of such wages and benefits may not exceed the amount appropriated, or otherwise made lawfully available, therefor.

**D.**

Recruitment and selection policy. A recruitment, employment, promotion and transfer policy shall be established to ensure that reasonable effort is made to attract qualified persons and that selection criteria are job related.

**E.**

Personnel records. A centralized personnel recordkeeping system shall be established to maintain essential personnel records.

**F.**

Equal opportunity. The Town shall provide equal opportunity in employment without discrimination based upon race, color, religion, national origin, sex or age, or as otherwise prohibited by law.

**§ 61-5 Adoption and amendment of policies and plans.**

[Amended 6-14-2021 ATM by Art. 46]

The Town Administrator, with approval of the Select Board, shall promulgate personnel policies and plans defining the rights, benefits and obligations of employees subject to this chapter. Policies and plans shall be adopted or amended as follows:

**A.**

Preparation of policies and classification and compensation plans. The Town Administrator shall prepare or amend policies and plans with the approval of the Select Board. Any member of the Select Board, any administrative authority, or any three persons may suggest amendments for consideration by the Town Administrator. The Town Administrator need not consider any proposal already considered in the preceding six months. All new proposals or amendments shall be submitted to the Town Administrator in writing. The Town Administrator shall hold a public hearing on any proposed policies or amendments. Any proposed policy or plan or amendment thereto shall be posted at least five days prior to the public hearing in prominent work locations. Copies of proposals shall be provided to representatives of each employee collective bargaining unit and a copy shall be filed with the Select Board.

**B.**

Public hearing. The Town Administrator shall present the proposed policies or amendments, the purpose of the proposal and the implications of any proposed change at the public hearing. Any person may attend the hearing, speak and present information. Within 20 days after the public hearing, the Town Administrator shall make a determination on the proposed policies and shall recommend that the Select Board adopt the policies or amendments, with or without modifications, reject the policies or amendments or indicate that further study is necessary.

C.

Recommended policies. The Town Administrator shall transmit recommendations, in writing, to the Select Board within 20 days after determination on the proposed recommendations or amendments. The recommendations of the Town Administrator shall contain the text of the policy and any explanation that is deemed necessary. The Select Board may adopt, reject or return the recommendations for further study to the Town Administrator. The Select Board need only act on proposed policies which the Town Administrator has recommended for adoption. Policies shall become effective upon their filing with the Town Clerk following approval by the Select Board, unless some later date is specified.

**§ 61-6 Severability.**

The provisions of this chapter and any policies adopted pursuant to this chapter are severable. If any bylaw or policy provision is held invalid, the remaining provisions of the bylaw or policy shall not be affected.

**§ 61-7 Effective date.**

This chapter is amended to eliminate the Personnel Board and to designate the Town Administrator as the sole authority over the administration of personnel policies, effective as voted at the May 6, 2017, Annual Town Meeting. 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, or 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.



# ARTICLE VII

## General Provisions

### Article VII – General Provisions

#### Section 7-1 Charter Changes

##### Periodic Review Section

“Selectboard shall, in every year which ends in [nine], appoint a committee to review the charter, said committee shall submit a report with recommendations to the first annual town meeting that ends in zero, concerning any proposed amendments/revisions to the charter which it believes to be necessary/desirable. Article become effect in year XXXX.”

##### 7-2 Severability

Any provision in charter is held invalid, other provisions of charter shall not be affected thereby.

##### 7-3 Specific Provisions to Prevail

##### 7-4 Rules and Regulations

##### 7-5 Uniform Procedures

##### Governing Multiple Member Bodies

##### 7-6 Definitions

- 7-7 Notice of Vacancies
- 7-8 Removals & Suspensions

## ARTICLE VIII

### Transitional Provisions

#### **Section 8-1 Continuation of Existing Laws**

All general laws, special laws, Town by-laws, votes, rules and regulations of or pertaining to the Town which are in force when this Charter takes effect and which are not specifically or by clear implication repealed hereby, shall continue in full force and effect until amended, repealed, or rescinded by due course of law or expire by their own limitation.

#### **Section 8-2 Continuation of Government**

All Town agencies shall continue to perform their duties until reappointed, or reelected, or until successors to their respective positions are duly appointed or elected or their duties have been transferred and assumed by another Town agency.

#### **Section 8-3 Continuation of Personnel**

Any person holding a Town office or employment under the Town shall retain such office or employment and shall continue to perform the duties of the office or employment until provision shall have been made, in accordance with the Charter, for the performance of the said duties by another person or agency. No person in the permanent, full-time service of the Town shall, as a result of the

adoption of the Charter, forfeit pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical to do.

#### **Section 8-4 Time of Taking Effect**

The provisions of this Charter shall become effective upon the approval of the voters of the Town voting hereon, except as is hereinafter provided:

1. (a) All persons serving in an elected Town office which, under the provisions of the Charter is to become an appointive office, shall continue to serve and shall continue to perform the duties of the office until the expiration of the term for which they were elected. When such term has expired, the Appointing Authority shall appoint a suitable person to fill the vacancy, giving due consideration to the incumbent whose term has expired.

2. (b) Not more than forty-five (45) days following the election at which the Charter is amended, the Select Board shall appoint a special committee of at least three ( 3) members to review the existing by-laws of the Town, in order to bring them into conformity with the provisions of this Charter. Said committee shall file a report, with recommendations, at the following Town Meeting.

(c) Until such time as another provision is made, by by-law, in accordance with the requirement of Section 2-3, the Fall session of the Town Meeting, known as the Annual Fall Town Meeting, shall be held on the fourth Monday of October, annually.

#### **FAIRHAVEN BYLAWS [As it pertains to the above]**

1. **Chapter 1 General Provisions** – speaks to continuation of existing bylaws and when effective, link below.

· <https://ecode360.com/10398388>

#### **Content:**

· **1-1: Recodification of bylaws.**

The bylaws of the Town of Fairhaven are hereby remodified. This recodification does not affect the continued application of the substantive provisions of those bylaws previously in effect, except where those substantive provisions have been expressly or clearly amended by this recodification.

*Editor's Note: The bylaws as they appear in this Code were accepted by vote of the Special Town Meeting on May 3, 1997, under Article 13. A copy of said Article 13 is on file in the office of the Town Clerk.*

· **1-2: Violation and penalties.**

[Amended 5-2-1992 ATM by Art. 14]

The penalty for any violation of these bylaws, when not otherwise provided for by Town bylaws, shall be the forfeiture and payment of a fine not exceeding \$100 to be paid into the Town treasury and credited to the surplus account.

· **1-3: Amendments.**

These bylaws may be amended or repealed at any Town meeting if passed by the members present and voting.

· **1-4: When effective.**

These bylaws shall take effect upon approval and publication in the manner required by law.

· **1-5: Prosecution for offenses.**

Except when otherwise provided by law, prosecution for offenses under the bylaws of the Town may be made by any constable or police officer of the Town.

· **1-6: Noncriminal disposition of violations.**

[Added 5-2-1992 ATM by Art. 14 (Ch. XXXV of the 1934 Bylaws); amended 5-7-1994 STM by Art. 18 (Ch. XXXVII of the 1934 Bylaws)]

**A.**

Any person taking cognizance of a violation of any of the specific bylaws, rules or regulations set forth in Subsection **D** which he or she is empowered to enforce, as an alternative to initiating criminal proceedings, may give to the offender a written notice to appear before the Clerk of the District Court at any time during office hours, not later than 21 days after the date of such notice, for noncriminal disposition of the violation, pursuant to MGL c. 40, § 21D. The following infractions may be subject to noncriminal disposition pursuant to the civil infraction procedure:

**(1)**

Any violation of an order of the Board of Health relating to public health, which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Sanitary Code or other state regulations or any bylaw, rule or regulation;

**(2)**

Any violation of an order of a Town building official relating to public safety which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Building Code or other state regulations or any bylaw, rule or regulation;

**(3)**

Any violation of an order of a Town fire official relating to public safety which is authorized by the General Laws, any special law applicable to the Town, the provisions of the State Fire Prevention Code or other state regulations or any bylaw, rule or regulation; or

**(4)**

Any violation of any other bylaw or any rule or regulation of any Town officer, board or department.

**B.**

The civil assessment for each infraction subjected to noncriminal disposition shall be \$300 unless a lesser amount is otherwise provided for in these bylaws.

**C.**

Any assessment collected pursuant to noncriminal disposition shall be paid into the Town treasury unless otherwise directed by these bylaws.

**D.**

In addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this section, the following officers of the Town shall be enforcing persons with respect to the following enumerated bylaws, rules and regulations. The penalties set forth shall apply to a violation of each of the enumerated bylaws, rules and regulations.

**(1)**

Board of Health rules and regulations, Chapters **401** through **491**:

[Amended 5-1-1999 ATM by Art. 17]

**(a)**

Enforcing person(s): Board of Health, Health Agent and designated agents of the Board of Health.

**(b)**

Fine: \$100 for the first offense, \$200 for the second offense and \$300 for the third and subsequent offenses.

**(2)**

Waterways regulations of the Select Board:

[Amended 5-3-2008 ATM by Art. 45; 6-14-2021 ATM by Art. 31; 6-14-2021 ATM by Art. 46]

**(a)**

Enforcing person: Harbormaster, Assistant Harbormaster, Shellfish Deputies.

**(b)**

First offense: \$50 and/or suspension of license or permit for 30 days; second offense: \$100 and/or suspension of license or permit for 60 days; third offense: \$150 and/or suspension of license or permit for 30 days; persons caught fishing in a posted area: \$200.

**(3)**

Zoning bylaws, Articles **I** through **IV** of Chapter **198**:

**(a)**

Enforcing person: Building Commissioner.

**(b)**

Fine: \$50 per offense.

**(4)**

Recycling bylaw (Chapter **164**, Part **2**):

**(a)**

Enforcing person: Health Agent.

**(b)**

Fine: \$25 per offense.

**(5)**

Driveway and Sidewalk Construction bylaw (Chapter **169**, Part **4**):

[Added 6-7-2003 ATM by Art. 12; amended 10-29-2008 STM by Art. 11]

**(a)**

Enforcing person: Superintendent of Public Works, or his designee.

**(b)**

Fine: \$100 for each offense, except performing, or allowing unlicensed contractors to perform, work shall be \$300 for each offense.

**(6)**

Water bylaw (Chapter **187**):

[Added 6-7-2003 ATM by Art. 11]

**(a)**

Enforcing person: Public Works Superintendent, or his designated agents.

**(b)**

Fine: \$50 first offense; \$100 for second and subsequent violations.

**(7)**

Alcoholic beverages (Chapter **83**):

[Added 2-11-2004 STM by Art. 21]

**(a)**

Enforcing person: Police Officer, or his or her designated agents.

**(b)**

Fine: \$100 per offense.

**(8)**

Fire prevention and protection (Chapter **122**).

[Added 10-18-2005 STM by Art. 10]

**(a)**

Enforcing person(s): Fire Chief and his/her designee.

**(b)**

Fines: \$100 per offense.

**(9)**

Vehicles and traffic.

[Added 5-3-2008 ATM by Art. 46]

**(a)**

Enforcing person(s): police officer, or his or her designated agents.

**(b)**

Fines: \$20 for each offense. Each day that any violation continues shall constitute a separate offense. **[1]**

**[1]**

*Editor's Note: Former Subsection D(10), regarding waterway user fees, and Subsection D(11), regarding waterways, moorings, and boat usage, which immediately followed, were repealed 6-14-2021 ATM by Art. 31.*

**(10)**

Wetlands (Chapter **192**).

[Added 6-18-2022 ATM by Art. 32]

**(a)**

Enforcing person(s): The Chair of the Conservation Commission or the Commission's agent and/or as designated by the Conservation Commission.

**(b)**

Fines: \$300 for each offense. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, or permit violated shall constitute a separate offense.

**1-7: Maintenance of bylaws.**

[Added 5-6-1998 ATM by Art. 7]

**A.**

The Town Clerk shall maintain one volume of the Town bylaws as recodified by Annual Town Meeting on May 3, 1997, and with it shall keep all subsequent amendments and additions to the bylaw in the form originally adopted by Town Meeting along with a record of the vote taken and of approval by the Attorney General, if applicable.

**B.**

The Town Clerk shall acquire sufficient copies of the Town bylaws for distribution to the various Town agencies and officers. Those copies shall remain the property of the Town and shall be numbered and a record kept by the Town Clerk of the agency or officer having possession of each copy. The Town Clerk shall, from time to time, and in any event at least annually, amend those copies in her possession to reflect amendments and additions to the bylaw and shall provide copies of those amendments and additions to each agency or officer having possession of a copy of the bylaws. The copies of the bylaws shall not otherwise be altered except with the express permission or direction of the Town Clerk. Upon termination from his position, a public officer having possession of a copy of the bylaw shall return it to the Town Clerk.

**C.**

The Town Clerk may include in the codified bylaws policies, rules and regulations enacted by the various Town agencies or officers, as well as the text of special legislation applicable to the Town, a list of legislation accepted by vote of the Town, a list of the designated special municipal employees, and such other information as the Clerk deems appropriate from time to time. Town agencies and officers who enact or amend any such policy, rule, regulation or list shall submit the text of that exactment to the Town Clerk for inclusion in the codification.

2. **Chapter 61 Personnel** – speaks to the governance, personnel and when effective, link below.

<https://ecode360.com/10398586>

**Content:**

**61-1: Purpose and authorization.**

The purpose of this chapter is to establish fair and equitable personnel policies and to establish a system of personnel administration based on merit principles that ensures a uniform, fair and efficient application of personnel policies. This chapter is adopted pursuant to the authority granted by Article LXXXIX of the Constitution of the Commonwealth, MGL c. 41, §§ 108A and 108C, and Chapter 381 of the Acts of 2014, An Act Establishing the Position of Town Administrator in the Town of Fairhaven.

**61-2: Applicability.**

[Amended 6-14-2021 ATM by Art. 46]

All departments and positions shall be subject to the provisions of this chapter, except elected officers, employees of the School Department, and any other employee who is excluded by law. Notwithstanding anything contained herein to the contrary, the Town Administrator shall not be subject to the provisions of this chapter. Any department head may be exempted from the



provisions of this chapter upon recommendation by the Town Administrator and vote of the Select Board. Any such exemption shall take effect upon the adoption of an employment contract between the Town and the department head. If there is a conflict between this chapter or any plans, policies, rules or regulations promulgated pursuant to this chapter and an approved collective bargaining agreement, the provisions of the collective bargaining agreement shall prevail.

**61-3: Human Resources Director.**

[Amended 6-14-2021 ATM by Art. 46]

With the approval of the Select Board, the Town Administrator shall appoint a Human Resources Director who by experience and education is qualified to administer this chapter and any plans, policies, rules or regulations promulgated pursuant to this chapter.

**61-4: Personnel System.**

A personnel system shall be established by the promulgation of policies pursuant to § **61-5**. The personnel system shall make use of modern concepts of personnel management and shall include but not be limited to the following elements:

**A.**

Method of administration. A system of administration will be incorporated which assigns specific responsibilities for all elements of the personnel system, including maintaining personnel records, implementing effective recruitment and selection processes, maintaining the classification and compensation plans, monitoring the application of personnel policies and periodic reviews and evaluation of the personnel system.

**B.**

Classification plan. A position classification plan for all employee's subject to this chapter shall be established, based on similarity of duties performed and the responsibilities assumed, so that the same qualifications may be reasonably required for and the same schedule of pay may be equitably applied to all positions in the same class. No employee may be appointed to a position not included in the classification plan.

**C.**

Compensation plan. A compensation plan for all positions subject to this chapter shall consist of a schedule of pay grades, which may include minimum, maximum and intermediate rates for each grade; an official list indicating the assignment of each position to specific pay grades; and vacations, holidays, sick leave, other leave and all other benefits, provided that the payment of

such wages and benefits may not exceed the amount appropriated, or otherwise made lawfully available, therefor.

**D.**

Recruitment and selection policy. A recruitment, employment, promotion and transfer policy shall be established to ensure that reasonable effort is made to attract qualified persons and that selection criteria are job related.

**E.**

Personnel records. A centralized personnel recordkeeping system shall be established to maintain essential personnel records.

**F.**

Equal opportunity. The Town shall provide equal opportunity in employment without discrimination based upon race, color, religion, national origin, sex or age, or as otherwise prohibited by law.

**61-5: Adoption and amendment of policies and plans.**

[Amended 6-14-2021 ATM by Art. 46]

The Town Administrator, with approval of the Select Board, shall promulgate personnel policies and plans defining the rights, benefits and obligations of employee's subject to this chapter. Policies and plans shall be adopted or amended as follows:

**A.**

Preparation of policies and classification and compensation plans. The Town Administrator shall prepare or amend policies and plans with the approval of the Select Board. Any member of the Select Board, any administrative authority, or any three persons may suggest amendments for consideration by the Town Administrator. The Town Administrator need not consider any proposal already considered in the preceding six months. All new proposals or amendments shall be submitted to the Town Administrator in writing. The Town Administrator shall hold a public hearing on any proposed policies or amendments. Any proposed policy or plan or amendment thereto shall be posted at least five days prior to the public hearing in prominent work locations. Copies of proposals shall be provided to representatives of each employee collective bargaining unit and a copy shall be filed with the Select Board.

**B.**

Public hearing. The Town Administrator shall present the proposed policies or amendments, the purpose of the proposal and the implications of any proposed change at the public hearing. Any person may attend the hearing, speak and present information. Within 20 days after the public hearing, the Town Administrator shall make a determination on the proposed policies and shall

recommend that the Select Board adopt the policies or amendments, with or without modifications, reject the policies or amendments or indicate that further study is necessary.

**C.**

Recommended policies. The Town Administrator shall transmit recommendations, in writing, to the Select Board within 20 days after determination on the proposed recommendations or amendments. The recommendations of the Town Administrator shall contain the text of the policy and any explanation that is deemed necessary. The Select Board may adopt, reject or return the recommendations for further study to the Town Administrator. The Select Board need only act on proposed policies which the Town Administrator has recommended for adoption. Policies shall become effective upon their filing with the Town Clerk following approval by the Select Board, unless some later date is specified.

**61-6: Severability.**

The provisions of this chapter and any policies adopted pursuant to this chapter are severable. If any bylaw or policy provision is held invalid, the remaining provisions of the bylaw or policy shall not be affected.

**61-7: Effective date.**

This chapter is amended to eliminate the Personnel Board and to designate the Town Administrator as the sole authority over the administration of personnel policies, effective as voted at the May 6, 2017, Annual Town Meeting. 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, or 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.