



**FAIRHAVEN SELECT BOARD AGENDA** FAIRHAVEN TOWN CLERK  
*September 18, 2023, 6:30 p.m.* RQUD 2023 SEP 14 PM3:20  
**Town Hall – 40 Center Street – Fairhaven**

The meeting can also be viewed on Channel 18 or on FairhavenTV.com

*On March 24, 2023, the bill to extend Open Meeting Law regulations governing remote participation has passed MA legislation and been signed by the Governor. This bill will allow remote and hybrid meeting options for public bodies through March 31, 2025.*

*Pursuant to an amendment to Town Bylaw Chapter 50 § 13, all government meetings are available through web/video conference and are recorded.*

**A. EXECUTIVE SESSION - JOINT WITH BOARD OF HEALTH**

Pursuant to G.L. c. 30A, § 21(a)(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (6 Evergreen Street)

**B. PUBLIC HEARING – 7:30p.m.**

Application for a repair license at 164 Sconticut Neck Road, Proposed name: Sconticut Neck Auto, LLC

**C. LIQUOR LICENSE REVIEW HEARING**

Fourth and Long, Inc. d/b/a Rasputin's Tavern: Hearing pursuant to G.L. c. 138 § 64, G.L. c. 140 and Fairhaven Bylaws § 204-8(L) and -10: All alcoholic beverages license and common victuallers license

**D. MINUTES**

1. Approve the minutes of September 13, 2023-joint meeting with Finance Committee
2. Approve the Executive Session minutes of August 7, 2023

**E. TOWN ADMINISTRATOR**

1. Staffing Updates
2. David Braga: resignation
3. Planning Board appointment
4. Unipay update
5. Restructuring of Finance Department
6. Short-Term Rentals
7. Revenue Projections

**F. ACTION / DISCUSSION**

1. Board of Health Appointment (joint with BOH)
2. Sewer Borrowing: Lisa Rose
3. Transfer of Restaurant/Liquor License: From Elisabeth's Restaurant to OEA Restaurant Group, Corp. d/b/a Olivia's Restaurant (continued from August 21, 2023)
4. Commission on Disability Appointment
5. Historical Commission Appointment
6. Community Preservation Committee Appointment
7. Committee/Board Fair
8. Use of Town Hall: Manjiro Festival, Saturday, October 7, 2023
9. Fairhaven Turkey Trot, Thursday, November 23, 2023 8a.m.-9:30a.m.
10. Financial Policy Review Committee
11. Select Board Meeting dates: October 2023 and calendar year 2024
12. Meeting Posting Policy Update
13. Broadband Review
14. Bylaw change: Chapter 198 Zoning § 198-26 Sign regulations

**G. CORRESPONDENCE**

**H. COMMITTEE LIAISON REPORTS**

**I. PUBLIC COMMENT**

**J. BOARD MEMBER ITEMS**

**K. NEWS AND ANNOUNCEMENTS**

1. The next regularly scheduled Select Board meeting is *Monday, October 2, 2023* at 6:30 p.m., Town Hall Banquet Room

**ADJOURNMENT**

<https://us06web.zoom.us/j/82597023459>

**Log on or call 1-929-205-6099, Webinar ID: 825 9702 3459, Passcode: 227304**

*Subject matter listed in the agenda consists of items reasonably anticipated (by the Chair) to be discussed.  
Not all items listed may be discussed and other items not listed (such as urgent business not available at the time of posting)  
may also be brought up for discussion in accordance with applicable law.*



# **Executive Session**

**Monday, September 18, 2023**

**Fairhaven Select Board  
Joint with the Board of Health  
6 Evergreen Street**



# **Public Hearing – 7:30p.m.**

**Monday, September 18, 2023**

**Repair License  
Sconticut Neck Auto, LLC  
164 Sconticut Neck Road**

**Applicant: Brian Westgate Jr.**

# Fairhaven Neighborhood News

## Ad proof

Contact Beth David with approval or changes: 508-979-5593 • Fax: 508-991-5580

**PLEASE  
CHECK  
YOUR AD  
CAREFULLY**

**The NeighbNews  
is not responsible  
for any errors  
approved  
by client.**

### **TOWN OF FAIRHAVEN**

The Fairhaven Select Board will hold a Public Hearing on Monday September 18, 2023 at 7:30 PM at the Town Hall, Banquet Room, 40 Center Street, Fairhaven, MA. Purpose for this hearing is to consider approval for an application submitted for a repair license at 164 Sconticut Neck Rd. Fairhaven, MA 02719.

Applicant: Brian Westgate Jr.

New Proposed name: Sconticut Neck Auto LLC

*FAIRHAVEN SELECT BOARD*

*Leon Correy III*

*Charles Murphy*

*Stasia Powers*

*Robert Espindola*

*Keith Silvia*

*FNN: 9/18/23*

One week: 9/14/23

1x1.75", \$35/week



# **Liquor License Review Hearing**

**Monday, September 18, 2023**

**Fourth and Long, Inc. d/b/a Rasputin's Tavern:  
Hearing pursuant to G.L. c. 138 § 64, G.L. c. 140  
and Fairhaven Bylaws § 204-8(L) and -10: All  
alcoholic beverages license and common  
victuallers license.**



## Fairhaven Select Board & Finance Committee Joint Meeting Minutes September 13, 2023

**Select Board Members Present:** Chair Leon Correy, Vice-Chair Charles Murphy Sr., Clerk Stasia Powers, member Keith Silvia and Town Administrator Angie Lopes Ellison

**Finance Committee Members Present:** Chair Pdraic Elliot, Robert Grindrod, Claire Millette, Linda Gallant, Stephen Levesque

**Finance Committee Members Present via zoom:** Pattie Pacella

Mr. Correy called to order the Select Board meeting at 6:34p.m.

Mr. Elliot called to order the Finance Committee meeting at 6:34pm

A moment of silence was observed for Linda Marie Quick, School Superintendent Tara Kohler's mother

### MINUTES

**Select Board Motion:** Mr. Espindola motioned to accept the amended Open Session minutes of August 21, 2023. Ms. Powers seconded. The motion passed unanimously (5-0-0).

**Select Board Motion:** Mr. Espindola motioned to accept the Executive Session minutes of August 21, 2023. Ms. Powers seconded. The motion passed unanimously (5-0-0).

### OPEN MEETING LAW COMPLAINT-SELECT BOARD

Ms. Ellison summarized the Open Meeting Law (OML) complaint received by the Board on August 28, 2023 regarding the timeliness of the Board accepting meeting minutes and actions taken in the office as a result. (*Attachment A*).

**Select Board Motion:** Mr. Espindola motioned to send the Open Meeting Law response letter regarding OML complaint filed on August 28, 2023 as written. Ms. Powers seconded. The motion passed unanimously (5-0-0).

### SPECIAL TOWN MEETING WARRANT

Ms. Ellison explained that a revised draft was printed prior to the meeting and is on the blotters (*Attachment B*) and an additional article from the Community Preservation Committee (CPC) may be added. As other adjustments are made a new draft will be sent and include the date printed for reference. Ms. Ellison outlined the purpose tonight would be to set dates for the next meetings and determine what departments will be asked to attend the next meeting.

Discussion ensued regarding meeting dates, supporting information for articles, source of funds, departments to attend the next meeting, the source of funds and the effect on budget balances. The Select Board and Finance Committee joint meeting dates will be Thursday, September 28, 2023 and Wednesday, October 11, 2023.

Mr. Espindola asked when monthly financial reports with balances will be available. He also asked if Public Works can provide an update on the impact to overall rates with the article for additional funds for the sewer treatment plant. Mr. Grindrod asked for a breakdown of the share Mattapoisett is paying and if Marion is also responsible for a portion. Ms. Ellison advised that the Finance Department is currently certifying free cash and working on the fiscal year turnover. She anticipates an update on Monday, September 18, 2023.

Ms. Ellison reviewed the list of articles in the draft of the Special Town Meeting Warrant (*Attachment B*). Article 7 will be pulled because it was a placeholder and Article 8 has the revised information. Article 12 will be pulled by the Fire Department. Article 18 is a citizen's petition for street acceptance and is in process of being reviewed by Town Departments. An article from CPC may be added to amend the use of funds approved at the June 18, 2022 Annual Town Meeting for the Manjiro House.

Mr. Correy asked everyone to keep the people in Maui, HI and Morocco in their thoughts.

The next joint meeting of the Select Board and the Finance Committee will be on Thursday, September 28, 2023 at 6:30 p.m. at Town Hall.

**Finance Committee adjourned at 7:21 p.m.**

**The Select Board adjourned at 7:21 p.m.**

*Respectfully submitted on behalf of the Select Board Clerk (ah)*

**ATTACHMENTS:**

- A. OML Complaint and Response
- B. Special Town Meeting Warrant – draft 2 dated 9/13/2023

Approved on \_\_, 2023

DRAFT





# **Board of Health Appointment**

**Monday, September 18, 2023**

## **Volunteer Applications**

- **Dr. Barbara Acksen**
- **Brian Meneses**
- **Charlene Holtzman**

# MEMORANDUM

**Full Name:** Dr. Barbara Acksen

**How long have you been a Fairhaven resident?** grew up here

**What Board(s)/Committee(s) are you interested in joining?** Board of Health

**What is your reason for joining?**

Previously served on Board and am a health care professional working long time on public health issues. I have continued to follow BOH

**Have you attended a meeting of this Board or Committee?** No

**Have you (or are you currently) served on any Town of Fairhaven Boards?**

**If so, please indicate what Board and number of years:**

Trust Commission 10 yrs+

Cable Advisory Committee 7 yrs,(chair)

Rogers Reuse Committee full member from onset of committee until 2023 when removed with all associate members.

**Interests and Qualifications:** I have a PhD in psychology with clinical, clinical community, and neuropsychology specialties. I have a background in working with the Public Health Department and have served as clinical director or coordinator for clinics here and in the Boston area. I chaired Greater New Bedford Allies for Health and Wellness CHNA 26, the community Health network for the nine surrounding towns including Fairhaven. GNB Allies coalition of health, human service government and community members who work together to improve health and wellbeing of the area by working together on projects and sharing information and resources. Health and Human service has been my life work. I have also served as a professor of psychology at UMass Lowell, and Dartmouth, Antioch New England Graduate School and Massachusetts School of Psychology, now William James College. Educating the public is central to public health and I believe my long-time teaching is beneficial. I have 50 years of practice in clinical psychology talking with individuals, families groups and organizations about important and sometimes very difficult matters and feelings in their lives, All of this is relevant to serving on the Board. I served previously on the board and am thus familiar with the way it functions and could thus get up to speed quickly. I also have some institutional memory of board functions which predate all the current members including Mr. Flaherty. I noted from viewing some meetings that that might prove helpful. I participated in the interviewing of Mr. Flaherty and other candidates for the position. I was concerned about the Board problems at the time and the necessity to expand the group reviewing candidates so I reached out to offer other options and was chosen myself. On a personal note, I would be proud to complete Heidi Hacking's Term. Heidi was a camper of mine at Camp Massasoit many years ago. She was a terrific youngster and I have been so pleased that she continued as an adult to be committed to others and her community.

# MEMORANDUM

**Full Name:** Brian Meneses

**How long have you been a Fairhaven resident?** 38 YEARS

**What Board(s)/Committee(s) are you interested in joining?**

**What is your reason for joining?** I am interested in joining the Board of Health because I have always been involved with Healthcare since I started working for St. Luke's Hospital as a freshman in college. I have two brothers, sister, brother in law and a sister in law who are all pharmacists as well and my mother was a nurse. The gentleman I own some pharmacies with has been on the Board of Health in Fall River for years, still is, and it always seemed interesting to me.

**Have you attended a meeting of this Board or Committee?** No

**Have you (or are you currently) served on any Town of Fairhaven Boards?**

**If so, please indicate what Board and number of years:** I am not.

**Interests and Qualifications:** I'm the current owner and pharmacist at Fairhaven Pharmacy and graduated from Massachusetts College of Pharmacy in 2009 with a degree of Doctor of Pharmacy. I have always had a interest in my own personal health since I was a child. I've worked at St. Luke's Hospital, Martha's Vineyard Hospital, Cape Cod Community Health Center Pharmacy, Standard Pharmacy, Standard Pharmacy @ Healthfirst and Walgreens. I currently also co-own Standard Pharmacy @ Healthfirst, Hamilton Pharmacy and Fairhaven Pharmacy. I'm on the Board of Directors for MIPA (Massachusetts Independent Pharmacy Association) and have done presentations for NCPA (National Community Pharmacy Association) throughout the country at numerous schools of pharmacy for 340B Pharmacy and entrepreneurship.

# Volunteer Application

**Full Name:** charlene holtzman

**How long have you been a Fairhaven resident?** 6 YEARS

**What Board(s)/Committee(s) are you interested in joining?** I am interested in applying for a position on the board of health

**What is your reason for joining?** Board of Health

**Have you attended a meeting of this Board or Committee?** I haven't not had the pleasure to serve on any of the boards

**Have you (or are you currently) served on any Town of Fairhaven Boards? If so, please indicate what Board and number of years:** No

**Interests and Qualifications:** I have been a nurse for over 30 years. I have been doing home visits for over 12 years and have seen such a need to increase awareness for our town residents and to keep our town as safe as possible. Thank you for considering my application

# SELECT BOARD'S MEETING

Liquor License  
MONDAY, September 18, 2023  
@ 6:30 PM

**Transfer of a Restaurant/All Alcohol License  
(Formerly Elisabeth's Restaurant)**

Application submitted by:

**OEA Restaurant Group, Corp.  
d/b/a OLIVIA'S RESTAURANT  
1 Middle Street  
Fairhaven, MA 02719  
Brandon Roderick, Manager**

**TOWN OF FAIRHAVEN**

Notice, is hereby given, under Chapter 138 of the Massachusetts General Laws that, OEA Restaurant Group, Corp., d/b/a Olivia's Restaurant, 1 Middle Street, Fairhaven, MA, Brandon Roderick, Manager, has applied for A Transfer of Restaurant/All Alcoholic Beverages License.

The described premise consists of, 1,477 Sq. Ft., 2 floors. The main floor includes a bar, dining room, open kitchen, 2 bathrooms, dish area with prep and walk-in cooler, with egress on the west, north and south sides of the building. The basement layout includes general storage, a walk-in cooler, locked liquor storage and a bulk head for deliveries.

A hearing will be held at a Select Board's Meeting, Fairhaven Town Hall, Banquet Room, 40 Center Street, Fairhaven, MA on Monday, September 13, 2023 at 6:30 PM.

**FAIRHAVEN SELECT BOARD**

Leon E. Correy, III, Chair  
Charles Murphy, Sr.  
Stasia A. Powers  
Keith Silvia  
Robert Espindola



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
 www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION  
 MONETARY TRANSMITTAL FORM  
 APPLICATION FOR A TRANSFER OF LICENSE

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

Please make \$200.00 payment here: [ABCC PAYMENT WEBSITE](#)

PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL AND INCLUDE THE PAYMENT RECEIPT

ABCC LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

ENTITY/ LICENSEE NAME

ADDRESS

CITY/TOWN  STATE  ZIP CODE

For the following transactions (Check all that apply):

- |  |  |   |   |
|--|--|---|---|
| <input type="checkbox"/> New License                                   | <input type="checkbox"/> Change of Location  | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input checked="" type="checkbox"/> Transfer of License                | <input type="checkbox"/> Alteration of Licensed Premises   | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)    |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name   | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement               |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                              |
|  | <input type="checkbox"/> Other <input type="text"/>  |   | <input type="checkbox"/> Change of DBA                                |

THE LOCAL LICENSING AUTHORITY MUST SUBMIT THIS APPLICATION ONCE APPROVED VIA THE ePLACE PORTAL

Alcoholic Beverages Control Commission  
 95 Fourth Street, Suite 3  
 Chelsea, MA 02150-2358



The Commonwealth of Massachusetts  
 Alcoholic Beverages Control Commission  
 95 Fourth Street, Suite 3, Chelsea, MA 02150-2358  
 www.mass.gov/abcc

RECEIVED  
 2013 JUL 18 P 12:02

APPLICATION FOR A TRANSFER OF LICENSE

Municipality

**1. TRANSACTION INFORMATION**

- Transfer of License
- Alteration of Premises
- Change of Location
- Management/Operating Agreement
- Pledge of Inventory
- Pledge of License
- Pledge of Stock
- Other
- Change of Class
- Change of Category
- Change of License Type (\$12 ONLY, e.g. "club" to "restaurant")

Please provide a narrative overview of the transaction(s) being applied for. On-premises applicants should also provide a description of the intended theme or concept of the business operation. Attach additional pages, if necessary.

The petitioner is applying for a license transfer from Ferry Street, LLP D/B/A Elisabeth's Restaurant to OEA Restaurant Group, Inc. D/B/A Olivia's Restaurant. The concept of Olivia's is a full service neighborhood restaurant and bar focusing on New American cuisine using fresh ingredients including locally sourced seafood, greens, grains, and talent. The seating plan includes a 12 person bar with 48 seats in the dining room with a capacity of 80 persons.

**2. LICENSE CLASSIFICATION INFORMATION**

ON/OFF-PREMISES	TYPE	CATEGORY	CLASS
On-Premises-12	\$12 Restaurant	All Alcoholic Beverages	Annual

**3. BUSINESS ENTITY INFORMATION**

The entity that will be issued the license and have operational control of the premises.

Current or Seller's License Number  FEIN

Entity Name

DBA  Manager of Record

Street Address

Phone  Email

Add'l Phone  Website

**4. DESCRIPTION OF PREMISES**

Please provide a complete description of the premises to be licensed, including the number of floors, number of rooms on each floor, any outdoor areas to be included in the licensed area, and total square footage. If this application alters the current premises, provide the specific changes from the last approved description. You must also submit a floor plan.

The licensed premises consists of 2 floors. The main floor includes a bar, dining room, open kitchen, 2 bathrooms, dish area with prep and walk-in cooler, with egress on the west, north, and south sides of the building. The basement layout includes general storage, a walk-in cooler, locked liquor storage, and a bulk head for deliveries.

Total Sq. Footage	<input type="text" value="1477"/>	Seating Capacity	<input type="text" value="58"/>	Occupancy Number	<input type="text" value="80"/>
Number of Entrances	<input type="text" value="2"/>	Number of Exits	<input type="text" value="3"/>	Number of Floors	<input type="text" value="2"/>



**APPLICATION FOR A TRANSFER OF LICENSE**

**5. CURRENT OFFICERS, STOCK OR OWNERSHIP INTEREST**

Transferor Entity Name	<input type="text" value="Ferry Station, LLP"/>	By what means is the license being transferred?	<input type="text" value="Purchase"/>
------------------------	---	---	---------------------------------------

List the individuals and entities of the current ownership. Attach additional pages if necessary utilizing the format below.

Name of Principal	Title/Position	Percentage of Ownership
<input type="text" value="Douglas Buker"/>	<input type="text" value="Partner"/>	<input type="text" value="100"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**6. PROPOSED OFFICERS, STOCK OR OWNERSHIP INTEREST**

List all individuals or entities that will have a direct or indirect, beneficial or financial interest in this license (E.g. Stockholders, Officers, Directors, LLC Managers, LLC Members, LLP Partners, Trustees etc.). Attach additional page(s) provided, if necessary, utilizing Addendum A.

- The individuals and titles listed in this section must be identical to those filed with the Massachusetts Secretary of State.
- The individuals identified in this section, as well as the proposed Manager of Record, must complete a CORI Release Form.
- Please note the following statutory requirements for Directors and LLC Managers:  
**On Premises (E.g. Restaurant/ Club/Hotel) Directors or LLC Managers** - At least 50% must be US citizens;  
**Off Premises(Liquor Store) Directors or LLC Managers** - All must be US citizens and a majority must be Massachusetts residents.
- If you are a Multi-Tiered Organization, please attach a flow chart identifying each corporate interest and the individual owners of each entity as well as the Articles of Organization for each corporate entity. Every individual must be identified in Addendum A.

Name of Principal	Residential Address	SSN	DOB
<input type="text" value="Brandon Roderick"/>	<input type="text" value="2570 Acushnet Avenue New Bedford, MA 02745"/>	<input type="text"/>	<input type="text"/>
Title and or Position	Percentage of Ownership	Director/ LLC Manager	US Citizen
<input type="text" value="President"/>	<input type="text" value="100"/>	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No
<input type="text"/>	<input type="text"/>	<input type="radio"/> Yes <input type="radio"/> No	<input type="radio"/> Yes <input type="radio"/> No

**CORPORATE VOTE**

The Board of Directors or LLC Managers of   
Entity Name  
duly voted to apply to the Licensing Authority of   
City/Town and the  
Commonwealth of Massachusetts Alcoholic Beverages Control Commission on   
Date of Meeting

For the following transactions (Check all that apply):

- |  |   |   |   |
|--|---|---|---|
| <input type="checkbox"/> New License                                   | <input type="checkbox"/> Change of Location   | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal)         | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input checked="" type="checkbox"/> Transfer of License                | <input checked="" type="checkbox"/> Alteration of Licensed Premises                               | <input type="checkbox"/> Change of License Type (i.e. club / restaurant)  | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock)    |
| <input type="checkbox"/> Change of Manager                             | <input type="checkbox"/> Change Corporate Name  | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement               |
| <input type="checkbox"/> Change of Officers/<br>Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest<br>(LLC Members/ LLP Partners,<br>Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder       | <input type="checkbox"/> Change of Hours                              |
|  | <input type="checkbox"/> Other <input type="text"/>   | <input type="checkbox"/> Change of DBA                                    |   |

"VOTED: To authorize   
Name of Person

to sign the application submitted and to execute on the Entity's behalf, any necessary papers and do all things required to have the application granted."

"VOTED: To appoint   
Name of Liquor License Manager

as its manager of record, and hereby grant him or her with full authority and control of the premises described in the license and authority and control of the conduct of all business therein as the licensee itself could in any way have and exercise if it were a natural person residing in the Commonwealth of Massachusetts."

A true copy attest,	<u>For Corporations ONLY</u> A true copy attest,
_____ Corporate Officer /LLC Manager Signature	_____ Corporation Clerk's Signature
_____ (Print Name)	_____ (Print Name)



# **Commission on Disability Appointment**

**Monday, September 18, 2023**

## **Volunteer Application:**

- **Cara Viveiros**

Town of Fairhaven  
40 Center Street  
Fairhaven, MA 02719  
Fax: 508-979-4079

September 8, 2023

Letter of Interest in Serving on Fairhaven Commission on Disability

To Whom It May Concern,

I, Cara Viveiros, grew up in Fairhaven and am an active participant in the Fairhaven community. I would like to serve on the Fairhaven Commission on Disability. Please appoint me to this commission. I look forward to serving.

Thank you,

*Cara Viveiros*

Cara Viveiros



# Historical Commission Appointment

**Monday, September 18, 2023**

**Volunteer Application:**

- **Kari Tyler**

# Submission Form

## Board and Committee Application

**Full Name:** Mrs. Kari Tyler

**How long have you been a Fairhaven resident:** 16 years

**What Board(s)/Committee(s) are you interested in joining?**  
Historical Commission

**Have you attended a meeting of this Board or Committee:** No

**Have you (or are you currently) served on any Town of Fairhaven Boards?**  
No

**Reasons for joining, interests and qualifications:**

I am a lover of this town and its history! When I moved here from the Midwest 16 years ago I instantly tried to learn as much I could about the area and it's history. my husband and I have rehabbed old homes, including the one we live in now, 52 William Street- formerly Sawin Hall, First Advent Church and the Fairhaven Grange. I was also a member of the Fairhaven Village Militia for a short time.



# **Community Preservation Committee Appointment**

**Monday, September 18, 2023**

**Volunteer Application:**

- **Roger Marcoux**

SEPT 18, 2023



**Town of Fairhaven**

40 Center Street  
Fairhaven, MA 02719 Tel: (508) 979-4023  
[selectboard@Fairhaven-ma.gov](mailto:selectboard@Fairhaven-ma.gov)

**Board/Committee/Commission Reappointment Request**

Residents serving on a Town Board, Committee or Commission are requested to complete this form and send it to the Select Board Office at the Town Hall. *(Please print or type)*

Due by Friday, May 5, 2023 to [ahart@fairhaven-ma.gov](mailto:ahart@fairhaven-ma.gov)

Title: Mr. Mrs. Ms. Dr.	First Name: ROGER	Last Name: MARCOUX
Street Address:		
Email Address:		Preferred Phone Number:
How long have you been a Fairhaven resident? 50 YEARS		

What Board(s) / Committee(s) / Commission (s) are you interested in being reappointed to? CPC

Have you previously served on any other Town of Fairhaven Boards/Committees/Commissions? If so, please indicate what Board and number of years. CPC 8 YEARS

Please state your interest in being reappointed to the board(s)/committee(s)/commission(s) listed above. Please include a description of your contributions. (use additional paper if needed).  
PLEASE RE-APPOINT ME.

Thank you for volunteering! If you have questions, please contact the office of the Select Board at (508) 979-4023 ext. 2 or e-mail [ahart@fairhaven-ma.gov](mailto:ahart@fairhaven-ma.gov)





# Use of Town Hall

**Saturday, October 7, 2023**

**Request for use of Town Hall facilities, temporary street closures: streets at Cherry Street and surrounding area, Police Department, Public Works, Council on Aging transportation, Tourism Director**

**Submitter: Gerald P. Rooney, President and CEO  
Whitfield-Manjiro Friendship Society, Inc.  
11 Cherry Street**

**CC'd to:** BPW – Forwarded 8/8/23  
Police – Forwarded 8/8/23  
Fire – Forwarded 8/8/23  
TH Facilities Manager – Forwarded 8/16/23



# *Whitfield-Manjiro Friendship Society, Inc.*

11 Cherry Street, Fairhaven, MA 02719

Tel. 508-858-5303

[www.Whitfield-Manjiro.org](http://www.Whitfield-Manjiro.org)

**President & CEO  
Gerald P. Rooney**

Ms. Angie Lopes Ellison  
Town Administrator  
Fairhaven, MA

Dear Ms. Ellison:

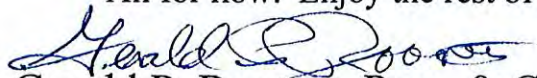
I hope you are feeling well and keeping up with our changing weather.

As you are aware the Town of Fairhaven and the city of New Bedford entered a “Sister City” relationship with Tosashimizu, Japan (Manjiro’s home town) in 1987. Since that time our non-profit agency has worked to enhance and continue a close relationship with our Sister City. We have established a calendar of Manjiro Festivals which alternately take place there and in Fairhaven. Thus, we are planning our Manjiro Festival for Saturday, Oct. 7<sup>th</sup> of this year.

Given that our resources have lessened due to COVID...etc, we look forward to the continued assistance from Fairhaven. As has been the case in the past, the festival will take place in the center of Fairhaven where the town hall and surrounding areas would be utilized. As we attempt to plan specifics the details will become solidified. We will attempt to keep your office up to date as we proceed.

If there is any way in which we can keep your office involved, please let me know your preference.

All for now. Enjoy the rest of the summer.

  
Gerald P. Rooney, Pres. & CEO

**Honorary President  
In memorium  
Dr. Shigeaki Hinohara  
August 7, 2023**

RECEIVED  
2023 AUG - 8 A 11: 37



# *Whitfield-Manjiro Friendship Society, Inc.*

11 Cherry Street, Fairhaven, MA 02719

Tel. 508-858-5303

[www.Whitfield-Manjiro.org](http://www.Whitfield-Manjiro.org)

**President & CEO  
Gerald P. Rooney**

**Honorary President  
Dr. Shigeaki Hinohara**

To: Board of Selectmen  
Town of Fairhaven

Dear Members:

August 17, 2023

Given that we will be sponsoring the 18<sup>th</sup> Manjiro Festival on Saturday, Oct. 7, we wish to make the following request of the Town:

- Use of the town hall facilities for entertainment and vendor space (in case of bad weather).
- Use of the streets surrounding the town hall (closed down)
- Use of services of the Police Dept. (patrol and road barriers) and DPW (trash services)
- Provision of local transportation for guests through COA vans if SERTA can not provide same. (drivers and fuel to be compensated through Sister City set-aside funds.)

Given that we will be fulfilling the obligations of the Town's Sister City agreement, we request a waiver of any fees normally associated with the above services. Given the reduction of our staff availability, we would also request the assistance of the Director of Tourism, Chris Richards, if available.

If there are any questions regarding this request, feel free to contact me at your leisure.

Gerald P. Rooney, President & CEO

Eric Tavares GNBTC President

Cell: 5087628461

Email: et02720@gmail.com



## 2023 Fairhaven Turkey Trot

*5K fun run benefiting The Shepherd's Pantry*

Dear Fairhaven Select Board,

The Fairhaven Turkey Trot Race Committee is seeking permission to hold a 5k run in the town of Fairhaven on Thanksgiving morning 2023. The 5k run collects canned goods and funds for the Shepherd's Pantry of Acushnet. The race course starts on Greene Street near Cushman park. The course travels south down Green to the Fort and then north on Fort Street eventually continuing on Main St, Bridge and then ending on the track at Cushman Park. In recent years for safety precautions we included a police detail of four police officers and cruisers. Along the course we have volunteers and intersections to ensure runners stay on course and aware of any dangers with traffic. The event begins at 8:00 A.M so that there is limited traffic on the road. The event concludes, with clean up before 9:30 A.M. The race benefits Shepherd's Pantry and in years past funds from the race ranged from 15,000 to almost 20,000. As well as large donations from canned goods. In years past we received feedback from residents within the neighborhood and have made adjustments to the race. For example, after noise complaints we discontinued the DJ near the SEMC building, and moved the anthem to the cushman park area away from housing. Our volunteers clean up post races, and in years past we have partnered with SEMC to utilize the parking lot. The race committee will seek out all necessary permits from parks and the DPW. We hope to continue the tradition of the Fairhaven Turkey Trot.

Sincerely,

The Fairhaven Turkey Trot Committee



## **2024 Calendar**

**Proposal to move Select Board meetings to the  
second and fourth Mondays monthly**

# 2024 DRAFT-SB Meeting Calendar

Calendar for year 2024 (United States)



### January

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
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28	29	30	31			

### February

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### March

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31						

### April

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### May

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26	27	28	29	30	31	

### June

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### July

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### August

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### September

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29	30					

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### November

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### December

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22	23	24	25	26	27	28
29	30	31				

- |  |  |  |  |
|--|--|--|--|
| <ul style="list-style-type: none"> <li>Jan 1 • New Year's Day</li> <li>Jan 15 • Martin Luther King Jr. Day</li> <li>Feb 14 • Valentine's Day</li> <li>Feb 19 • Presidents' Day</li> <li>Mar 17 • St. Patrick's Day</li> <li>Mar 31 • Easter Sunday</li> <li>Apr 1 • Easter Monday</li> </ul> | <ul style="list-style-type: none"> <li>Apr 15 • Tax Day</li> <li>May 5 • Cinco de Mayo</li> <li>May 12 • Mother's Day</li> <li>May 27 • Memorial Day</li> <li>Jun 14 • Flag Day</li> <li>Jun 16 • Father's Day</li> <li>Jun 19 • Juneteenth</li> </ul> | <ul style="list-style-type: none"> <li>Jul 4 • Independence Day</li> <li>Sep 2 • Labor Day</li> <li>Oct 14 • Columbus Day</li> <li>Oct 31 • Halloween</li> <li>Nov 5 • Election Day</li> <li>Nov 11 • Veterans Day</li> <li>Nov 28 • Thanksgiving Day</li> </ul> | <ul style="list-style-type: none"> <li>Nov 29 • Black Friday</li> <li>Dec 24 • Christmas Eve</li> <li>Dec 25 • Christmas Day</li> <li>Dec 31 • New Year's Eve</li> </ul> |
|--|--|--|--|

## **Fairhaven Select Board -Meeting Protocols 2023- Effective July 1, 2023**

### **Protocol 1 – Meetings**

Regular meeting of the Select Board shall be held in the Banquet Hall, Town Hall, at 6:30pm on the FIRST and THIRD Monday of each month, except when one of said Monday falls on a legal holiday or town hall closure; the Select Board shall meet on the following day in such an event. Calls for special meetings may be made at any time by the Town Administrator or the Select Board Chair. Members ought to be present at the time of the opening of the meeting. The Chair may cancel meetings when appropriate.

### **Protocol 2 – Organization and Chair selection**

The Select Board shall hold its organizational meeting in The Banquet Hall at the first regular meeting after a municipal election. The Town Administrator shall preside over the nomination and election proceedings for Chair, Vice Chair and Clerk. The newly elected Chair will preside over the remainder of the meeting.

### **Protocol 3 – Acceptance of The Meeting protocols**

At the same meeting as the reorganization, the Chair will review and vote to accept the meeting protocols. A majority vote is required to adopt the protocols. The previous year's protocol will remain in affect until a new one is accepted.

The Chair presides over all meetings. In the absence of the chair, the vice chair shall resume the role. All members shall preserve decorum and order and await recognition by the chair to speak. Parliamentary Protocols may be applied when meetings fall out of order.

### **Protocol 4 – Seating**

The seats of the members of the Select Board, shall be numbered 1-4 with the chair at the centre seat. Seats 1 and 2 are to the right of the Chair and seats 3 and 4 are to the left. Select Board members (except the Chair with centre seating) will draw numbers to determine seating assignment.

### **Protocol 5 – Action and Motions**

Every action of the Select Board shall require a motion or vote. If a vote is not taken, the action is moot and considered a discussion. After a motion is requested by the Chair, it shall be acted upon by the Select Board unless withdrawn by the mover before an amendment or decision.

Every member present at Select Board meetings shall vote yea or nay when a motion is put unless excused on the grounds of clear and real conflict of interest by which the member can request to abstain from the vote and state the reason for obtaining.

### **Protocol 6 – Public participation**

Member of the public may address the Select Board regarding items on the current

agenda, if the Chair so deems it appropriate. Those wishing to do so, shall wait to be acknowledged by the Chair, shall identify themselves by name and address, shall make their remarks brief but the chair may limit and confine the time to no longer than two (2) minutes. The comments shall be void of personalities, libellous remarks and innuendo, and shall limit their remarks to matters of municipal interest.

During any portion of the meeting members of the public shall not verbally, non-verbally, or illustratively, utilize racial, ethnic, religious, age, sexual preference, gender or disabilities, slurs or connotations during their remarks. The Chair shall rule a member of the public, who uses such slurs, connotations, libellous remarks or innuendo out of order and no longer recognize the individual to speak.

#### **Protocol 7 – Public Comment**

Near the end of every meeting an open forum will be conducted. During the Public Comment, any member of the public may address the Select Board regarding city business, concerns and events that were not mentioned in agenda. Those wishing to do so, shall wait to be acknowledged by the Chair, shall identify themselves by name and address, shall confine their remarks to a total of two (2) minutes and shall avoid personalities, libellous remarks and innuendo, and shall limit their remarks to matters of municipal interest.

#### **Protocol 8 – Conduct of Members, Officials, and public**

Members, officials, and public, when about to speak, shall initially address the Chair using the phrase “through the Chair,” shall confine themselves to the question under debate, and shall avoid all personalities and libel comment. Any individual, who may be mentioned in debate or addressed by another member, shall be so mentioned or addressed by their title and or name (ex. Mr/Ms. Last name); and in an intelligible, respectful, and professional manner. No member or official shall speak out of their turn without leave of the Chair, nor shall any member be interrupted by another while speaking except to make a point of order or request for explanation.

#### **Protocol 9 – Board Member Items:**

Select Board members may offer items of information or discussion of informal matters during at this forum. Items brought up here may be requests for agenda items as well as various announcements of interest.

#### **Protocol 10 – Agenda Items, Material and Supporting Documentation**

All action and discussion item containing matters for consideration by the Select Board shall be affirmed by the Chair. Meeting material request by the public must be submitted to the Chair or Town Administrator on the second Monday for the third Monday meeting and on the last Monday of the month for the following Monday meeting. Select Board meeting material and request shall be submitted by the Wednesday before the first and third Monday.

#### **Protocol 11 – Committee Liaison and Assignments**

Committee liaison of the Select Board shall be appointed annually by consensus of the members at the reorganization meeting. Each committee shall have one



liaison. Select Board members may participate in assigned committee but may not be a voting member.

Select Board members may also be assigned to other committees as needed.

Select Board liaisons may make an informational report to the board during Committee Liaison Reports on the Meeting Agenda.

**Protocol 12 – Public Hearings**

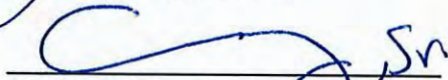
At every Public Hearing meeting of the Select Board, other than executive sessions, citizens of the town, shall have reasonable opportunity to be heard regarding any matter being considered during the public hearing by the Select Board at such meeting. Citizens shall observe the same rules of conduct required in Protocol 6, 7 and 8: i.e. they shall address the Chair, confine themselves to the question under debate, and avoid personalities, libellous statements and innuendo.

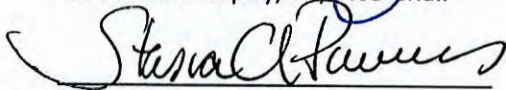
**Protocol 13 Process of Seeking Legal Opinion**

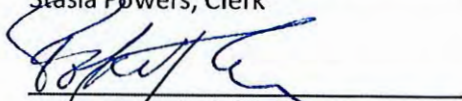
If a Select Board member want a legal opinion from Town or Labor Counsel, they must provide a communication to the Town Administrator with an explanation of what they are looking for and what they have done to date to take advantage of freely available information. The Town Administrator will determine if counsel is needed. If the Town Administrator denies the request, the member may request an agenda action item vote of the Select Board membership to request that the Town Administrator seek said legal opinion.

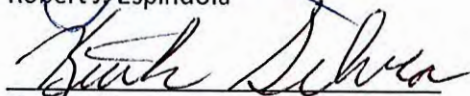
As attest to and agreed upon on this 18<sup>th</sup> day of April, 2023 by

  
\_\_\_\_\_  
Leon E. Correy III, Chair

  
\_\_\_\_\_  
Charles K. Murphy, Sr., Vice-Chair

  
\_\_\_\_\_  
Stasia Powers, Clerk

  
\_\_\_\_\_  
Robert J. Espindola

  
\_\_\_\_\_  
Keith Silvia

THE COMMONWEALTH OF MASSACHUSETTS  
OPEN MEETING LAW, G.L. c. 30A, §§18-25

\* \* \*

*This version of the law is current as of April 7, 2015.*

*NOTICE: This is NOT the official version of the Massachusetts General Law (MGL). While reasonable efforts have been made to ensure the accuracy and currency of the data provided, do not rely on this information without first checking an official edition of the MGL.*

\* \* \*

**Section 18: [DEFINITIONS]**

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Deliberation", an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

"Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Executive session", any part of a meeting of a public body closed to the public for deliberation of certain matters.

"Intentional violation", an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

"Meeting", a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- (e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

"Minutes", the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

"Open meeting law", sections 18 to 25, inclusive.

"Post notice", to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

"Preliminary screening", the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

"Public body", a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

"Quorum", a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

**Section 19. [Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report]**

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

- (1) the general background of the legal requirements for the open meeting law;
- (2) applicability of sections 18 to 25, inclusive, to governmental bodies;
- (3) the role of the attorney general in enforcing the open meeting law; and
- (4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;
- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney general;
- (4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
- (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
- (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and
- (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

**Section 20. [Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings]**

(a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website under the procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general may prescribe or approve alternative methods of notice where the attorney general determines the alternative methods will afford more effective notice to the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. The authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

(e) A local commission on disability may by majority vote of the commissioners at a regular meeting permit remote participation applicable to a specific meeting or generally to all of the commission's meetings; provided, however, that the commission shall comply with all other requirements of law and regulation.

(f) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any recordings.

(g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(h) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated under section 25 and a copy of the educational materials prepared by the attorney general explaining the

open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

#### **Section 21. [EXECUTIVE SESSIONS]**

(a) A public body may meet in executive session only for the following purposes:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on his own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants;

provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;
2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section 23.

#### **Section 22. [Meeting Minutes; Records]**

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not



performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

**Section 23. [Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions]**

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of

issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

#### **Section 24. [Investigation by Attorney General of Violations of Open Meeting Law]**

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be

examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

**Section 25. [REGULATIONS, LETTER RULINGS, ADVISORY OPINIONS]**

(a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

Town of Fairhaven, MA  
Tuesday, August 15, 2023

## Chapter 198. Zoning

### Article III. General Regulations

#### § 198-26. Sign regulations.

[Added 3-25-1967 ATM by Art. 56; amended 3-16-1974 by Art. 91; 5-2-1998 STM by Art. 29]

- A. Authority. This section is adopted pursuant to the authority conferred upon the Town by MGL c. 40A, MGL c. 93, § 29, and MGL c. 143, § 3. Nothing in this chapter shall be construed to abrogate the town's control under MGL c. 87, § 9, governing signs placed on shade trees enforceable by the Tree Warden or the town's control under MGL c. 85, § 8, governing signs placed within a public way enforceable by the Selectmen or under the Building Code.
- B. Purpose. The sign regulations section is designed to provide standards for the installation of signs so as to reduce traffic safety hazards, protect property values, promote economic development and encourage the creation of an aesthetic appearance along the street frontages in the Town of Fairhaven. The sign regulations, as set forth in this section, are designed to be both logical and equitable for the various uses and identification needs. These sign standards and regulations help to effectuate an aesthetic and safe street environment. Restrictions on type, location and size of signs protect the public from hazardous and distracting devices.
- C. General regulations.
- (1) Regulations. No sign permit or license shall be required for the signs listed in Subsection **C(2)** of this section, provided that:
- (a) The sign is permitted in the zoning district in which the sign is placed;
  - (b) The requirements for each sign listed in Subsection **C(2)** of this section are satisfied; and
  - (c) The sign does not violate the provisions of Subsection **C(3)** of this section.
- (2) Signs exempt from permit and license requirements.
- (a) Balloons less than 24 inches in diameter.
  - (b) Building markers and historic or commemorative plaques are exempt from obtaining a permit and license.
  - (c) Construction signs. One temporary freestanding construction sign or wall sign per project construction site is exempt from obtaining a permit and license on each street frontage of the project, subject to the following conditions:
    - [1] The construction sign shall not exceed 32 square feet.
    - [2] The construction sign shall be a maximum of six feet in height for residential districts or 15 feet in height for other districts.
  - (d) Flags, noncommercial.
  - (e) Garage sale signs.
  - (f) Home improvement/home construction/home remodeling signs are exempt from obtaining a permit and license, provided that:
    - [1] There shall be only one such sign not exceeding 32 square feet in total surface area and four feet in height for each lot.

- (g) Interior signs.
- (h) Murals.
- (i) Official signs and notices.
- (j) Political campaign signs.

[1] Such signs shall be removed within 10 days following an election.

- (k) Political signs.
- (l) Public utility signs.

(m) Real estate signs are exempt from obtaining a permit and license, provided that:

[1] Real estate signs for single- or two-family residential dwellings or lots.

[a] There shall be one sign per street frontage up to a maximum of two signs per lot.

[b] Such sign shall be located on the lot for sale or lease.

[c] Such sign shall not exceed six square feet.

[2] Real estate signs for all other uses.

[a] General provision. The real estate sign shall be located on the site for sale or for lease.

[b] The site may elect one of the following options, subject to provisions of the clear view triangle area as defined in § **198-26G(1)**.

[i] Incorporate the real estate sign into the permanent identification sign; or

[ii] One real estate sign, not exceeding six square feet, shall be permitted per street frontage up to a maximum of two signs per site. The maximum height shall be six feet.

[c] Real estate signs shall be included as part of the square footage calculations for permanent signs.

(n) Residential name plates are exempt from obtaining a permit.

(o) Window signs. Signs within a retail display window or attached thereto, provided that they do not exceed a maximum of 25% of any retail display window.

(3) Signs prohibited in all districts.

(a) Signs which interfere with official signs and traffic control devices prohibited.

[1] No person shall be permitted to place a sign which prevents the driver of a vehicle from having a clear and unobstructed view, from an adequate and safe distance, of any official sign or approaching or merging traffic.

[2] No sign or sign structure shall be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with or obstructs the view of, or can be confused with, imitates or resembles any official traffic sign, signal or device.

[3] No rotating beam, moving letter signs in which the letters change more often than once per hour, except for time or temperature, beacon or flashing illumination resembling any emergency light shall be used in connection with any sign display, unless the sign is a traffic control sign, a public utility sign or a public notice.

(b) Interference with intersections prohibited. No sign or sign structure shall be located in such a manner as to materially impede the view of any street or highway intersection. (See § **198-26G(1)**, Clear view triangle.)

(c) Signs on natural features and utility poles prohibited. No sign shall be permitted to be painted on, attached to or maintained upon utility poles, trees, shrubs, rocks or other natural features, except that historical or commemorative plaques may be mounted in rocks, and that "No Trespassing," "No Hunting," "Property Boundary" or "Ownership" signs may be mounted on trees, rocks, shrubs or other natural features.

- (d) Portable billboard not allowed except for grand openings and not to exceed seven calendar days.
  - (e) Flashing signs prohibited. Flashing signs shall be prohibited.
  - (f) Shimmering signs prohibited. Shimmering signs shall be prohibited.
  - (g) Any sign emitting sound shall be prohibited.
  - (h) Any off-site identification sign or advertising sign unless otherwise herein provided shall be prohibited.
  - (i) Signs that exceed the requirements listed below.
  - (j) Signs to which MGL c. 93 § 30, applies, displaying commercial messages, are prohibited.
  - (k) Signs not listed as permitted are prohibited. Any sign not identified as a permitted sign in § **198-26D** of this Code is prohibited.
- (4) Freestanding signs, building identification signs, sign structures, poles and other related equipment that have been abandoned for more than two years shall be removed.
- (5) Illumination of signs.
- (a) Interference with traffic. No lighting shall be permitted to be used in any way in connection with a sign unless it is effectively shielded so as to illuminate the sign surface only and to prevent beams or rays of light from being directed at any portion of the main-traveled way of the public roadway or onto any residential property, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.
  - (b) Underground electrical service. All illuminated freestanding identification signs shall have underground electrical service unless evidence is provided that the local electric utility will not permit such underground service.
  - (c) Any sign which is externally illuminated shall be a minimum distance of 100 feet between the leading edge of the illuminated sign and an adjoining residential property line.
  - (d) In locations where the stated setback requirements front residential uses or districts cannot be met, then illumination of signs must be turned off between the hours of 11:00 p.m. and 6:00 a.m.

D. Design regulations for signs requiring a sign permit.

- (1) Residential, Agricultural and Park Zoning Districts (RA, RB, RC, A, P).
- (a) Regulations for freestanding identification signs. All freestanding identification signs shall be located on the site of the use and are subject to any additional provisions of § **198-26G**, Sign location and basic design elements for specific building identification signs.
    - [1] Where permitted.
      - [a] Residential uses. Freestanding signs shall be permitted only for neighborhood identification signs.
      - [b] Nonresidential uses. Freestanding signs shall be permitted.
    - [2] Maximum sign height.
      - [a] No part of the sign face or the sign support structure of a freestanding sign shall be more than eight feet above the average grade of the site.
    - [3] Maximum sign area and number of signs.
      - [a] Residential uses (neighborhood identification). Two freestanding signs shall be permitted with a maximum allowable size of 40 square feet each per neighborhood.
      - [b] Nonresidential uses.
        - [i] One freestanding sign shall be permitted with a maximum allowable size of 40 square feet; or

- [ii] If the nonresidential use has two public street frontages, one freestanding sign shall be permitted per street frontage with a maximum size of 24 square feet per sign.
- [4] Illumination. Only external illumination shall be permitted. See § **198-26C(5)** for additional provisions on illumination.
- (b) Regulations for building identification signs. All building identification signs shall be located on the site of the use and are subject to any additional provisions of § **198-26G**, Sign location and basic design elements for specific building identification signs.
- [1] Wall signs.
- [a] Where permitted.
    - [i] Residential uses. Wall signs shall be permitted for residential nameplates only.
    - [ii] Nonresidential uses.
      - [A] Wall signs shall be permitted.
      - [B] Projecting/hanging or suspended signs. One projecting/hanging or suspended sign shall be permitted not to exceed 10 square feet per sign. A minimum clearance of 10 feet above the sidewalk shall be required for pedestrians.
      - [C] Awning signs. Awning signs shall be permitted, provided that no awning shall extend above the roof line and no awning sign shall be allowed above the first floor of the building.
      - [D] Canopy signs. Canopy signs shall be permitted, provided that the sign shall be located on the facades of the canopy fronting on a public street.
  - [b] Maximum size and number of signs.
    - [i] In addition to the permitted freestanding sign for a public street frontage, a nonresidential use in a residential district may elect to have a wall sign oriented towards that public street frontage. The maximum allowable sign surface area for the wall sign shall not exceed 10% of the area of the elevation.
    - [c] Distance from side or rear lot line. A wall sign is allowed only on a wall facing a public street. A wall entrance sign is not required to face a public street.
    - [d] Illumination. Only external illumination shall be permitted. Halo effect lighting shall be permitted. See § **198-26C(5)** for additional provisions on illumination.
  - [2] Marquee signs. Marquee signs shall not be permitted.
  - [3] Suspended signs. Suspended signs shall not be permitted.
  - [4] Message centers. Message centers shall not be permitted.
- (c) Other signs. All other signs shall be located on the site of the use.
- (d) Prohibited signs. See § **198-26C(3)**.
- (e) Temporary signs. See § **198-26E**.
- (2) Business and Industrial Zoning Districts.
- (a) Regulations for freestanding identification signs. All freestanding identification signs shall be located on the site of the use and are subject to any additional provisions of § **198-26G**, Sign location and basic design elements for specific building identification signs.
    - [1] For buildings, shopping centers or planned developments with a gross floor area of greater than 15,000 square feet.



- [a] Freestanding signs shall be permitted. Message centers shall be permitted as part of freestanding signs, provided that no moving letter signs in which the letters change more often than once per hour, except for time or temperature, are allowed.
  - [b] Maximum sign height. No part of the sign face or the sign support structure shall be more than 22 feet above the average grade of the site.
  - [c] Maximum sign area and number of signs.
    - [i] One freestanding identification sign shall be allowed per site per public street frontage.
    - [ii] The maximum sign surface area for a freestanding sign shall be 100 square feet.
  - [d] Illumination. Illumination shall be permitted. See § 198-26C(5) for additional provisions on illumination.
- [2] For buildings, shopping centers or planned developments with a gross floor area of 15,000 square feet or less.
- [a] Freestanding signs shall be permitted. Message centers shall be allowed as part of freestanding signs, provided that no moving letter signs in which the letters change more often than once per hour, except for time or temperature, are allowed.
  - [b] Maximum sign height. No part of the sign face or the sign support structure shall be more than 16 feet above the average grade of the site.
  - [c] Maximum sign area and number of signs. One freestanding identification sign shall be allowed per site per public street frontage. The maximum sign surface area shall be 60 square feet.
  - [d] Illumination. Illumination shall be permitted. See § 198-26C(5) for additional provisions on illumination.
- (b) Regulations for building identification signs. All building identification signs shall be located on the site of the use.
- [1] The following regulations apply to single tenant buildings or to tenant spaces in multiple tenant buildings.
- [a] Any combination or number of building identification signs may be utilized, so long as the total surface area of signs on a particular building facade does not exceed the percentages noted below, and subject to any additional provisions of § 198-26G, Sign location and basic design elements for specific building identification signs.
  - [b] Building identification signs are allowed only on facades serving as the primary public entrance to a building.
  - [c] Building identification signs shall include:
    - [i] Wall signs: shall be permitted.
    - [ii] Projecting or suspended signs. One wall, projecting or suspended sign, not to exceed 10 square feet per sign, shall be permitted for each separated business unit in the development. A minimum clearance of 10 feet above the sidewalk shall be required for pedestrians. Exception: For buildings, shopping centers or planned developments with a gross floor area of less than 15,000 square feet, in lieu of a freestanding sign, one projecting sign not to exceed 60 square feet shall be allowed.
    - [iii] Awning signs, provided that no awning shall extend above the roof line and that no awning sign shall be allowed above the first floor of the building.
    - [iv] Canopy signs, provided that the sign shall be located on the facades of the canopy fronting on a public street.
    - [v] Marquee signs. One theater marquee shall be allowed on the premises or entrance to the premises of a theater or group of theaters sharing a premises. Changeable letters or symbols shall not exceed six inches in height. A minimum clearance of 10 feet above the sidewalk level shall be required for pedestrians.
    - [vi] Roof signs and roof integral signs shall be permitted, provided that the sign shall be located facing a public street and that no portion of the sign shall extend above the highest portion of the roof line.

[vii] Message centers shall be permitted as a part of building identification signs, provided that no moving letter signs in which the letters change more often than once per hour, except for time or temperature, are allowed.

[d] Maximum size and number of signs.

[i] The maximum sign surface area for building identification signs shall not exceed 10% of the area of the elevation.

[ii] In addition to the above, the linear measurement of the sign shall not exceed 80% of the linear frontage of the applicable facade of the structure or tenant space.

[iii] Illumination, illumination shall be permitted. See § **198-26C(5)** for additional provisions on illumination.

(c) Additional regulations for gasoline service stations. In addition to the regulations in Subsection **D(2)(b)** above:

[1] Service area canopy sign: maximum size and number of signs. Service area canopy signs are considered wall signs. Sign size shall be computed as above.

[2] Spandrel sign: maximum size and number of signs. The maximum sign surface area shall not exceed two square feet per dispensing station regardless of the number of hoses. The signage allowed per dispensing station may be combined into one sign on the spandrel. Signage is permitted on only two sides of the spandrel.

[3] Pump island signs. In lieu of the spandrel sign, the gasoline service station may elect pump island signs or pump toppers. Pump island signs of two square feet or less are allowed without permits. Pump island signs greater than two square feet are not allowed. Signage is permitted on only two sides of the pump island sign.

[4] No pennants or other similar attracting or advertising devices shall be permitted except as noted in § **198-26E**, Temporary signs.

[5] Signs on perimeter poles. Signs placed on perimeter poles or other structures or that are not expressly permitted in this section shall be strictly prohibited.

[6] Operator identification. Operator identification signs shall be located on the building only with a maximum dimension of six square feet.

(d) Other signs. All other signs shall be located on the site of the use unless specified otherwise.

(e) Prohibited signs. See § **198-26C(3)**.

(f) Temporary signs. See § **198-26E**.

E. Design regulations for temporary signs requiring a sign permit.

(1) On-site temporary signs.

(a) Temporary signs shall include, but not be limited to, banners, commercial flags, balloons, stringers, movable sandwich boards and similar devices.

(b) Maximum size and number. One banner shall be allowed per street frontage and shall be oriented towards that street frontage. The maximum size per banner shall be 100 square feet.

(c) Maximum height and minimum setbacks. Any temporary signs shall maintain a minimum setback of 20 feet from any street line. No temporary sign shall be placed above the highest outside wall.

(d) Design. Stringers and balloons may be used with the banner for business promotions. No balloon may be elevated higher than the sign height restrictions applicable to the district within which it is to be used.

(e) Time period for signage. Temporary signs may be used for a maximum of 15 days per permit; only one permit shall be issued per business per year.

(f) Window signs meeting the requirements of § **198-26C(2)(n)** shall not be considered temporary signs.

(2) Off-site temporary signs. Off-site temporary signs shall not be permitted.

F. Computations.<sup>[1]</sup>

- (1) Computation of sign surface area of individual cabinet or panel signs. To compute the area for a sign face: compute by means of the smallest, rectangle that will encompass the extreme limits of the copy, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, including supporting framework, but not including any poles, bracing or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
- (2) Computation of sign surface area of individual signs of individually mounted letters or symbols. When a sign is composed of individually mounted letters or symbols, the sign surface area shall be determined by means of the total of the smallest rectangle that will encompass all letters, representation, emblems or other display, including the wall area behind said letters, representations, emblems or other displays.
- (3) Computation of sign surface area of multifaceted signs. The sign surface area for a sign with more than one face shall be computed by adding together the sign surface area of all sign faces visible from any one point. When two identical sign faces are placed back-to-back, or at no greater than 15° from one another, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign surface area shall be computed by the measurement of one of the faces.

[1] *Editor's Note: This subsection also includes drawings which help illustrate its provisions. Said drawings are on file in the Town Clerk's office and may be examined there during regular office hours.*

G. Sign location and basic design elements for specific building identification signs.<sup>[2]</sup>

- (1) Clear view triangle area.
  - (a) No sign or sign structures shall be located within a clear view triangle area.
  - (b) On a corner lot, the clear view triangle area is formed by the street right-of-way lines and the line connecting points 20 feet from the intersection of such street right-of-way lines extended.
  - (c) On a lot which has a driveway or is next to a lot which has a driveway, the two clear view triangle areas are formed by the street right-of-way line, both sides of the surface edge of the driveway, and the line connecting points 20 feet from the intersection of the street right-of-way line and driveway.
- (2) Orientation of signs on corner lots or through lots. When more than one sign is permitted due to multiple frontages, each permitted sign must be oriented toward its respective frontage and set at least 100 feet distant from signs located on additional frontages, unless specified otherwise. It is the intent to prohibit lots with multiple frontages from combining sign rights so as to erect larger signs or additional signs that are oriented to only one frontage.
- (3) Freestanding signs setbacks.
  - (a) Front yard setbacks. The minimum setback for all freestanding signs shall be 14 feet from the public street line except that no sign shall be located in the public street right-of-way.
  - (b) Side and rear yard setbacks. No freestanding identification sign shall be located closer than five feet to a side or rear property line.
- (4) Wall sign; location on building.
  - (a) A wall sign shall not extend outward more than 16 inches from the building or structure wall.
  - (b) A wall sign shall not extend above the roof or parapet line.

[2] *Editor's Note: This subsection also includes drawings which help illustrate its provisions. Said drawings are on file in the Town Clerk's office and may be examined there during regular office hours.*

## H. Maintenance of signs.

- (1) Maintenance required. All signs and sign structures shall be kept in good repair and in a proper state of maintenance.
- (2) Activities considered to be maintenance. Maintenance shall include activities such as cleaning, replacing lamps, replacing ballast in freestanding signs, replacing transformers in building identification signs, painting the pole of

freestanding signs and the cabinet of freestanding or building identification signs, replacing or repairing H-bars and retainers behind the face, replacing trim, and replacement of sign fasteners, anchor bolts and repairs to electric utilities. A maintained sign structure shall have a sign face.

- (3) Items not considered maintenance. The following items are not considered maintenance and shall require that the sign be brought into conformance with all requirements with this section.
    - (a) Said maintenance shall not include any changes made to the size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof.
    - (b) Said maintenance shall not include changes in poles, structural supports, bases or shrouds, footings or anchor bolts that are not in-kind; moving the sign for any reason; and change of the interior and/or exterior cabinet frame (excluding trim) and removal of any part of the signs for maintenance. For building signs, maintenance shall not include change in the size of channel letters or any change of returns or housing except for the sign face and trim. For single-face cabinet signs, maintenance shall not include changes or replacement of the interior and/or exterior cabinets nor the cabinet support structures.
  - (4) Temporary removal for new face. Temporary removal of the sign cabinet for the installation of a new sign face is not permitted and will require that the sign be brought into conformance with all requirements of this section.
  - (5) Maintenance and repair of nonconforming signs. The legal nonconforming sign is subject to all requirements of this code regarding safety, maintenance and repair. However, if the sign suffers more than \$3,000 of appraised damage or deterioration, it must be brought into compliance with this code or be removed. If a premises changes ownership, the nonconforming signs located on the premises must be brought into compliance with this chapter. The replacement of a nonconforming wall sign due to the change in tenancy shall require that the new tenant sign conform to the requirements of this chapter as they relate to the size of the facade leased. The in-kind replacement of panels in nonconforming directory signs due to changes in tenancy shall be allowed unless such change affects more than \$3,000 of appraised value of the sign, at which point the sign must be brought into compliance with this code or be removed.
- I. Sign permits; fees.
- (1) It shall be unlawful for any person to erect, install and/or replace any sign which requires a sign permit within the Town without first applying for and obtaining a sign permit from the issuing authority.
  - (2) A sign permit does not include electrical work; however, this exemption shall not be deemed to grant authorization for any work to be done in violation of the provisions of any other laws or ordinances.
- J. Sign permits; requirements.
- (1) A person is prohibited from obtaining a sign permit, except for a temporary sign, while a nonconforming sign remains on the property unless the permit also includes bringing the nonconforming sign into compliance, except as allowed for in § 198-26H(5).
  - (2) A person may obtain a sign permit subject to the above if such person:
    - (a) Completes an application form provided by the issuing authority.
    - (b) Files a plan to scale with accurate measurements of distances showing the intended location conforming with this chapter and showing all proposed and existing signs and from that location the:
      - [1] Distance to the front, side and rear lot lines;
      - [2] Distance to the nearest edge of pavement of all adjacent roads;
      - [3] Distance to the nearest edge of pavement of all adjacent intersections or two or more streets and/or the intersection of all site driveways and public streets;
      - [4] Distance to the nearest edge of adjacent permanent signs;
      - [5] Distance to the nearest edge of adjacent portable signs;
      - [6] Distance to the nearest edge of all traffic light standards and directional signs; and

[7] Distance to the nearest edge of all sidewalks.

(c) Files complete drawings and specifications drawn to scale covering the size of the sign.

K. Variances. Variances shall not be granted for any sign, as ample provision has been made for premises identification within this chapter, and because true hardship as defined by state law cannot be demonstrated in signage situations.

## Committee Liaison Report – Bob Espindola – September 18<sup>th</sup>, 2023

**Broadband Study Committee** met on August 24<sup>th</sup> and held an informational meeting only as there was not a quorum of members present. Updates were provided on the Fairhaven Housing Authority project and Ms. Ellison attended the meeting to learn more about what the Committee has been doing.

BSC Chair Sean Powers, Janel Falone, Director of the Fairhaven Housing Authority, and Ms. Ellison and I met on September 8<sup>th</sup> to review the DRAFT Memorandum of Understanding for the FHA project. The document is in good condition but is on hold pending new information (explained below).

Sean Power and I met (virtually) with two members of the **Metropolitan Area Planning Council**, an agency similar to SRPEDD that serves the greater Boston area. I met these two individuals originally at a two-day digital equity conference I attended back in October of last year and I was referred to them by Josh Eichen of the Mass Broadband Institute during a meeting of the Mass Broadband Coalition, because MAPC was awarded a grant that, *among other things, allows them to “work with municipalities, public housing authorities, and affordable housing developers to build Wi-Fi networks for their residents and ... provides funding, project management, and procurement support to fund the construction of Wi-Fi networks which provide residents with equal or superior service than what is available from commercial ISPs, at no cost to residents. Our funding covers all capital costs associated with network design, construction, and equipment, and the first year of ongoing operating expenses.”*

We believe MAPC may be able to assist the Town with the FHA project. We are working to set up a meeting with the procurement official for MAPC and Ms. Ellison to learn more about the opportunity and the application process.

<https://www.mapc.org/our-work/expertise/digital-equity/apartment-wi-fi/>

**Massachusetts Broadband Coalition** met on August 24<sup>th</sup>. The Coalition invited, and were fortunate to have members of the Massachusetts Attorney General’s staff join us to discuss Anti-Trust Law and how it applies to monopolies. In Massachusetts, 55% of communities have little or no competition in the broadband market.

AG Staff members listed to concerns and asked that the Coalition send some specific requests to their office and promised to pass along to the right Attorneys to review and respond. We are currently drafting a letter to the AG’s office and expect that to go out next week.

On behalf of the Massachusetts Broadband Coalition, and at the request of Josh Eichen of the Mass Broadband Institute, I attended a Digital Equity “Listening Session” in Brockton. These listening sessions are a critical part of the Stakeholder outreach that MBI is required to do as part of their role in distribution of Federal funds for Broadband and, along with other factors, will help them determine

how to distribute those funds. It is important for communities and regions with visions of receiving funds down the road to be heard.

<https://broadband.masstech.org/southeast-region-listening-session>

Slides below courtesy of MBI...

The poster features the MBI logo (Massachusetts Broadband Institute) and the MassTech Collaborative logo. The text on the poster reads: "Southeast Listening Session", "Thursday, September 7, 2023", "5:00 p.m. - 7:00 p.m.", "Boys & Girls Clubs of Metro South", "Brockton Clubhouse", "233 Warren Avenue", "Brockton, MA 02301".

### Event Recap

*50 residents attended in-person and an additional 20 tuned in online and from our satellite location in North Dartmouth.*

Residents from across the Southeast region came to kick off our statewide listening series event in Brockton on Thursday, Sept. 7th. The presentation and discussions touched on various aspects of digital equity, including language barriers, affordability, and access to devices. We heard directly from residents about critical issues related to affordability and accessibility and learned a lot about the community.

Thank you to our partners, Brockton Mayor Robert Sullivan, and all of the staff at the Boys and Girls Club of Metro South for hosting us! We would also like to thank the Dartmouth & Plymouth Library for preparing and hosting the satellite sessions. We are grateful for all of those that assisted in our outreach efforts as well.

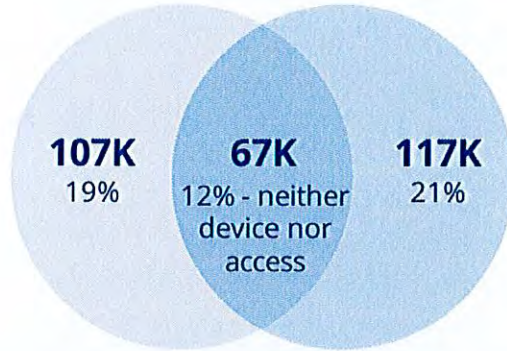


# Digital Gaps in the Southeast

Of 550,000 households in the Southeast...

Many more face challenges with finding the support they need to use the internet safely and meaningfully.

Southeast households with **no computer** (laptop or desktop).

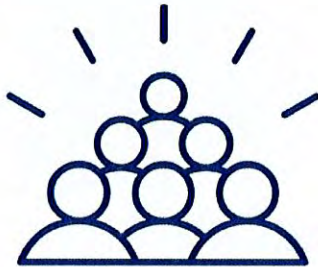


Southeast households with **no broadband internet subscriptions**.\*

These challenges have **disproportionate impact for specific population groups** depending on a range of socioeconomic, historical, and geographic factors.

\* Residents with no broadband access (cable, fiber optic, or DSL) in their household. Source: U.S. Census Bureau

## Statewide Survey - Preliminary Findings



### Total Responses x Region

### Covered Population Responses Southeast

Region	Responses	Target	Covered Population	Responses	Target
Pioneer Valley Region	803	307	Aging Individuals	291	149
Greater Boston Region	1,077	1,085	Veterans	57	29
Cape Cod & Islands Region	823	112	People of Color	613	136
Southeast Region	1,158	608	Households with Limited English**	64	12
Northeast Region	529	455	Individuals with Disabilities	137	72
Central Mass Region	179	378	Low-Income Households	237	85
Berkshire Region	981	55	Residents in Rural Areas	42	31
Unknown	61	-			
<b>Total</b>	<b>5,611</b>	<b>3,000</b>			

\*Response numbers are updated as of Wednesday, 8/30, 12pm.

\*\* This is an estimate based on the number of non-English surveys submitted.



## Access and Quality of Service

26% of statewide survey respondents reported that their internet service is not good enough to meet their household's needs.

55% of municipalities in the Southeast have little or no competition in the broadband market.

### Legend

The availability gap score ranges in value from 0 to 100, where 100 indicates the highest gap in availability.



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## Access and Quality of Service

In the Southeast Region, there are **~2,000 Unserved or Underserved** locations.

Top 5 Municipalities – Unserved Locations	
Plymouth	402
Wareham	84
Dartmouth	79
Fall River	74
Attleboro	74

Top 5 Municipalities – Underserved Locations	
Fall River	22
Marshfield	21
Bridgewater	19
Attleboro	17
Plymouth	16

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**SRPEDD Commission** The SRPEDD Commission did not hold a meeting in August.

**Fairhaven Bikeway Committee.** The Bikeway Committee met on August 31<sup>st</sup>. BPW Superintendent Vinnie Furtado and Highway Superintendent Josh Crabb attended and provided updates on the status of the bike path overlay project (targeting October time frame but trying also to coordinate with work scheduled for South Street at the same time) as well as the Safe Routes to School project at Scoticut Neck Crossing (scheduled for 2024).

The committee has advocated for sign changes at intersections with lighter vehicular traffic that would call for a Yield sign in lieu of stop signs that exist presently. Studies have shown that at crossings where traffic is very light, bike riders have a tendency to slow down but not come to a full stop – in effect yielding and if they are doing so where stop signs exist then this could cause confusion and an unsafe condition when a full stop is actually required. Mr. Crab agreed to study the concept further and provide some perspective at a future meeting. Any changes considered would, of course, need to be approved by the Board of Public works and Public Safety. Presently, the effort involves fact finding only.